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August 28, 2023

By Electronic Mail

Tom Smith, Chairperson, Highland Community College Board of Trustees
Deborah Fox, President, Highland Community College
606 W. Main
Highland, KS 66035

c/o Shazzie Naseem
Berkowitz Oliver Williams
Shaw & Eisenbrandt LLP
2600 Grand Blvd, Suite 1200
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c/o Nanette Turner Kalcik
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605 N. Waterfront Parkway, Suite 150
Wichita, KS 67206

Re: Highland Community College Investigation

Dear Mr. Smith and Ms. Fox:

As you know, the U.S. Department of Justice Civil Rights Division, Educational Opportunities Section, and the U.S. Attorney's Office for the District of Kansas (together, the "United States") have been jointly investigating allegations that Highland Community College (the "College") discriminated against students on the basis of race in carrying out searches, surveillance, and discipline of Black students—primarily Black student-athletes—and failed to appropriately respond to allegations of employee-on-student race-based harassment. The United States conducted the investigation under Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c *et seq.* ("Title IV"), which authorizes the Attorney General to respond to complaints and take action to protect students from discrimination on the basis of race, color, sex, religion, or national origin by public elementary and secondary schools and public colleges. 42 U.S.C. §§ 2000c-c9.

The United States opened its investigation in January 2022. During the investigation, the United States reviewed thousands of pages of policies and procedures, student disciplinary files, security activity reports, and discrimination complaints. The United States interviewed students

and former employees. The United States also conducted a four-day site visit to speak with relevant College administrators and staff. The investigation focused principally on the College's policies and practices from the 2018-19 to 2021-22 school years ("Relevant Period").

The investigation identified three primary areas of concern regarding the College's treatment of Black students and response to racial discrimination complaints: (1) ineffective responses to racial discrimination complaints due to inadequate policies, procedures, and employee training; (2) reliance on under-trained and under-supervised employees who have wide discretion to implement student discipline; and (3) lack of clear policies, procedures, and training related to campus security. We appreciate the College's cooperation throughout the course of this investigation and the commitment the College expressed to addressing our concerns before the investigation was concluded through the responsive remedies detailed below.

First, we identified concerns that the College lacks the policies, procedures, and training necessary to respond adequately to racial discrimination complaints. The investigation revealed that without appropriate policies and training, employees often substitute their discretion and judgment about when and how to respond to complaints. This unguided discretion led to inconsistent and often inadequate responses to allegations of racial discrimination, and undermined Black students' confidence that their reports of discrimination would be taken seriously. The United States and the College have worked together to identify several key reforms to improve the College's policies, procedures, and training, so that complaints of racial discrimination are appropriately tracked, responded to, and resolved.

Second, based on the information gathered to date, under-trained and under-supervised employees appear to have wide discretion to implement student discipline. Our initial review of disciplinary files identified situations where that discretion appeared to lead to different outcomes for similarly situated Black and white students. Further, our review of the College's discipline data showed disproportionality in the number of infractions and severity of consequences that Black students received compared to white students, particularly for subjective infractions like insubordination or disrespect. Throughout the Relevant Period, Black students made up a disproportionate number of students who were expelled or removed from housing and ultimately were unable to continue at the College. In addition, the College's Student Handbook does not provide a clear explanation of disciplinary timelines and resolution procedures. As a result, all students—but disproportionately Black students—lack fair opportunities to advocate for themselves, present evidence, or appeal a disciplinary outcome. The College has committed to reviewing and revising its disciplinary process and training to address these concerns.

Third, the investigation indicated that the College lacks clear policies, procedures, oversight, and training related to campus security, and that employees responsible for patrols and searches engaged in inconsistent practices throughout the Relevant Period. The high rate of employee turnover, coupled with insufficient training for new hires, increased the College's reliance on subjective decision-making by security personnel who bring widely varied experiences to the job. Over the course of the investigation, we saw concerning examples of these security officers' interactions with Black students, including threats to involve law enforcement in response to what appeared to be low-level misconduct. Moreover, although students alleged that campus security officers engaged in racially biased conduct in complaints to

the College, the College did not appropriately investigate or resolve those complaints, nor adjust the level of discretion and latitude afforded to security officers. The College has agreed to revise unclear policies, procedures, and training related to campus security, which should promote consistent, non-discriminatory interactions between security personnel and students.

We understand and acknowledge that the College denies any failure to meet its legal obligations. Nonetheless, the College has expressed its ongoing commitment to ensure that all students can attend the College without regard to race and its willingness to make changes so that commitment is reflected in the experiences of its students. For that reason, and to respond to the United States' concerns, the College agreed to, among other things, revise its policies and practices to reduce discretion and subjectivity and improve how it responds to racial discrimination allegations. The College also pledged to engage with students about their experience on campus to ensure that all students feel welcome at the College, without regard to race. Since we described the concerns raised by our investigation, the College and the United States have worked together to reach a voluntary resolution that memorializes these commitments and charts a path to attain these goals and meaningfully improve the experiences of Black students on campus. Those efforts culminated in the College and the United States entering into the attached Settlement Agreement on August 28, 2023.

We appreciate the College's cooperation throughout the course of this investigation and look forward to working with the College as it fully implements the Settlement Agreement. If you have any questions, please contact Natacha Y. Lam (Natacha.Lam@usdoj.gov) or Toni Coleman (Toni.Coleman@usdoj.gov).

Sincerely,

Kate E. Brubacher, U.S. Attorney



Andrea L. Taylor, Assistant U.S. Attorney
U.S. Attorney's Office
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Educational Opportunities Section

cc: Jason Taylor, Vice-Chairperson, Highland Community College Board of Trustees
Carl Tharman, Secretary/Treasurer, Highland Community College Board of Trustees
Vernie Coy, Board Member, Highland Community College Board of Trustees
Charles Kenneth Huss, Board Member, Highland Community College Board of Trustees
Russell Karn, Board Member, Highland Community College Board of Trustees