



**BOARD OF REGENTS OF
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November 14, 2017

Dr. Steve Wrigley
Chancellor, University System of Georgia
270 Washington Street, SW
Atlanta, Georgia 30334

Dear Chancellor Wrigley,

On October 18, 2017, you asked our office to conduct a special review into the sequencing of actions taken at Kennesaw State University ("KSU") following the KSU football game on September 30, 2017. As part of that review, Joel Wright, USG's Interim System Director of Equity and Compliance, and I interviewed multiple individuals, including KSU President Sam Olens. Our findings and conclusions are set forth below. All facts are undisputed unless otherwise indicated.

I. Factual Findings

KSU launched its football program in 2015. Each KSU home football game begins with a pregame show, during which the KSU band plays the national anthem and the Sturgis March followed by both football teams entering the field after their respective introductions. At all home games up to and including the game on September 30, 2017, the KSU mascot and a majority of the cheerleaders were present on the field during the entire pregame show; eight male cheerleaders entered the field with the football team. Discussions about the pregame run of show that are material to this review are set forth chronologically below.

A. 2015 and 2016 Football Seasons

Only two employees in KSU's Athletic Department who were interviewed noted issues with the timing of the pregame show during the 2015 and 2016 football seasons. In his first season as KSU's Spirit Squad Coordinator in 2016, Charlie Ascitto thought it would be nice to have a "faster pregame timeline," but he did not express that to anyone, nor did he request a change to the run of show. Additionally, though he had no football game day duties, Scott Whitlock, KSU's Senior Associate Athletic Director, stated that he would often advise Brandy Chenoweth, KSU's Director of Marketing and Fan Experience at the time, about a two-minute gap in the pregame music. Chenoweth left KSU in the summer of 2017. There is no indication that she was considering changing the pregame run of show based on Whitlock's comments.

No other individuals interviewed could recall an issue with the pregame show timing during the 2015 or 2016 football season. No individuals could recall any proposed change to the run of show during either of those seasons that would result in the cheerleaders not being present on the field during the national anthem.

B. 2017 Football Season – Prior to September 30, 2017

The first home football game of 2017 was held on Saturday, September 9, 2017. Similar to past football seasons, the mascot and 39 of the 47 cheerleaders were present on the field during the entire pregame show. A small gap in the pregame music was observed by Josh Baker, KSU's Director of Marketing and Fan Experience; Mike DeGeorge, KSU's Assistant Athletics Director for Communications and Broadcasting; and Natasha Koutnik, KSU's Athletics Graphic Designer and Program Administrator for the Spirit Squad. When the gap occurred, DeGeorge immediately instructed that "house music" (pre-recorded music) be played; DeGeorge and Baker believed that the house music adequately filled the gap in time. No other individuals recalled noticing the gap in the pregame music at that game.

After the first home game, Matt Griffin, KSU's Interim Director of Athletics, held a debriefing session with Baker, DeGeorge, Koutnik, Whitlock, and other Athletics Department employees. The meeting centered around the long lines outside of the game. Baker stated that he briefly mentioned the gap in pregame music and the solution of playing house music. The issue was not discussed further and Griffin, Whitlock, and DeGeorge do not recall it being raised at all. No one proposed a change to the run of show or an alternative remedy for the pregame music gap.

On September 18, 2017, Baker and Koutnik met with the KSU Band Director on another matter. Baker briefly mentioned the gap in pregame music along with his thought that playing house music sufficiently filled the time. There was no further discussion on that topic.

No individuals could recall the pregame music gap being mentioned between the first and second home game outside of those noted above. Additionally, no individuals could recall any changes to the pregame show being proposed between those games, including any scenario in which the cheerleaders would not be present on the field during the national anthem.

C. 2017 Football Season – September 30, 2017, and Sequencing of Events Thereafter

The second home football game of 2017 was held on Saturday, September 30, 2017. A number of KSU cheerleaders knelt during the national anthem. President Olens was not at the game, but learned about the occurrence that evening from Griffin and Tammy Demel, KSU's Assistant Vice President, Communications. Griffin also advised President Olens about a KSU Trustee and past city councilman who expressed dismay at the cheerleaders kneeling. That evening, President Olens asked KC White, KSU's Vice President for Student Affairs, to set up a meeting with the students who knelt in order to find out what happened. President Olens stated during his interview that he was aware that the cheerleaders had a First Amendment right to kneel during the national anthem and that he was not trying to stifle that expression.

On Sunday, October 1, 2017, Griffin and the Athletics Department began receiving calls about the cheerleaders kneeling. Georgia State Representative Earl Ehrhart called Whitlock and stated that the cheerleaders should not be allowed to kneel during the national anthem. Whitlock was

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adamant that Representative Ehrhart did not direct KSU to take any actions that would prevent the cheerleaders from being on the field during the national anthem.

On Monday, October 2, 2017, and Tuesday, October 3, 2017, President Olens attended the USG Presidents' Meeting. During the meeting, University System Office staff relayed advice from the Attorney General's Office that, pursuant to the First Amendment, students could not be prohibited from kneeling during the national anthem so long as the expression was not disruptive. USG presidents were instructed that any institution changes related to the matter should be discussed with the University System Office prior to implementation.

On October 2, 2017, President Olens received separate calls from Representative Ehrhart and Cobb County Sheriff Neil Warren. Both stated that the cheerleaders should not be permitted to kneel during the national anthem. Representative Ehrhart added that cheerleaders who continued to kneel should be removed from the team. President Olens stated that neither individual directed him to remove the cheerleaders from the field and that he advised both of them that the cheerleaders had a First Amendment right to express themselves in that manner.

Also on October 2, 2017, representatives from KSU's Athletics Department and Offices of Communications, Legal Affairs, Government Affairs, and Student Affairs met to discuss information that coaches would share with student athletes in light of the past week's game, including that student athletes could not be prohibited from kneeling during the national anthem. No one mentioned a change to the pregame run of show, not having the cheerleaders present on the field during the national anthem, or any directive from President Olens or anyone else that the cheerleaders not be on the field during the national anthem.

Accounts vary as to when the change to the pregame show that would result in the cheerleaders not being on the field during the national anthem was first proposed, but all are consistent that the discussions started after the game on September 30, 2017, and that President Olens did not direct the change. Griffin and Whitlock initially stated that the change was first proposed during a meeting with Asciutto, Baker, DeGeorge, and Koutnik on Wednesday, October 4, 2017. Whitlock later stated that discussions started on Monday, October 2, 2017, after Baker mentioned the pregame music gap that day. Baker was adamant that he did not raise the pregame music gap on October 2, 2017, as he believed that the issue was remedied by playing house music. White learned about the proposed change after receiving a telephone call from Griffin and Whitlock on Tuesday, October 3, 2017. No individuals besides Whitlock and White recalled hearing of the proposed change to the run of show during Monday or Tuesday.

On the morning of Wednesday, October 4, 2017, Griffin and Whitlock called a meeting with Asciutto, Baker, DeGeorge, and Koutnik. Whitlock explained that the mascot and cheerleaders would enter the field after the national anthem was played and the visiting football team entered the field to remedy the two-minute gap in music and to highlight the athletes with an introduction. Asciutto, Baker, DeGeorge, and Koutnik believed that the decision to change to the run of show had been made and that the only question was whether the change could work

logistically. Everyone agreed that the change would improve fan experience and could work logistically if the mascot and cheerleaders were introduced during the gap that was previously covered by house music. DeGeorge raised concerns about the timing of the change, as the cheerleaders knelt during the national anthem at the prior week's game. Either Griffin or Whitlock responded that the Athletics Department could change the run of show and that the change was not related to the cheerleaders kneeling at the game. Following the meeting, DeGeorge again raised concerns about the timing of the change.

During the afternoon of October 4, 2017, Griffin and President Olens discussed the pregame run of show change. Griffin stated that he sought President Olens's permission to make the change, explaining that the cheerleaders would no longer be on the field during the national anthem, to which President Olens responded that Athletics could move forward if the decision was made to improve fan experience. President Olens stated that he did not understand the significance of the change and that he believed that the Athletics Department had already made the change to bring KSU in line with other USG institutions.¹ Both individuals agree that President Olens did not tell Griffin not to go forward with the change in light of the events at the September 30, 2017, game or directives from the System Office. President Olens did not contact the University System Office or his Legal Affairs or Communications Department following that meeting.

On the afternoon of October 4, 2017, at the cheerleaders' regularly-scheduled practice, Asciutto advised them about the run of show change that would be implemented at that week's home football game. After practice, a cheerleader questioned Asciutto about the change, to which the Athletics Department responded that the change "came as a result of on-going discussions by our Athletics staff." DeGeorge stated that the "ongoing discussions" were not about the run of show change, but were related to fan experience in general.

On Friday, October 6, 2017, Sheriff Warren again called President Olens. President Olens told Sheriff Warren that the run of show was changed and the cheerleaders would not be on the field during the national anthem at the game the following day. Though President Olens was aware of the implications of the run of show change, he did not advise the University System Office of the change prior to the game on October 7, 2017.

On October 6, 2017 (online edition) and October 7, 2017 (print edition), the Marietta Daily Journal featured an article titled "Cobb sheriff outraged by KSU cheerleaders 'taking a knee.'" On the morning of October 7, 2017, Griffin asked President Olens whether to proceed with the run of show change at that day's game in light of the article. According to Griffin, President Olens told him to move forward as planned after confirming that the decision was based on fan experience. President Olens does not recall the telephone call, but would not dispute that the call took place. President Olens does recall, however, reading the MDJ article that morning.

¹ President Olens believed that Griffin stated that the decision would bring KSU in line with the University of Georgia and Georgia Tech. Cheerleaders from both institutions are on the field during the national anthem.

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The Athletics Department premiered the new pregame run of show during the game on Saturday, October 7, 2017. The University System Office did not learn of the run of show change until reading the Atlanta Journal Constitution article titled, "KSU cheerleaders kept off field after some knelt during national anthem," which was published on Sunday, October 8, 2017. The article included KSU's position that the cheerleaders kneeling during the national anthem was not part of the decision to change the run of show and a statement that the Athletics Department made "several changes" throughout the season to "improve the fan experience." A later media statement from the Athletics Department noted that the new run of show was "part of a number of changes that have been made by a new Athletics administration as they continue to refine and enhance the game day atmosphere for fans." In a subsequent media statement, President Olens stated that "the Department of Athletics leadership informed [him] that they were making a change to the pregame activities" following the game on September 30, 2017, and that "the call [he] received from Sheriff Warren came after [he] was notified of the department's decision."

D. Recent Developments

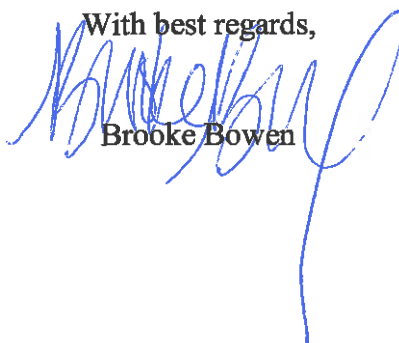
On November 8, 2017, while the special review was ongoing, President Olens issued a statement indicating that "on November 11, the pre-game program will be restored to its original format, with the cheerleaders taking the field before the singing of the National Anthem."

II. Conclusions

The decision to change the pregame run of show was made by the KSU Athletics Department following the game on September 30, 2017. All individuals interviewed were consistent that the change was not directed by President Olens or individuals not employed by KSU. Nonetheless, President Olens was aware of the proposed change three days before it was implemented and did nothing to stop the change. President Olens also did not advise the University System Office of the proposed change, though he was instructed to do so earlier that week.

The Athletics Department maintains that the run of show change was not related to the cheerleaders kneeling during the national anthem, but rather was made to highlight the cheerleaders and mascot and alleviate a two-minute gap in the pregame music. Their explanation is called into question, however, by the timing of the change and the fact that those who noticed the gap in pregame music in 2017 thought that it was remedied by other means.

With best regards,



Brooke Bowen