

**Report of Employee Review
Michigan State University
2019 Resolution Agreement, Section III**

Date: September 1, 2020

RE: Employee Action Review Regarding William Strampel
United States Department of Education, Office for Civil Rights Resolution Agreement
Docket No. 15-18-6901

Introduction

On February 22, 2018, the United States Department of Education, Office for Civil Rights (“OCR”) opened a directed investigation of Michigan State University (“MSU”) and its Title IX compliance regarding the employment and conduct of former physician Larry Nassar. During its investigation, OCR obtained evidence showing potential Title IX issues related to William Strampel, the former dean of MSU’s College of Osteopathic Medicine (“MSUCOM”). Accordingly, OCR expanded its directed investigation to include Strampel. A similar expansion for Strampel occurred during the Michigan Attorney General’s investigation into the Nassar matter. The Michigan Attorney General ultimately charged Strampel with two counts of willful neglect of duty as a public officer, one count of criminal sexual conduct, and one count of misconduct by a public official in office. While the willful neglect charges related to Strampel’s oversight of Nassar, the other two charges related to Strampel’s own personal conduct.

On September 5, 2019, MSU and OCR entered into a Resolution Agreement. As a result of the Resolution Agreement, MSU and OCR outlined numerous actions and requirements that MSU must take. This employee review is one of those requirements. Specifically, under Section III of the Resolution Agreement, MSU is required to:

[R]eview the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by either [Lawrence Nassar] or [William Strampel] and failed to take appropriate action in regard thereto. If the University’s review determines that such person did receive a complaint of sex discrimination, the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies. If so, the University will then determine what further responsive steps, if any, must be taken with regard to that person.

Accordingly, MSU’s review here is limited to Section III of the Resolution Agreement.

Even though this review is expressly focused on Section III, the Resolution Agreement itself contains many more actions that MSU must take to improve and strengthen the university’s Title IX related policies and procedures. Further, MSU is constantly working to improve and has already taken many actions beyond bolstering policies to prevent sexual assault, including:

- Formed the Relationship Violence and Sexual Misconduct (“RVSM”) Expert Advisory Workgroup
- Changed the process for reviewing deans by creating a standard survey which must be used in all dean reviews; providing an option for faculty, staff, or students to communicate confidentially with an individual outside of MSU, who will then provide anonymized information to the provost for consideration; instituting first year “landing” surveys for new deans, to be completed by faculty and academic staff after the dean has completed the first year of service
- Doubled staff in MSU’s Office for Civil Rights and Title IX Education and Compliance
- Created the MSU Prevention Outreach and Education office to promote safety and improve quality of life by educating members of the MSU campus community on sexual assault and relationship violence, eliminating violence on campus, empowering staff, faculty and students to become advocates for a non-violent community and positively affecting social change
- Added more counselors at MSU’s Center for Survivors
- Created a trauma-informed investigation program through MSUPD
- Created a Sexual Assault Nurse Examiner program (opening delayed due to COVID-19)
- Reorganized and increased the scope of MSU’s Office of Audit, Risk and Compliance
- Engaged external experts to conduct climate assessments of specific units to identify concerns and make recommendations to inform positive change
- Hired a Climate Response Specialist to assist with ongoing workplace improvement, including training on reporting and OIE processes
- Administered a campus-wide Know More survey, which focused on the culture, perceptions and policies associated with sexual misconduct among undergraduate students, graduate/professional students, faculty and staff
- Created a CORE Framework for Professional Conduct at MSU College of Osteopathic Medicine
- Developed a Code of Professional Standards and Behaviors for Faculty and Academic Staff across MSU (approval and implementation expected Fall 2020).
- Amended the Discipline and Dismissal of Tenured Faculty for Cause Policy to: 1) afford the President the discretion to determine whether to place a faculty member on unpaid or paid leave during dismissal for cause proceedings; 2) provide that once written charges have been filed against the faculty member, the faculty member may not obtain official retiree status from the University during the dismissal for cause proceedings; and 3) provide that a faculty member who is dismissed for cause at the conclusion of the process is not eligible for official retiree status
- Revised the Emeritus policy to provide a process for revoking emeritus status
- Implemented a Consensual Amorous or Sexual Relationships with Students policy to prohibit relationships between faculty/academic staff and undergraduate students
- Implemented a Travel Lodging policy to prohibit supervisors and employees to lodge with students

- Revised the Criminal Background Checks for Faculty and Academic Staff policy to require self-disclosure of criminal events while currently an employee

MSU acknowledges that more work needs to be – and will be – done.

Michigan State University Policy and the Law

Section III of the Resolution Agreement requires that if MSU determines that a former or current employee did receive a complaint of sex discrimination regarding Strampel, MSU must then determine whether that employee failed to adequately respond in accordance with then-applicable law and University policies. The following is an examination of then-applicable law and MSU policy.

Title IX of the Education Amendments of 1972 (“Title IX”) prohibits discrimination on the basis of sex in education programs and activities that receive federal financial assistance. In 1975, the Department of Health, Education, and Welfare promulgated regulations requiring Universities to, among other things, publish a non-discrimination statement; designate an employee to coordinate efforts to comply with Title IX; and adopt and publish grievance procedures providing for prompt and equitable resolution of complaints. In the years following, no additional Title IX regulations were promulgated to address sexual harassment as a form of sex discrimination until the Department of Education’s Final Rule, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, was published this year on May 19, 2020.

Neither Title IX nor legally binding regulations set forth a legal requirement that a university’s employees must report sex discrimination or sexual harassment of which they are aware to the university. Case law, including the Supreme Court’s *Gebser* and *Davis* cases have provided a framework for evaluating when a university’s response to sexual harassment may subject the university to money damages in a private lawsuit under Title IX,¹ but has not established that university employees are legally obligated to report conduct that may constitute sexual harassment. However, in order to ensure university compliance with Title IX, and in accordance with Department of Education guidance, universities have often and appropriately imposed reporting expectations or requirements on their employees.

For example, prior to 2011, MSU’s Sexual Harassment Policy did not include a reporting requirement for MSU employees. In January 2011, however, MSU’s Sexual Harassment Policy was revised to address reporting, stating:

University employees who become aware of specific and credible allegations of sexual harassment, whether through the report of a

¹ In *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274 (1998), the Supreme Court found that where a school has “actual knowledge” of an employee sexually harassing a student but responds with “deliberate indifference” to such knowledge, the school itself has engaged in discrimination. In *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999), the Supreme Court held that the same standards of actual knowledge and deliberate indifference apply where the sexual harassment is committed by a fellow student rather than an employee.

complainant or otherwise, should report the allegations promptly to the Title IX Coordinator.

...

To assure University-wide compliance with this policy and with federal and state law, the Office for Inclusion and Intercultural Initiatives must be advised of all reported incidents of sexual harassment and their resolution.

(Sexual Harassment Policy, Revision January 2011.)

Further, in May 2011, MSU's Sexual Harassment Policy was revised again to add that "supervisors, managers, and other designated employees are *expected* to promptly report all allegations of sexual harassment to the Title IX Coordinator." (Sexual Harassment Policy, Revision May 2011) (emphasis added.)

Subsequently, on April 6, 2012, MSU's then-President issued a memorandum to all MSU employees reminding them of the University's reporting protocols for "suspected child abuse, child pornography, and allegations of sexual assault." The memo provided in part: "If in your position with MSU, you suspect that a child may be abused or neglected, you must contact the MSU police department immediately." The memo also provided: "If you receive an allegation of sexual assault related to a member of the University community (faculty, staff or student) you must report the alleged assault to the MSU Police Department and [the Title IX office]. This would include an allegation that an MSU community member has sexually assaulted a child." (*Id.*)²

As OCR is aware, on January 1, 2015, MSU implemented its Relationship Violence and Sexual Misconduct ("RVSM") Policy, which replaced the Sexual Harassment Policy. The RVSM Policy designated most MSU employees as mandatory reporters, providing:

All University Employees, other than those appointed in the offices listed above [as confidential resources] have the following reporting obligation when the employee becomes aware of relationship violence or sexual misconduct allegedly perpetrated by a member of the University community (faculty, staff, or student) or occurring at a University event or on University property.

...

Employees are only required to report relationship violence or sexual misconduct of which they become aware in their capacity as a University employee, not in their personal capacity.

...

² Certain MSU employees are legally required under state law to report reasonable suspicion of child abuse to authorities, as set forth under MCL 722.623.

The employee must report all relevant details about the alleged relationship violence or sexual misconduct that occurred on campus or at a campus-sponsored event, including the name of the victim, the accused, any witnesses, and any other relevant facts, including the date, time, and specific location of the incident.

(RVSM Policy, January 1, 2015 Revision) (internal references omitted.) In September 2015, the RVSM Policy was amended slightly to provide that all MSU employees were “expected to promptly report”:

All University employees, other than those appointed in the offices listed above, are expected to promptly report sexual misconduct or relationship violence that they observe or learn about and that involves a member of the University community (faculty, staff, or student) or occurred at a University event or on University property.

(RVSM Policy, September 2015 Revision) (internal references omitted.) MSU’s Office of Institutional Equity (“OIE”) was also established in late 2015, replacing the Office of Inclusion and Intercultural Initiatives (“I3”) as the office responsible for institutional compliance with Title IX, including receiving and investigating reports of sexual harassment.

These employee reporting obligations remained in the RVSM Policy, and employees were subject to discipline for failure to report. (RVSM Policy, revision January 3, 2020.) Recently, MSU issued its RVSM and Title IX Policy to comply with the U.S. Department of Education’s May 6, 2020 Title IX Final Rule.

A copy of all relevant Sexual Harassment and RVSM policies are attached to this report.

MSU employees are also guided by reporting protocols for suspected child abuse, which has also evolved over time. Certain MSU employees are legally required to report reasonable suspicion of child abuse to authorities, as set forth under MCL 722.623. On January 28, 2013, MSU issued its University Reporting Protocols: Child Abuse, Sexual Assault, and Child Pornography. This policy required that all MSU employees or volunteers who are mandated reporters and who suspect child abuse or neglect must make an immediate verbal report to Child Protective Services and file a written report with Child Protective Services within 72 hours. Mandated reporters included: physicians, dentists, physician’s assistants, registered dental hygienists, medical examiners, nurses, licensed emergency medical care providers; audiologists; psychologists; marriage and family therapists; licensed professional counselors; social workers; licensed master’s social workers; licensed bachelor’s social workers; registered social service technicians; social service technicians; any person employed in a professional capacity in any office of the Friend of the Court; law enforcement officers; members of the clergy; regulated child care providers; school administrators; school teachers; and school counselors. Further, all MSU employees or volunteers who suspected a child may be abused or neglected were required to contact MSUPD. Employees or volunteers who received an allegation of sexual assault related to a member of the University Community (faculty, staff, students) were required to report the alleged sexual assault to MSUPD and OIE. The reporting protocols policy was minimally amended on July 1, 2016, but all reporting obligations remained the same for purposes of this review.

MSU also has legally mandated reporting obligations under the Clery Act. 20 U.S.C. §1092(f) *et seq.* The Clery Act requires colleges and universities that receive federal funding to annually disseminate a public annual security and fire safety report (“ASFSR”) to employees and students. This ASFSR must include statistics of campus crime for the preceding 3 calendar years as well as details about efforts taken to improve campus safety. The ASFSR must also provide campus policies concerning, but not limited to, crime reporting, campus facility security and access, law enforcement authority, incidence of alcohol and drug use, and the prevention of/response to sexual assault, domestic or dating violence, and stalking.

Background of Employee Review

When conducting its review under Section III of the Resolution Agreement, MSU must review the actions of the following individuals:

- Former President Lou Anna Simon;³
- Former Provost June Youatt;⁴
- Former Associate Provost and Associate Vice President for Academic Human Resources Terry Curry;⁵
- Unidentified employees of the Office of the General Counsel; and
- Former head coach of the women's gymnastics team, Kathie Klages.⁶

In addition, MSU must review “current or former responsible employees who have been identified by name, title, or position in University memoranda, Title IX reports, or police reports as having received notice of complaints or concerns of sex discrimination committed by either [Nassar] or [Strampel], and failed to take appropriate action in regard thereto.” The Resolution Agreement acknowledges that MSU may be limited in its ability to review based on the availability of evidence or witnesses.

MSU also identified the following MSU current and former employees as potentially having notice of a complaint or concern of sex discrimination by Strampel:

³ Simon resigned her administrative role of President on January 24, 2018, and she retired from MSU effective August 31, 2019.

⁴ Youatt is a tenured faculty member. She resigned her administrative role of Provost on September 5, 2019. Pursuant to her March 18, 2014 offer letter, Youatt completed a six-month sabbatical leave and is currently completing a six-month research leave that ends November 15, 2020. Consistent with MSU’s Retirement Eligibility Requirements for Faculty and Academic Staff, from January 21, 2021 to December 31, 2021, Youatt will serve a one-year terminal consultantship with such duties determined by International Studies and Programs. Youatt will retire from MSU effective December 31, 2021.

⁵ Curry is a tenured faculty member. He resigned his administrative role of Associate Provost and Associate Vice President for Academic Human Resources on July 5, 2020. Consistent with MSU’s Retirement Eligibility Requirements for Faculty and Academic Staff, from July 5, 2020 to July 4, 2021, Curry will serve a one-year terminal consultantship with such duties determined by the Provost. Pursuant to his March 26, 2007 offer letter, Curry will begin a six-month research assignment effective July 5, 2021. Curry will retire from MSU effective January 4, 2022.

⁶ Klages retired from MSU on February 14, 2017. MSU was not able to identify any record or allegation that Klages had or received notice of complaint or concern of sex discrimination committed by Strampel.

- Former Acting Provost John Hudzik;⁷
- Former Associate Dean Kari Hortos;⁸
- Former Associate Dean Gail Riegler;⁹
- Former Assistant Provost Bob Banks;¹⁰
- Former Assistant Provost Karen Klomparans;¹¹
- Former Assistant Provost Barbara Steidle;¹²
- Former Deputy General Counsel Kristine Zayko;¹³
- Former Provost Kim Wilcox;¹⁴
- Former Interim-President John Engler;¹⁵
- Former Specialist-Advisor MSUCOM Holly Bielawski;¹⁶
- Former Associate Chairperson, Radiology, Thomas Cooper;¹⁷
- Former Assistant Professor and Associate Director Elizabeth Petsche;¹⁸
- Director of Student Engagement and Leadership Beth Courey;
- Former Vice President for University Development Charles Webb;¹⁹ and
- Vice President for University Advancement Marti Heil.

Evidence Reviewed

MSU reviewed MSU memoranda, Title IX reports, MSU Police Department (“MSUPD”) reports, public documents, and other evidentiary documents, including the following:

- September 5, 2019 OCR Letter of Findings (“OCR Findings”).

⁷ Hudzik is a tenured faculty member. His administrative role as Acting Provost ended on July 31, 2005. Hudzik is still employed as a tenured professor in the Department of Criminal Justice.

⁸ Hortos resigned her administrative role on December 31, 2019. She has an unpaid (volunteer) clinical appointment with MSUCOM.

⁹ Riegler retired from MSU on September 1, 2019.

¹⁰ Banks retired from MSU on August 16, 2007. As a retiree, Banks was rehired on and off until 2018 in a fixed-term consultant role.

¹¹ Klomparans retired from MSU on July 1, 2017. As a retiree, Klomparans was rehired as a Senior Advisor to the Provost, Plant Biology, until 2018.

¹² Steidle retired from MSU on January 1, 2004.

¹³ Zayko retired from MSU on May 16, 2018.

¹⁴ Wilcox resigned from MSU on August 19, 2013.

¹⁵ Engler resigned from MSU on January 16, 2019.

¹⁶ Bielawski resigned from MSU on July 1, 2018.

¹⁷ Cooper retired from MSU on August 31, 2018. As a retiree, Cooper was rehired and is currently employed as a consultant in MSU’s Office of Planning and Budget.

¹⁸ Petsche resigned from MSU on February 2, 2019.

¹⁹ Webb retired from MSU on June 1, 2008.

- OIE Investigation Materials and Exhibits attached thereto (MSU-OCR-2019-RA 1 to 628; MSU-OCR-04.16.2018 0017212 through 0020042), including, but not limited to:
 - Memorandum from medical students concerning Strampel’s misconduct at a student event (MSU-OCR-2019-RA 120-122);
 - December 21, 2004 Memorandum from Webb and Heil, regarding Strampel (“2004 Memorandum”) (MSU-OCR-2019-RA 624);
 - June 21, 2005 Memorandum from Zayko, regarding meeting with Respondent, redacted for attorney-client privilege. (“2005 Memorandum”) (MSU-OCR-2019-RA 626);
 - December 8, 2017 anonymous letter to Simon (MSU-OCR-2019-RA 98);
 - Class of 2020 and 2021 Orientation Survey (MSU-OCR-2019-RA 162-250);
 - Strampel’s 2005 five-year review (“2005 Review”) materials (MSU-OCR-2019-RA 251-314);
 - Strampel’s 2010 five-year review (“2010 Review”) materials (MSU-OCR-2019-RA 315-621);
 - Strampel’s 2015 five-year review (“2015 Review”) materials (MSU-OCR-2019-RA 492-622).

- Strampel’s Personnel File. (MSU-OCR 04.16.2018 0012198 – 0014233.)

- Personnel File of Individuals Reported to have Notice of Strampel’s Alleged Misconduct.

- *People v. Strampel*, No. 18-479-FH-C30 Trial Transcript.

- *People v. Simon*, No. 18-2261-FY Preliminary Examination Transcript.

- Deposition of Youatt by the Attorney General dated August 21, 2018 and September 5, 2018.

- MSUPD Department Reports (MCR-OCR-2019-RA 123-161; MCR-OCR 04.16.2018 0017970 through 0018007).

- MSU also considered information that was provided during interviews by OCR when it was on-campus and by the Michigan State Police.

Evidentiary Standard

In investigations concerning a potential violation of the Sexual Harassment or RVSM policies, MSU has utilized the preponderance of the evidence standard. The same standard is utilized when analyzing whether an MSU employee failed to follow MSU mandatory reporting protocols in violation of those policies. Under the standard, a person is presumed not to have violated the policy unless a preponderance of the evidence establishes a violation. A

preponderance of the evidence is the amount of evidence that causes one to conclude that an allegation is more likely true than not true. If the evidence on a particular allegation is equally balanced, it has not been proven by a preponderance of the evidence.

Analysis Pursuant to Section III

By way of background, Strampel is the former Dean of MSU's College of Osteopathic Medicine ("MSUCOM"). In December 2017, Strampel requested medical leave and on June 30, 2018 Strampel officially resigned and retired from MSU.

On March 27, 2018, the Michigan Department of Attorney General charged Strampel with two counts of willful neglect of duty as a public officer, one count of criminal sexual conduct, and one count of misconduct by a public official in office. On June 12, 2019, Strampel was convicted of two counts of willful neglect of duty for (i) allowing Nassar to continue to see patients during the pendency of a 2014 OIE investigation into conduct by Nassar and (ii) failing to enforce protocols resulting from the 2014 OIE investigation. The jury also convicted Strampel of the common law offense of misconduct of a public official, a felony. The jury returned a not-guilty verdict on the criminal sexual conduct charge that alleged use of force or coercion to accomplish sexual contact. On August 7, 2019, Strampel was sentenced to prison for one year for each misdemeanor count and eleven months for the felony count, to be served concurrently.

A. Relevant Documents

i. OCR Findings

During OCR's investigation into conduct by Nassar, OCR expanded its investigation to address whether MSU failed to appropriately respond to reports of sex discrimination by Strampel. As such, MSU is guided by OCR's September 5, 2019 Findings and the employees identified therein. OCR identified the following MSU employees as being on-notice of potential discriminatory or harassing conduct by Strampel:

- Former President Simon (Report, pp. 19, 46, 48, 51);
- Former Interim President Engler (*Id.* p. 20);
- Former Provost Hudzik (*Id.* pp. 20-23, 46-47);
- Former Provost Wilcox (*Id.* pp. 24, 46-47);
- Former Provost Youatt (*Id.* pp. 22, 46, 48, 51-53);
- Former Assistant Provost Banks (*Id.* pp. 20-23, 46-47);
- Former Assistant Provost Klomparans (*Id.* pp. 21-22, 46);
- Former Department Chair Cooper (*Id.* pp. 25, 46);
- Former Associate Provost and Associate Vice President for Academic Human Resources Curry (*Id.* pp. 24, 47, 48);
- Then-Associate Vice President for University Development Heil (*Id.*);
- Former Associate Dean Hortos (*Id.* pp. 31, 34);
- Former Assistant Provost Steidle (*Id.* p. 21);
- Former Vice President for University Development Webb (*Id.* pp. 19, 46); and

- Former Deputy General Counsel Zayko (*Id.* pp. 24, 46-47).

ii. OIE Investigation Reports

From December 15, 2017 through September 25, 2018, OIE received fourteen reports of conduct by Strampel alleged to be potentially in violation of the RVSM Policy. (MSU-OCR-2019-RA 1 to 628; MSU-OCR 04.15.2018 0013068; MSU-OCR 04.16.2018 0017212 through 0020042.)²⁰ Various cases were closed for non-participation. Five matters, involving six claimants, were consolidated, including:

- Case No. 3216-2017 [Reporter 15]²¹
- Case No. 819-2018 [Reporter 17]
- Case No. 853-2018 [Reporter 18]
- Case No. 924-2018 [Reporter A and Reporter B]²²
- Case No. 1139-2018 [Reporter 22]

(MSU-OCR-2019-RA 1-51.) Based on the nature and number of complaints involving Strampel, OIE determined it was appropriate to also proceed with MSU as a named Claimant. The investigation determined by a preponderance of the evidence that Strampel engaged in sexual harassment in violation of the RVSM Policy as to four of the six named Claimants.

For purposes of this review pursuant to Section III of the Resolution Agreement, it is important to note that during the OIE investigation, four claimants stated that they reported concerns about Strampel to an MSU employee.

Reporter 15 stated that on December 14, 2017, Reporter 15's father reported Strampel's conduct to Youatt. Youatt promptly reported this to OIE.

Further, Reporter 17 stated that in the fall of 2009, she reported Strampel's inappropriate statements concerning her pregnancy and other comments of a sexual nature to Riegler, and she stated that in 2010, Courey overheard Strampel make inappropriate statements, apologized to Reporter 17, and promised her that she would speak with Strampel.

Reporter 18 stated that on November 16, 2009, she reported Strampel's inappropriate propositioning and sexual comments to Hortos.

Finally, Reporter A stated that she reported to Bielawski that a meeting with Strampel "did not go well" and that he made inappropriate comments about her personal life and marriage.

iii. MSUPD Reports

MSU also reviewed seven police reports relating to Strampel. (MCR-OCR 04.16.2018 0017970 through 0018007.) These matters were closed for one of many reasons including: based on the victim's request; the victim's determination to proceed only with an OIE investigation; or

²⁰ During OIE's investigation, MSU continued to provide to OCR updated copies of the OIE files.

²¹ The Reporters identified by number are identified in the same manner as they are in the OCR Findings.

²² The Reporters identified by letter were not identified in the OCR Findings.

based on a determination that no crime occurred. All MSUPD reports were forwarded to OIE to review and investigate.

Reporter 18 was interviewed by MSUPD on March 28, 2018. During that interview, Reporter 18 stated that she notified Hortos about an incident in 2009 involving Strampel at a gala, where he asked her to join him in a threesome and commented on her vegetarianism, stating “You don’t eat meat? I bet you eat your boyfriend.” Reporter 18 stated that she advised Hortos that the incident made her uncomfortable. Reporter 18 further stated that Strampel later apologized for his behavior. This report was consistent with Reporter 18’s report to OIE.

Additionally, as set forth above, Youatt promptly reported after receiving information from Reporter 15’s father, and OIE forwarded Youatt’s report concerning Reporter 15 to MSUPD. Similarly, on March 29, 2018, OIE forwarded Reporter 17’s statement to MSUPD. (MSU-OCR 04.16.2018 0017972; 89.)

Further, on April 22, 2018, Simon reported a potential concern of sex discrimination to MSUPD, based on a conversation Simon had with Reporter 22 that same day.

OIE also forwarded information that it received about anonymous potential claimants regarding Strampel’s conduct to MSUPD, but these reports do not indicate that an MSU employee had notice of a concern or complaint of sex discrimination committed by Strampel.

iv. Strampel Criminal Trial Transcript

MSU reviewed the entire transcript of the criminal trial of Strampel, *People v. Strampel*, No. 18-479-FH-C30.

During the trial, Reporter 15 testified that Strampel attempted to make her sign a contract to remain in MSUCOM. She testified that she reported concerns of Strampel’s behavior to OIE on December 8, 2017 and spoke to an OIE investigator and law enforcement. (May 30, 2019 Trial Transcript, pp. 87-88.) Reporter 15’s father testified that he spoke with Youatt concerning Strampel’s behavior. (*Id.* p. 136.) This testimony was consistent with Reporter 15’s OIE interview statements.

Additionally, Reporter C testified that in July 2017, Strampel made inappropriate comments about her physical appearance, discussed an incident where a former student got cited for driving under the influence and then suggested that the former student gave Strampel oral sex to remain enrolled, and concluded the meeting by providing Reporter C his phone number. (May 31, 2019 Trial Transcript, pp. 15-16, 22.) Reporter C stated she reported this conversation to Petsche. (*Id.* p. 57.)

At the criminal trial, Reporter D, a former MSUCOM medical student, testified that on or about May 13, 2014, she reported Strampel’s inappropriate comments of a sexual nature to Courey. Further, Reporter D testified that she chose not to file a complaint with OIE, but was advised she could file a complaint. (June 3, 2019 Trial Transcript, pp. 22, 24.)

Finally, Victim 4,²³ a former MSUCOM student, provided testimony that Strampel grabbed her buttocks during a medical school gala. She testified that she reported Strampel's conduct to a University staff member, but Victim 4 did not provide a name or description of that staff member. (June 4, 2019 Trial Transcript, pp. 12-13; 39.)

v. Five-Year Dean Reviews

MSU conducted three five-year reviews of Strampel during his tenure as Dean of MSUCOM. (OCR Findings, p. 21.) As explained in the OCR Findings, the five-year review is a "360-degree review" similar to the faculty reappointment, promotion, and tenure process, wherein the Provost, to whom the college deans report, consults with a College Advisory Council (CAC), consisting of elected members from among faculty and students of the college. In conducting the review, MSU considers the written input of faculty, staff, and students, as well as information gathered during meetings, interviews, and responses to surveys. (*Id.*)

a. 2005 Review

Hudzik oversaw Strampel's 2005 Review with the assistance of Steidle, Youatt, Klomparans, and Banks.

Steidle conducted eleven interviews with MSU employees that had interactions with Strampel at various levels. In a memorandum, Steidle provided that two people commented that Strampel is "reputed to have made inappropriate remarks to young women: one thought that this had probably toned down; the second modified 'inappropriate' with 'bridging on sexual harassment' and suggested that he needed to be more careful." (*Id.* p. 21.) Steidle's memorandum also provided:

The third referred to a report from a constituent of off-color, sexist remarks, accompanied by physical pushing against a student at a public event. This apparently occurred at an event where alcohol was involved and in the context of telling a particular story, and was observed by at least one other student. In response to my question as to whether the student had reported this to anyone, the answer was no, but that she would be willing to come forward if there were other such situations reported. Two other sexist verbal exchanges were noted. Despite these reports, all of the people citing them continue to express their support for [Strampel's] leadership.

(*Id.*)

Youatt reported to Hudzik that there was strong support for reappointment but that she received a "variety of comments on [Strampel's] communication skills, including some referring to gender specific comments." (*Id.* p. 22.) Further, Klomparans stated one individual of the five she interviewed cited a concern with how Strampel handled issues related to sexual harassment in MSUCOM. (*Id.*) Banks also summarized his interviews in a memorandum as follows: "There was

²³ Again, individuals with numbers are identified in the same manner as they are identified in the OCR Findings.

a general commentary from all those interviewed regarding the impropriety of Strampel's comments in public and quasi-public environments such as clinical settings. This is viewed as a problem and generally thought to be offensive to faculty, staff, students and members of the public.” Finally, Strampel was reviewed by students and faculty in an anonymous survey, and the survey received responses such as “frequently makes inappropriate comments (crude jokes, comments about sex) in public settings” and “he must avoid regrettable references regarding gender issues that may be offensive to some.” (*Id.* pp. 22-23.)

On June 7, 2005, Hudzik met with Strampel, along with Zayko and Banks, and Hudzik counseled Strampel on the concerns raised in his review. Strampel was reappointed on or about June 15, 2005.

b. 2010 Review

Wilcox oversaw Strampel's 2010 Review. Handwritten notes on the 2010 Review materials state “Troubling comments re: sexism – reluctance to discuss by students” and “chauvinistic and sexist,” based on communications with the CAC. (*Id.* p. 24; MSU-OCR-2019-RA 469; 473.) The survey results included responses such as “perpetrates constant sexist comments”; “does not always listen to women fully before making a judgment”; “have personally overheard multiple inappropriate and offensive remarks regarding race and sex which paint a troublesome picture”; and “sexist.” (MSU-OCR-2019-RA 421; 432; 448.)

On or around April 30, 2010, Wilcox met with Strampel to advise him that a plan was being put in place to address the behaviors and comments noted in the 2010 Review materials. Wilcox reviewed the proposed plan with Curry prior to Wilcox's meeting with Strampel. Specifically, Strampel was asked to identify six advisors who could provide him with feedback on his communications in public settings, such as during faculty meetings. Under the proposed plan, it was also determined that in three years, a new group of faculty and students would assess Strampel's communications. Strampel was counseled that if his behavior did not improve, he would be subject to discipline up to and including termination. (*Id.* pp. 24-25.) Wilcox confirmed his meeting with Strampel in writing. (*Id.* p. 25.)

c. 2015 Review

Youatt oversaw Strampel's 2015 Review. The 2015 Review again included a survey of faculty and staff. The survey returned approximately thirty statements about Strampel's inappropriate comments. All of these statements were presented to Youatt for review and consideration. (Report p. 25.) The survey responses included:

- [H]e needs to keep his sexual conquests out of conferences where the medical school is being represented. Also, when speaking with female medical students he needs to maintain eye contact instead of jumping between the chest and groin area with his eyes. It is very uncomfortable. Also, [the Dean] needs to stop making off colored [*sic*] homophobic jokes. Not cool and certainly not something I want someone who represents MSUCOM saying.

- In regards to the question about how [the Dean] “Promotes and assures the quality and reputation of the college.”/ A. I feel that [the Dean]'s history of inappropriate language, public discussions, and stories do not support the college in a positive manner. His sexist remarks and inability to talk with a woman while looking at her eyes instead of her breasts are well known and bring down the respect and reputation of the Osteopathic College. I do not think this is a new issue, instead I think it is something that the College has chosen to ignore, for what reason I dare not imagine and cannot fathom.
- He is often inappropriate at social events and during one-on-one interactions with students.
- I have heard first hand some of the sick and inappropriate things he has done or said.
- Makes inappropriate comments about the appearance of women and sexual relationships with women.
- Continuous comments which are inappropriate and sexually related. Tends to put a sexual or crude spin on most conversations.
- I believe [the Dean] is very negatively affecting the college's reputation. I have been to offices on the East side of Michigan, West Side of Michigan, and in Northern Michigan and have consistently heard extremely unprofessional remarks about [the Dean]. I have heard allegations from physicians and students of the Dean taking sexual favors for admission consideration. Allegations from physicians of the Dean admitting to sexual activities with underage women in foreign countries at dinner events when alcohol was consumed. I have heard from attending physicians of their strong distaste for his unprofessional remarks. From my own experiences, I have witnessed unprofessional and sexual comments from the dean about female students - including remarks from the dean of a female colleague wearing “come fuck me heals [sic]” and another instance where he admitting [sic] to knowing a student for a long period and how “she has certainly filled out nicely[.]” I defend the college from these remarks, and do not take part in here-say [sic], but am ashamed that the dean has so negatively portrayed the college in so many different areas in Michigan and that these unprofessional comments come from so many different sources at different periods of time and from so many different offices. Several attending physicians who have shared dinner events with the dean have shared concerns of his stories of sleeping with underage women while in a conference in Thailand. I defend the college and do not repeat these stories and would like from [sic] them to not be true, but with their frequency from so many sources, and with my own observations of his unprofessionalism, I am very concerned for the reputation of our college.

- [The Dean] should not interject sex into every conversation with staff and students.
- As a female faculty, an argument may be made that I could have the possibility of being treated better than my male counterparts, especially if I have a pretty face, and a curvaceous figure, well-dressed in short skirts and low-cut tops. However, since that is not my style, I would say that I am not treated fairly. Or, to look at it another way, perhaps we're all treated like dirt, but the lack of transparency keeps us from seeing the mud on each of our own faces.
- Makes inappropriate sexual references. Fellow colleagues do not have high regard for this man. He is an embarrassment to our school with how he treats women, his rumored affairs and drinking habits, and his consistent rude and unfriendly behavior toward students.
- Multiple sexist remarks and actions while representing the College []/[sic] Public intoxication when representing the College.
- He has made several female students feel uncomfortable in social gatherings. Students are tired of him bragging about his extramarital affairs too. [] He simply does not treat people with the respect that people deserve. [] Please choose a more professional dean.
- The reputation the Dean currently holds throughout several areas of Michigan is extremely negative with many cases of unprofessionalism. Whether true or false, I believe it is dire that the reputation of the college be repaired and these rumors either verified or discredited in order to maintain a positive outlook on the college as a whole.
- [The Dean] does not maintain professional relationships with students. At our orientation session he made jokes about how much he enjoyed female students wearing short shorts and how we might see him at strip clubs. His behavior was completely unprofessional and embarrassing especially since he was lecturing the new students about how we need to behave professionally. Additionally, as I and two of my female classmates were exiting an elevator to get our pictures taken during orientation, he said, "Oh, did you know they are only taking nude photos after 1 pm?" He is completely unprofessional towards students, and as our dean he should not be making jokes like this. I am embarrassed by his behavior.
- Perpetrates constant sexist comments[.]
- Talks with students about inappropriate topics. Makes sexual comments. Have personally overheard multiple inappropriate and offensive remarks regarding race and sex which paint a troublesome picture.

- [The Dean] does not effectively represent the university or enhance its reputation when he is making sexist comments and inappropriate jokes to the student body.
- On every occasion I have interacted with the Dean outside of his actual office, I have heard a lewd story. I know the Dean believes that as future physicians we need to be “able to handle” lewdness and sexual behavior (which is true), but often they seem inappropriate for him to be telling them. Sometimes it feels like he is almost trying to impress me with the story more than impress on me the importance of being able to listen to a lewd story. This has definitely taken away from my respect of him.
- Sometimes he makes comments to females that border on sexual harassment. Also participates in sending/receiving inappropriate emails of a sexual nature.

(*Id.* pp. 25-27.)

The CAC provided the Provost’s office with a summary of these statements for review. Youatt held a conference with Strampel and advised him of her concerns regarding his communications and choice of language as set forth in the 2015 Review results. During the meeting with Strampel, Youatt specifically inquired about certain comments reported in the survey, including a report that he had discussed sleeping with underage women in Thailand – to which Strampel responded that he had never been to Thailand. (OCR Findings, p. 29.) Youatt, with Curry, also met with other women in leadership at MSUCOM to discuss Strampel and their concerns with his leadership, if any. No discriminatory or harassing conduct was reported at this meeting.

On May 1, 2018, Youatt posted a formal statement on MSU’s website concerning Strampel’s 2015 reappointment that acknowledged anonymous allegations of misconduct. The statement also provided that the concerns were taken seriously and that Youatt specifically addressed these concerns in a post-review meeting with Strampel. Further, the statement noted that in 2015, no official complaints regarding Strampel’s behavior had previously ever been filed with OIE or MSUPD. (*Id.*)

B. MSU Employee Review

i. Lou Anna Simon

Simon is the former President of MSU. Simon held various positions at the University from 1993 through 2004, including Assistant Director of the Office of Institutional Research, Assistant Provost for General Academic Administration, Associate Provost, and Provost and Vice President for Academic Affairs until she was appointed interim President of MSU in 2003. She served as President from 2005 until her resignation on January 24, 2018. In October 2019, Simon was charged by the Michigan Attorney General in a four-count criminal complaint with knowingly and willfully making a false or misleading statement to a peace officer regarding a material fact in a criminal investigation related to Nassar. A preliminary examination was held, and Simon was bound over as charged. On May 13, 2020, the Eaton County Circuit Court granted Simon’s motion to quash the bindover by the 56-A District Court as to all counts, dismissing the case in its entirety.

On June 29, 2020, the Attorney General filed a claim of appeal with the Michigan Court of Appeals.

Notice as Provost: December 2004

During its investigation, OCR found that Simon received a December 21, 2004 memorandum from Webb and Heil concerning complaints of Strampel making inappropriate comments about students (the “2004 Memorandum”). (MSU-OCR-2019-RA 624.) The 2004 Memorandum was addressed to Simon (in her role as Provost) and provided that approximately twenty students had reported concerns regarding comments made by Strampel on October 19, 2004 at an evening telemarketing event. The comments complained of included statements from Strampel that a female student “probably take[s] birth control,” and “Yes Sir, Ma’am, Sir, I can’t tell, what’s your question?” (*Id.*) The memorandum provided: “We are forwarding this to you for your handling as you deem appropriate. We are available should you need further clarification.” (*Id.*)

Simon assumed the position of University President soon after, and Hudzik became Provost. Hudzik was also responsible for Strampel’s 2005 Review. The student complaints elevated by Webb and Heil were addressed with Strampel on or about June 7, 2005 in a meeting with Hudzik, as well as Banks and attorney Zayko (in her capacity as the University’s legal counsel). (Ex. 1, p. 23; MSU-OCR-2019-RA 626.) Hudzik counseled Strampel that his behavior was unacceptable and warned that any future misconduct would be subject to discipline. (Ex. 1, p. 23.)

Notice as President: 2010-2018

Simon, as President, was copied on an April 30, 2010 memorandum prepared after Strampel’s 2010 Review (the “2010 Memorandum”). That memorandum set forth a proposed improvement plan for Strampel that required Strampel to contact six advisors within MSUCOM and charge them with providing him continuous feedback on his use of inappropriate comments in both formal and informal communications and interactions. The memorandum provided that in the spring of 2013, the Office of the Provost would also canvass students, faculty, and staff at MSUCOM to ensure that such comments had been eliminated.

Youatt told OCR that she met with Simon about whether to reappoint Strampel in 2015 and it was “likely that she and the President would have discussed the reasons to reappoint the Dean, as well as the concerns, which she identified as his role as a fundraiser, his language, and his demeanor.” (OCR Findings p. 29.)

Simon also received a December 8, 2017 anonymous letter from an MSU alumnus that indicated concerns about Strampel’s actions toward the alumnus’s daughter’s friend, including sexual remarks and a proposition to join him in his hotel room. (MSU-OCR-2019-RA 98.) This letter was promptly forwarded to OIE and included in its investigation of Strampel.

On April 23, 2018, Simon reported to MSUPD that she spoke to Reporter 22, a woman she knew personally and whom she had suggested speak with Strampel years prior about a future in medicine. Simon encouraged her to discuss concerns about Strampel to OIE or the police, if any.

Determination of Notice and Response

Simon was notified of concerns about Strampel's inappropriate comments via the 2004 Memorandum and 2010 Memorandum, as well as in December 2017, via anonymous alumni letter.

Pursuant to Section III of the Resolution Agreement, because Simon received notice of complaints of sex discrimination committed by Strampel, "the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies." With respect to then-applicable law, there is no allegation that Simon had knowledge of a complaint of sexual assault or crime perpetrated by Strampel.

With respect to MSU policies, prior to January 2011, MSU's then-applicable Sexual Harassment Policy did not require MSU employees to report concerns of sexual harassment. Accordingly, the preponderance of the evidence supports that Simon followed all then-applicable obligations under the law and MSU policy regarding the 2004 Memorandum and 2010 Memorandum. The complaints in the 2004 Memorandum and 2010 Memorandum were investigated and MSU responded to each. In June 2005, Strampel was counseled and warned about his inappropriate language; in 2010, a proposed plan for improvement was created for Strampel.

With respect to the 2017 anonymous letter and the 2018 discussion with Reporter 22, as of January 1, 2015, the RVSM Policy required all MSU employees to report any knowledge of relationship violence or sexual misconduct allegedly perpetrated by a member of the MSU community or occurring at an MSU event or on MSU property. The term "sexual misconduct" included sexual harassment. On September 8, 2015, MSU amended its RVSM Policy again to specifically state that MSU employees were "expected to promptly report sexual misconduct or relationship violence that they observe or learn about that involves a member of the University community." Allegations of sexual harassment are to be reported to OIE. A preponderance of the evidence supports that Simon immediately reported the December 2017 concerns set forth in the anonymous alumni letter. Simon also reported her own concerns of potential sex discrimination against Reporter 22. Further, although Youatt informed OCR that she likely discussed general language and demeanor concerns with Simon in connection with Strampel's 2015 Review, but did not identify any specific instances of sex discrimination reported to Simon, a preponderance of the evidence supports that Simon, in her role as President, did not report any of the general concerns in connection with Strampel's 2015 Review. MSU did not interview Simon in connection with this review.

ii. Charles Webb

Webb is the former Vice President for University Development. On December 21, 2004, Webb submitted the 2004 Memorandum to then-Provost and President-designee Simon, stating that the week before, a matter of concern was brought to University Development regarding Strampel's remarks at a student-run telemarketing program event on October 19, 2004. (MSU-OCR-2019-RA 624.) Students brought concerns to their supervisors, stating that the comments were offensive, and the supervisors, in turn, elevated these concerns to Webb. Accordingly, the preponderance of the evidence indicates that Webb received notice of a complaint regarding Strampel's verbal comments.

Pursuant to Section III of the Resolution Agreement, because Webb received notice of complaints of sex discrimination committed by Strampel, “the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies.” With respect to then-applicable law, there is no allegation that Webb had knowledge of a complaint of sexual assault or crime perpetrated by Strampel.

With respect to MSU policies, in 2004, the Sexual Harassment Policy did not require mandatory reporting of allegations of sex discrimination or harassment. Nonetheless, Webb promptly reported his knowledge by submitting the 2004 Memorandum to Simon. Accordingly, the preponderance of the evidence supports that Webb followed all then-applicable reporting and response obligations.

iii. Marti Heil

Heil is currently Vice President for University Advancement and in 2004 was Associate Vice President for University Development. Heil co-authored the 2004 Memorandum to then-Provost and President-designee Simon. (MSU-OCR-2019-RA 624.) Like Webb, students brought concerns to their supervisors, stating that the comments were offensive, and the supervisors, in turn, elevated these concerns to Heil. Accordingly, the preponderance of the evidence indicates that Heil received notice of a complaint regarding Strampel’s verbal comments.

Pursuant to Section III of the Resolution Agreement, because Heil received notice of complaints of sex discrimination committed by Strampel, “the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies.” With respect to then-applicable law, there is no allegation that Heil had knowledge of a complaint of sexual assault or crime perpetrated by Strampel. With respect to MSU policies, in 2004, the Sexual Harassment Policy did not require mandatory reporting of allegations of sex discrimination or harassment. Nonetheless, Heil promptly reported her knowledge by submitting the 2004 Memorandum to Simon. Accordingly, the preponderance of the evidence supports that Heil followed all then-applicable reporting and response obligations.

iv. John Hudzik

Hudzik is a retired MSU employee and the former MSU Provost. In May 2005, Hudzik, as Provost, was responsible for conducting Strampel’s 2005 Review. On June 15, 2005, Hudzik reappointed Strampel. Hudzik consulted with the CAC and considered written input of faculty, staff, and students; information gathered during meetings; responses to constructed questions that can be answered anonymously; and input from other college deans, individuals outside the University, as well as information provided by Strampel in making the reappointment determination.

Prior to Strampel’s reappointment in June 2005, Hudzik met with Strampel to review the 2004 Memorandum and the results of Strampel’s 2005 Review. (MSU-OCR-2019-RA 251-314; 624.) Hudzik asked that Banks and Zayko (as University legal counsel) also attend that meeting. At the meeting, Hudzik informed Strampel of the nature of the complaints, stated that the comments reported were offensive and intolerable, and warned Strampel that such behavior could

not continue. Hudzik did not believe that he reported any conduct directly to the Title IX Office. (OCR Findings, p. 23.)

Hudzik stated that after the meeting, he never received any other complaints or concerns regarding Strampel's conduct. Further, Hudzik stated that the conduct that was reported was verbal, not physical. (*Id.*)

Based on the documentary evidence and Hudzik's own statements, the preponderance of the evidence supports that Hudzik had notice of a complaint or concern of sex discrimination committed by Strampel. Pursuant to Section III of the Resolution Agreement, because Hudzik received notice of complaints of sex discrimination, "the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies." With respect to then-applicable law, there is no allegation that Hudzik had knowledge of a complaint of sexual assault or crime perpetrated by Strampel.

With respect to MSU policies, in June 2005, the Sexual Harassment Policy did not require mandatory reporting of allegations of sex discrimination or harassment. Nonetheless, the conduct found to be reported to Hudzik was addressed with Strampel on June 7, 2005. (OCR Findings, p. 23; MSU-OCR-2019-RA 626-627.) Strampel was warned and counseled about his behavior. Accordingly, the preponderance of the evidence supports that Hudzik followed all then-applicable reporting and response obligations.

v. Robert ("Bob") Banks

Banks is a retired MSU employee and a former Assistant Provost. In this role, Banks assisted in gathering input for Strampel's 2005 Review. Banks reported concerns set forth in the 2004 Memorandum, as well as concerns disclosed during Strampel's 2005 Review to his then-superior, Hudzik. (OCR Findings, p. 22.) For the 2005 Review, Banks noted in his report to Hudzik that he believed Strampel's improper commentary was persistent and serious. (*Id.* p. 23.) As set forth above, Banks attended a June 7, 2005 meeting with Strampel, Hudzik, and Zayko where Hudzik counseled and warned Strampel about his behavior.

The preponderance of the evidence supports that Banks had notice of a complaint or concern of sex discrimination committed by Strampel related to the anonymous concerns in 2005 Review. Pursuant to Section III of the Resolution Agreement, because Banks received notice of complaints of sex discrimination, "the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies." With respect to then-applicable law, there is no allegation that Banks had knowledge of a complaint of sexual assault or crime perpetrated by Strampel.

With respect to MSU policies, in June 2005, the Sexual Harassment Policy did not require mandatory reporting of allegations of sex discrimination or harassment. Nonetheless, Banks reported all of the concerns to his superior, Hudzik. Moreover, the evidence supports that Banks was present at a June 7, 2005 meeting where these concerns were addressed by Hudzik with Strampel, and Strampel was warned and counseled about his behavior. Accordingly, the

preponderance of the evidence supports that Banks followed all then-applicable reporting and response obligations.

vi. Beth Courey

Courey is the Director of Student Engagement and Leadership at MSUCOM and was interviewed by MSUPD on February 14, 2018 and OIE on February 22, 2018. During Strampel's criminal trial, Reporter D, a former MSUCOM medical student, testified that in May of 2014, she reported Strampel's inappropriate comments of a sexual nature to Courey, then an MSUCOM counselor. Reporter D testified that she was informed that she could file a complaint, but she chose not to file a complaint with OIE. (June 3, 2019 Trial Transcript, pp. 22, 24.)

Courey stated in an investigation interview that she had never heard of Reporter D until she was informed about Reporter D's testimony concerning Courey in Strampel's criminal trial. Courey denied ever speaking with Reporter D at all, including regarding Strampel or any inappropriate statements or conduct by Strampel. More generally, Courey stated that she never received a complaint concerning Strampel and never observed any overt threats by Strampel. In hindsight, however, Courey believed Strampel may have generally acted inappropriately in group settings. (MSU-OCR-2019-RA 19.)

Regarding Reporter 17, Courey stated she would not be surprised that Strampel made an inappropriate comment about a woman's pregnancy. Courey, however, denied ever speaking to Reporter 17 in the bathroom (as Reporter 17 reported) at any time between the fall of 2009 through spring of 2010. Further, Courey denied that the specific incident reported by Reporter 17 to OIE (Strampel commenting about Reporter 17's pregnancy and suggesting she was pregnant with his baby) ever occurred in Courey's presence. (MSU-OCR-2019-RA 19.) OIE did not make a finding of sexual harassment in the Reporter 17 matter, concluding that the totality of the evidence as to her allegations were insufficient to prove by a preponderance that the unwelcome conduct occurred in the manner described. (MSU-OCR-2019-RA 42.) Specifically, OIE determined that two corroborating witnesses – Courey and Reporter 17's husband – denied that the incident Reporter 17 reported ever occurred.

Pursuant to Section III of the Resolution Agreement, MSU is required to "review the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by" Strampel. Under the applicable evidentiary standard, a preponderance is the amount of evidence that causes one to conclude that an allegation is more likely true than not true. If the evidence on an allegation is equally balanced (*i.e.*, 50% / 50%), it has not been proven by a preponderance of the evidence. A preponderance of the evidence does not support that Courey had notice of a complaint or concerns of sex discrimination by Strampel.

vii. Karen Klomparans

Klomparans is a former MSU employee and served as an Assistant Provost during Strampel's 2005 Review. During Strampel's 2005 Review, Klomparans prepared a memorandum summarizing the information she gathered regarding Strampel and submitted the memorandum to

Hudzik. In her memorandum, Klomparans stated that she interviewed five individuals regarding Strampel's administrative skills, including three Chairs and two CAC members. One individual noted that they were not supportive of Strampel's re-appointment due to his handling of issues related to sexual harassment issues in the college. (OCR Findings, p. 22.)

Pursuant to Section III of the Resolution Agreement, MSU is required to "review the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by" Strampel. Under the applicable evidentiary standard, a preponderance is the amount of evidence that causes one to conclude that an allegation is more likely true than not true. If the evidence on an allegation is equally balanced (*i.e.*, 50% / 50%), it has not been proven by a preponderance of the evidence. MSU has not found evidence that Klomparans was aware of any concern or complaint of sex discrimination by Strampel. Klomparans may have been on notice of concerns regarding Strampel's handling of complaints of sexual harassment as an administrator, but this knowledge, standing alone, does not implicate Strampel himself of committing sex discrimination. Further, Klomparans reported this concern to her supervisor, Hudzik. Hudzik addressed these concerns with Strampel on June 7, 2005.

viii. *Barbara Steidle*

Barbara Steidle is a retired MSU employee that served as Assistant Provost and as senior consultant to Hudzik. Steidle assisted in gathering information about Strampel for his 2005 Review, and she reported that information to Hudzik.

Steidle conducted 11 interviews with MSU community members who interacted with Strampel, including faculty, staff, members of the CAC, and chairs. In her report, Steidle noted that two individuals commented Strampel is "reputed to have made inappropriate remarks to young women: one thought that this had probably toned down; the second modified 'inappropriate' with 'bridging on sexual harassment' and suggested that he needed to be more careful." (OCR Findings, p. 21.) Steidle also reported learning of an incident where Strampel made off-color sexist remarks, accompanied by him physically pushing against a student at an event (apparently amidst retelling a story). Steidle asked whether the student had reported this incident and the individual interviewed indicated no, but that the student may be willing to come forward, if there were other concerns reported. Steidle's report concluded that each of these individuals, although citing to potential concerns, expressed approval of Strampel's reappointment.

The preponderance of the evidence indicates that Steidle was on notice of a complaint or concern of sex discrimination committed by Strampel related to concerns in the 2005 Review and of an alleged incident involving Strampel pushing a student that may have satisfied the elements of sexual harassment. The other comments noted in Steidle's memorandum, including a report of Strampel's reputation, without additional detail, and a report that Strampel acted in a manner "bridging on sexual harassment," standing alone, do not evidence notice of a concern or complaint of sex discrimination.

Pursuant to Section III of the Resolution Agreement, because Steidle received notice of concerns of sex discrimination, "the University will review whether that person failed to

adequately respond in accordance with then-applicable law and University policies.” With respect to then-applicable law, there is no allegation that Steidle had knowledge of a complaint of sexual assault or crime perpetrated by Strampel.

With respect to MSU policies, the Sexual Harassment Policy did not require mandatory reporting of allegations of sex discrimination or harassment. Nonetheless, Steidle reported all the reported concerns to her supervisor, Hudzik, in writing. Hudzik addressed these concerns with Strampel on June 7, 2005. Accordingly, the preponderance of the evidence supports that Steidle followed all then-applicable reporting and response obligations.

ix. Kristine Zayko

Zayko is a former member of the MSU Office of General Counsel and served as Deputy General Counsel from 2008 to 2018. During her OCR investigation interview, Zayko stated she was only aware of two complaints of sexual harassment against Strampel and further stated that these complaints had already been reported to OIE and MSUPD before she learned of them. Accordingly, her notice of these complaints postdates OIE’s notice of and investigation into the claims regarding Strampel. Zayko confirmed that she was present during a June 2005 meeting with Strampel, Hudzik, and Banks, in her capacity as legal counsel. Zayko recalled that, in connection with that meeting, Strampel was counseled and warned about his behavior.

Pursuant to Section III of the Resolution Agreement, MSU is required to “review the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by” Strampel. The preponderance of the evidence does not support that Zayko had independent notice of concerns or complaints of potential sex discrimination by Strampel until after MSU was already actively addressing the raised concerns and thereafter sought her consultation. With respect to then-applicable law, there is no allegation that Zayko had knowledge of a complaint of sexual assault or crime perpetrated by Strampel. With respect to MSU policies, the Sexual Harassment Policy did not require mandatory reporting of allegations of sex discrimination or harassment. Therefore, even if Zayko was determined to be on independent notice, she followed all then-applicable MSU policies.

x. Kim Wilcox

Kim Wilcox is MSU’s former Provost, a position he held from August 1, 2005 through July 2013. During his tenure as Provost, Wilcox oversaw Strampel’s 2010 Review and recommended his reappointment.

Wilcox’s handwritten notes dated April 14, 2010 on a document entitled “COM CAC re Strampel Review” stated: “Troubling comments re sexism-reluctance to discuss by students” and “chauvinistic and sexist.” A different page of handwritten notes includes the notation “widespread perception of sexism/chauvinism.”

During the pendency of the 2010 Review, on April 26, 2010, Curry sent Wilcox an email summarizing a proposed plan he and Wilcox had created to address Strampel's behavior, based on the comments cited in the 2010 Review materials. As set forth in OCR Findings, Curry's:

email provided that the plan was to have [Strampel] identify a few advisors who could provide him with feedback on his communications at public settings, e.g., faculty meetings. The email described that it was also anticipated that in three years a new group of students would assess the existence of inappropriate communications. At the bottom the email states: "... this is not a situation for 'sensitivity training.' I think with the strategies laid out and a clear statement from you that there will be severe consequences if the behavior continues, he'll change or be out (even if 'he is one of the two best deans we've ever had')."

(Report, pp. 24-25; MSU-OCR 04.16.2018 0011180-222.) On April 29, 2010, Wilcox confirmed via internal memorandum that he met with Strampel and had discussed the proposed plan. Further, the memorandum stated that in the spring of 2013, the Office of the Provost would canvass students, faculty, and staff at the College to ensure that such comments had been eliminated. (OCR Findings, p. 25.) There is no documentation demonstrating that Wilcox followed up on this improvement plan. Curry stated that, as far as he knew or recalled, the plan was not implemented, and individuals named as advisors to Strampel stated that they were not aware of the plan. (*Id.* p. 25.)

A preponderance of the evidence supports that in 2010, Wilcox was aware of conduct by Strampel, including chauvinist and sexist comments, potentially in violation of MSU's then-applicable Sexual Harassment Policy. Pursuant to Section III of the Resolution Agreement, because Wilcox received notice of complaints or concerns of sex discrimination, "the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies." With respect to then-applicable law, there is no allegation that Wilcox had knowledge of a complaint of sexual assault or crime perpetrated by Strampel.

With respect to MSU policies, in 2010 the Sexual Harassment Policy did not require mandatory reporting of allegations of sex discrimination or harassment. Upon notice, it appears that Wilcox responded to the concerns, met with Strampel, and created a proposed written performance improvement plan. The evidence does not indicate that this plan was monitored or implemented precisely as written. Nonetheless, the preponderance of the evidence supports that Wilcox followed all then-applicable reporting obligations.

xi. Members of the CAC and Thomas Cooper

Cooper is identified in OCR's Findings. (*Id.* at 25, 28.) Cooper is the former Associate Chairperson of the Department of Radiology at MSUCOM. Cooper retired from MSU on August 31, 2018. As a retiree, he was rehired as a consultant in the Office of Planning and Budget. Cooper was a member of the CAC during Strampel's 2010 and 2015 Reviews. Cooper stated that any comments regarding potentially inappropriate conduct by Strampel were set forth in the 2010 Review and 2015 Review reports. (OCR Findings, p. 29.) During his OCR interview, Cooper

stated that former Provost Wilcox told the CAC committee that he would address the potential concerns set forth in the 2010 Review materials.

Further, in his CAC role, Cooper helped conduct a survey of faculty and staff during Strampel's 2015 Review and drafted the June 4, 2015 Memorandum provided to Youatt (Strampel's supervisor) and Curry concerning anonymous allegations regarding Strampel. (*Id.* p. 28.) OCR stated that Cooper indicated that the CAC tempered the report by noting that the allegations were made anonymously, but they gave the report to Youatt and Curry "so that they would take action." (*Id.*)

Pursuant to Section III of the Resolution Agreement, MSU is required to "review the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by" Strampel. The preponderance of the evidence indicates that Cooper generally had knowledge of concerns of potential sex discrimination committed by Strampel through his role as a CAC member and in conducting an anonymous survey of students and staff. Accordingly, pursuant to Section III of the Resolution Agreement, because Cooper received notice of concerns of potential sex discrimination, "the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies." With respect to then-applicable law, there is no allegation that Cooper had knowledge of a complaint of sexual assault or crime perpetrated by Strampel.

With respect to MSU policies, in 2010 the Sexual Harassment Policy did not have a reporting requirement for MSU employees. Accordingly, the preponderance of the evidence supports that Cooper followed all then-applicable reporting obligations with respect to the 2010 Review.

As of January 1, 2015, however, the RVSM Policy required all MSU employees to report any knowledge of relationship violence or sexual misconduct allegedly perpetrated by a member of the MSU community or occurring at an MSU event or on MSU property. The term "sexual misconduct" included sexual harassment. On September 8, 2015, MSU amended its RVSM Policy again to specifically state that MSU employees were "expected to promptly report sexual misconduct or relationship violence that they observe or learn about that involves a member of the University community." Allegations of sexual harassment are to be reported to OIE. A preponderance of the evidence supports that Cooper, as a member of the CAC, did not report any concern of sex discrimination after Strampel's 2015 Review to OIE or the Title IX Coordinator. However, Cooper drafted the CAC's June 4, 2015 Memorandum and provided it to Youatt (Strampel's supervisor) and Curry "so that they would take action." (OCR Findings, p. 28.)

xii. Theodore ("Terry") H. Curry II

Curry was Associate Provost and Associate Vice President of Academic Human Resources at MSU until July 5, 2020, and he remains a tenured faculty member. Curry assisted with Strampel's 2010 and 2015 Reviews.

Curry testified that, during Strampel's 2010 Review, he reviewed the survey results and found certain statements that indicated Strampel made comments of a sexually inappropriate nature. (June 7, 2019 Trial Testimony, p. 31.) The results of the survey were discussed, and on April 26, 2010 Curry sent Wilcox an email summarizing a proposed plan to address Strampel's behavior and comments. As set forth in the OCR Findings, Curry's:

email provided that the plan was to have [Strampel] identify a few advisors who could provide him with feedback on his communications at public settings, e.g., faculty meetings. The email described that it was also anticipated that in three years a new group of students would assess the existence of inappropriate communications. At the bottom the email states: "... this is not a situation for 'sensitivity training.' I think with the strategies laid out and a clear statement from you that there will be severe consequences if the behavior continues, he'll change or be out (even if 'he is one of the two best deans we've ever had')."

(OCR Findings, pp. 24-25.) Curry could not recall preparing this specific email, and during his interview with OCR, he stated that, as far as he knew or recalled, the plan was not implemented. (*Id.* p. 25.) In his testimony at Strampel's criminal trial, Curry testified that he was not part of the ensuing conversation between Wilcox and Strampel, but Curry confirmed that he would have been made aware if the recommendations in the email were put in place. (June 7, 2019 Trial Testimony, p. 36.)

Curry testified that he did not recall briefing the next Provost, Youatt, about the recommendations to conduct a 2013 review of Strampel or putting together a working group when Youatt was appointed Provost. Curry also did not recall informing Youatt of the findings in Strampel's 2010 Review. Curry further testified that Youatt had been the Senior Associate Provost before becoming Provost; so, Curry believed Youatt was aware of Strampel's past coaching and warnings.

Curry was additionally copied on a memorandum from the CAC dated June 4, 2015 concerning Strampel. The memorandum indicated that throughout Strampel's 2015 Review, various anonymous individuals made statements relevant to Strampel's interpersonal behavior and communications, including with members of the opposite sex. However, the memorandum provided that because the allegations were anonymous, the statements could not be verified. As such, the CAC closed its memorandum stating without the power to investigate the statements, the CAC "bring[s] it to the attention of University Administration." (OCR Findings, p. 28.) In response to the memorandum, Youatt stated that she and Curry met with members of the CAC and women in leadership at MSUCOM. No one at the meetings reported any misconduct by Strampel. Finally, on June 11, 2015, Youatt emailed Curry to confirm that she had met with Strampel concerning certain comments in the 2015 Review and survey, as well as the June 4, 2015 Memorandum. (OCR Findings, p. 29.)

While Curry stated that he has no recollection of meeting with MSUCOM faculty or communicating with Youatt in 2015 about Strampel, he did recall communicating with Strampel about an anonymous allegation of inappropriate conduct in Thailand. Strampel denied the allegation.

Pursuant to Section III of the Resolution Agreement, MSU is required to “review the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by” Strampel. A preponderance of the evidence, including documentary evidence, indicates Curry was aware of concerns regarding Strampel’s inappropriate communication style toward students and faculty of the opposite gender through Curry’s involvement in the 2010 Review and 2015 Review processes. Accordingly, pursuant to Section III of the Resolution Agreement, because Curry received notice of concerns of potential sex discrimination, “the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies.” With respect to then-applicable law, there is no allegation that Curry had knowledge of a complaint of sexual assault or crime perpetrated by Strampel.

With respect to MSU policies, MSU’s Sexual Harassment Policy did not require MSU employees to report concerns of sexual harassment. Accordingly, the preponderance of the evidence supports that Curry followed all applicable obligations under the law and MSU policy in 2010. As of January 1, 2015, however, the RVSM Policy required all MSU employees to report any knowledge of relationship violence or sexual misconduct allegedly perpetrated by a member of the MSU community or occurring at an MSU event or on MSU property. The term “sexual misconduct” included sexual harassment. On September 8, 2015, MSU amended its RVSM Policy again to specifically state that MSU employees were “expected to promptly report sexual misconduct or relationship violence that they observe or learn about that involves a member of the University community.” Allegations of sexual harassment are to be reported to OIE. A preponderance of the evidence supports that Curry did not report any concern of sex discrimination related to Strampel’s 2015 Review to OIE or the Title IX Coordinator.

xiii. Kari Hortos

Hortos was the Chief Academic Officer for the state-wide campus system at MSUCOM and served as Associate Dean of southeast Michigan. Hortos left her administrative roles with MSU on December 31, 2019. She has an unpaid (volunteer) clinical appointment. Hortos participated as a witness in the Reporter 15 and Reporter 18 OIE investigations against Strampel. (MSU-OCR-2019-RA 12.) Hortos stated that she never received a complaint about the way Strampel engaged with women and that she did not recall receiving any complaints or concerns from Reporter 15, or from anyone else about Reporter 15.

As to Reporter 18, Hortos could not recall having a discussion with Reporter 18 concerning Strampel’s inappropriate statements, but she admitted that she “could see [Strampel] doing it.” Hortos stated that even if Reporter 18 had advised Hortos of Strampel’s misconduct, Hortos did not have an avenue to report such misconduct in 2009. Rather, Hortos believed that she was tasked with handling “this kind of stuff” through a direct and “collegial discussion” with Strampel. (MSU-OCR-2019-RA 21.)

During testimony at Strampel’s criminal trial in 2019, Hortos confirmed that she was a mandatory reporter and was required to report concerns of misconduct to OIE, but Hortos stated that she never received a report that she believed needed to be reported to OIE during the relevant time period. (June 4, 2019 Trial Testimony, pp. 140-141.)

Personally, Hortos witnessed Strampel make statements that she believed were “in poor taste.” (MSU-OCR-2019-RA 14.) Further, Hortos had the opportunity to review anonymous student comments in a survey concerning Strampel’s Class of 2020 orientation lecture. (MSU-OCR-2019-RA 163-207.) Hortos informed Strampel that his statements could be problematic, including statements about “lap dances,” and student’s “whipping off their top.” Hortos stated that the following year, the orientation lecture survey provided similar feedback and that Strampel’s comments remained “unnecessarily crass.” (MSU-OCR-2019-RA 15; MSU-OCR-2019-RA 209-250.)

In her testimony at Strampel’s criminal trial, Hortos stated that she was aware of a speech Strampel gave to new students at orientation coined the “I’m not your Father” speech and confirmed that some of the elements of the speech, were “a little off color from [her] perspective.” (June 4, 2019 Trial Testimony, p. 118.) Thus, after reviewing a survey of students after the speech, Hortos spoke with Strampel and counseled him on tempering his speech into the “PG-13 range.” (*Id.* p. 120.)

Hortos additionally recalled that after Strampel’s 2010 Review, Strampel specifically requested Hortos’ assistance moving forward in improving his communication style and interactions with students – especially female students. (*Id.*) Hortos and Strampel, however, never discussed this topic again. (*Id.* p. 121)

Pursuant to Section III of the Resolution Agreement, MSU is required to “review the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by” Strampel. Under the applicable evidentiary standard, a preponderance is the amount of evidence that causes one to conclude that an allegation is more likely true than not true. If the evidence on an allegation is equally balanced (*i.e.*, 50% / 50%), it has not been proven by a preponderance of the evidence. The preponderance of the evidence indicates that Hortos may have had notice of Reporter 18’s report of misconduct by Strampel that occurred in 2009, as Hortos stated she could not recall communicating with Reporter 18, but she imagined that it was possible Strampel acted in the manner reported. Accordingly, pursuant to Section III of the Resolution Agreement, because Hortos may have received notice of concerns of potential sex discrimination related to Reporter 18 in 2009, “the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies.” With respect to then-applicable law, there is no allegation that Hortos had knowledge of a complaint of sexual assault or crime perpetrated by Strampel.

With respect to MSU policies, MSU’s Sexual Harassment Policy did not require MSU employees to report concerns of sexual harassment. Accordingly, the preponderance of the evidence supports that Hortos followed all then-applicable reporting obligations in 2009.

Hortos, however, also had notice of concerns of sex discrimination set forth by students and faculty in anonymous surveys, including surveys associated with his 2015 Review, and the Class of 2020 and 2021 orientation surveys conducted in the summers of 2016 and 2017. As of January 1, 2015, the RVSM Policy required all MSU employees to report any knowledge of

relationship violence or sexual misconduct allegedly perpetrated by a member of the MSU community or occurring at an MSU event or on MSU property. The term “sexual misconduct” included sexual harassment. On September 8, 2015, MSU amended its RVSM Policy again to specifically state that MSU employees were “expected to promptly report sexual misconduct or relationship violence that they observe or learn about that involves a member of the University community.” Allegations of sexual harassment are to be reported to OIE. A preponderance of the evidence supports that Hortos did not report any concern of sex discrimination to OIE. Specifically, a preponderance of the evidence supports that Hortos did not report any concern of sex discrimination in connection with Strampel’s 2015 Review, or upon review of the Class of 2020 or 2021 orientation surveys in 2016 or 2017 to OIE or the Title IX Coordinator. Hortos stated that in the spring of 2017, she spoke with Strampel about these issues and counseled him on improving his methods of expression. (OCR Findings, p. 30; MSU-OCR-2019-RA 14.)

xiv. June Youatt

Youatt served as MSU’s Provost from April 2014 through September 2019 and remains a tenured faculty member. In the role of Provost, Youatt had supervisory authority over the deans of each college and all associate provosts. Youatt presided over Strampel’s 2015 Review (OCR Findings, p. 25). Additionally, she assisted in Strampel’s 2005 Review, reporting to then-Provost Hudzik.

In 2005, Youatt assisted in compiling statements and comments by students and faculty about Strampel’s communication skills and recommended Strampel’s reappointment. (*Id.* p. 22.) Youatt stated that she was not aware of any complaints raised about Strampel at that time. In her testimony at Strampel’s criminal trial, she stated that she did not know whether anything was done to correct Strampel’s communication style in or around 2005. Youatt did not assist with Strampel’s 2010 review.

In 2015, Youatt reviewed all materials gathered for Strampel’s 2015 Review and determined that he should be reappointed based, in part, on the CAC’s reappointment recommendation. The 2015 Review materials included a survey of faculty and staff, wherein individuals anonymously reported that Strampel utilized crude, obscene, or inappropriate language. (*Id.* pp. 25-28.) The CAC provided Youatt with a memorandum on June 4, 2015 that provided throughout Strampel’s 2015 Review, anonymous individuals made statements of concern regarding Strampel’s interpersonal behavior and communications, including with members of the opposite sex. However, the memorandum provided that because the allegations were anonymous, the statements could not be verified. As such, the CAC closed its memorandum stating without the power to investigate the statements, the CAC “bring[s] it to the attention of University Administration.” (OCR Findings, p. 28.)

Accordingly, Youatt reviewed the June 4, 2015 memorandum and survey with the CAC. On a copy of the memorandum, Youatt wrote the words “sexual harassment” and “discrimination,” but stated in an OCR interview that she could not recall why she wrote down these words. Further, Youatt stated she did not directly receive any report, anonymous or otherwise, concerning inappropriate conduct or physical misconduct by Strampel. (*Id.* p. 28.)

After the meeting with the CAC, Youatt stated that she held a conference with Strampel and advised him of her concerns regarding his communications and choice of language. During

the meeting with Strampel, Youatt inquired about certain comments reported in the survey, including a report that he had discussed sleeping with underage women in Thailand – to which Strampel responded that he had never been to Thailand. (*Id.* p. 29.) Youatt also met with Curry and women in leadership at MSUCOM to discuss Strampel and their concerns with his leadership, if any. No misconduct was reported at the meeting. As OCR is aware, there is no documentation concerning this meeting. (*Id.* p. 29.)

On May 1, 2018, Youatt posted a formal statement on MSU’s website concerning Strampel’s 2015 reappointment that acknowledged anonymous allegations of inappropriate language. The statement also stated that the concerns were taken seriously and that Youatt specifically addressed these concerns in a post-review meeting with Strampel. Further, the statement noted that at that point in 2015, no official complaints regarding Strampel’s behavior had ever been filed with OIE or MSUPD. (*Id.*)

In her testimony at Strampel’s trial, Youatt testified that the concerns reported about Strampel related to his crudeness, sexually explicit remarks, and sexually suggestive remarks, but that such comments were a very small percentage of the approximately 1,000 comments received as a part of his 2015 Review. Thus, Youatt based her decision to recommend the reappointment of Strampel as Dean in 2015 not just on the advice of the CAC, but also in large part on broad projects he had led, including important diversity activities and successfully expanding the presence of MSUCOM in Southeast Michigan. Those issues were considered against the comments about inappropriate language. Further, Youatt stated that if there had been any suggestion of misbehavior with a student, she would have taken it very seriously and followed up. Accordingly, Youatt stated that she did not believe there was a need for formal remediation in 2015. Coming out of the review, Youatt felt it was her job to discuss this issue with Strampel as an area that should be addressed in order to make him a more successful dean.

Youatt testified that she did not review Strampel’s 2005 Review and 2010 Review when conducting the 2015 Review. She explained that this was, in part, because she was in the Provost’s office in 2005 and 2010 and, thus, had general knowledge of Strampel’s performance, and, in part, because it was her understanding that MSU intended for the five-year reviews to be discreet reviews of the last five years only.

In OIE Case No. 3216-2017, Reporter 15 reported that on December 14, 2017, Reporter 15’s father called Youatt to express his concerns about Strampel’s behavior during a June 2017 meeting. (MSU-OCR-11.01.2019 0023967; OCR Findings, p. 30.) OIE investigators interviewed Youatt, and she confirmed that she communicated with the reporter’s father. Further, Youatt informed the father that she would be reporting his statement to OIE and additionally provided the father with OIE’s phone number. Youatt stated that Reporter 15’s father told her Strampel made “suggestive remarks,” including that Reporter 15 was attractive and could resolve her academic concerns in “twenty minutes” – statements that the reporter’s father believed were a sexual provocation. Youatt promptly reported the concerns to OIE and to MSUPD. (MSU-OCR 04.16.2018 0017972.)

Youatt told OCR and testified at trial that she advised Strampel to resign in December 2017. In February 2018, she stated that she recommended Strampel’s dismissal for his failure to monitor and enforce guidelines put in place for Nassar in 2014, failure to advise the University of his arrest, and for his inappropriate behavior. Youatt further stated that MSU was proceeding with

the process of revoking Strampel's tenure, but Strampel decided to retire on June 30, 2018. (OCR Findings, p. 36.) Youatt reported to OCR that she later discerned Strampel "had not vigorously supervised [Nassar] after the 2014 complaint investigation, but she had recently learned through interviews that he had not designated anyone else to supervise [Nassar] either." (*Id.* p. 37.)

Pursuant to Section III of the Resolution Agreement, MSU is required to "review the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by" Strampel. Based on the evidence reviewed, a preponderance of the evidence supports that Youatt was on notice of complaints or concerns about Strampel's language as early as 2005. Youatt reported all information gleaned from interviews during Strampel's 2005 Review to her superior, then-Provost Hudzik, and the conduct was addressed in June 2005 by Hudzik. In 2015, Youatt received notice of complaints or concerns of inappropriate language through Strampel's 2015 Review process. At that time, Youatt was Strampel's superior. Accordingly, she held a meeting with Strampel regarding these concerns and held a second meeting with Curry and various female employees who reported to Strampel in order to learn if there were additional concerns, of which none were reported. Based on her review of all 2015 Review materials and her communications with the CAC, female employees in MSUCOM, and her meeting with Strampel, Youatt recommended Strampel's reappointment. A preponderance of the evidence does not support that Youatt was notified of the proposed plan for improvement put in place for Strampel in 2010 or any time prior to 2017. Further, prior to 2017, a preponderance of the evidence does not indicate that anyone directly reported a particularized concern regarding Strampel to Youatt or that Youatt was on notice of any specific student or faculty member having reported concerns, but rather was provided anonymous comments to review and consider regarding Strampel's inappropriate language and statements. Youatt was not on notice of any concern of physical behavior that was sexual in nature. In 2017, however, Youatt received a complaint of sexual harassment by a MSUCOM student's father and promptly reported the complaint to OIE.

Pursuant to Section III of the Resolution Agreement, because Youatt received notice of concerns of potential sex discrimination related to the 2005 review and 2015 Review, "the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies." With respect to then-applicable law, there is no allegation that Youatt had knowledge of a complaint of sexual assault or crime perpetrated by Strampel.

With respect to MSU policies, MSU's Sexual Harassment Policy did not require MSU employees to report concerns of sexual harassment in 2005. Accordingly, the preponderance of the evidence supports that Youatt followed all applicable obligations under the law and MSU policy during the 2005 Review process. As of January 1, 2015, however, the RVSM Policy required all MSU employees to report any knowledge of relationship violence or sexual misconduct allegedly perpetrated by a member of the MSU community or occurring at an MSU event or on MSU property. The term "sexual misconduct" included sexual harassment. On September 8, 2015, MSU amended its RVSM Policy again to specifically state that MSU employees were "expected to promptly report sexual misconduct or relationship violence that they observe or learn about that involves a member of the University community." Allegations of sexual harassment are to be reported to OIE or the Title IX Coordinator. A preponderance of the evidence supports that Youatt did not report any concerns of sex discrimination based on Strampel's 2015 Review to OIE pursuant to the RVSM Policy. A preponderance of the evidence supports that

Youatt promptly reported the December 2017 concerns set forth by Reporter 15's father to OIE, advised Strampel to resign, and subsequently recommended Strampel's dismissal for cause.

xv. Holly Bielawski

Bielawski was a Title IX Liaison for MSUCOM's Macomb campus, a role she held until July 1, 2018. In that role, Bielawski received any report or concern by staff or students on campus and directed those reports to the correct channels within MSU for investigation and review. In her interview with OCR, Bielawski stated that she had generally heard of Strampel speaking inappropriately, but she did not have any knowledge of inappropriate physical behavior by Strampel. Further, Bielawski stated that in her role, she had forwarded complaints concerning Strampel to OIE, except when she was not provided enough information or did not have the complainant's authorization to report the incident.

Bielawski did not respond to OIE requests for an interview in Reporter A's OIE investigation. In her own OIE investigation interview, Reporter A stated that in June 2017, she reported to Bielawski that a meeting with Strampel "did not go well" and that he made inappropriate comments about her personal life and marriage and further stated that she did not provide any additional detail to Bielawski. (MSU-OCR-2019-RA 22.) However, Bielawski was interviewed by OIE on March 14, 2018 in connection with a separate 2016 OIE investigation between students. During that interview, Bielawski stated that Strampel was present at a meeting concerning the student incident and acted in an angry manner that, in her opinion, made students lose faith in the reporting process. However, Strampel was not stated to have acted in a discriminatory or harassing manner at the meeting.

Pursuant to Section III of the Resolution Agreement, MSU is required to "review the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by" Strampel. Under the applicable evidentiary standard, a preponderance is the amount of evidence that causes one to conclude that an allegation is more likely true than not true. If the evidence on an allegation is equally balanced (*i.e.*, 50% / 50%), it has not been proven by a preponderance of the evidence. A preponderance of the evidence indicates that Bielawski was not on notice of a specific act of sex discrimination perpetrated by Strampel. The evidence also supports that Bielawski understood her reporting obligations. As to Reporter A specifically, the preponderance of the evidence does not support that Bielawski was on notice of a concern of sex discrimination because Reporter A stated that she did not provide information beyond that the meeting did not go well and that Strampel made inappropriate comments about her personal life and marriage. Without more, this statement is not sexual or discriminatory in nature.

xvi. Gail Riegle

Riegle is a former Associate Dean for MSUCOM. OIE investigators interviewed Riegle on February 12, 2018. Riegle did not recall interacting with Reporter 17 in 2009, as she reported, and denied receiving any reports concerning Strampel. Specifically, Riegle stated he "was 'too tied' to

[Strampel] and would not have been perceived as sympathetic due of [sic] his close working relationship with [Strampel].” (MSU-OCR-2019-RA 18.)

Pursuant to Section III of the Resolution Agreement, MSU is required to “review the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by” Strampel. Under the applicable evidentiary standard, a preponderance is the amount of evidence that causes one to conclude that an allegation is more likely true than not true. If the evidence on an allegation is equally balanced (*i.e.*, 50% / 50%), it has not been proven by a preponderance of the evidence. Reviewing all the available evidence, a preponderance of the evidence does not indicate that Riegler received a complaint of sexual discrimination concerning Strampel. Reporter 17 stated she reported Strampel’s inappropriate comments to Riegler, but Riegler denies this allegation. Further, OIE concluded that the evidence was insufficient to support a finding that Strampel violated the RVSM Policy as to Reporter 17.

xviii. John Engler

Engler is identified in OCR’s Findings. (*Id.* at 20.) Engler is the former Governor of Michigan and served as MSU Interim President from January 30, 2018 through January 16, 2019. He was not an MSU employee or officer prior to January 30, 2018. When Engler became Interim President, Strampel was on medical leave and retired several months later. Pursuant to Section III of the Resolution Agreement, MSU is required to “review the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by” Strampel. A review of all available evidence indicates that during his interim presidency, Engler may have had notice of prior potential sex discrimination by Strampel; however, Engler’s notice coincided with OIE’s notice of the same complaint. Specifically, on February 8, 2018, Engler received an anonymous memorandum from “concerned medical students” that was also provided to OIE on February 9, 2018. (OCR Findings, p. 20; MSU-OCR-2019-RA 121.) Accordingly, Engler’s knowledge of potential sex discrimination by Strampel was contemporaneously reported to OIE.

xix. Elizabeth Petsche

Petsche is a former assistant professor for MSUCOM, who also served as the associate director of faculty development and director of pre-clerkship curriculum. Petsche left MSU in February 2019. Petsche testified in Strampel’s criminal trial on May 3, 2019. Petsche stated that on July 13, 2017, one of her students, Reporter C, reached out to her after a meeting with Strampel concerning Reporter C’s insufficient score on a required MSUCOM exam. (May 31, 2019 Trial Transcript, p. 111.) Reporter C told Petsche that the meeting went badly and that Strampel made her “uncomfortable because of the sexual nature of the conversation.” (*Id.* p. 112.)

Petsche stated that she was a mandatory reporter and an MSU employee, but she did not report this conversation to OIE because she “didn’t think it rose to that level.” (*Id.*) Petsche testified that she could not remember the comments Reporter C described, but she was not left with the impression that Strampel propositioned Reporter C because if she had been left with such an

impression, she would have reported the conduct to OIE and would not have been afraid to report Strampel. (*Id.* pp. 124-125.)

Pursuant to Section III of the Resolution Agreement, MSU is required to “review the actions of those current and former employees who had notice or were reported to have received notice of a complaint or concern of sex discrimination committed by” Strampel. Under the applicable evidentiary standard, a preponderance is the amount of evidence that causes one to conclude that an allegation is more likely true than not true. If the evidence on an allegation is equally balanced (*i.e.*, 50% / 50%), it has not been proven by a preponderance of the evidence. A preponderance of the evidence supports that Petsche may have been on notice of a complaint or concern of sex discrimination by Strampel. Because it appears Petsche received notice of a concern of potential sex discrimination by Strampel, “the University will review whether that person failed to adequately respond in accordance with then-applicable law and University policies.” With respect to then-applicable law, there is no allegation that Petsche had knowledge of a complaint of sexual assault or crime perpetrated by Strampel.

With respect to MSU policies, in May 2019, the RVSM Policy provided that MSU employees were “expected to promptly report sexual misconduct or relationship violence that they observe or learn about that involves a member of the University community.” Allegations of sexual harassment are to be reported to OIE. A preponderance of the evidence supports that Petsche failed to report Reporter C’s concerns about the sexual nature of her one-on-one conversation with Strampel in his office to OIE.

Further Responsive Steps

Section III of the Resolution Agreement provides that if MSU’s review determines that any of the current or former employees reviewed received a concern or complaint of sex discrimination, MSU must next determine whether that person failed to adequately respond in accordance with all then-applicable laws and University policies. If so, MSU:

[W]ill then determine what further responsive steps, if any, must be taken with regard to that person. The University will document any actions taken in the employee’s or former employee’s personnel file The University will not be required to engage in actions that are inconsistent with its obligations under governing law and applicable collective bargaining agreements related to the employment relationship and due process concerns stemming from the public nature of the person’s employment or former employment.

* * *

Responsive actions to be considered include, but are not limited to, the following: disciplinary proceedings; revocation of tenure; revocation of honorary and other titles; demotion; reassignment; prohibition from University facilities, programs, and activities; removal of benefits; pay reductions; removal of housing benefits; permanent removal from administrative roles; revocation of honorary and other titles; prohibition from University facilities, programs, and activities; and/or other responsive action.

As set forth above, of the nineteen current and former employees reviewed, the preponderance of the evidence supports that six employees were on notice of a potential concern or complaint regarding Strampel and did not report their knowledge as required under the then-applicable MSU policy. This failure to report may be due to the actual knowledge the employee had and whether that knowledge alone would trigger the duty to report the concern. As required under the Resolution Agreement, MSU must further analyze the following individuals and determine what further responsive steps, if any, must be taken with regard to that person:

- Simon
- Youatt
- Curry
- Hortos
- Members of the CAC and Cooper
- Petsche

A. Complaints or Concerns Within 2015 Review Materials

A majority of the employees that require consideration of further responsive steps have been found, by the preponderance of the evidence, to have failed to report concerns identified in Strampel's 2015 Review materials to OIE. The 2015 Review included a survey of faculty and staff. The survey returned approximately thirty comments about Strampel's inappropriate comments, and all these statements were ultimately presented to Youatt for review and consideration. (Report p. 25.)

No MSU former or current employee with notice of the 2015 Review materials reported a concern or complaint of sex discrimination by Strampel to OIE. The CAC and Cooper did provide the Provost's office with notice of the concerns; however, no report was made to OIE. Similarly, Youatt held a conference with Strampel and advised him of her concerns regarding his communications and choice of language based on the 2015 Review results. During the meeting with Strampel, Youatt specifically inquired about certain comments reported in the survey, including a report that he had discussed sleeping with underage women in Thailand - to which Strampel responded, that he had never been to Thailand. (*Id.* p. 29.) Youatt also met with Curry and women in leadership at MSUCOM to discuss Strampel and their concerns with his leadership, if any. No misconduct was reported at the meeting. As set forth in her May 1, 2018 statement on MSU's website concerning Strampel's 2015 reappointment, Youatt acknowledged the anonymous allegations of inappropriate language. The statement also provided that the concerns were taken seriously and that Youatt specifically addressed these concerns in a post-review meeting with Strampel. Further, the statement noted that at that point in time, no official complaints regarding Strampel's behavior had ever been filed with OIE or MSUPD. (*Id.*) But neither Youatt nor Curry reported the complaints or concerns to OIE.

B. Further Responsive Steps Concerning 2015 Review

i. *Members of the CAC and Cooper*

A CAC of faculty and students reviewed all materials compiled during Strampel's 2015 Review. The CAC provided the Provost with recommendations and noted concerns with Strampel's inappropriate language; however, no member of the CAC ever reported a concern or complaint sex discrimination to OIE. The CAC elevated the concerns to Strampel's supervisor. Indeed, for the CAC, Cooper drafted the June 4, 2015 Memorandum provided to Youatt (Strampel's supervisor) and Curry "so that they would take action." (OCR Findings, p. 28.) **Further responsive steps:** In accordance with MSU policy and Items II.D and II.H of the Resolution Agreement, a summary of this review will be documented in personnel files and, with respect to current employees, Academic Human Resources has initiated the process to impose minor discipline under the Discipline and Dismissal of Tenured Faculty for Cause Policy.²⁴ The University will ensure that members of the CAC understand their failure to report to OIE. Mandatory reporting training will be required of all individuals on the CAC and participating on CACs in the future to ensure the importance of reporting, as well as foster a culture of both empowerment and accountability.

ii. *Theodore ("Terry") H. Curry II*

Like the members of the CAC, Curry himself did not report any complaint or concern of sex discrimination related to Strampel's 2015 Review to OIE. **Further responsive steps:** Effective July 5, 2020, Curry resigned his administrative role of Associate Provost and Associate Vice President for Academic Human Resources. Because he is no longer in this administrative role, Curry will not be involved in (a) reappointment, promotion, and tenure decisions; (b) discipline and dismissal of tenured faculty for cause matters; or (c) administrator – deans, chairs, and directors – review decisions. Consistent with MSU's Retirement Eligibility Requirements for Faculty and Academic Staff, from July 5, 2020 to July 4, 2021, Curry will serve a one-year terminal consultantship with such duties determined by the Provost. Pursuant to his March 26, 2007 offer letter, Curry will begin a six-month research assignment effective July 5, 2021. Curry will retire from MSU effective January 4, 2022. In accordance with MSU policy and Items II.D and II.H of the Resolution Agreement, a summary of this review will be documented in Curry's personnel file

²⁴ Under the Discipline and Dismissal of Tenured Faculty for Cause Policy (the "Policy"), a faculty member may be disciplined, or dismissed, for cause on grounds including but not limited to "(1) intellectual dishonesty; (2) acts of discrimination, including harassment, prohibited by law or University policy; (3) acts of moral turpitude substantially related to the fitness of faculty members to engage in teaching, research, service/outreach and/or administration; (4) theft or misuse of University property; (5) incompetence; (6) refusal to perform reasonable assigned duties; (7) use of professional authority to exploit others; (8) violation of University policy substantially related to performance of faculty responsibilities; and (9) violation of law(s) substantially related to the fitness of faculty members to engage in teaching, research, service/outreach and/or administration." (Internal footnotes omitted.) Disciplinary action is normally iterative and falls into two general categories: minor discipline and serious discipline. Minor discipline includes but is not limited to: verbal reprimand, written reprimand, mandatory training, foregoing salary increase, restitution, monitoring of behavior and performance, and/or reassignment of duties; Serious discipline includes suspension with or without pay or temporary or permanent reduction in appointment. Section VI of the Policy sets forth the process to initiate minor or serious discipline.

and Academic Human Resources has initiated the process to impose minor discipline under the Discipline and Dismissal of Tenured Faculty for Cause Policy. Under the Policy, minor discipline may include reprimand, written reprimand, mandatory training, foregoing salary increase, restitution, monitoring of behavior and performance, and/or reassignment of duties. The University will ensure that Curry understands his failure to report to OIE and the University's current reporting requirements. Mandatory reporting training will be required of all administrators participating in dean reviews to ensure the importance of reporting, as well as foster a culture of both empowerment and accountability.

iii. Kari Hortos

Hortos also had notice of concerns of sexual discrimination set forth by students and faculty in anonymous surveys, including surveys associated with his 2015 Review, as well as the Class of 2020 and 2021 orientation surveys conducted in the summers of 2016 and 2017. **Further responsive steps:** As of December 31, 2019, Hortos resigned her administrative role of Associate Dean at MSUCOM. In accordance with MSU policy and Items II.D and II.H of the Resolution Agreement, a summary of this review will be documented in her personnel file. Mandatory reporting training will be required of all administrators participating in dean reviews to ensure the importance of reporting, as well as foster a culture of both empowerment and accountability.

iv. Lou Anna Simon

Simon herself did not report any complaint or concern of sex discrimination related to Strampel's 2015 Review to OIE. **Further responsive steps:** Simon resigned her administrative role of President, and she subsequently retired from MSU. In accordance with MSU policy and Items II.D and II.H of the Resolution Agreement, a summary of this review will be documented in her personnel file. Mandatory reporting training will be required of all administrators participating in dean reviews to ensure the importance of reporting, as well as foster a culture of both empowerment and accountability.

v. June Youatt

Youatt herself did not report any complaint or concerns related to Strampel's 2015 Review to OIE. **Further responsive steps:** After OCR's September 5, 2019 Findings were issued, Youatt resigned her administrative role of MSU Provost. Because she is no longer in this administrative role, Youatt will not be involved in (a) reappointment, promotion, and tenure decisions; (b) discipline and dismissal of tenured faculty for cause matters; or (c) administrator – deans, chairs, and directors – review decisions. Pursuant to her March 18, 2014 offer letter, Youatt completed a six-month sabbatical leave and is currently completing a six-month research leave that ends November 15, 2020. Consistent with MSU's Retirement Eligibility Requirements for Faculty and Academic Staff, from January 21, 2021 to December 31, 2021, Youatt will serve a one-year terminal consultantship with such duties determined by International Studies and Programs. Youatt will retire from MSU effective December 31, 2021. In accordance with MSU policy and Items II.D and II.H of the Resolution Agreement, a summary of this review will be documented in her personnel file, and Academic Human Resources has initiated the process to impose minor

discipline under the Discipline and Dismissal of Tenured Faculty for Cause Policy. Under the Policy, minor discipline may include reprimand, written reprimand, mandatory training, foregoing salary increase, restitution, monitoring of behavior and performance, and/or reassignment of duties. The University will ensure that Youatt understands her failure to report to OIE and the University's current reporting requirements. Mandatory reporting training will be required of all administrators participating in dean reviews to ensure the importance of reporting, as well as foster a culture of both empowerment and accountability.

C. Further Responsive Steps Concerning Other Complaints of Concerns of Potential Sex Discrimination By Strampel

i. Elizabeth Petsche

A preponderance of the evidence supports that Petsche failed to report Reporter C's concerns about the sexual nature of her one-on-one conversation with Strampel in his office to OIE. ***Further responsive steps:*** Petsche resigned from MSU on February 2, 2019. In accordance with MSU policy and Items II.D and II.H of the Resolution Agreement, a summary of this review will be documented in her personnel file.