

**SPECIAL COUNSEL'S REPORT**

**STATE OF IOWA BOARD OF REGENTS**

**UNIVERSITY OF IOWA  
INTERNAL INVESTIGATION**

**SEPTEMBER 18, 2008**

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**SECTION I**  
**LIMITATIONS**

The scope of review of the Special Counsel’s investigation is limited to the current sexual assault policies and procedures of the University of Iowa (the “University”) and the actions of University departments and personnel following the October 14, 2007 incident. This report contains no examination or assessment of the alleged criminal incident itself or the facts thereof. The confidentiality of certain documents referenced in this report and marked with an asterisk is at issue in the litigation entitled Press-Citizen Company, Inc. v. University of Iowa, No. CVCV068910, Johnson County District Court. The Court in that case has ordered that the documents be indexed and submitted to the Court for in camera review. The State of Iowa Board of Regents will release these documents in compliance with court orders. Certain names have been redacted to protect privacy.

**SECTION II**  
**EXECUTIVE SUMMARY**

***A. General Timeline of the Incident and the University of Iowa's Response***

At approximately 7:00 a.m. on Sunday, October 14, 2007, a female student-athlete (the "Student-Athlete") arrived at the University of Iowa Health Center Emergency Room and reported that she had been sexually assaulted earlier that morning. The Student-Athlete reported that the assault occurred in a dormitory room in Hillcrest Hall on the University of Iowa campus. She also indicated that the person who assaulted her was a University of Iowa student and football player, hereinafter referred to as "Football Player #1." A counselor from the Rape Victim Advocacy Program ("RVAP") met with the Student-Athlete. At that time, the Student-Athlete stated that she did not wish to file a report with law enforcement. By late evening on October 14, the Student-Athlete's parents, her counselor, her athletic trainer, and her coaches, Fred Mims (Associate Athletics Director, Student Services & Compliance) and Gary Barta (Athletics Director), had all been informed of the incident.

On Monday, October 15, by approximately 8:30 a.m., Sally Mason (President of the University of Iowa), Mary Curtis (Associate Athletics Director, Human Resources & Compliance), Kirk Ferentz (Head Football Coach), Betsy Altmaier (Faculty Athletic Representative to Big Ten Conference & NCAA), Marcus Mills (General Counsel), Phillip Jones (Vice President for Student Services) and Jennifer Modestou (Director of the Office of Equal Opportunity & Diversity ("EOD")) were informed of the incident. On the morning of October 15, Fred Mims and Mary Curtis met with the Student-Athlete's father to discuss the Student-Athlete's options for reporting the incident. The Student-Athlete and her father met with her counselor later the same morning, and she



stated to him that she did not wish to speak with any officials from the Department of Athletics regarding the incident.

On October 16, the Student-Athlete and her father, again, met with her counselor. At that meeting, the Student-Athlete reiterated that she did not wish to speak with any officials from the Department of Athletics regarding the incident. The Student-Athlete and her father stated that neither of them wanted revenge, but they wanted the person who had assaulted her held accountable. However, the Student-Athlete's counselor informed her that if she wanted anything done to hold the person who had assaulted her accountable, she would have to speak with other University officials regarding the incident since he had no power to rectify the situation. Later that day, Fred Mims and Mary Curtis met with the Student-Athlete and her father to explain the University's policies and procedures to the Student-Athlete and discuss her desired outcome of the process. At this meeting, the Student-Athlete was asked to recount her version of the incident. The Student-Athlete stated that while she did not wish to have any criminal action taken against the accused, she did feel some form of University-sanctioned punishment was needed.

On October 17, the Student-Athlete and her father met with Mary Curtis, the head coach of the Student-Athlete's team, Gary Barta, Kirk Ferentz and Betsy Altmaier. At the meeting, the Student-Athlete recalls having to recount her version of the incident (Department of Athletics' interviews and notes do not reference this), and her options and desired outcome were, again, discussed. The Student-Athlete stated that rumors and questions were circulating about the incident. Betsy Altmaier referred the Student-Athlete to additional counseling resources. Department of Athletics officials offered to relocate the Student-Athlete to a different dormitory because she and Football Player #1 were both residents in Hillcrest Hall; however, the Student-Athlete stated her desire to remain in Hillcrest Hall near her friends and teammates. At this meeting, the Student-Athlete informed Mary Curtis that she desired an informal investigation of the incident conducted within the Department of Athletics. The Student-Athlete's father supported

her decision. Also, on October 17, Kirk Ferentz suspended two football players, Football Player #1 and another player, hereinafter referred to as “Football Player #2,” for inconsistencies regarding their statements about the incident when he questioned them. The Student-Athlete was advised by Gary Barta that she could change her mind about keeping the investigation informal at any time.

From October 18 until October 22, Mary Curtis and Fred Mims pursued an investigation of the incident, conducting interviews of students and members of the Department of Athletics (“Department of Athletics” or “AD”). Mary Curtis remained in contact with EOD throughout the AD’s investigation. At least by October 22, the Department of Athletics had strong evidence suggesting that, in spite of the Student-Athlete’s belief that only Football Player #1 was involved in the incident, Football Player #2 had also participated. Also, by October 22, Fred Mims was informed that Football Player #2 had obtained legal counsel.

On October 23, the Department of Athletics decided that in light of Football Player #2’s possible involvement, the incident could no longer be investigated informally. Fred Mims delivered AD’s report to Phillip Jones, Marcus Mills and Marcella David (Special Assistant to the President for Equal Opportunity & Diversity) and turned the investigation over to EOD.<sup>1</sup> Upon receiving the report, EOD began conducting a formal investigation of the incident.

From October 23 until November 5, EOD conducted its formal investigation of the incident. The investigation consisted of personal interviews with individuals with information related to the incident. The Student-Athlete was interviewed as part of EOD’s investigation on November 1. Football Player #2, through his legal counsel,

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<sup>1</sup> EOD’s authority to formally investigate sexual assault allegations is derived from the *UI Violence Policy*, Section II-10.6-10.8, Appendix C, and the *UI Sexual Harassment Policy*, Section II-4.2, Appendix F.

declined to be interviewed. EOD then wrote its report on the incident, which was completed on November 15.

Between October 24 and November 5, the Student-Athlete and her parents contacted several University officials, including Marcus Mills and Fred Mims, in an attempt to obtain information regarding the progress of the investigation. During this period, the Student-Athlete was subjected to harassment and retaliation from members of the football team, as well as other student-athletes, including physical threats and shouts of insulting and offensive language. The Student-Athlete reported that the harassment and retaliatory behavior worsened when she was in situations where large numbers of student-athletes were present, such as in the Hillcrest Hall dining area and the student-athlete Learning Center.

Due to the continued harassment and her general dissatisfaction with the University's response, on November 5, the Student-Athlete filed a criminal report of the incident with the University of Iowa Department of Public Safety ("DPS"), the University's internal law enforcement entity. DPS had received the results of the Student-Athlete's sexual assault investigation immediately after the incident, but the result kit did not include the alleged victim's name due to health privacy law.

On or about November 9, Brian Meyer, a DPS officer investigating the case, informed the Student-Athlete in the presence of her RVAP advocate that Football Player #2 had likely also had sexual intercourse with her on the morning of October 14. At that point, Football Player #2 had been living down the hall from the Student-Athlete in a female student's room for three weeks.

On November 13, the Student-Athlete's mother, at the direction of Marcus Mills, contacted Phillip Jones to discuss the continuing harassment and the Student-Athlete's housing situation. At this time, Jones stated that he "had nothing" on the incident and did not know the Student-Athlete's name.

On November 16, the Student-Athlete, her mother, her RVAP advocate and Charles Green, Assistant Vice President and Director of Public Safety, DPS, met with Jones to ask that the Student-Athlete be released from her housing contract due to the continuing harassment. The release was granted, and the Student-Athlete moved out of Hillcrest Hall soon afterward. The Student-Athlete also provided Phillip Jones with the names of several student-athletes who were harassing her. Jones subsequently sent a letter to these student-athletes between November 21 and November 28, notifying them of the University's anti-retaliation policy, but not advising them that they had been accused of retaliation.

On November 15, EOD completed a formal written report of its findings pursuant to its investigation, which had concluded on November 5. However, a day earlier, on November 14, in connection with the criminal investigation of the October 14 incident, a subpoena was issued for the EOD report. The subpoena was issued with a court order which, in the opinion of the University's General Counsel and others, enjoined its distribution to any University personnel, including Phillip Jones in Student Services. Without the report, Student Services was unable to proceed with any disciplinary proceedings.

On November 16, the Board of Regents of the State of Iowa asked its General Counsel, Tom Evans, and Andrew Baumert, its acting Executive Director, to conduct an investigation into the University's compliance with policies and procedures and statutes while investigating the incident.

On November 19, 2007 and May 16, 2008, the Student-Athlete's mother and both parents together, respectively, wrote letters to University officials which expressed, in great detail, their dissatisfaction with the University's response to the incident. However, these letters, as well as many other relevant documents, were not turned over to Tom

Evans during his investigation on behalf of the Regents. The Student-Athlete and her family were not interviewed in connection with the Evans' investigation.

On June 11-12, 2008, Tom Evans issued his report to the Regents on the University's handling of the incident. In his report, Evans determined that the University had "fully complied" with internal procedural requirements, had offered the Student-Athlete appropriate accommodation and had expressed full support for the Student-Athlete. Evans also made several recommendations for future policies and procedures (Special Counsel's review of Tom Evans' report and its conclusions can be found in Section V of this report).

On July 19 and July 21, 2008, the Student-Athlete's parents' letters and their contents were made public.

Numerous additional facts and occurrences were involved in the University's response to this incident. Conflicting accounts, additional facts and occurrences are discussed in detail, where relevant, within this report.

### ***B. Special Counsel's Charge***

On July 28, 2008, the Iowa Board of Regents Special Committee engaged The Stolar Partnership, LLP ("Special Counsel") to conduct an investigation of the responses and actions of the University of Iowa, its administration, departments and personnel to the incident reported on October 14. Special Counsel's investigative team was led by James Sears Bryant, as assisted by Doreen D. Dodson, Charla M. Scott and C. Peter Goplerud (the "Investigators"). As part of the investigation, the Investigators:

- (1) Reviewed the specific allegations contained in the November 19, 2007 and May 16, 2008 letters written by the Student-Athlete's parents;

- (2) Conducted personal interviews with the Student-Athlete and her parents;
- (3) Conducted personal interviews of University students, officials and personnel, including, but not limited to, those who had been involved in past investigations of the incident;
- (4) Interviewed persons with expertise in the areas of sexual violence victims' advocacy and rights;
- (5) Analyzed the reasons all relevant documents were not provided to the Board of Regents during its prior investigation of the incident;
- (6) Reviewed all current applicable University policies and procedures, including sexual assault and sexual harassment policies;
- (7) Reviewed such policies and procedures in conjunction with applicable state and federal laws and regulations;
- (8) Evaluated the impact of relevant laws and court orders upon the University's response to the incident; and
- (9) Reviewed past investigations and recommendations of sexually related complaints and incidents at the University.

This report details the Investigators' findings as a result of their investigation. It contains an evaluation of the response to the incident by University departments and personnel, including: (i) an assessment of whether the University's relevant policies and procedures were followed; (ii) identification of any problems or concerns with existing

policies and procedures; and (iii) preliminary recommendations of changes to policies and procedures.

### ***C. Description of Special Counsel's Investigation***

Special Counsel conducted its investigation over a time span of seven weeks. The investigation included personal and telephone interviews with over 40 individuals, encompassing University of Iowa personnel, student-athletes, experts in the field of sexual assault victim advocacy and other individuals outside the University.<sup>2</sup> Members of the Investigators also traveled to the home of the Student-Athlete and her family to meet with them in person and discuss their concerns. In addition, the team conducted an extensive review, encompassing thousands of e-mails, handwritten notes, interview recordings and departmental reports, policies, procedures and prior recommendations relating to the October 14 incident, as well as past incidents at the University.

### ***D. Special Counsel's General Review of Concerns Raised by the Student-Athlete and her Family***

At the center of the Special Counsel's investigation was its attempt to address each of the specific allegations contained in the November 19, 2007 and May 16, 2008 letters written by the Student-Athlete's parents.

While the investigative team was unable to resolve certain conflicting perspectives on some of the allegations, the Investigators were able to reach the following general conclusions, which are discussed in greater detail throughout the report.

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<sup>2</sup> The names of many individuals interviewed are listed in Appendix B. The Investigators also spoke with other individuals who wished to remain anonymous.

(1) *Allegations contained in the Student-Athlete's Mother's November 19, 2007 Letter and Special Counsel's Responses*

- **ALLEGATION: The Department of Athletics encouraged the Student-Athlete to handle the incident within the department.**
- **RESPONSE:** The investigation uncovered conflicting information regarding whether and to what extent the Student-Athlete was encouraged to handle the incident within the Department of Athletics. AD officials were adamant in their interviews that the Student-Athlete was never pressured to choose one avenue of investigation over another and was told she would be supported in whatever decision she made. However, the Student-Athlete and her family stated that they felt strong pressure to handle the incident within AD. Given the lack of understanding between the parties and the emotional states of the Student-Athlete and her parents, such inconsistent perceptions are not surprising and are a prime example of the inherent issues which arise when departments conduct internal investigations of sexual assault allegations involving their own constituents and/or personnel.
- **ALLEGATION: The Department of Athletics did not fully explain the different investigation options and procedures to the Student-Athlete and her family.**
- **RESPONSE:** The meeting notes and interviews of several University officials suggest that the Department of Athletics attempted to explain the various options for reporting and investigating sexual assaults to the Student-Athlete and her father. The overlapping jurisdiction of numerous entities, the number of applicable policies and the variety of investigation



options are extremely confusing and are not well understood even by University personnel. These policies and procedures may have proven especially confusing to the Student-Athlete and her father, who were in a vulnerable state, were unsure as to how to proceed with reporting a sexual assault and were without a trained advocate who could have assisted with their understanding.

- **ALLEGATION: The Department of Athletics did not advise the Student-Athlete that she could or should have a rape victim advocate with her at all meetings.**
- **RESPONSE:** The investigation indicates that the Department of Athletics did recommend that the Student-Athlete and her family retain legal counsel to protect the Student-Athlete's interests; however, the Department of Athletics did not offer to obtain a trained counselor or rape victim advocate for the Student-Athlete to accompany her to meetings with AD. Some sources within the Department of Athletics state that the Student-Athlete's father asserted that he would be serving as his daughter's advocate during meetings. In his interview with the Investigators, the Student-Athlete's father stated that he never made any such statement and that he was in no position to serve as his daughter's advocate because he had no knowledge whatsoever of "how these things are handled." During her interview with the Investigators, the Student-Athlete stated that she was not aware that she was allowed to bring her RVAP advocate with her to the Department of Athletics' meetings, given the high level officials who would be present.

- **ALLEGATION:** Marcus Mills did not give clear or effective communication to the Student-Athlete or her family regarding the progress of the investigation of the incident.
- **RESPONSE:** In his interview with the Investigators, the Student-Athlete's father indicated that he was deeply dissatisfied with Mills' performance as the liaison with the family on the progress of the investigation. On or about October 24, Mills spoke with the Student-Athlete's father, at the request of Betsy Altmaier, and stated that he would now be the family's liaison with respect to the investigation. The Student-Athlete's father stated that Mills was extremely difficult to reach and that each time he spoke to Mills about the investigation, he was "given a different story." The Student-Athlete's father stated that when he complained to Mills about the fact that Football Player #2 and Football Player #1 had not been removed from Hillcrest Hall, Mills' response was that there was a lot of "bureaucracy" involved in University investigations and that things would happen "in time." Mills spoke with the Student-Athlete's father between October 24 and November 13, after which time their communication ceased. The Student-Athlete's father is of the opinion that the entire situation "would have been better" if Mills had never contacted him. The Student-Athlete's father's dissatisfaction is understandable in that the General Counsel's involvement as liaison for an alleged victim of sexual assault is improper, given the perceived (if not apparent) conflict of interest with the General Counsel acting in such a capacity.

- **ALLEGATION: President Sally Mason was uninformed and unresponsive with respect to the incident.**
- **RESPONSE:** The investigation determined that President Mason was aware of and responsive to the incident. She primarily relied upon other sources to oversee the University's handling of the investigation. President Sally Mason was informed of the incident on October 15. In general, she relied upon her General Counsel to oversee the University's response to the incident. President Mason contacted EOD officials in early November and encouraged them to complete the investigation into the incident as quickly as possible so that appropriate sanctions could be made, if necessary. On November 5, the Student-Athlete's father placed a call to Sally Mason. An administrative assistant took the message and sent the message to Marcus Mills, General Counsel, inquiring if this was a matter to which the President should respond. The General Counsel's logs show that Marcus Mills returned the father's call later that day. On or about November 20, President Mason also made a phone call to the Student-Athlete's mother, expressing her sympathy for what the Student-Athlete had experienced. However, a call later that day from the Student-Athlete's mother to President Mason increased the mother's frustration.
- **ALLEGATION: EOD officials were aggressive and accusatory while interviewing the Student-Athlete and accused her of bringing the incident upon herself.**
- **RESPONSE:** The investigation did not uncover any evidence suggesting EOD officials intended to make the Student-Athlete feel responsible for the incident, as reported in the Student-Athlete's mother's November 19, 2007 letter. The Investigators reviewed an audio recording of the Student-

Athlete's interview with EOD, as well as all of the interview notes, and heard no indication that EOD officials accused the Student-Athlete of bringing the alleged sexual assault upon herself. However, there are factors surrounding the interview, including the type of questioning used, which may have led to the Student-Athlete's negative perception of her interviewers.

- **ALLEGATION: Phillip Jones had no information on the investigation and was not aware of the incident until he was contacted by the Student-Athlete's mother.**
- **RESPONSE:** The investigation confirmed that while Jones told the Student-Athlete's mother on November 13 that he "had nothing" on the alleged sexual assault and that he did not know her name or her daughter's name, Jones (a) was informed of the incident by Fred Mims on the morning of October 15, (b) had other conversations with Fred Mims during the first week after it occurred, and (c) had received a report on the incident from the Department of Athletics on October 23. Jones failed to give the Investigators any satisfactory explanation for this misstatement.
- **ALLEGATION: The Student-Athlete was subjected to harassment and retaliatory behavior by other members of the student-athlete community.**
- **RESPONSE:** The Investigators found the Student-Athlete's assertions that she was subjected to harassment and retaliation from members of the football team, as well as other student-athletes, to be credible. This alleged harassment included physical threats and shouts of insulting and offensive language. The Student-Athlete told the Investigators that the

behavior was at its worst when the Student-Athlete was in areas where large numbers of student-athletes were present, such as in the Hillcrest Hall dining area and the student-athlete Learning Center. The response by University officials to this harassment was ineffectual.

- **ALLEGATION: Department of Athletics officials were aware that Football Player #2 had likely engaged in sexual intercourse with the Student-Athlete by the end of the first week of the investigation, but failed to inform her of this fact.**
- **RESPONSE:** The investigation confirmed that no one from the Department of Athletics had fully informed the Student-Athlete of Football Player #2's probable involvement in the incident. The Department of Athletics was contacted by an attorney for Football Player #2 on or about October 19. The Student-Athlete was not informed of Football Player #2's probable involvement at that point. Department of Athletics officials stated that they assumed the Student-Athlete knew about Football Player #2's involvement because, during the October 16 and 17 meetings, she referred to two student-athletes. However, the Student-Athlete was referring not to Football Player #2, but to another student-athlete who had been in the room with Football Player #1 prior to the incident and who, she later stated, had no involvement in the alleged assault.
- **ALLEGATION: Football Player #2 was permitted to reside down the hall from the Student-Athlete for three weeks.**
- **RESPONSE:** The Investigators found that Phillip Jones failed to remove Football Player #2 and Football Player #1 from the dormitory they shared

with the Student-Athlete, although he acknowledged to the Investigators that he had the authority to do so. The *UI Policy on Violence, UI Sexual Harassment Policy* and the *UI Sexual Assault Policy* all allow for the Vice President for Student Services to take interim action to protect the health and safety of an alleged victim of a sexual assault, even if the report is being investigated informally. In his interview with the Investigators, Jones acknowledged he had the authority to move the alleged perpetrators to another dormitory in order to protect the Student-Athlete. Jones was aware of the allegations against Football Player #1 on October 15. He was aware of the allegations against Football Player #2 by October 23 when he received the Department of Athletics' report on the incident. At no point did he exercise his interim sanction power to remove either one of them from the dormitory they shared with the Student-Athlete. When the Student-Athlete was finally informed of the involvement of Football Player #2 on November 9, she realized that he had been living down the hall from her in a female student's room for three weeks.

- **ALLEGATION: The Student-Athlete and her family were led to believe that Betsy Altmaier represented the President's Office and was, therefore, keeping President Mason updated on the progress of the investigation. However, this was not the case.**
- **RESPONSE:** It appears that until November 16, the Student-Athlete and her family did, in fact, believe that Betsy Altmaier "represented" the President's Office in some way. Altmaier's direct contact was with Marcus Mills, the University's General Counsel, upon whom President Mason relied to monitor the handling of the investigation. Therefore, Altmaier indirectly fulfilled the role of keeping President Mason's Office informed, through Mills.

- **ALLEGATION: There is no such thing as an informal investigation under the University’s sexual assault policies and protocols (as stated by Phillip Jones).**
- **RESPONSE:** Both the *UI Violence Policy* and the *UI Sexual Harassment Policy* clearly provide for informal investigation of allegations of sexual assault. When interviewed by the Investigators, Jones continued to assert that there is no informal method for investigation of sexual assault allegations. When presented with the relevant sections of the *UI Violence Policy* and the *UI Sexual Harassment Policy*, he essentially made a “supremacy” argument, stating that the *UI Code of Student Life* is a preemptory policy to both the *UI Violence Policy* and the *UI Sexual Harassment Policy* and that, therefore, because the *UI Code of Student Life* does not explicitly provide for informal investigation, the informal investigation provisions in the other two policies are invalid. The *UI Code of Student Life* refers, however, to EOD, which conducts both informal and formal investigations pursuant to the *UI Sexual Harassment Policy*.
- **ALLEGATION: The University did not handle the situation in a professional way that followed University protocol and compliance with its own rules.**
- **RESPONSE:** Although University policies and procedures may have been followed as to “form,” the investigation revealed substantial flaws in not only the University of Iowa’s response to the alleged sexual assault at issue, but also in its policies, procedures and practices regarding the same. However, Special Counsel uncovered no evidence of any attempt by officials associated with the University to cover up the alleged assault.

Despite the efforts of some student-athletes and their coaches to ensure a supportive environment for the Student-Athlete, other student-athletes behaved in a crude manner, using bullying and abusive tactics toward a fellow student-athlete in need of support and nurturing. The Office of the Vice President for Student Services and Dean of Students also failed in its responsibilities to the Student-Athlete. While Phillip Jones' failure to act did not technically violate the "letter" of the University's policies and procedures, his inaction was fundamentally inconsistent with the "substance" and intent of those policies. Finally, the Office of the General Counsel should never have assumed a supervisory role in the investigation of the incident. To do so was an inherent conflict of interest.

(2) *Allegations contained in the Student-Athlete's Parents' May 16, 2008 Letter*

- **ALLEGATION: On a phone call with the Student-Athlete's mother, President Mason told her that she does not "deal with these types of issues" but would gladly direct the Student-Athlete's mother to someone who did.**
- **RESPONSE:** The investigation revealed that President Mason and the Student-Athlete's mother have differing impressions of this phone call. According to the Student-Athlete's mother, when she called the President's Office on November 20 to ask a question about the progress of the investigation, the President told her that she "didn't typically handle these things" and would give the Student-Athlete's mother the contact information for someone who did. President Mason's recollection is that the Student-Athlete's mother was asking questions about matters being dealt with by Chuck Green, DPS Director who was handling the criminal



investigation, and that she offered to assist the Student-Athlete's mother with getting in touch with him. Both parties agree that at that point, the Student-Athlete's mother became extremely frustrated and ended the phone call. The Investigators found no evidence that the President's intent was to stonewall the Student-Athlete's mother in any way. Likewise, the Student-Athlete's mother's frustration is understandable, given the confusion and lack of communication she and her family had experienced up to that point.

- **ALLEGATION: Phillip Jones promised the Student-Athlete she would be protected from harassment; however, that did not happen.**
- **RESPONSE:** The investigation concluded that Phillip Jones' response to the retaliatory and harassing behavior directed at the Student-Athlete was insufficient and ineffective. When the Student-Athlete informed Jones of the harassing treatment she was experiencing from other student-athletes, he sent letters (on November 21 and November 28) to the student-athletes whom the Student-Athlete identified, regarding their retaliatory actions. The letters Jones sent were not effectively worded and did not inform the student-athletes that they had already been accused of conduct in violation of the University's anti-retaliation policy, and there was no in-person follow-up. Furthermore, Jones failed to commence disciplinary action against the student-athletes identified by the Student-Athlete for their behavior, despite his authority to do so. The Student-Athlete, not realizing the letters had been sent and seeing no effect from her reports of the harassment, did not report the continuing behavior to Jones after November.

- **ALLEGATION: The Student-Athlete’s coach and his staff abandoned the Student-Athlete following the incident.**
- **RESPONSE:** The evidence suggests that the Student-Athlete’s coaching and training staff were generally supportive following the incident. During their interviews with the Investigators, the Student-Athlete and her family stated, however, that they felt that the staff’s support declined substantially in the second semester. Evidence obtained as part of the investigation suggest that at least some of the feelings of abandonment on the part of the Student-Athlete and her family are the result of external factors, rather than retaliation for reporting the alleged sexual assault. First, the Student-Athlete’s parents’ perceptions may be due to their inability to obtain information on their daughter’s athletic progress during the spring after she withdrew permission for the staff to share information with her parents. Second, the purported withdrawal of support from the Student-Athlete was likely due, in part, to her coaches’ and trainers’ perceptions that the Student-Athlete did not wish to interact with them, based upon the Student-Athlete’s behavior, which appears to be the result of the emotional effects of the alleged assault.
- **ALLEGATION: Betsy Altmaier, however, remained extremely supportive and encouraging to the Student-Athlete following the incident.**
- **RESPONSE:** The evidence obtained during the investigation indicated that Betsy Altmaier exhibited an appropriate response to the October 14 incident and thereafter. Altmaier informed Department of Athletics officials of the continued harassment the Student-Athlete was experiencing. On November 14, Altmaier met with members of the

Student Athlete's team to emphasize their responsibility to support the Student-Athlete. She also expressed her concern that the Student-Athlete and her family felt they were being misled by the Department of Athletics as to what the informal investigation could accomplish and were not clear as to the reason for EOD's involvement in the investigation. Altmaier's concern and work with the Student-Athlete continued throughout the second semester and up through August. It was clear from interviews with the Student-Athlete and her parents that they all hold Betsy Altmaier in very high regard and were extremely satisfied with her treatment of the Student-Athlete.

**SECTION III**  
**REVIEW OF UNIVERSITY POLICIES AND PROCEDURES**

***A. Overview of Relevant University Policies and Procedures***

The University of Iowa’s sexual assault policies and procedures must comply with several state and federal laws. Several privacy laws regulate the amount of information that the University may disclose regarding sexual assault reports and investigations. The Federal Educational Right to Privacy Act (“FERPA”) denies federal funds to educational institutions that have a policy or practice of disclosing “education records” or “personally identifiable information contained in” education records without a student’s prior consent.<sup>3</sup> Furthermore, in instances in which a sexual assault investigation involves examination of medical records, the investigation may raise concerns of compliance with the Health Insurance Portability and Accountability Act (“HIPAA”), which prohibits disclosure of certain “individually identifiable health information.”<sup>4</sup> Similarly, the Iowa Open Records Act requires both student and medical records be kept confidential.<sup>5</sup>

On the other hand, while FERPA, HIPAA and the Iowa Open Records Act place the University under a substantial duty to maintain privacy in sexual assault reporting and investigation, the Jeanne Clery Crime Security Reporting Act (the “Clery Act”) places the University under a duty to report such incidents. The Clery Act requires the University to give a warning of the occurrence of certain crimes “in a manner that is timely and will aid in the prevention of similar crimes.”<sup>6</sup> In drafting and executing its

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<sup>3</sup> 20 U.S.C. §1232g(b)(1), Appendix L.

<sup>4</sup> 45 C.F.R. §164.502, Appendix M.

<sup>5</sup> Iowa Code §22.7, Appendix P.

<sup>6</sup> 34 C.F.R. §668.46(e), Appendix N.

sexual assault policies and procedures, the University must take these various regulations into account.

The University of Iowa has several policies which reference allegations of sexual assault. Which procedure or policy governs depends upon a number of factors, including the status of the alleged perpetrator (student or faculty/staff), the location where the alleged assault took place (on or off-campus, in a dormitory or not) and the alleged victim's personal choice. In addition to the variety of policies which may apply, each individual policy contains multiple investigation options from which the alleged victim may choose.

Sexual assault allegations are covered by the *UI Policy on Violence*, the *UI Sexual Harassment Policy*, the *UI Code of Student Life* (in cases in which the perpetrator is a University student) and by the *UI Sexual Assault Policy* (which summarizes the various other policies, reporting options, and resources available for sexual assault victims). Both the *UI Policy on Violence* and the *UI Sexual Harassment Policy* indicate that when any University academic or administrative officer becomes aware of an allegation of sexual assault, that allegation must be reported to EOD, except when the allegations are against a student regarding conduct occurring in the residence hall, which must be reported to the Office of the Vice President for Student Services.<sup>7</sup> Under the *UI Code of Student Life*, sexual assault complaints against a student may be filed with EOD or the Office of the Vice President for Student Services.<sup>8</sup> Under the *UI Sexual Assault Policy*, a victim of a sexual assault has two primary reporting options: an assault may be reported to the appropriate law enforcement agency or to the University administration, or to both.<sup>9</sup>

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<sup>7</sup> *UI Violence Policy* II-10.7(e), Appendix C, and *UI Sexual Harassment Policy* II-4.2(b)(4), Appendix F.

<sup>8</sup> *UI Judicial Procedure for Alleged Violations of the UI Code of Student Life*, Sections 1 and 2, Appendix H.

<sup>9</sup> *UI Campus Crime Policies and Information*, Section F (*Sexual Assault Policy*), Appendix D.

Under the *UI Policy on Violence* and the *UI Sexual Harassment Policy*, once an alleged victim makes a sexual assault complaint, he or she has three procedural options for investigating the complaint: (1) an informal investigation conducted by an academic or administrative officer (a.k.a. departmental investigation), (2) an informal investigation conducted by EOD, or (3) a formal investigation by EOD.<sup>10</sup> The *UI Code of Student Life* does not explicitly provide for “informal” investigation of sexual assaults. It does implicitly allow such informal investigation because it refers investigation of violations of the *UI Sexual Harassment Policy* (which contains an informal investigation procedure) to EOD.<sup>11</sup>

When an investigation results in a finding of sexual assault, the remedies available to the victim depend upon the policy and procedure under which the investigation was conducted. When EOD finds that a person committed a sexual assault via a formal investigation, EOD’s report is sent to a higher level administrator for review and further action.<sup>12</sup> Which administrator receives the EOD report depends upon the status of the perpetrator (faculty, staff, student, or graduate assistant).<sup>13</sup> The administrator who reviews EOD’s finding may (among other options) initiate formal disciplinary action against the perpetrator.<sup>14</sup> If the perpetrator is a student, the administrator who reviews EOD’s finding is the Vice President for Student Services, and formal disciplinary action can be taken via a formal administrative hearing under the *UI Code of Student Life*.<sup>15</sup> No disciplinary action can be taken against a person charged with sexual assault pursuant to an informal complaint.<sup>16</sup>

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<sup>10</sup> *UI Violence Policy* II-10.6-10.8, Appendix C, and *UI Sexual Harassment Policy* II-4.2, Appendix F.

<sup>11</sup> *UI Judicial Procedure for Alleged Violations of the UI Code of Student Life*, Sections 1 and 2, Appendix H.

<sup>12</sup> *UI Violence Policy* II-10.9, Appendix C, and *UI Sexual Harassment Policy* II-4.2, Appendix F.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *UI Violence Policy* II-10.7(d), Appendix C, and *UI Sexual Harassment Policy* II-4.2(b)(3), Appendix F.

The University of Iowa Department of Athletics has a *Student-Athlete Code of Conduct*, which is violated when a student-athlete is found, by a criminal or formal University investigation, to have committed a sexual assault. The Department of Athletics also produces several documents relating to sexual assault reporting options, notification requirements, action steps and investigation types.<sup>17</sup> The Department of Athletics considers these charts and guidelines to be internal documents used to set out the University's existing policies and the required reporting sequence, rather than separate policies for handling informal investigations within the Department of Athletics.<sup>18</sup> Betsy Altmaier, Faculty Athletic Representative to Big Ten Conference & NCAA, found the status of these documents and their requirements to be confusing.<sup>19</sup>

### ***B. Concerns with Current University Policies and Procedures***

The Investigators identified several problems with the University's current sexual assault policies and procedures. The overlapping jurisdiction of numerous entities, the number of applicable policies and the variety of investigation options are extremely confusing. In fact, the Investigators found that the various policies and investigation options are not well understood even by University personnel. These policies and procedures may prove especially confusing to victims who are in a vulnerable state and unsure as to how to proceed with reporting a sexual assault. In the October 14 incident, for example, the meeting notes of several University officials suggest that the Department of Athletics attempted to explain the various options for reporting and investigating the incident to the Student-Athlete and her father.<sup>20</sup> However, when the Investigators interviewed the Student-Athlete and her father separately, they each had a different understanding of what "formal" and "informal" investigations were and how many types

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<sup>17</sup> See *UI Department of Athletics Resource and Referral Options for Victims of Sexual Assault*, Appendix J; *Initial Notification Procedures for Student-Athlete Incidents and Sexual Harassment or Assault Action Steps*, Appendix K.

<sup>18</sup> See Mary Curtis' 7/21/08 e-mail to Richard Klatt and Steven Parrott.\*

<sup>19</sup> Interview notes from Betsy Altmaier's interview with Tom Evans.\*

<sup>20</sup> Fred Mims' 10/15/07 meeting notes;\* and Mary Curtis' 10/16/07 and 10/17/07 meeting notes.\*

of investigation options existed.<sup>21</sup> They also did not understand that many of the goals they wished to achieve in reporting the incident could not possibly be accomplished via an informal investigation.

The Investigators also found substantial confusion among University officials as to what the policies state. For example, officials in EOD state (correctly) that there are three forms of investigation for sexual assault: EOD formal, EOD informal and departmental informal.<sup>22</sup> On the other hand, officials in the Department of Student Services adamantly believe there is no such thing as informal investigation for sexual assault.<sup>23</sup> Some members of the University faculty were completely unaware that EOD had any jurisdiction at all to investigate sexual assaults.<sup>24</sup> The faculty's confusion is understandable, given that EOD's name, Office of Equal Opportunity and Diversity, conveys almost no indication that it would be an entity responsible for handling allegations of sexual assault.

The Investigators found serious issues relating to departmental informal investigation of sexual assaults. As mentioned earlier, under the *UI Violence Policy* and *UI Sexual Harassment Policy*, a sexual assault may be investigated and "resolved" informally by "any academic or administrative officer of the University," including deans and faculty department directors.<sup>25</sup> However, due to the highly sensitive nature of sexual assault investigations, it is extremely important that such investigations be conducted by individuals with training and experience in handling allegations of sexual crimes. Furthermore, sexual assault investigations conducted by individual department leaders

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<sup>21</sup> The Student-Athlete believed she had two options: (1) "Formal" investigation, meaning an investigation by the police, and (2) "Informal" investigation, meaning investigation by the Department of Athletics. The Student-Athlete's father believed his daughter had three options: (1) "Formal" investigation by the University; (2) "Informal" investigation by the Department of Athletics, or (3) a criminal investigation.

<sup>22</sup> Investigators' interview with Tiffini Stephenson Earl; Investigators' interview with Marcella David.

<sup>23</sup> Tom Baker's 10/30/07 e-mail to Marc Mills;\* Investigators' Interview with Phillip Jones.

<sup>24</sup> Investigators' Interviews with various University personnel.

<sup>25</sup> *UI Violence Policy* II-10.7, Appendix C, and *UI Sexual Harassment Policy* II-4.2, Appendix F.



raise substantial concerns regarding the perception of a conflict of interest and a lack of transparency.

Departmental informal investigations of sexual assault allegations, no matter how objectively conducted, will almost certainly lead to a public perception of a conflict of interest. Both an alleged victim, as well as the public at large, may find it extremely difficult to believe that a University department does not possess any bias in favor of protecting its own best interest. The appearance of self-protective bias is heightened if the University's General Counsel is intimately involved in the departmental investigation (as was the case in the departmental investigation of the October 14 incident).

The Investigators also determined that the University may benefit substantially from policies which require the presence of a trained rape victim advocate during all steps of the reporting and investigation process involving the alleged victim. Special Counsel recognizes that there is some debate regarding whether it is beneficial to mandate the presence of such an advocate. However, alleged victims should be fully informed at all times of their right to an advocate, and such an advocate should be made readily available.

The Investigators were concerned with the fact that none of the existing policies or procedures *requires* University personnel to notify DPS when information of an alleged sexual assault is received. It is DPS policy that a reported sexual assault is not necessarily prosecuted, and no charges are filed without the consent of the alleged victim.<sup>26</sup> Betsy Altmaier advised Tom Evans, during his investigation, that she was unaware of any University official advising the Student-Athlete that she could make a statement to DPS without filing charges. It appears that the procedure is not generally understood by University personnel. However, if the alleged assault is reported promptly to DPS, potential witnesses may be interviewed immediately, and there is a greater

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<sup>26</sup> UI DPS Operations Manual §216.03.

opportunity for preservation of physical evidence. On the other hand, experts in sexual assault victim advocacy raise legitimate concerns that a policy incorporating mandatory DPS involvement may have a chilling effect on sexual assault reporting.<sup>27</sup> Therefore, the appropriateness of any such mandatory reporting policy should be reviewed extensively prior to any modification of University policies and procedures to that effect.

The Investigators were also concerned with the compliance of the *UI Sexual Harassment Policy* and the *UI Violence Policy* with the Clery Act.<sup>28</sup> Under the Clery Act, university policies relating to sexual assault must include “information on a student’s option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that institutional personnel will assist the student in notifying these authorities if the student requests the assistance of these personnel,” as well as information regarding “the importance of preserving evidence of a criminal offense”.<sup>29</sup> The University’s *Sexual Harassment Policy* makes no reference to the option to contact law enforcement or the notice of evidence preservation in cases in which the sexual harassment allegation includes an allegation of sexual assault.

The *UI Violence Policy* states that when a member of the University community believes himself or herself or someone else to be in “immediate physical danger,” law enforcement should be contacted, but that in “other situations,” “appropriate University officials are available to coordinate a response.”<sup>30</sup> The option to report a violation to law enforcement is not listed in either the “Bringing a Complaint” or the investigation and resolution sections of the policy.<sup>31</sup> Many sexual assault victims would not perceive this as a notification of the option to contact police, since in many cases the “immediate

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<sup>27</sup> Investigators’ interviews with RVAP officials.

<sup>28</sup> The Clery Act also includes requirements for crime reporting, including, for example, timely warnings and crime statistics. This section focuses only on the provisions for sexual assault policies. U.S. Department of Education’s Office of Postsecondary Education, *THE HANDBOOK OF CAMPUS CRIME REPORTING*, Page 6 (2005) (hereafter, *Handbook of Campus Crime Reporting*), Appendix O.

<sup>29</sup> 34 C.F.R. §668.46(b)(11)(ii), Appendix N.

<sup>30</sup> *UI Violence Policy*, Section II-10.1.a and 10.1.b, Appendix C.

<sup>31</sup> *UI Violence Policy*, Sections II-10.6-10.8, Appendix C.

physical danger” to the victim has passed once the sexual assault is over. Furthermore, the policy does not inform alleged victims that reporting an incident to the police does not commit the alleged victim to pressing charges or prosecuting the alleged perpetrator, but that such reporting can be beneficial to preserve evidence.

The Investigators also identified areas in the *UI Sexual Assault Policy*, *UI Violence Policy* and *UI Sexual Harassment Policies* which should be revised to more closely track the language of the Clery Act and its regulations. First, while the *UI Sexual Assault Policy* does list the reporting options for victims of sexual assault (including the option to notify law enforcement), the University should consider including language in the *UI Sexual Assault Policy*, *UI Violence Policy* and *UI Sexual Harassment Policies* which *strongly encourages* sexual assault victims to report the incident to law enforcement as soon as possible.<sup>32 33</sup> For example, the Department of Education’s handbook for Clery Act compliance suggests the following language: “The University Police Department strongly advocates that a victim of sexual assault report the incident in a timely manner. Time is a critical factor for evidence collection and preservation. An assault should be reported directly to a University officer and/or to a Housing and Residential Education representative...”<sup>34</sup>

Second, the policies relating to sexual assault should be modified to more clearly notify complainants of their right to change their academic and living situations after reporting an alleged sexual assault. Under the Clery Act, sexual assault policies must include a “[n]otification of students’ options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.”<sup>35</sup> The *UI Sexual Assault Policy* provides that “the accused student may be involuntarily transferred to a different

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<sup>32</sup> *Campus Crime Policies and Information*, Section F (*Sexual Assault Policy*), Appendix D.

<sup>33</sup> Note: The University’s general crime reporting policy does strongly encourage members of the University community to promptly report all crimes to law enforcement but this language is not repeated in the *UI Sexual Assault Policy*.

<sup>34</sup> HANDBOOK FOR CAMPUS CRIME REPORTING, Page 107, Appendix O.

<sup>35</sup> 20 U.S.C. §1092(f)(8)(B)(vii), Appendix N.

residence hall, different class, or different work unit following receipt of a complaint depending upon the circumstances of the case and available alternatives.”<sup>36</sup> The *UI Sexual Harassment and Violence Policies* merely contain a provision to the effect that a “lateral transfer” of either party to a complaint in an “employment setting” or the “classroom” may be made to protect a party to the complaint. These policies should be revised to be more consistent with the language mandated by Clery.

The University’s policies relating to general crime reporting and sexual assaults, in combination with the University websites and orientation materials provided to students, faculty and other personnel, comply with the Clery Act. Nevertheless, it is advisable that the policies be revised in order to more closely track the language of the Clery Act and its regulations. In addition, it is essential that the University take steps to consolidate its policies into a single policy for the typical user’s ease of reference and use.

The confusing, overlapping and ambiguous policies and procedures adopted by the University create an environment in which a sexual assault investigation may be mishandled. In fact, even if the University’s policies and procedures were strictly followed and the performance of University personnel were exemplary, these policy flaws would make it almost certain that many alleged victims of sexual assault would feel some level of dissatisfaction with the University’s handling of their cases.

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<sup>36</sup> *Campus Crime Policies and Information*, Section F (*Sexual Assault Policy*), Appendix D.

**SECTION IV**  
**COMPLIANCE WITH UNIVERSITY POLICIES AND**  
**PROCEDURES**

As mentioned earlier, the inherent flaws in the University's sexual assault policies and procedures likely contributed to the stress, trauma, and overall dissatisfaction felt by the Student-Athlete and her family. **In their investigation of the University's response to the Student-Athlete's case, the Investigators determined that the University's policies and procedures were, in large part, complied with literally. The Investigators uncovered no evidence of any conspiracy or attempt to cover-up the incident.** The Investigators did identify numerous failures of communication, instances of lack of transparency, a culture of emphasis on form over substance and a lack of awareness of the unique treatment necessary in conducting a sexual assault investigation. An evaluation of the responses of individual departments and personnel follows.

***A. UI Department of Athletics***

***(1) General Performance of the Department of Athletics***

Based upon the information obtained during their interviews and document review, the Investigators have determined that, overall, the Department of Athletics personnel substantially complied with University policy and procedure for reporting an informal investigation of sexual assault. The Investigators uncovered no evidence that the Department of Athletics attempted to cover up the incident. The Investigators did find some of AD's responses to be lacking in certain respects.

The first major performance issue identified by the Investigators was the failure of AD to make clear to the Student-Athlete exactly how little authority it had to resolve the

matter to the Student-Athlete's satisfaction. Under the *UI Policy on Violence* and *UI Sexual Harassment Policy*, no disciplinary action can be taken against a person charged with sexual assault pursuant to an informal complaint.<sup>37</sup> It is unclear precisely what action the Student-Athlete wanted taken against Football Player #1. However, documents and interviews suggest that at various points, the Student-Athlete stated that she wanted him permanently removed from the football team, permanently removed from the dormitory (Hillcrest Hall) in which they both resided and/or expelled from the University.<sup>38</sup>

The Investigators found little evidence that the Student-Athlete was ever informed that while it was possible for the Department of Athletics to arrange for suspension from the football team, it was impossible to have Football Player #1 expelled from the University, permanently removed from the dormitory or dismissed from the football team without the Student-Athlete first filing a formal complaint with EOD. While Fred Mims' and Gary Barta's notes of a meeting with the Student-Athlete seem to state that some of these issues were mentioned to the Student-Athlete, the Student-Athlete and her father clearly believed that the Department of Athletics had full authority to handle the incident.<sup>39</sup> In fact, the Student-Athlete's father told the Investigators that he was under the impression that Fred Mims would handle everything.<sup>40</sup>

It is also clear from the Investigators' interviews with the Student-Athlete and her father that if, in fact, Department of Athletics officials properly explained the various reporting and investigation options, the Student-Athlete and her father did not understand them fully. As mentioned earlier, the meeting notes of several University officials suggest that the Department of Athletics attempted to explain the various options for reporting and investigating the incident to the Student-Athlete and her father and

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<sup>37</sup> *UI Violence Policy* II-10.7(d), Appendix C, and *UI Sexual Harassment Policy* II-4.2(b)(3), Appendix F.

<sup>38</sup> Fred Mims' 10/15/07 meeting notes;\* Mary Curtis' 10/16/07 meeting notes.\*

<sup>39</sup> Fred Mims' 10/15/07 meeting notes;\* Gary Barta's 10/17/07 meeting notes;\* Investigators' interview with the Student-Athlete's father.

<sup>40</sup> Investigators' interview with the Student-Athlete's father.

provided her father with a copy of the *UI Sexual Harassment Policy*.<sup>41</sup> When the Investigators interviewed the Student-Athlete and her father separately, each had a different understanding of what “formal” and “informal” investigations were and how many types of investigation options existed.<sup>42</sup> The Student-Athlete’s and her father’s confusion is likely due, in part, to the confusing nature of the existing policies. The confusion is likely, also, due to the fact that the meetings in which the policies were explained occurred within 72 hours of the traumatic incident, with no trained advocate present. The Student-Athlete and her father were likely not in a position to fully process the complex policies that were being explained.

The fact that the Department of Athletics did not offer the Student-Athlete a trained counselor or rape victim advocate to accompany her to meetings with AD is relevant to the feelings of confusion and isolation experienced by the Student-Athlete and her parents. Some sources within the Department of Athletics state that the Student-Athlete’s father asserted that he would be serving as his daughter’s advocate during meetings.<sup>43</sup> In his interview with the Investigators, the Student-Athlete’s father stated that he never made any such statement and that he was in no position to serve as his daughter’s advocate because he had no knowledge whatsoever of “how these things are handled.”<sup>44</sup> During her interview with the Investigators, the Student-Athlete stated that she was not aware that she was allowed to bring her RVAP advocate with her to the Department of Athletics meetings, given the high level officials who would be present.<sup>45</sup> The Department of Athletics did recommend that the Student-Athlete and her father contact an attorney who specializes in representing persons with grievances against the University, but they declined to do so.<sup>46</sup> Nevertheless, the presence of an emotionally

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<sup>41</sup> Investigators’ interview with Fred Mims; Investigators’ interview with Student-Athlete’s father; notes from Mary Curtis’ interview with Tom Evans.\*

<sup>42</sup> Investigators’ interview with the Student-Athlete; Investigators’ interview with the Student-Athlete’s father.

<sup>43</sup> Investigators’ interviews with Department of Athletics officials.

<sup>44</sup> Investigators’ interview with the Student-Athlete’s father.

<sup>45</sup> Investigators’ interview with the Student-Athlete.

<sup>46</sup> Investigators’ interview with Betsy Altmaier.

composed, trained advocate, who understood University procedures and whose only responsibility was to protect the Student-Athlete's interest during the October 16 and 17 meetings, may have prevented many of the miscommunications that occurred.

Some accounts of the conduct of Department of Athletics officials during the October 17 meeting cause concern. The Student-Athlete's father stated that after his daughter had recounted the details of her alleged sexual assault, Gary Barta seemed to be more concerned with the Student-Athlete's underage drinking in the dormitories than with the alleged sexual assault.<sup>47</sup> He felt that the issue of his daughter's drinking "seemed to take over the meeting" and recalled officials asking the Student-Athlete for the names of the other students who were drinking in violation of school policy.<sup>48</sup> Officials from the Department of Athletics did not recall any such inquiries.<sup>49</sup>

Issues of underage and excessive drinking are certainly serious concerns for the University. Such issues should not be, or appear to be, however, the primary emphasis in the investigation of an alleged sexual assault. Such emphasis may tend to make the alleged victim feel that the incident was his or her fault.<sup>50</sup> Additionally, such treatment may have a chilling effect on sexual assault reporting for fear of "getting in trouble" over alcohol consumption.

The most egregious communication failure found by the Investigators was the failure of anyone from the Department of Athletics to fully inform the Student-Athlete of Football Player #2's probable involvement in the incident. Department of Athletics officials stated that they assumed the Student-Athlete knew about Football Player #2's involvement because during the October 16 and 17 meetings, she referred to two student-athletes who were involved.<sup>51</sup> However, the Student-Athlete was referring not to

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<sup>47</sup> Investigators' interview with the Student-Athlete's father.

<sup>48</sup> *Id.*

<sup>49</sup> Investigators' interviews with Department of Athletics Officials.

<sup>50</sup> Investigators' interview with Monique DiCarlo and Diane Funk.

<sup>51</sup> Investigators' interviews with Department of Athletics Officials.



Football Player #2, but to another student-athlete who had been in the room with Football Player #1 prior to the incident and who, she later stated, had no involvement in the alleged assault.<sup>52</sup>

On October 19, Fred Mims received a call from legal counsel for Football Player #2, informing him that Football Player #2 had retained him as counsel in connection with the accusations being made against him.<sup>53</sup> Fred Mims called the Student-Athlete to ask her if she remembered Football Player #2 being present in the room on October 14.<sup>54</sup> She stated that she did not recall him being present.<sup>55</sup> However, rather than telling the Student-Athlete about Football Player #2's probable involvement at that point, Fred Mims simply ended the call, and the Department of Athletics turned the investigation over to EOD the next day.<sup>56</sup>

In a related communication failure, the transfer of the investigation from the Department of Athletics to EOD was never clearly explained to the Student-Athlete or her family. On October 23, after realizing that the incident could no longer be investigated informally due to Football Player #2's possible involvement, the Department of Athletics turned its investigation over to EOD.<sup>57</sup> EOD then proceeded with the investigation as a formal investigation. Fred Mims stated that he informed the Student-Athlete's father that the investigation was being turned over to EOD.<sup>58</sup> When the Investigators interviewed the Student-Athlete's father, he stated that he had "never heard of EOD" until they interviewed the Student-Athlete in November.<sup>59</sup> Similarly, the Student-Athlete stated that when she was called into the interview with EOD on November 1, she "had no idea who they were."<sup>60</sup> It is clear that if the transfer of the case

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<sup>52</sup> Investigators' interview with the Student-Athlete.

<sup>53</sup> Investigators' interview with Fred Mims; Mary Curtis' 10/23/07 Incident Report.\*

<sup>54</sup> Investigators' interview with Fred Mims.

<sup>55</sup> Investigators' interview with Fred Mims.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> Investigators' interview with the Student-Athlete's father.

<sup>60</sup> Investigators' interview with the Student-Athlete.

was explained to the Student-Athlete and/or her family, it was not done in such a way that they understood.

The Department of Athletics was also less than thorough in its internal investigation of the October 14 incident. AD's investigators knew by the end of their October 17 meeting with the Student-Athlete that the alleged assault occurred in Hillcrest Hall, Room N207.<sup>61</sup> The Student-Athlete indicated that the room was vacant at the time of the incident.<sup>62</sup> One of the two football players who were assigned to that room for the 2007-2008 school year, but who had been living off-campus, was ordered to move back in by Kirk Ferentz, in accordance with Department of Athletics' rules, shortly after the incident.<sup>63</sup> The second football player who was assigned to Room N207 was also living off-campus and turned in his key on October 30.<sup>64</sup> A third football player was assigned to move in with the first football player.<sup>65</sup> However, the football players did not move back into the room until approximately October 27 and 28.<sup>66</sup> Therefore, there were approximately two weeks during which Department of Athletics investigators could have sealed off access to Room N207, preserving any evidence of a forcible sexual encounter located therein. The Investigators did not find any evidence that this was done or even considered.

The vacant room in which the October 14 incident occurred also raises a student-athlete housing regulation issue for the Department of Athletics. According to Department of Athletics' policy, freshmen and sophomore football players must reside in University dormitories.<sup>67</sup> The football players who were supposed to reside in Room N207 pursuant to this policy checked out their keys to Room N207, but never

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<sup>61</sup> Investigators' interview with the Student-Athlete; Fred Mims' 10/15/07 meeting notes.\*

<sup>62</sup> Investigators' interview with the Student-Athlete.

<sup>63</sup> Investigators' interview with N207 Football Player.

<sup>64</sup> *Id.*; Room Records for Room N207.\*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> Investigators' interview with N207 Football Player; Investigators' interview with Kirk Ferentz.

actually moved into it (until one was instructed to do so after the October 14 incident).<sup>68</sup> The second football player turned in his key on October 30 and resided at off-campus housing instead.<sup>69</sup> This practice of maintaining an on-campus residence in name only and actually residing off-campus does not appear to be uncommon. It is apparently common enough that University Housing personnel have developed a term for it: “ghosting.”<sup>70</sup> Department of Athletics and University housing staff are currently charged with keeping track of student-athlete on-campus housing assignments. However, no policy or practice of regular monitoring to ensure that student-athletes are actually residing in the rooms to which they are assigned currently exists.<sup>71</sup>

Finally, the Investigators found it problematic that any department would have the authority to conduct a sexual assault investigation. As mentioned earlier, departmental informal investigations of sexual assault allegations, no matter how objectively conducted, will almost certainly lead to a perception of a conflict of interest. Both an alleged victim, as well as the public at large, may find it extremely difficult to believe that a University department does not possess any bias in favor of protecting its own best interest. Furthermore, this method allows for such investigations to be conducted by individuals who likely have little training in fact-finding techniques, witness interviewing skills, or dealing with victims of sexual assault.

(2) *General Performance of Department of Athletics Personnel*

(a) *Performance of Gary Barta, Athletics Director*

The investigation uncovered very little direct involvement from Gary Barta in the response to the incident, other than his participation in the October 17

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<sup>68</sup> Investigators’ interview with N207 Football Player; Room Records for Room N207.\*

<sup>69</sup> *Id.*

<sup>70</sup> Andrew Borst’s 11/1/07 e-mail to Tom Baker.\*

<sup>71</sup> Investigators’ interview with N207 Football Player; Investigators’ interview with Gary Barta; Investigators’ interview with Kirk Ferentz.

meeting with the Student-Athlete and preparation of various statements to the media. Fred Mims was the primary contact for the Student-Athlete and her family with respect to the progress of the Department of Athletics' investigation until it turned its report over to EOD for formal investigation on October 23.<sup>72</sup> The investigation revealed that, in spite of little policy guidance, Barta complied with the Clery Act requirements and offered to assist the Student-Athlete in contacting law enforcement officials to report the incident.<sup>73</sup> At that time, the Student-Athlete was adamant that she did not want the police involved in the investigation.<sup>74</sup>

Overall, Barta exhibited generally acceptable conduct in his limited involvement in the Department of Athletics' response to the incident. The perceived level of concern with the underage alcohol consumption involved in the incident may have been misleading to the Student-Athlete's family. Barta was supportive of the Student-Athlete and actively encouraged her to report the incident to law enforcement authorities. Also, the Student-Athlete and her father agree that Barta did tell them that she could change her mind about using an informal investigation and choose to pursue the formal procedure or notify law enforcement at any time.<sup>75</sup> Barta also recalls telling the Student-Athlete's father that the Department of Athletics did not have the authority to expel the football players involved in the incident from the University.<sup>76</sup>

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<sup>72</sup> Investigators' interview with the Student-Athlete; Investigators' interview with the Student-Athlete's father.

<sup>73</sup> Investigators' interview with Gary Barta; Mary Curtis' 10/17/07 meeting notes.\*

<sup>74</sup> *Id.*

<sup>75</sup> Investigators' interview with the Student-Athlete; Investigators' interview with the Student-Athlete's father.

<sup>76</sup> Investigators' interview with Gary Barta.

(b) *Performance of Fred Mims, Associate Athletics Director, Student Services & Compliance*

The investigation determined that, in form, Fred Mims complied with the University's sexual assault policies. When he learned of the incident on October 14, Mims promptly reported it to the Vice President for Student Services on October 15 and ensured that Jennifer Modestou, the Director of EOD, was contacted by Mary Curtis in compliance with the *UI Policy on Violence* and the *UI Sexual Harassment Policy*.<sup>77</sup> His behavior was also in compliance with the Department of Athletics *Initial Notification Procedures for Student-Athlete Incidents* and *Sexual Harassment or Assault Action Steps*.

The investigation uncovered conflicting information regarding whether and to what extent Fred Mims encouraged the Student-Athlete to handle the incident within the Department of Athletics. In their interviews with the Investigators, Fred Mims and Mary Curtis stated that the Student-Athlete was never pressured to choose one avenue of investigation over another and was told she would be supported in whatever decision she made.

The Student-Athlete stated in her interview that during the October 16 meeting, she felt that Mims was trying to "push her towards Athletics." She recalled Mims mentioning the Pierre Pierce incident and that he told her it had "been a mess" for the victim who went outside the department.<sup>78</sup> She also recalls him stating that outside investigations of sexual assault allegations against student-athletes "always get lots of publicity" and that AD could keep the investigation "under the table."<sup>79</sup> Mary Curtis' notes and the statements of others regarding the October 16 and October 17 meetings only support the Student-Athlete's statement that the Pierre Pierce incident was

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<sup>77</sup> *UI Violence Policy* II-10.7(e), Appendix C, and *UI Sexual Harassment Policy* II-4.2(b)(4), Appendix F.

<sup>78</sup> Investigators' interview with the Student-Athlete.

<sup>79</sup> *Id.*

mentioned.<sup>80</sup> The Investigators did not find any evidence that these statements, if made, were made with the specific intent of encouraging the Student-Athlete to keep the incident quiet. Rather, the Pierre Pierce incident was likely mentioned because the Department of Athletics personnel were very conscious of it and they wanted to ensure the Student-Athlete that such mishandling of the investigation would not happen to her. Given the context in which the statements were made, they could easily be interpreted by the Student-Athlete and her family as persuasion to keep an alleged sexual assault silent.

The Student-Athlete's October 17 meeting with the head coach of the Student-Athlete's team, Mary Curtis, Gary Barta, Kirk Ferentz and Betsy Altmaier is also problematic. Fred Mims and Mary Curtis had already met with the Student-Athlete and her father. The Student-Athlete's counselor stated that, in his opinion, given the Student-Athlete's vulnerable state, to have her in a meeting with many of the most powerful people in the Department of Athletics at a Big Ten university constituted further "victimization."<sup>81</sup> It is unclear who was responsible for determining the attendees at the October 17 meeting. Fred Mims stated that the Student-Athlete's father asked for the meeting and asked that the football coach attend.<sup>82</sup> The Student-Athlete's father stated that Fred Mims made a list of names of personnel to ask to the meeting and that he simply confirmed it, believing that if football players were involved, it was reasonable to have the football coach attend.<sup>83</sup>

Overall, the Student-Athlete's parents were generally favorable in their review of Fred Mims' involvement. The Student-Athlete's mother stated that, in her opinion, Fred Mims "did the best he could" to handle the incident.<sup>84</sup> The Student-Athlete's father stated that he felt that Mims was "trying his best" to handle the situation and to help his

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<sup>80</sup> Mary Curtis 10/16/07 meeting notes;\* E-mail to Investigators from Student-Athlete's roommate.

<sup>81</sup> Investigators' interview with the Student-Athlete's counselor.

<sup>82</sup> Investigators' interview with Fred Mims.

<sup>83</sup> Investigators' interview with the Student-Athlete's father.

<sup>84</sup> Investigators' interview with the Student-Athlete's mother.

daughter with her academic and athletic responsibilities after the incident.<sup>85</sup> On the other hand, the Student-Athlete felt that Fred Mims was “never very nice” to her.<sup>86</sup>

In general, Fred Mims responded well to the incident in some respects, but not in others. He complied, in form, with the University’s sexual assault policies and was viewed favorably by the Student-Athlete’s family. The Student-Athlete did not feel that Mims was compassionate to her situation, and he may have exercised questionable judgment in arranging and encouraging the October 17 meeting.

(c) *Performance of Kirk Ferentz, Head Football Coach*

The Investigators found no credible evidence of any attempt at a conscious or overt cover-up of the October 14 incident on the part of Kirk Ferentz. Ferentz acted promptly and to his highest level of authority when he was informed of the incident. Any public statements he made regarding his knowledge of the incident, which appeared to be less than candid, were made due to misinterpretation of a court order. Finally, there is no evidence suggesting that Ferentz ordered the two football players to move back into the room where the alleged assault occurred with the intent to destroy evidence.

The investigation indicates that when Ferentz was informed on October 15 of the allegations of misconduct against his players, he took the most stringent disciplinary action within his power against the athletes. After learning of the incident on October 15, Ferentz immediately questioned Football Player #1 and his roommate, Football Player #2, regarding their involvement.<sup>87</sup> Ferentz felt that the two football players were not truthful with him regarding their involvement so he suspended them both from the football team on October 17.<sup>88</sup> The *UI Student-Athlete Code of Conduct* allows an athlete

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<sup>85</sup> Investigators’ interview with the Student-Athlete’s father.

<sup>86</sup> Investigators’ interview with the Student-Athlete.

<sup>87</sup> Department of Athletics Report;\* Investigators’ Interview with Kirk Ferentz.

<sup>88</sup> Investigators’ interview with Kirk Ferentz.

to be suspended from team participation for “willfully giving false and malicious information to a University official.”<sup>89</sup> Ferentz could not issue any more serious or permanent sanctions unless and until the players were convicted of a criminal act by a court of law or were found to have committed a violation of University policy by EOD.<sup>90</sup>

The Investigators also found no evidence that Kirk Ferentz was intentionally deceptive to the public with respect to his knowledge of the incident. Following the incident, Ferentz made public statements to the effect that he could not comment about the details of the October 14 incident or the University’s investigation of it.<sup>91</sup> The Investigators found no evidence that these statements were made with the intent to mislead the public or cover up the incident. Rather, they were made based upon misinterpretation of a court order and privacy laws by the General Counsel and others, which suggested any acknowledgement of the incident or its investigation would be a violation of FERPA and/or court orders issued pursuant to the criminal investigation.<sup>92</sup> The evidence suggests that Ferentz’s statements were made with the intent to protect the privacy rights of the Student-Athlete rather than to conceal the incident in any way.

Finally, the Investigators found no evidence to suggest that in instructing two football players to move back into the room where the alleged assault occurred, Ferentz was attempting to destroy evidence of the incident. The football players were sophomores and were required to live in the dormitory. When Ferentz learned neither was living in the room, he ordered one player back into the room, and another player agreed to move in with him. The second player assigned to the room turned in his key on October 30 and was “ghosting” all year. Ferentz stated that he was simply enforcing the mandatory on-campus living requirement when he instructed the athletes to move back into the room.<sup>93</sup> The Investigators spoke with one of the football players, who was

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<sup>89</sup> *UI Student-Athlete Code of Conduct* §II.B, Appendix I.

<sup>90</sup> *Id.* §§I-II.

<sup>91</sup> *University of Iowa News Release*, November 14, 2007, Appendix S.

<sup>92</sup> *Id.*

<sup>93</sup> Investigators’ Interview with Kirk Ferentz.



supposed to reside in Room N207, and who stated that Ferentz told him to move into the room on or about October 16<sup>94</sup> “because it was the rules” and that he was never instructed to destroy anything in the room. He stated that it is possible to “earn” your way out of the dorm, but he had had other issues, and when Ferentz found out he was off-campus, he had to move back. Furthermore, as mentioned earlier, no player moved back into Room N207 until approximately October 27 or 28.<sup>95</sup> If the players were instructed to move into the room in order to destroy evidence, it is more likely that they would have done so immediately rather than waiting for almost two weeks, in which time University or law enforcement authorities could have collected any such evidence.

(d) *Performance of Betsy Altmaier, Faculty Athletic Representative to Big 10 Conference & NCAA*

The evidence obtained during the investigation indicated that Betsy Altmaier exhibited an excellent response to the October 14 incident. The Student-Athlete’s father stated that during the October 17 meeting, Altmaier was “the only one who was really focused on what to do for my daughter.”<sup>96</sup> She exhibited concern for the Student-Athlete at the October 17 meeting and stayed in contact with her (and Football Player #1). On November 11, Altmaier informed Fred Mims and Gary Barta of the continued harassment the Student-Athlete was experiencing,<sup>97</sup> and on November 14, convened a meeting with members of the Student-Athlete’s team to promote support for the Student-Athlete. She also expressed her concern that the Student-Athlete and her family felt that they were being misled by the Department of Athletics as to the informal investigation and were not clear on EOD’s involvement in the investigation.<sup>98</sup>

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<sup>94</sup> Investigators’ Interview with N207 Football Player.

<sup>95</sup> Investigators’ Interview with N207 Football Player.

<sup>96</sup> Investigators’ Interview with the Student-Athlete’s father.

<sup>97</sup> Marcus Mills’ notes.\*

<sup>98</sup> *Id.*

Until November 16, the Student-Athlete and her family were unclear as to Altmaier's role in the investigation in that they believed she "represented" the President's Office in some way.<sup>99</sup> It appears the family was concerned by the revelation that Altmaier was not a representative of the President's Office because they believed this meant the President's Office had not been kept informed of the progress of the investigation.<sup>100</sup> However, Altmaier maintained contact with Marcus Mills, the University's General Counsel upon whom President Mason relied to monitor the handling of the investigation.<sup>101</sup> Therefore, Altmaier did, in fact, indirectly fulfill a role of keeping President Mason's Office informed.

It was clear from interviews with the Student-Athlete and her parents that they all hold Betsy Altmaier in very high regard and were extremely satisfied with her treatment of the Student-Athlete. The Student-Athlete felt that Altmaier was "very supportive" in the months following the incident and provided almost daily encouragement as the Student-Athlete recovered from the incident.<sup>102</sup> Altmaier assisted the Student-Athlete with lightening her class load as she recovered from the incident and even arranged for the Student-Athlete to seek additional counseling.<sup>103</sup> The Student-Athlete was so moved by Altmaier's treatment she sent a note at the end of the year thanking Altmaier for her "patience and understanding" and for reminding her that "there are people who care."<sup>104</sup> Altmaier continued to be supportive of the Student-Athlete even through August of 2008 by helping with the Student-Athlete's transfer of credits to attend another university.<sup>105</sup>

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<sup>99</sup> Student-Athlete's mother's November 19, 2007 letter, Appendix A.

<sup>100</sup> Student-Athlete's mother's November 19, 2007 letter, Appendix A.

<sup>101</sup> Marcus Mills' notes;\* Investigators' interview with Sally Mason.

<sup>102</sup> Investigators' interview with the Student-Athlete.

<sup>103</sup> Investigators' interview with the Student-Athlete's mother.

<sup>104</sup> Documents received from Betsy Altmaier.\*

<sup>105</sup> 8/6/08 e-mail from Betsy Altmaier to the Student-Athlete;\* Investigators' interview with the Student-Athlete; Investigators' interview with the Student-Athlete's mother.

(e) *Performance of the Student-Athlete's Coaching and Training Staff*

The investigation determined that the Student-Athlete's head athletic coach complied with the University's sexual assault policies. When he was informed of the incident, he reported it promptly to Fred Mims as required by the Department of Athletics *Initial Notification Procedures for Student-Athlete Incidents*. Perceptions differ as to the level of support he provided the Student-Athlete after she pursued investigation of the incident.

The evidence suggests that the Student-Athlete's coaching and training staff were generally supportive immediately following the incident. The head coach visited the Student-Athlete on the evening the incident occurred to comfort her and check on her wellbeing.<sup>106</sup> He informed the Student-Athlete that "whatever she wanted to do" about training or competing in the wake of the incident would be fine and that her scholarship would be secure.<sup>107</sup> The Student-Athlete's head coach was true to his word on this point; she was allowed to "red-shirt" for the remainder of the year, and her scholarship remained in place.<sup>108</sup> The Student-Athlete stated that her head coach was "very sympathetic" to her situation in the months following the incident.<sup>109</sup> The Student-Athlete's father also stated that the coaching and training staff for the Student-Athlete's team was "great" with his daughter until around February of 2008.<sup>110</sup>

As the Student-Athlete's father's statement suggests, the Student-Athlete and her family felt that the coaching and training staffs' support declined substantially in the second semester. The Student-Athlete's mother felt that the head coach and his staff

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<sup>106</sup> Investigators' interview with the Student-Athlete's athletic coaches.

<sup>107</sup> *Id.*

<sup>108</sup> Investigators' interview with the Student-Athlete; Investigators' interview with the Student-Athlete's athletic coaches.

<sup>109</sup> Investigators' interview with the Student-Athlete.

<sup>110</sup> Investigators' interview with the Student-Athlete's father.

“checked out” on her daughter when she returned to school from spring break.<sup>111</sup> The Investigators found miscommunication contributed to this impression. In March of 2008, the Student-Athlete sent an e-mail to her head coach, thanking him for all he had done for her and notifying him that she was not planning to return to the University in the fall.<sup>112</sup> The Student-Athlete stated that her head coach remained supportive until April of 2008, at which time he “walked out on her” when she came to talk to him, and that he never responded to any further attempts to contact him.<sup>113</sup> The Student-Athlete’s head coach stated that he left the April meeting because the Student-Athlete came to his office without an appointment minutes before he was expected at another function.<sup>114</sup> He stated that he told the Student-Athlete he was glad she had come to meet with him, but that she would have to come back at another time as he was expected elsewhere, but the Student-Athlete did not reschedule.<sup>115</sup>

Evidence obtained as part of the investigation suggests that at least some of the feelings of abandonment on the part of the Student-Athlete and her family are the result of external factors, rather than retaliation for reporting the alleged sexual assault. First, the Student-Athlete’s parents’ perceptions may be due to their inability to obtain information on their daughter’s athletic progress during the spring. Department of Athletics’ documents show that on December 10, the Student-Athlete revoked her consent for AD officials to discuss her training, health and other personal information with her parents. The inability to obtain information about their daughter’s physical, academic and athletic progress may have led the Student-Athlete’s parents to believe that the Department of Athletics was no longer monitoring it, although the records show that was not true.

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<sup>111</sup> Investigators’ interview with the Student-Athlete’s mother.

<sup>112</sup> Investigators’ interview with the Student-Athlete’s mother; E-mail from the Student-Athlete to her head athletic coach.\*

<sup>113</sup> Investigators’ interview with the Student-Athlete.

<sup>114</sup> Investigators’ interview with the Student-Athlete’s head athletic coach.

<sup>115</sup> *Id.*

Second, the withdrawal of support from the Student-Athlete was likely due, in part, to her coaches' and trainers' perceptions that the Student-Athlete did not wish to interact with them. Numerous interviews, e-mails and documents produced by the Department of Athletics show that in the months following the incident, the Student-Athlete withdrew from participation in team activities and failed to attend classes and scheduled meetings with her coaching and training staff. After November 16, she also was living off-campus and not with her teammates. The Student-Athlete's coaches and trainers likely took this withdrawal as an expression of disinterest in their support. However, the Student-Athlete's withdrawal from team and wider athletic community activities was due, in part, to the harassment she frequently suffered and the hostility she felt while in the presence of other student-athletes, particularly in the Learning Center.<sup>116</sup> Furthermore, the Student-Athlete's psychological state following the incident may have led to some of her withdrawal. Sexual assault victims often exhibit symptoms that include distancing themselves from other people and a lack of interest in activities that used to be enjoyed.<sup>117</sup>

(f) *Performance of the University of Iowa Student-Athlete Community*

The investigation revealed that a substantial amount of the stress, frustration and unhappiness encountered by the Student-Athlete and her family resulted directly from the harassment by and retaliatory behavior of other student-athletes. Personal accounts from the Student-Athlete and her roommate, as well as documents from Student Services and EOD, indicate that this treatment included physical threats and shouts of insulting and offensive language. The Student-Athlete reported that on one occasion, a car full of football players, including one of her alleged assailants, drove up to

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<sup>116</sup> Investigators' interview with the Student-Athlete.

<sup>117</sup> [www.rvap.org](http://www.rvap.org).

her and began shouting at her that she was “a whore.”<sup>118</sup> The Student-Athlete stated that the behavior was amplified in places where the student-athletes congregated, such as the student-athlete Learning Center and the Hillcrest Hall dining facility. She reported being stared at, insulted, and laughed at to her face.<sup>119</sup> The Student-Athlete reported that on one occasion, while she was dining at Hillcrest Hall with friends, a group of female members of the Track and Field team approached the Student-Athlete and physically threatened her for “looking in their direction.”<sup>120</sup>

University officials made several attempts to stop this inappropriate behavior, but it continued nonetheless.<sup>121</sup> Betsy Altmaier spoke with members of the Student-Athlete’s team, and the members called a meeting of the team to encourage all members to support the Student-Athlete in any way possible.<sup>122</sup> Kirk Ferentz reportedly addressed the football team on two occasions regarding the inappropriateness of any harassment or retaliation toward the Student-Athlete.<sup>123</sup> However, at least one member of the team does not remember either of these speeches.<sup>124</sup> No student-athletes were disciplined, although the comments began almost immediately after October 14 and continued throughout the year.

### ***B. Office of the Vice President for Student Services and Dean of Students***

The response of the Office of the Vice President for Student Services and Dean of Students to the incident followed the “form” of University sexual assault policies over their “substance.” The investigation revealed no overt violations of University policy

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<sup>118</sup> Investigators’ interview with the Student-Athlete.

<sup>119</sup> Investigators’ interview with the Student-Athlete.

<sup>120</sup> *Id.*

<sup>121</sup> Student Services letters to athletes re: retaliation policy;\* Investigators’ interview with Kirk Ferentz; Investigators’ interview with the Student-Athlete.

<sup>122</sup> Investigators’ interview with the Student-Athlete’s athletic coaches; Betsy Altmaier’s notes.\*

<sup>123</sup> Investigators’ interview with Kirk Ferentz; Marcus Mills’ notes.\*

<sup>124</sup> Investigators’ interview with N207 Football Player.

within this office, although, interviews and document review did reveal numerous incidents of poor judgment, failure to act as warranted and non-transparent behavior.

The first issue raised by Investigators with respect to Phillip Jones' response to the incident involved his failure to immediately take over the investigation from the Department of Athletics. In his interview with the Investigators, Jones admitted that he did not think it was appropriate for the Department of Athletics to have handled the investigation of the incident in the first place.<sup>125</sup> Jones admitted that he had almost immediate knowledge of the incident on the morning of October 15, including that it had occurred in a dormitory and that he had the authority to take over the investigation from the Department of Athletics and submit it for EOD formal investigation instead.<sup>126</sup> Jones never took this step despite his knowledge of the substantial likelihood of an unfavorable outcome of a departmental investigation of an alleged sexual assault.

The second issue arose from Jones' failure to remove Football Player #2 and Football Player #1 from the dormitory they shared with the Student-Athlete. The *UI Policy on Violence* and *UI Sexual Harassment Policy* both allow for the Vice President for Student Services to take interim action to protect the health and safety of an alleged victim of a sexual assault, even if the report is being investigated informally.<sup>127</sup> In his interview with the Investigators, Jones acknowledged he had the authority to move the alleged perpetrators to another dormitory in order to protect the Student-Athlete. Jones was aware of the allegations against Football Player #1 on October 15. He was aware of the allegations against Football Player #2 by October 23, when he received the Department of Athletics' report on the incident. Nevertheless, at no point did he exercise his interim sanction power to remove the two student-athletes from the dormitory they shared with the Student-Athlete.

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<sup>125</sup> Investigators' interview with Phillip Jones.

<sup>126</sup> Investigators' interview with Phillip Jones.

<sup>127</sup> *UI Violence Policy* II-10.7(b)(2), Appendix C, and *UI Sexual Harassment Policy* II-4.2(b)(5), Appendix F.

In fact, on November 1, Jones' Associate Dean, Tom Baker, sent an e-mail to various officials stating that he was "pleased to announce" that Football Player #1 and Football Player #2 had been removed from the room they had shared in Hillcrest Hall, at their request, because they no longer wished to remain roommates.<sup>128</sup> However, the two student-athletes were not removed from the hall entirely, but rather transferred to different rooms *within* the dormitory they shared with the Student-Athlete.<sup>129</sup> It is common and prudent practice when allegations of this nature arise to remove the alleged perpetrators from the space they share with the alleged victim. It is unclear why this action was never taken in this case.

While Jones did nothing to remove Football Player #1 or Football Player #2 from Hillcrest Hall, he did arrange for the Student-Athlete to be released from her housing contract so that she could move out of Hillcrest Hall and away from her alleged assailants. Initially, Jones placed a clause in the Student-Athlete's housing termination contract prohibiting her from ever entering Hillcrest Hall again.<sup>130</sup> The Student-Athlete, her mother and her RVAP advocate had to convince Jones to remove this stipulation.<sup>131</sup> Actions such as relocating the alleged victim, rather than the alleged perpetrators, are completely inconsistent with good practice in handling sexual harassment or sexual assault allegations.<sup>132</sup>

The third issue raised by the Investigators with respect to Phillip Jones' response to the incident involved his conduct during a November 13 phone call with the Student-Athlete's mother. When the Student-Athlete's mother called Jones on November 13, at

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<sup>127</sup> Tom Baker's 11/1/07 e-mail to EOD;\* General Counsel, Phillip Jones and Fred Mims.\*

<sup>129</sup> *Id.*

<sup>130</sup> Student-Athlete's mother's November 19, 2007 letter, Appendix A; draft of Student-Athlete's Housing Termination Contract.\*

<sup>131</sup> Investigators' interview with the Student-Athlete; Student-Athlete's mother's November 19, 2007 letter, Appendix A.

<sup>132</sup> See, for example, 2 HR Series Policies and Practices §135.9(2008) (remedial measures should never adversely affect the Complainant. For example, if it is necessary to separate the parties, the harasser should be transferred (unless the complainant prefers otherwise)); *See also* EEOC Compl. Man. (CCH) §615.4(a)(9)(iii) (2006).



Marcus Mills' direction, to discuss removing Football Player #2 and Football Player #1 from Hillcrest Hall, Jones told her that he "had nothing" on the alleged sexual assault and that he did not know her name or her daughter's name.<sup>133</sup> He also told the Student-Athlete's mother that there was "no such thing" as an informal investigation for sexual assault allegations.<sup>134</sup> Jones concedes that he made statements to that effect<sup>135</sup> even though Jones was informed of the incident the day after it occurred by Fred Mims, was kept informed about it for several days following and received a report on the incident from the Department of Athletics on October 23.<sup>136</sup> Additionally, both the *UI Violence Policy* and the *UI Sexual Harassment Policy* clearly provide for informal investigation of allegations of sexual assault.<sup>137</sup>

When interviewed by the Investigators, Jones gave less than satisfactory explanations for his November 13 statements to the Student-Athlete's mother. Jones stated that when he told the Student-Athlete's mother that he "had nothing" on the Student-Athlete's case, he meant that he did not have a file on the incident in front of him at that moment because he had given it to EOD.<sup>138</sup> He also stated that when he told the Student-Athlete's mother that he did not know her or her daughter's names, he was referring to the fact that he did not feel it was appropriate to comment on an ongoing investigation.<sup>139</sup> Jones and Baker continue to assert that there is no informal method for investigation of sexual assault allegations.<sup>140</sup> When presented with the relevant sections of the *UI Violence Policy* and the *UI Sexual Harassment Policy*, Jones essentially made an argument that the *UI Code of Student Life* is a preemptory policy to both the *UI Violence Policy* and the *UI Sexual Harassment Policy* and that, therefore, because the *UI Code of Student Life* does not explicitly provide for informal investigation, the

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<sup>133</sup> Student-Athlete's mother's November 19, 2007 letter, Appendix A.

<sup>134</sup> *Id.*

<sup>135</sup> Investigators' interview with Phillip Jones.

<sup>136</sup> Fred Mims' incident report and 10/15/07–10/19/07 notes;\* Mary Curtis' incident report and process timeline;\* Investigators' interview with Phillip Jones.

<sup>137</sup> *UI Violence Policy* II-10.6-10.8, Appendix C, and *UI Sexual Harassment Policy* II-4.2, Appendix F.

<sup>138</sup> Investigators' interview with Phillip Jones.

<sup>139</sup> *Id.*

<sup>140</sup> Investigators' interview with Phillip Jones; Tom Baker's 10/30/07 e-mail to Marcus Mills.\*

informal investigation provisions in the other two policies are invalid.<sup>141</sup> Since the *UI Code of Student Life* refers to the *UI Sexual Harassment Policy* and investigation by EOD, which specifically has an informal investigation policy, this statement was incorrect.

Jones' and Baker's statements that there is "no such thing" as an informal investigation of sexual assault allegations are clearly erroneous. Both the policies themselves and interviews with EOD officials confirm that such informal investigations do, in fact, exist.<sup>142</sup> Jones' statements that he "had nothing" on the case and did not know the Student-Athlete's or her mother's names remain inexplicable. Jones' misstatements and poor communication were largely responsible for the Student-Athlete's mother's perception that the Department of Athletics was attempting to cover-up her daughter's allegations.<sup>143</sup>

The fourth issue the Investigators identified was related to Phillip Jones' response to the retaliatory and harassing behavior directed at the Student-Athlete. When the Student-Athlete informed Jones, on November 16, of the harassing treatment she was experiencing from other student-athletes, Jones did take action to correct the situation. On November 21 and 28, Jones sent letters to the student-athletes whom the Student-Athlete identified, regarding their retaliatory actions.<sup>144</sup> However, the letters Jones sent were not effectively worded. The letters simply informed the student-athletes of the existence of an anti-retaliation policy and did not inform them that they had already been accused of conduct in violation of the policy.<sup>145</sup> No meetings with these student-athletes were ever held. As a related issue, Jones had the authority to commence disciplinary action against the student-athletes identified by the Student-Athlete for their behavior

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<sup>141</sup> Investigators' interview with Phillip Jones; Tom Baker's 10/30/07 e-mail to Marcus Mills.\*

<sup>142</sup> *UI Violence Policy* II-10.6-10.8, Appendix C, and *UI Sexual Harassment Policy* II-4.2, Appendix F; Investigators' interviews with Tiffini Stephenson Earl; Investigators' interviews with Marcella David.

<sup>143</sup> Investigators' interview with the Student-Athlete's mother.

<sup>144</sup> Phillip Jones' 11/21/07 and 11/28/07 letters to student-athletes regarding the University retaliation policy.\*

<sup>145</sup> *Id.*

under the *UI Code of Student Life*.<sup>146</sup> Yet, no such action was ever taken. In light of these facts, Phillip Jones failed to make a sufficiently strong response to the harassment and retaliation experienced by the Student-Athlete.

Most disturbing to the Investigators was the evidence that at least some of Jones' failure to act and his statements to the Student-Athlete's mother were due, in part, to his dissatisfaction that they did not report the incident to his office before reporting it to the Department of Athletics. During his interview with the Investigators, Jones was openly hostile regarding the fact that the Student-Athlete did not approach his office first with her sexual assault complaint.<sup>147</sup> The interview and notes show that he believed the Student-Athlete and her family to be "forum shopping," asking for his help when they became dissatisfied with the Department of Athletics' investigation.<sup>148</sup>

### ***C Office of Equal Opportunity & Diversity***

The documents and interviews obtained pursuant to the investigation show that the Office of Equal Opportunity & Diversity complied with University sexual assault policy and procedure in its response to the October 14 incident. On October 19, EOD Compliance Specialist, Tiffini Stephenson Earl, sent the Student-Athlete a letter explaining the University's sexual assault policies, informing her of the resources available through the Rape Victim Advocacy Program and explaining EOD's role in sexual assault investigations.<sup>149</sup> The Student-Athlete does not recall receiving this letter.<sup>150</sup> The Department of Athletics maintained contact with EOD during its departmental informal investigation of the incident.<sup>151</sup> When the investigation was turned

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<sup>146</sup> *UI Code of Student Life*, Regulation 10, Appendix G; *UI Judicial Procedure for Alleged Violations of the UI Code of Student Life*, Section 2, Appendix H.

<sup>147</sup> Investigators' interview with Phillip Jones.

<sup>148</sup> *Id.*

<sup>149</sup> 10/29/07 letter from Tiffini Stephenson Earl to the Student-Athlete.\*

<sup>150</sup> Investigators' interview with the Student-Athlete.

<sup>151</sup> Investigators' interview with Tiffini Stephenson Earl; Investigators' interview with Marcella David; Mary Curtis' notes.\*

over to EOD on October 23, EOD promptly began a formal investigation of the incident and completed a full report of its findings on November 15.<sup>152</sup> Due to the court order issued in the Student-Athlete's criminal complaint, EOD did not distribute the report. Prior to interviewing the Student-Athlete for the EOD investigation, investigator Jan Waterhouse told the Student-Athlete (apparently for the first time) that she could report the incident to the campus police and could determine at a later date whether she wanted it investigated or not.<sup>153</sup> Four days later, the Student-Athlete did just that. In light of these facts, the Investigators felt that EOD attempted, given the limitations discussed below, to perform a thorough investigation of the incident pursuant to University policy.

The investigation did not uncover any evidence suggesting EOD officials intended to make the Student-Athlete feel responsible for the incident, as reported in the Student-Athlete's mother's November 19, 2007 letter. The Investigators reviewed an audio recording of the Student-Athlete's interview with EOD and heard no indication that EOD officials accused the Student-Athlete of bringing the alleged sexual assault upon herself. Despite this, there are factors surrounding the interview which may have led to the Student-Athlete's negative perception of her interviewers.

First, the tone of voice and style of questioning used by EOD officials may have appeared adversarial to the interviewees. While the officials' tones during the Student-Athlete's interview and those of her roommate and a friend were not, for the most part, harsh or rude, the tones and style did seem to lack compassion for the Student-Athlete's situation. The Student-Athlete was one of the last witnesses interviewed by EOD.<sup>154</sup> Therefore, her interview essentially became a cross-examination of the facts the officials had received from Football Player #1's interview and interviews with the Student-Athlete's friends. EOD officials asked the Student-Athlete questions, such as "Do you remember if you were wearing underwear?" and "Do you remember sitting on Football

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<sup>152</sup> EOD report on the October 14 incident.\*

<sup>153</sup> Jan Waterhouse's 11/26/07 notes to EOD file;\* Investigators' interview with the Student-Athlete

<sup>154</sup> Jan Waterhouse's and Tiffini Stephenson Earl's investigation notes;\* Investigators' interview with Tiffini Stephenson Earl.

Player #1’s lap?” which were intended to cross-check claims made by Football Player #1 during his EOD interview.<sup>155</sup> The Student-Athlete and her friends perceived these questions and this style to be insinuating that she had “asked for” the alleged sexual assault.<sup>156</sup>

There are also indications that at least one of the interviewers may have been slightly irritated with the Student-Athlete by the time she was interviewed. Tiffini Stephenson Earl did not receive a response to the October 19 letter she sent to the Student-Athlete (which the Student-Athlete does not recall receiving) and attempted to contact the Student-Athlete on October 26 and 29 by e-mail and telephone to schedule an interview with EOD, but received no response.<sup>157</sup> Due to this lack of response, EOD conducted its formal investigation as a third-party complaint on behalf of the University, rather than on behalf of the Student-Athlete.<sup>158</sup> Earl was unable to schedule the Student-Athlete for an interview until she happened to call Fred Mims, while the Student-Athlete was meeting with him for another matter, and Mims convinced the Student-Athlete to meet with EOD officials later that night.<sup>159</sup> During the Student-Athlete’s approximately 35 minute interview with the Investigators, Stephenson Earl stated that the Student-Athlete “acted like she didn’t want to be there” and that she found it “strange” that the Student-Athlete was reluctant to cooperate.<sup>160</sup> Stephenson Earl made a statement to the effect that other victims with whom she worked were more involved and interested in their investigations.<sup>161</sup> There are also points in the audio recording of the interview during which Earl’s voice sounds somewhat abrasive while questioning the Student-Athlete. It is important to note that the Student-Athlete’s reluctance to communicate with

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<sup>155</sup> Jan Waterhouse’s 11/26/07 notes to EOD file;\* Audio recording of EOD Student-Athlete interview;\* Investigators’ interview with Tiffini Stephenson Earl.

<sup>156</sup> Investigators’ interview with the Student-Athlete.

<sup>157</sup> Investigators’ Interview with Tiffini Stephenson Earl.

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

EOD was likely because she was unaware of EOD's role in the investigation and still believed the investigation was being handled by the Department of Athletics.<sup>162</sup>

Many of the problems with EOD's interviews and investigation appear to be the result of inadequate training and a lack of clear guidelines as to how sexual assault investigations should be conducted. EOD requires a substantially upgraded level of defined protocol and sexual assault victim sensitivity training in order to conduct effective investigations of sexual assault allegations.

First, while EOD does not prohibit the practice, EOD does not affirmatively inform alleged victims of their right to have a trained victim advocate in the room when they are interviewed.<sup>163</sup> According to Tiffini Stephenson Earl, alleged victims often bring trained advocates, friends or family members with them to EOD interviews.<sup>164</sup> However, it is critical that alleged victims be informed of the substantial benefit of having a trained rape victim advocate with them for all interviews and be provided with one.

Second, EOD lacks a clear understanding of precisely how it should reach its determinations of violations of the *UI Sexual Harassment Policy*, which includes sexual assault. The burden of proof typically used in University hearings (and the one used in the *UI Code of Student Life*) is the "preponderance of the evidence" standard.<sup>165</sup> When asked what burden of proof EOD uses in determining whether sufficient evidence of a sexual assault exists, Marcella David stated that the office "doesn't really have a burden of proof per se" and that findings are based on a variety of factors, including the officials' determinations of witness credibility.<sup>166</sup>

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<sup>162</sup> Investigators' Interview with the Student-Athlete.

<sup>163</sup> Investigators' Interview with Tiffini Stephenson Earl.

<sup>164</sup> *Id.*

<sup>165</sup> *UI Judicial Procedure for Alleged Violations of the UI Code of Student Life*, Section 6, Appendix H.

<sup>166</sup> Investigators' interview with Marcella David.

This lack of a clear standard may be responsible for the substantial number of complaints filed with EOD, which EOD investigations determine to be unfounded. Between January 1, 2005 and August 22, 2008, EOD received 40 complaints of sexual harassment and sexual assault.<sup>167</sup> Of those complaints, EOD determined that approximately 47.5% of them were unfounded.<sup>168</sup> Furthermore, EOD received only seven complaints of sexual assault during the same time period, and of those, EOD determined that four were unfounded.<sup>169</sup> The lack of clear guidelines and the resulting low frequency of reporting and high frequency of finding that assault and harassment claims are unfounded may also be responsible for the perception among RVAP representatives that when they send alleged victims to EOD to report their allegations, “EOD takes no action.”<sup>170</sup>

Third, the investigation found no clear policy for EOD official recusal where there may be a perceived conflict of interest. For example, in the October 14 incident, one of the officials conducting the EOD investigation is the spouse of a prominent former University of Iowa student-athlete. The Investigators found no evidence that the EOD official exhibited any bias due to this relationship. Nevertheless, it is in the best interest of the University to avoid such conflicts to negate any appearance of impropriety.

The Investigators also found issues with the lack of understanding in the University community of the role of EOD in sexual assault investigations. As mentioned earlier, many members of the University community are completely unaware that EOD has any jurisdiction at all to investigate sexual assaults.<sup>171</sup> In fact, when sent to her EOD interview in connection with the formal investigation, the Student-Athlete’s roommate believed that the Department of Athletics was “trying to throw us off the path by sending

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<sup>167</sup> EOD disposition statistics.

<sup>168</sup> *Id.*

<sup>169</sup> *Id.*

<sup>170</sup> Investigators’ interview with Karla Miller.

<sup>171</sup> Investigators’ interviews with various University personnel.

us to some department that has absolutely NOTHING to do with sexual assault.”<sup>172</sup> This confusion may be due to the fact that the title, “Office of Equal Opportunity and Diversity” gives almost no indication that EOD is responsible for handling allegations of sexual assault.

Finally, it is vital that officials conducting sexual assault investigations be adequately trained in the proper treatment of alleged victims of sexual assault. EOD’s current training practice is to have new personnel “sit in on” a number of investigations before they are allowed to conduct a sexual harassment or assault investigation.<sup>173</sup> In light of the unique trauma experienced by sexual assault victims, more formal training, led by individuals experienced in rape victim advocacy, is necessary.

The Investigators also identified a potential FERPA violation issue with the manner in which EOD findings are released. When EOD completes its investigation, it issues a written report of its findings to be sent to the complainant, respondent(s) and the University administrator responsible for taking disciplinary action based upon the findings.<sup>174</sup> According to EOD personnel and to written information, these reports typically include the findings and the first and last names of the complainant, respondent(s), and any and all witnesses interviewed. In cases in which an individual is a University student, the practice of failing to redact any personally identifiable student information from copies sent to the complainant and respondent(s) may be considered a violation of FERPA.<sup>175</sup>

FERPA expressly permits disclosure without prior student consent of the “final results of disciplinary proceedings” under certain circumstances.<sup>176</sup> “Final results” is defined as:

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<sup>172</sup> E-mail to Investigators from the Student-Athlete’s roommate.\*

<sup>173</sup> Investigators’ interview with Marcella David.

<sup>174</sup> *Id.*

<sup>175</sup> 20 U.S.C. §1232g(b)(1), Appendix L.

<sup>176</sup> 34 C.F.R. §99.31, Appendix L.



“[A] decision or determination made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the institution. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed against the student.”<sup>177</sup>

“Disciplinary proceedings” is defined to include “investigations” of violations of an institution’s internal rules or policies.<sup>178</sup> Such information may be disclosed without prior student consent so long as the institution determines that (1) the student involved is an alleged perpetrator of a crime of violence (*e.g.*, rape) or a non-forcible sex offense, and (2) with respect to the allegations against the student, the student has committed a violation of the institution’s rules or policies.<sup>179</sup> The final results of disciplinary proceedings may also be disclosed to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, regardless of whether the institution concluded that a violation was committed.<sup>180</sup>

Because EOD only makes recommendations for disciplinary matters to Student Services, which may be rejected by Student Services, and does not have authority to “resolve disciplinary matters” within the University, the contents of EOD reports may not qualify as “final results” subject to disclosure without prior consent. Even if such reports, in fact, qualify as “final results of disciplinary proceedings,” FERPA would permit only disclosure of the names of the student-attackers, the violation committed, and the sanction imposed against the student-attackers--not the entire contents of the EOD report.

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<sup>177</sup> 34 C.F.R. §99.30, Appendix L.

<sup>178</sup> 34 C.F.R. §99.3, Appendix L.

<sup>179</sup> *Id.* §99.31(a)(14), Appendix L.

<sup>180</sup> *Id.* §99.31(a)(13), Appendix L.

#### ***D. Office of the General Counsel for the University of Iowa***

The investigation revealed several issues regarding the actions of Marcus Mills, General Counsel for the University of Iowa, with respect to his involvement in the University's response to the October 14 incident and his judgment. Mills' involvement commenced on October 15, when he was notified of the incident, and was both consistent and extensive. The Investigators did not find any evidence of malicious attempts to conceal information or intentional wrongdoing. Nevertheless, Mills' responses to the incident were consistent with a culture of a lack of transparency at the University General Counsel's Office and likely contributed to allegations of a University cover-up.

Marcus Mills' involvement in micromanaging the University's response to the incident presented a serious conflict of interest. When the Department of Athletics completed its investigation and turned the investigation over to EOD on October 23, Fred Mims submitted the report to Mills, *as well as* to EOD.<sup>181</sup> On the same day, Mills met with EOD officials as they decided how to conduct the formal investigation.<sup>182</sup> Mills also became the contact person for the Student-Athlete and her family.<sup>183</sup> Mills appears to have been the contact person for all parties involved in investigating the incident. The Investigators reviewed numerous e-mails and other communications among Mills and officials in EOD, Athletics, DPS and the Attorney General's Office regarding the informal, formal and criminal investigations of the incident, dating from October 15 forward, as the various investigations proceeded.

The role of the University's General Counsel is to represent the University and its Executive Officers, Administrators, Faculty and Staff, all in their official capacities.<sup>184</sup> As legal counsel for the University, there is a substantial appearance of a conflict of

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<sup>181</sup> Mary Curtis' notes.\*

<sup>182</sup> Investigators' interview with Tiffini Stephenson Earl; Marcus Mills' notes.\*

<sup>183</sup> Investigators' interview with the Student-Athlete's father.

<sup>184</sup> University of Iowa, General Counsel's website.

interest if such counsel is dealing with an unrepresented complainant. The Ad Hoc Committee Report on the Pierre Pierce Matter,<sup>185</sup> specifically, noted that having the General Counsel play a direct role in sexual assault investigations “had the potential to create serious confusion” as to “what role the individual is playing when he or she speaks” and from whose interest recommendations are made.<sup>186</sup> The interests of the University may be generally perceived as divergent or even adverse to those of an alleged sexual assault victim. To allow the interests of the University to be involved on a day-to-day case management level with such an investigation has the strong potential to obstruct the University’s ability to obtain the best outcome for the alleged victim and the perpetrator.

Mills’ failed communication with the Student-Athlete’s father was also detrimental to the University’s relationship with the Student-Athlete and her family. On or about October 24, according to the Student-Athlete’s father, Mills contacted him “out of the blue” and told him that he was a “liaison for the University.”<sup>187</sup> Mills’ notes show he first contacted the Student-Athlete’s father at Betsy Altmaier’s suggestion and remained in contact through November 13. Mills told the Student-Athlete’s father that from that point on, Mills would be the Student-Athlete’s family’s contact for information on the investigation.<sup>188</sup> The Student-Athlete’s father was deeply dissatisfied with Mills’ performance as an informant on the progress of the investigation. He stated Mills was extremely difficult to reach and that each time he spoke to Mills about the investigation, he was “given a different story.”<sup>189</sup> The Student-Athlete’s father stated that when he complained to Mills about the fact that Football Player #2 and Football Player #1 had not been removed from Hillcrest Hall, Mills’ response was that there was a lot of “bureaucracy” involved in University investigations and that things would happen “in

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<sup>185</sup> *Report of the Ad Hoc Committee on the Pierce Matter (Raymond Report)* (April 2003).

<sup>186</sup> *Report of the Ad Hoc Committee on the Pierce Matter (Raymond Report)*, Section VI (C).

<sup>187</sup> Investigators’ interview with the Student-Athlete’s father.

<sup>188</sup> *Id.*

<sup>189</sup> *Id.*

time.”<sup>190</sup> The Student-Athlete’s father is of the opinion that the entire situation “would have been better” if Mills had never contacted him.<sup>191</sup>

Mills also demonstrated a lack of proactive response to the issuance of the court order relating to EOD’s report on the incident. On November 14, a court order was issued by the Johnson County Court for EOD’s report on the incident.<sup>192</sup> The order substantively stated that “The Office of Equal Opportunity and Diversity or any other department, agent, or employee of the University of Iowa is not to divulge any information contained in the materials released or about the investigation itself in any capacity.”<sup>193</sup> Mills interpreted this language to mean, among other things, that EOD could not distribute its report within the University (which was necessary for disciplinary action to be taken against Football Player #2 and Football Player #1) or to Tom Evans as part of the Board of Regents’ investigation.<sup>194</sup> However, the Johnson County Attorney has stated that she never intended the order to prohibit internal distribution within the University.<sup>195</sup>

On July 28, 2008, the Iowa Attorney General obtained a court order permitting distribution of EOD’s report and related documents for purposes of Special Counsel’s investigation. Given the importance of distributing the report to Student Services and to Tom Evans, the proper and prudent action would have been for the General Counsel to have promptly taken the appropriate steps to obtain an order (like the one issued on July 28), which permitted distribution of the report for purposes of internal University proceedings and/or the Board of Regents’ investigation. The Investigators have no evidence that this was done, and both the University’s and the Board of Regents’ attempts to respond effectively to the incident were significantly impaired as a result.

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<sup>190</sup> Investigators’ interview with the Student-Athlete’s father.

<sup>191</sup> *Id.*

<sup>192</sup> Johnson County November 14, 2007 Court Order, Appendix Q.

<sup>193</sup> Johnson County November 14, 2007 Court Order, Appendix Q.

<sup>194</sup> Investigators’ interview with Jennifer Modestou.

<sup>195</sup> *Iowa City Press-Citizen*, July 26, 2008, Appendix U.

Marcus Mills also did not turn over the Student-Athlete's mother's November 19, 2007 letter to Tom Evans, pursuant to the Board of Regents' investigation. President Mason previously stated that the letter was not turned over due to Mills' mistaken interpretation of the Federal Education Rights and Privacy Act.<sup>196</sup> However, when the Investigators interviewed Mills, he expressly stated that he did not rely upon any statutory authority or the court order in his decision not to disclose the letter.<sup>197</sup> In fact, Mills admitted that he should have turned the letter over to Tom Evans, but that he "figured the Regents would get it if they got it."<sup>198</sup> Mills made similar statements of his intent not to disclose the letter to the Board of Regents,<sup>199</sup> despite the fact that the Board of Regents governs the University, as well as other state educational institutions.<sup>200</sup> Especially perplexing to the Investigators was the fact that, while Mills did not disclose the letter to Tom Evans, he hand-delivered copies of the November 19, 2007 letter to Department of Athletics officials on November 25. No response to the November 19, 2007 letter was provided by the University. Once again, the lack of transparency led to substantial difficulties for the University when the existence of the letter was later disclosed to the media by the Student-Athlete's parents on July 19, 2008.<sup>201</sup>

### ***E. Office of the President of the University of Iowa***

President Sally Mason, who had been in her new position for only two months at the time of the incident, acceded to Marcus Mills' authority over the University's response to the October 14 incident. She was informed of the incident on October 15 by Fred Mims.<sup>202</sup> On or about November 5, President Mason contacted Marcella David, Special Assistant to the President for Equal Opportunity & Diversity, and told her that

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<sup>196</sup> *Iowa City Press-Citizen*, July 22, 2008, Appendix T.

<sup>197</sup> Investigators' interview with Marc Mills.

<sup>198</sup> *Id.*

<sup>199</sup> Investigators' interview with Steven Parrott; Investigators' interview with Chuck Green; Investigators' interview with Tom Baker.

<sup>200</sup> Iowa Code §262.7, Appendix P.

<sup>201</sup> Student-Athlete's mother's November 19, 2007 letter, Appendix A.

<sup>202</sup> Investigators' interview with Fred Mims; Fred Mims' notes.\*

she wanted the investigation into the incident completed as quickly as possible so that appropriate sanctions could be made, if necessary.<sup>203</sup> On November 20, President Mason made a phone call to the Student-Athlete's mother, expressing her sympathy for what the Student-Athlete had experienced, which the Student-Athlete's mother appreciated.<sup>204</sup> The Student-Athlete's mother and President Mason also spoke on the phone again later that day.<sup>205</sup>

President Mason and the Student-Athlete's mother have differing impressions of the latter phone call on November 20. According to the Student-Athlete's mother, when she called the President's Office to ask a question about the progress of the investigation, the President told her that she "didn't typically handle these things" and would give the Student-Athlete's mother the contact information for someone who did.<sup>206</sup> President Mason's recollection is that the Student-Athlete's mother was asking questions about matters being dealt with by Chuck Green, DPS Director who was handling the criminal investigation, and that she offered to assist the Student-Athlete's mother with contacting him.<sup>207</sup> Both parties agree that at that point, the Student-Athlete's mother became extremely frustrated and ended the phone call.<sup>208</sup> The Investigators found no evidence that the President's intent was to stonewall the Student-Athlete's mother in any way. Likewise, the Student-Athlete's mother's frustration is understandable, given the confusion and lack of communication she and her family had experienced up to that point.

The Investigators determined that the majority of the President's contact with the incident was through Marcus Mills. At the time of the incident, President Mason had only been in office for approximately two months and had not hired a Senior

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<sup>203</sup> Marcella David's 11/5/07 e-mail to Jan Waterhouse;\* Investigators' interview with Tiffini Stephenson Earl; Investigators' interview with Sally Mason.

<sup>204</sup> Investigators' interview with Sally Mason; Investigators' interview with the Student-Athlete's mother.

<sup>205</sup> Investigators' interview with Sally Mason.

<sup>206</sup> Investigators' interview with the Student-Athlete's mother.

<sup>207</sup> Investigators' interview with Sally Mason.

<sup>208</sup> Investigators' interview with Sally Mason; Investigators' Interview with the Student-Athlete's mother.

Associate.<sup>209</sup> Therefore, she relied upon Mills to closely monitor the situation and keep her informed of the progress of all investigations.<sup>210</sup> As the number of miscommunications and the level of the Student-Athlete's dissatisfaction rose, Mills apparently continued to assure President Mason that the situation was under control.<sup>211</sup> President Mason also relied upon Mills to handle turning over documents, including the letters from the Student-Athlete's mother, to Tom Evans for the Board of Regents' investigation. President Mason had no knowledge that Mills had withheld the letters from Tom Evans until some time in July of 2008.<sup>212</sup> In light of the Investigators' review of President Mason's involvement, it appears that President Mason's primary role in the University's handling of the incident was reliance upon her General Counsel to effectively manage the situation.

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<sup>209</sup> Investigators' interview with Sally Mason.

<sup>210</sup> *Id.*

<sup>211</sup> *Id.*

<sup>212</sup> Investigators' interview with Sally Mason.

**SECTION V**  
**REVIEW OF THE BOARD OF REGENTS' INITIAL**  
**INVESTIGATION**

After interviewing Tom Evans, reviewing some of his investigation notes and final report, it is the opinion of the Investigators that Tom Evans performed a thorough investigation of the University's response to the October 14 incident, based on the information available to him at the time. It is worth noting that many of the issues identified by Special Counsel's investigation were also identified and addressed in the "Recommendations" section of Tom Evans' report on the initial investigation.

Also, while Special Counsel's report may appear more comprehensive than Evans' report, it is important to keep in mind that the Investigators had access to a substantial amount of critical information, which Evans was denied. Due to the July 28, 2008 court order, the Investigators were able to review the Department of Athletics' and EOD's responses to the incident in detail. The Investigators were also able to proceed with knowledge of the allegations contained in the Student-Athlete's mother's letters, which were withheld from Evans. Furthermore, a representative from Marcus Mills' office sat in on the majority of the interviews that Tom Evans conducted pursuant to his investigation, which may have limited the amount of information Evans received. Perhaps most importantly, the Investigators were able to personally interview the Student-Athlete and her family regarding their treatment.

A miscommunication appears to be responsible for the Student-Athlete's and her family's non-participation in the initial Board of Regents' investigation. In December of 2007, Tom Evans contacted Marcus Mills' office, asking that Mills contact the County Attorney (who was in touch with the Student-Athlete and her family throughout the criminal investigation) and request that the County Attorney inquire of the Student-



Athlete and her family whether they would agree to be interviewed as part of Evans' investigation.<sup>213</sup> The Student-Athlete's mother contacted the Board of Regents office in January to discuss the allegations contained in her November 19, 2007 letter.<sup>214</sup> She indicated that the person to whom she spoke was "very nice" and referred her to the attorney for the Board of Regents (Tom Evans).<sup>215</sup> The Student-Athlete's father decided that they did not wish to speak with an attorney and informed the Board of Regents office of their decision the same day.<sup>216</sup> Evans, who did not speak with the Student-Athlete's father, assumed that the family's call stating they did not wish to speak to him was in response to his inquiry via Marcus Mills.<sup>217</sup> However, the Student-Athlete's family did not understand that they were being asked to speak with Evans as part of an investigation of the University's handling of the incident.<sup>218</sup> They believed that if they were being asked to speak to an attorney, they should obtain an attorney.<sup>219</sup> It is the impression of the Investigators that had the Student-Athlete's family known the purpose of talking with Tom Evans, they would have been more than willing to participate in the initial investigation.

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<sup>213</sup> Investigators' interview with Tom Evans; Marcus Mills' notes.\*

<sup>214</sup> Investigators' interview with the Student-Athlete's mother.

<sup>215</sup> *Id.*

<sup>216</sup> Investigators' interview with the Student-Athlete's father.

<sup>217</sup> Investigators' interview with Tom Evans.

<sup>218</sup> Investigators' interview with the Student-Athlete's mother; Investigators' interview with the Student-Athlete's father.

<sup>219</sup> *Id.*

**SECTION VI**  
**SPECIAL COUNSEL’S RECOMMENDATIONS**

Based upon the findings in this report, Special Counsel recommends the following changes in University policies and procedures:

- (1) It is paramount that a comprehensive review of the policies and procedures dealing with sexual assault and other related issues at the University of Iowa be undertaken. It is critical that the University of Iowa modernize such practices, consistent with the best practices available in the higher education community. While those procedures are beyond the scope of this investigation, it is clear that certain basic changes must be made immediately and be incorporated with the adoption of best practices when that occurs:
  - (a) A trained advocate must be made available to alleged victims of sexual assault during all stages of the reporting and investigative process. Special Counsel recognizes that there is some debate regarding whether it is beneficial to mandate the presence of such an advocate. However, alleged victims should at least be fully informed at all times of their right to an advocate, and such an advocate should be made readily available.
  - (b) A single, coordinating office and procedure must be designated to deal with all sexual assaults and other related issues at the University. Had such existed in this case, the failure of the University to adequately respond to this alleged assault would not have occurred. The understanding of the Student-Athlete and her

family would have been greatly enhanced by the presence of a single procedure and a single coordinating office to explain the process and formulate a response. A single coordinating office would have avoided the conflict of interest that existed between the General Counsel's Office and the Student-Athlete and would have ensured that the Student-Athlete's interests were fairly represented.

- (c) The University should consider whether it would be appropriate to mandate DPS notification when a University official receives information of an alleged sexual assault.
- (d) The University's General Counsel should not be involved in the management of sexual assault and sexual harassment investigations.
- (e) Sexual assault advocates should be trained with respect to University reporting and investigation options available to alleged victims and how to explain them in a way that can be readily understood by a potentially traumatized victim.
- (f) Easily comprehensible information with respect to University sexual assault reporting and investigation options should be made readily available to the University community.
- (g) All University departments should be stripped of any authority to conduct investigations of sexual assault. To the extent that it is beneficial to retain an informal method of sexual assault investigation, such investigations should be handled solely by EOD or the office designated to handle such investigations in the future.

- (h) The officials responsible for investigating sexual assault allegations should be given extensive training in the proper handling of sexual assault victims and perpetrators.
  - (i) The office designated to handle sexual assault investigations should have a formal procedure providing for recusal of investigators who may be perceived as having a conflict of interest in investigations conducted by that office.
  - (j) Sexual assault should remain part of the University's *Violence Policy*; it should not be handled under the University's *Sexual Harassment Policy*.
- (2) It is also paramount that a comprehensive review of the policies and procedures dealing with sexual assault and other related issues be undertaken at all other universities governed by the Iowa Board of Regents to ensure that they are consistent with the best practices available in the higher education community.

## **SECTION VII**

### **CONCLUSIONS**

The Investigators found numerous and substantial flaws in not only the response of the University of Iowa to the alleged sexual assault at issue, but also in its policies, procedures and practices regarding the same.

However, the Investigators uncovered no evidence of any attempt by officials associated with the University to cover up the alleged assault. While the Student-Athlete and her family did not understand the implications of pursuing an informal resolution of these issues with the Department of Athletics, the Investigators found little evidence that the Department of Athletics deliberately pressured the Student-Athlete or her family to seek an informal resolution. Similarly, there was a great deal of confusion among all involved parties over the nature of the alleged assault and the number of perpetrators involved. Although the Investigators found no evidence that the Department of Athletics or any other officials within the University intentionally tried to mislead the Student-Athlete or her family about the facts of the incident, the Department of Athletics was not forthcoming to the Student-Athlete with additional relevant information when it became available.

Some members of the University of Iowa student-athlete community failed to respond to this incident in a proper manner. Despite the efforts of some student-athletes and their coaches to ensure a supportive environment for the Student-Athlete, who was indeed one of their own, some student-athletes behaved in a crude manner, using bullying and abusive tactics toward a fellow student in need of support and nurturing. That conduct was inexplicable and deplorable.

The Office of the Vice President for Student Services and Dean of Students failed in its responsibilities to the Student-Athlete and to the University in this case. Phillip Jones had the authority to intervene at numerous points in the process and to achieve the results necessary to protect the Student-Athlete. As early as the day after the alleged assault, Jones knew of the incident and had the authority and resources to separate the alleged perpetrators from the Student-Athlete. While Jones' failure to act did not technically violate the "letter" of the University's policies and procedures, his inaction was fundamentally inconsistent with the "substance" and intent of those policies.

The Office of the General Counsel should never have assumed a supervisory role in the investigation of the incident. To do so was an inherent conflict of interest. An alleged victim of a sexual assault is entitled to have an investigation headed by an independent and objective party with the necessary professional training to address the stress and trauma inherent in such matters. By contrast, the general counsel of an institution has the interest of the institution as its highest duty of loyalty. The General Counsel withheld documents later requested by the Board of Regents and failed to notify that Board of the existence of letters critical of his and other University officials' actions. To date, Mills has failed to provide the Investigators with any adequate response to why such actions occurred.

It is critical that the University take immediate action to rectify the shortcomings in its policies and procedures dealing with sexual assaults and other related issues. It must also ensure that it has in place trained professionals able and willing to effectively respond to the needs of its students and willing to act in the best interest of the entire University community.

**APPENDICES**

LETTERS FROM STUDENT-ATHLETE’S MOTHER ..... A

LIST OF INTERVIEWEES..... B

UI VIOLENCE POLICY ..... C

UI CAMPUS CRIME POLICIES AND INFORMATION, SECTION F (SEXUAL  
ASSAULT POLICY) ..... D

UI CAMPUS CRIME POLICIES AND INFORMATION, SECTION B (REPORTING  
CRIMES ON CAMPUS)..... E

RELEVANT PROVISIONS OF UI SEXUAL HARASSMENT POLICY ..... F

UI CODE OF STUDENT LIFE..... G

UI JUDICIAL PROCEDURE FOR ALLEGED VIOLATIONS OF THE CODE OF  
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UI DEPARTMENT OF ATHLETICS STUDENT-ATHLETE CODE OF CONDUCT ..... I

UI DEPARTMENT OF ATHLETICS RESOURCE AND REFERRAL OPTIONS FOR  
VICTIMS OF SEXUAL ASSAULT..... J

UI DEPARTMENT OF ATHLETICS INITIAL NOTIFICATION PROCEDURES FOR  
STUDENT-ATHLETE INCIDENTS AND SEXUAL HARASSMENT OR ASSAULT  
ACTION STEPS ..... K

RELEVANT PROVISIONS OF FERPA AND ITS FEDERAL REGULATIONS  
(20 U.S.C. §1232G, 34 C.F.R. §99.3, 34 C.F.R. §99.30, 34 C.F.R. §99.31) ..... L

RELEVANT PROVISION OF HIPPA (45 C.F.R. §164.502) .....	M
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November 19, 2007

I am writing this letter in response to my visit last week to Iowa City..

As I reflect on the many hours of meetings that the victim and I had with the officers from DCI, University of Iowa Police, the County Attorney's office and the various offices of officials at the University of Iowa I would like to communicate what I learned and experienced.

Firstly, I want to thank Chuck Green for his willingness to go to DCI on behalf of the victim. I recognize that that action took a great sense of what was best for her, the school and his position. I commend him for his professionalism and character. In that same vein I want to commend Officer Brian from the University of Iowa Police and Diane Funk from the Rape Crisis Organization for their compassion, commitment and genuine help towards and on behalf of the victim. I would like, also, to thank Mr. Wade Kissner, Special Agent in Charge, and Mr. Jaggat Sandu Special Agent, both with DCI. They were and continue to be, extremely capable, professional and above reproach.

Secondly, it is my purpose to convey to those involved my perspective of the situation at hand and what has happened from our point of view up to this point, Monday November 19, 2007.

I do not want to be complicated, therefore I will communicate what I hope to be a very straight forward assessment.

On Sunday, October 14<sup>th</sup> the victim went directly to the hospital and the University of Iowa Hospital ER. Her Dad, arrived in Iowa City around 1am that night. Beginning Monday morning at 8am the victim told her story to University Administrators in the Athletic Department. She met with her counselor [REDACTED] at 8am and from that time on met with Gary Barta, Fred Mimms, Asst. Athletic Director, the Head Football Coach Kirk Perentz and Betsy Altmaier along with her [REDACTED] Coach [REDACTED]. There were no other officials brought in, nor was it ever suggested by those present that there was any intention or need to do so. The victim's father was there from Monday until the next Saturday. There was adequate time for someone to call in the higher officials to address the problem. They were told that if the victim chose to go with an Informal action the Athletic Department would act swiftly and effectively. If she chose to go Formally, which was explained as an in-house process but going outside of the Athletic Department, she would be looking at a long, arduous process. She elected to go Informally as it seemed it would be taken care of immediately rather than over a long period of time. She was really encouraged to try the Informal route first. Her Dad asked that the Football Coach attend the meetings as it was communicated to him that it would be through the Football program that this would be dealt with and handled. During one of these meetings with the above mentioned people it was brought out that this would be the 8<sup>th</sup> or there had been 8 infractions involving the Football Team. In hindsight what did that have to do with anything except that maybe it put the program and the school in some kind of jeopardy if this went Formal. It was also discussed that there were three options for the victim. Informal, Formal or Criminal. There was never any information given during that entire week regarding the process of investigation which would involve the EOD. No one ever gave any direct picture of what even an informal action would entail, just that it would be swift and that the Athletic Department would take care of everything. Never was the EOD mentioned. Not one time. Nor was the victim ever advised that she could, or should in fact have an advocate at any or all meetings. The father of the victim left that Saturday October 20<sup>th</sup>. From that day forward any communication regarding this situation was initiated by the father. He was directed to speak with Mark Mills. Betsy Altmaier called in Mark Mills. We were never given any clear reason why he was now involved. We asked over and over and over and over and over and over-what is the process? What can we expect? Who is protecting the victim after she told her story to so many people that first week? Where are these boys in all of this? NO ANSWERS. Only, due process, due process. Our question was also, Who is in charge? Even on Monday, November 5<sup>th</sup> the father called the office of the President of the University of Iowa. The woman he spoke to asked what it was regarding and he told her it was of an urgent nature regarding an assault on campus and to please have the President return his call as soon as was possible. He left his name and number. It looks from this vantage point as if the President was not familiar with his name, which would also suggest she was not familiar with what had happened up to that point. He never received a call back. We had asked during that first week that someone speak with the victim's professors as she missed an entire week of school due to an enormous amount of meetings and emotional crisis. Father and daughter were told that that would be handled. It wasn't. Not until she was given Diane Funk as her advocate were the teachers notified. After 3 and a half weeks. The victim spoke personally to her [REDACTED] teacher. Something that was very difficult. The father called Frank Mims and told him 2 weeks later that someone needed to address her

academic situation. He called the victim in and arranged for her to drop her [redacted] class.

The week after the Saturday that the father left and after the father had called Frank Minums for updates, Frank called the victim to his office. He told her there were some folks that needed to talk to her and could she run over to their office. He did not tell her she was going to an interview with BOD.

She had no idea what she was heading into. In a sentence it was a most traumatic experience for her. They were aggressive and forceful in their interviewing tactics and accusatory in their stance. She told me afterwards, while crying, that they basically accused her of bringing this upon herself. She was interviewed with the intention of making her feel that she caused this. I would like to interject here that from this vantage point I am very gravely concerned about the outcome of an investigation that was held without the knowledge of Dean Jones, as that is protocol in the code of student conduct for the University of Iowa which I learned from Dean Jones himself. Her friends were called in as well, not having any idea what they were being called in for, and without the mention, again, of the right to an advocate, and they also left crying feeling as if they had committed some kind of crime by being associated with the victim and this situation. It was handled very poorly and less than professionally. And all without going before Dean Jones. On Monday November 5<sup>th</sup> the victim, after having been confronted by the perpetrators and their friends on a daily basis and having found no sense of protection or involvement by the University of Iowa, went to the University of Iowa Police. She met with Officer Brian. She told him everything. From that day forward things have taken a new turn. Brian met with her several times during that week and on Friday November 9<sup>th</sup> he called her in to meet with Diane Funk and himself. He proceeded to reveal to her that there were not 2 boys involved, but 3. The third boy had raped her while she was unconscious and that the University of Iowa Athletic Department knew that. They knew that all the way back during the first week after the assault. And they had kept that from her and her Dad as far back as the first week after the incident. Needless to say the victim was struck down. It was that next Monday that the father decided that he would call Chuck Green and find out who is objective here? Everyone is connected to the Uoff. With a great sense of character I believe that that is when the DCI was called in. And rightly so. On Tuesday November 13<sup>th</sup> the victim called home and said that she had just discovered that the boy that was considered the 3<sup>rd</sup> attacker was living in his girlfriends room in Hillcrest 3 doors down from her room. For THREE WEEKS. I arrived in Iowa Wednesday morning November 14<sup>th</sup>. I was met at the airport by the University of Iowa police and taken directly to the police offices. I spent the afternoon with the DCI officers and Chuck Green. On Thursday morning the victim and I met with Ann Lahey with the County Attorney's office. That afternoon the victim was again interviewed by the police.

At this point I want to communicate a most amazing experience that, I think, says everything about how the school had handled this until this point.

On Tuesday November 13<sup>th</sup> the father had made a call into Mark Mills to ask, again, what was happening. Mark called him back and told him that since I would be there the next day he would like for me to get in touch with Dean Jones and a Mr. Baker as, according to Mr. Mark Mills, the investigation should be complete by that time. While the victim was being interviewed I asked Officer Jagat Sandhu if I should call Dean Jones and he told me to go ahead. I called and got through to him. I introduced myself, gave my name and asked if I could meet with him regarding the outcome of the investigation. He, Dean Jones, proceeded to tell me that he did not know who I was, did not know my name, my daughters name, nor anything regarding this investigation. He told me he "had nothing". I learned later that that point was in fact very true as the report had been subpoenaed and he had not seen it. However, he said to me he could not help me. Mark Mills also communicated with the County Attorneys office that day that, in fact, this was not done with Dean Jones knowledge. He had not been involved. My question to him, then, was how can you possibly help the victim when you have no idea what has been happening, and, more importantly, why don't you know anything? How is that remotely possible?

On Friday morning I received a call from Diane Funk telling me that there would be a clause in the release of housing contract that would forbid the victim from going into Hillcrest forevermore. I called Jagat Sandhu and explained that that absolutely seemed like a punishment rather than a protective and supportive action for the victim. I met that morning with Betsy Altnajer. Up until that meeting I was under the impression that she has something to do with representing the Presidents Office. Meaning, the victim and the father were under the impression that Betsy represented the Presidents Office which gave them the false feeling that things were left with the authorities that could and would handle this "swiftly and efficiently". They thought that because she had attended all of the meetings from Wednesday on the week the father was there, that the University formally knew exactly what had happened to the victim. We were very wrong. I

learned in that meeting that although Betsy is a most wonderful advocate for the Athletic Department as is related to the victim, it was not through her that the school would necessarily be informed of this situation. Again, my question was, who is telling who what?

We then went to the Office of Dean Jones. Mr. Chuck Green and Diane Funk were also in attendance. The meeting began with Dean Jones asking what exactly we needed. I began talking. The victim interrupted me and told Dean Jones that she needed out of the Dorm as she had been experiencing unending harassment from the friends of the boys involved in this as well as the boys themselves. She had found out that one boy had actually been living 3 doors down from her for 3 weeks. The very boy that the Athletic Department knew had been involved while she was TOTALLY unconscious. They mocked her, called her names, laughed at her and had been left free to do whatever they chose after she had told her story for a week to various University Officials with absolutely no help forthcoming. Dean Jones asked the victim point blank "How can I know you will be safe if I allow you to go in and out of Hillcrest?". Her reply was simply that she had been doing it all alone for almost 5 weeks, with no help or intervention from anyone, and had trusted that someone would come to her at some point with a solution, help, hope, a sense that what she had reported was taken seriously. Never happened. She also told Dean Jones that the Athletic Department had lied to her directly the week of October 15<sup>th</sup> knowing there was a third boy that had raped her while she was unconscious and she had never known that until the police had become involved and her trust of the University was depleted. We left that meeting knowing that in the case of someone claiming sexual assault the University protocol and Code of Student conduct an Informal action is NEVER taken. Why didn't someone tell the victim and her father that the week of October 15<sup>th</sup>? Why didn't one or ALL of the Administrators in those meetings that week, or the next week, or the next week, (while the victim and her family are waiting for any forthcoming answers) bring in Dean Jones????????? Where were the troops? Why did no one at the University level know the protocol and follow it? Why didn't Fred Minnms call Dean Jones? Why didn't Betsy Altmair call Dean Jones? Did Betsy Altmair tell the President? If not, why not. How can you hear this story and not look into some book of Protocol and find the page that says when a sexual assault is reported there IS NO INFORMAL ANYTHING. It must go to Dean Jones. Why didn't Mark Mills call Dean Jones? Why didn't the football coach call Dean Jones? Why didn't the EOD call Dean Jones? Why didn't someone direct the victim or her father in any given phone call day after day after day, to call Dean Jones? Did someone call him and not go through the correct channels? Who was in control of this information? The victim and her father were lead to believe that the meetings called and attended were right where this information belonged and that it would all be handled in an efficient, swift, effective and just way. Just give us time to practice due process. And if that were not the case why didn't one or all of those people direct the victim and her father in the way they should procede to get this taken care of??

That is why the victim went to the police. No one from the University ever contacted her and gave her any sense of direction, protection or involvement. She was on her own. We were on our own. The victim was left with NO CHOICE but to seek help outside of the school. She was being harassed by athletes in the group in which the attackers belonged. I understand that 2 of the players were suspended for lying. No one told us what, if anything was happening.

Finally, in conclusion, as I look back on the past 5 weeks this is what I see. I believe that the University did not handle this situation in a professional way that followed University protocol and compliance to its own rules set out in the code of student conduct. I believe that interim action against these boys is absolutely very late in coming. If only for the protection of the victim. I am horrified, as is anyone who even hears of this is, to learn that the boy that raped the victim while she was unconscious was living 3 doors down from her for 3 weeks.

In my understanding we are waiting at this point for the DCI investigation to be completed. Because the school never gave the victim or her family any sense of something being done that we could hold on to, this seems to be reaching epic proportions. I understand that the media is hounding and waiting for any morsel. I am so sorry that this is the case. This ABSOLUTELY could have been avoided if the University of Iowa had stepped in and done the right thing by all involved. When the investigation is completed and is presented to the County Attorneys office it is up to the victim to decide where to go with this. I also understand that the boys have engaged very high powered attorneys.

We are distressed over the events that have occurred but I feel as though the people that are now involved will get to the bottom of this and the right thing will be accomplished. I actually made a call today to the President of the University, Sally Mason. She shared her concern but told me in no uncertain terms that she

very rarely gets involved with things of this nature. Isn't that the truth? Me neither. The victim either. Who is at the helm? I believe that she is involved whether she wants to be or not as she is giving statements to the press. I told her she might like to take a minute with me and she simply told me she would direct me to someone who handles these things. My question today is WHO IS THAT PERSON AND WHERE HAVE THEY BEEN FOR THE PAST FIVE WEEKS? The victim went first to the hospital then DIRECTLY to the Administrators of the Department of which she believed she would be protected and the situation would be handled and if they couldn't do that, that they would surely direct her or take the information themselves to the authorities that could. The school has brought this to this place. NO ONE ELSE. Again, my purpose in writing this letter is to communicate to all of those people that are involved my assessment of the past few weeks. I hope this says to all that the victim is very determined, responsible, courageous and honest. She does not want to leave Iowa, is very committed to doing what she set out to do there. On the other hand, we cannot let the press or opposing side criticize her in the process, which very, very often happens. More often than not, actually, in sexual assault cases.

I appeal to those that can make a difference in this tragic situation to do what is true, what is right and what will reflect the moral courage and foundations of the University and those that represent it. I very much appreciate your time and your genuine concern regarding the outcome of this.

Sincerely,

The victim and her family

RECEIVED

May 16, 2008

University of Iowa  
President Sally Mason  
Dean of students Phillip Jones  
Head [redacted] Coach [redacted] and Staff

MAY 19 2008

OFFICE OF  
THE PRESIDENT

To Whom this letter concerns,

I am writing this letter on Friday May 16, 2008, the last day of the full school year 2007-2008. I am writing on behalf of our family and our daughter [redacted]. As each of you is aware this was a tragic year for our daughter. My purpose in writing is to address the failings of your system and the effects those failures have had on her.

Firstly, I include the President for the reason that I spoke to her directly Thanksgiving week and was told that she does not "deal with issues like [redacted] but she would gladly direct me to someone who would." As I wrote in my detailed letter sent to her office and the Deans office, she most certainly does deal with these such issues as they happened under her watch.

I include Dean Jones because he told [redacted] and me in person that [redacted] would be protected by him and his office for the duration of her year. That did not happen. [redacted] was taunted, heckled, harassed for the entire school year following October 14 by members of the football team-up until her very last day.

I include [redacted] and his staff because they essentially distanced themselves from [redacted] washing their hands of her as if she were a bad disease.

Today I can tell each and every one of you that [redacted] survived this ordeal and the consequences of it in spite of each of you. Not one of you went out of your way to represent the University of Iowa with the integrity and honor that was due this young woman. She fought this battle alone, finished her year alone and left alone. Her purpose and determination called her to stay and fight against the call to bail and call it a day. She stayed the course and finished when not one of you cared what became of her.

Betsy Altmier was [redacted] advocate, friend and voice. Without her [redacted] would not have survived. I credit her alone and do not attach her to the school in any way as she acted out of her conscience and her love for [redacted]

I am most disappointed in Coach [redacted] and his staff. I realize that [redacted] was a great disappointment for the [redacted] program. However, the University maintained their scholarship status for [redacted] and after Christmas Coach [redacted] had nothing to do with [redacted] leaving her more alone than any of you can imagine. His example to his team gave them permission to isolate and ridicule [redacted] for not being able to pull herself together and swim and get over her assault. By essentially cutting [redacted] off from the program, team, staff, trainers he communicated that he, the program and the school would be better off if she would just leave. I realize that being a highly recruited athlete he had big hopes for her. It seems no one really considered that [redacted] might be equally devastated and have deep despair and hopelessness.

Here is a young woman with incredible potential that was assaulted by 3 arrogant, above the law football players. She went directly to the University with the details of the assault the very day it happened. The athletic Department gave her and her Dad assurances that the school would take care of it internally. After nothing happened she went to the UofI police only to find out that there were not 2 rapists but 3, the school knew that but did not tell her, and one of the rapists was sleeping with his girlfriend 2 doors down from her the full 3 weeks after the assault. The Dean was never told and the boys harassed her day and night until Christmas when they left. [redacted] returned to finish her year and fight the battle because leaving would only let this assault beat her down. She returned and lived with this alone. If she could finish this "war" why couldn't any of you? Betsy finished it with her. Not because it was her job. It wasn't. But because it was the right thing to do for [redacted]. Where were any or all of you? Not because it is in your job description, heaven forbid, but because it would have been the right thing to do. Stand by her. Stay the course. Be an example to the young men and women that are watching you and learning from your lead. A young woman is assaulted by not one, not two, but three men and you won't touch this with a ten foot pole. Where is your integrity? Where is your stamina? Where is your responsibility? I question each and every one of you personally and professionally. This screams of self preservation, intolerance and an attitude of arrogance that you can simply walk away from any responsibility for a student once it is clear she is going to suffer for some time. Just ignore her, pretend you don't see her and stay clear lest she comes around. Just keep her at bay and hopefully she will eventually leave and we can simply move on. Well, you all did that perfectly.

She humbly asked to be free of her scholarship. Why would she ever want to stay? Her coach and team were disgusted by her and made sure she knew she was a loser. The team, for the most part, was actually cruel to her, asking her to leave gatherings, parties and even dorm rooms. I hold Coach [REDACTED] responsible for this lack of respect and tolerance because he himself eventually had nothing to do with [REDACTED]. They would laugh at her and call her crude and cruel names just like the football players would. How absolutely shameful.

Finally, I want to say that as we sent [REDACTED] off to the heartland of this country we had an unrealistic idea that Iowa would be different. That the University would be unusual. That Iowa would be safe. We were so very wrong. How tragic this entire situation and year was from the outside. [REDACTED], on the other hand left a winner. She fought it out. Alone. She lived alone. She went to school alone. She had one friend. And she had Betsy. But as for the University of Iowa what a shameful representation of what can be good, right, honest and above reproach you have been. Shame on all of you for backing down when the going got tough. Shame on all of you for turning away from your moral and professional obligations. Shame on all of you for dropping this young woman like a plague and turning your backs on her when she determined to finish the race in spite of all of you. Shame on you for not having enough spine or character to finish it with her. [REDACTED] left Iowa today and will never look back. You all had an opportunity through her to make a difference and be different at your institution. From where I sit you all wasted that chance and I will venture to say that you will never see a young woman with as much integrity, faith, character and determination in the face of such a brutal assault and its scars.

[REDACTED]



## **List of Interviewees**

### **Athletics**

Gary Barta (Director of Intercollegiate Athletics)  
Jane Meyer (Senior Associate Athletics Director)  
John Fravel (Graduate Swimming Athletic Trainer)  
Kirk Hampleman (Assistant Swimming Coach)  
Frances DeBord (Assistant Swimming Coach)  
Marc Long (Head Swimming Coach)  
Fred Mims (Associate Athletics Director, Student Services and Compliance)  
Mary Curtis (Associate Athletic Director, Human Resources and Compliance)  
Kirk Ferentz (Head Football Coach)  
Phil Parker (Assistant Football Coach)  
Elizabeth Altamaier (Faculty Athletic Representative to Big Ten Conference and NCAA)  
Philip Haddy (UI Sports Information Director)

### **Student Services**

Phillip Jones (Vice President for Student Services)  
Tom Baker (Associate Dean of Students)  
Monique DiCarlo (Director, Women's Resource and Advocacy Center)

### ***University Housing***

Dr. Von Stange (UI Residence Services Director)  
Kristen Meylor (Victim/Everson's Hillcrest Hall RA)  
Ben Parks (Hillcrest Hall Housing Coordinator)  
Andy Borst (West Neighborhood Area Housing Coordinator)

### **Equal Opportunity & Diversity**

Marcella David (Special Assistant to the President for Equal Opportunity and Diversity)  
Jennifer Modestou (Director of Equal Opportunity & Diversity)  
Tiffini Stephenson Earl (Compliance Specialist)  
Jan Waterhouse (Compliance Officer and Chair of UI Human Rights Committee)

### **Office of the President**

Sally Mason (University of Iowa President)  
Marc Mills (General Counsel and Vice President for Legal Affairs)  
Gay Pelzer (Deputy General Counsel)  
Steven Parrott (Director of University Relations)

### **Public Safety/Law Enforcement**

***University of Iowa Department of Public Safety***

Charles Green (Director of Public Safety)  
Officer Brian Meyer (Public Safety officer mentioned in Mother's Letter)

***State of Iowa Division of Criminal Investigation***

Wade Kinser (Special Agent in Charge)

**Outside the University**

Victim

Lynn (Victim's Mother)

Robin (Victim's Father)

Marvin Sims (Victim's Social Worker/Counselor)

Diane Funk (Victim's Advocate, Rape Victim Advocacy Program)

Karla Miller (Director, Rape Victim Advocacy Program)

Janet Lyness (Johnson County Attorney)

Anne Lahey (Assistant Johnson County Attorney, filed motion to seal subpoenas)

Tom Evans (General Counsel, Iowa Board of Regents)



# Operations Manual

CONTENTS INDEX SEARCH

## PART II. COMMUNITY POLICIES

### DIVISION I HUMAN RIGHTS, AFFIRMATIVE ACTION, AND EQUAL EMPLOYMENT OPPORTUNITY

(Written to conform to *Regents Procedural Guide 3/74*; amended 9/93; 10/95; 9/97)

#### CHAPTER 10: VIOLENCE

(President 1/92; amended 4/02; 7/04; 3/07)

Note: Effective March 2007, this policy has been revised. For individual changes, see the redlined version.

This chapter specifically addresses violent acts committed by University community members. There are a number of other University policies that may be applicable in a given situation, and these should also be consulted to determine which policy or policies would most effectively address any behavior of concern. These additional policies can be found below in II-10.15 Other University of Iowa Policies Related to Behavioral Expectations.

- 10.1 General
- 10.2 Rationale
- 10.3 Definitions
- 10.4 Scope of Policy
- 10.5 Prohibited Behavior
- 10.6 Bringing a Complaint
- 10.7 Informal Resolution of Complaints
- 10.8 Investigation of Formal Complaints
- 10.9 Process for Disciplinary Action
- 10.10 Applicable Procedures
- 10.11 Protection of Alleged Victims, Complainants, and Others
- 10.12 Protection of the Respondent
- 10.13 Confidentiality
- 10.14 Notification
- 10.15 Other University of Iowa Policies Related to Behavioral Expectations

#### 10.1 GENERAL.

(Amended 3/07)

- a. IN AN EMERGENCY: If a member of the University community believes that he or she, or someone else, is in immediate physical danger, he or she should call 911 or contact the Department of Public Safety, 335-5022.
- b. In other situations: Appropriate University officials are available to coordinate a response to concerns of violence or verbal threats, whether current or potential, as indicated below.

(1) For student concerns, assistance is available through:

- (a) the Office of the Vice President for Student Services, 249 Iowa Memorial Union, 335-3557, or
- (b) the Department of Public Safety, 100 Public Safety, 335-5022.

(2) For faculty and staff concerns, assistance is available through:

- (a) Faculty and Staff Services, 121-50 University Services Building, 335-2085, or
- (b) the Department of Public Safety, 100 Public Safety, 335-5022.

(3) For any complaint believed to be related to sexual harassment or discrimination, assistance is available through the Office of Equal Opportunity and Diversity, 202 Jessup Hall, 335-0705.

[top]

## 10.2 RATIONALE.

(Amended 3/07)

The faculty, staff, and students of The University of Iowa make up a community whose common commitment is to learning. This commitment requires that the highest value be placed on the use of reason and that violence involving the University community be renounced as inimical to its goals. Violence, whether actual or threatened, destroys the mutual trust which must bind members of the community if they are to be successful in pursuing truth. The University therefore wishes to make clear that it considers acts and threats of violence to constitute serious violations of University policy, because they may undermine the University's status as a community of learning. Particularly heinous is violence which harms or demeans members of the community because of personal characteristics such as race, creed, color, national origin, age, sex, disability, sexual orientation, gender identity, or associational preference.

[top]

## 10.3 DEFINITIONS.

(3/07)

is used in this policy:

a. "Academic or administrative officer" includes the following:

- (1) Collegiate deans (including associate deans and assistant deans);
- (2) Faculty members with administrative responsibilities at the level of departmental executive officer (DEO) or above;
- (3) Any staff member whose primary job responsibility is to provide advice regarding a student's academic pursuits;
- (4) A faculty member serving as departmental (or collegiate) director of undergraduate or graduate studies;
- (5) The President, Special Assistant to the President for Equal Opportunity and Diversity, vice presidents (including assistant and associate vice presidents), and Executive Vice President and Provost (including assistant, associate, and vice provosts), and those persons' designees;
- (6) Directors and supervisors in an employment context, other than Department of Public Safety personnel when receiving criminal complaints or reports; and
- (7) Human resource representatives.

b. "Alleged victim": a person who allegedly has been harmed in violation of this policy.

c. "Complainant": the person who brings a complaint of violation of this policy, who could be an alleged victim, a third party, or an academic or administrative officer of the University.

- d. "Graduate assistant": a graduate student employed by the University as a research assistant or teaching assistant.
- e. "Human resources representative": the individual designated as departmental authority on human resource policies and procedures, and all central human resources staff.
- f. "Member of the University community": any University student, faculty, or staff member.
- g. "Protected interests": University employment, education, on-campus living, or participation in a University activity.
- h. "Respondent": a person who has been accused of violence in a formal complaint.
- i. "Specific and credible allegations": allegations that provide factual details such as, but not limited to, time, place, actions, participants, and witnesses. Allegations do not necessarily have to be based on first-hand observation of events to be "specific and credible," but direct observation normally results in greater specificity and credibility than indirect knowledge.
- j. "Supervisor": a person who has authority to either: 1) undertake or recommend tangible employment decisions (those that significantly change an employee's employment status, such as, but not limited to, hiring, firing, promoting, demoting, reassigning, and compensation decisions) affecting an employee; or 2) direct the employee's daily work activities.
- k. "Third-party complainant": a person who brings a complaint alleging that someone else has been harmed or demeaned in violation of this policy.

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#### **10.4 SCOPE OF POLICY.**

(Amended 3/07)

- a. Acts by employees and students. This policy covers acts of University community members occurring in one or more of the following circumstances:
  - (1) on property owned or controlled by the University or by a student organization; or
  - (2) at any location and involving any University faculty, staff, or students, provided that:
    - (a) the incident occurs at a University-sponsored activity;
    - (b) the accused or the complainant was acting in an official capacity for the University during the incident;
    - (c) the accused or the complainant was conducting University business during the incident;
    - (d) the conduct has the purpose or reasonably foreseeable effect of unreasonably interfering with a UI student or UI staff or faculty member's protected interests; or
    - (e) the conduct demonstrates that the individual poses a reasonable threat to campus safety and security.
- b. Acts by visitors to campus. The University will make reasonable efforts to prevent and address harassment of its faculty, staff, or students by persons conducting business with or visiting the University, even though such persons are not directly affiliated with the University.

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## 10.5 PROHIBITED BEHAVIOR.

(red 3/07)

a. Any one of these acts, when committed under one of the circumstances described in II-10.4 above, will trigger University action, including interim sanctions as appropriate:

- (1) physical assault or abuse;
- (2) sexual assault or abuse;
- (3) threats with a weapon (display of a weapon accompanied by statements or actions which cause justifiable fear or apprehension; see *Regents Policy Manual 4.30B*, which prohibits use or possession on the campus of dangerous weapons);
- (4) verbal or other threats of physical or sexual assault;
- (5) intentional damage or destruction of public or private property; or
- (6) violent conduct prohibited by the *Code of Iowa*. A student, staff, or faculty member charged with criminal misconduct under the Iowa Criminal Code, including but not limited to the examples of such criminal conduct listed below, will be considered guilty of assaultive or threatening behavior and therefore subject to disciplinary sanctions upon conviction in criminal court:
  - (a) Chapter 707 (Homicide and Related Crimes);
  - (b) Chapter 708A (Terrorism, Threat of Terrorism, and Support of Terrorism);
  - (c) Chapter 708 (Assault and Harassment);
  - (d) Chapter 709 (Sexual Abuse);
  - (e) Chapter 711 (Robbery and Extortion);
  - (f) Those sections of Chapter 710 which deal with kidnapping and false imprisonment;
  - (g) Chapter 712 (Arson);
  - (h) Those acts under Chapter 713 (Burglary) when accompanied by an element of assault;
  - (i) Chapter 729.4 (Infringement of Civil Rights in employment);
  - (j) Chapter 729.5 (Infringement of Civil Rights by violence);
  - (k) Chapter 723 (Riot, Unlawful Assembly, Failure to Disperse, and Disorderly Conduct).

b. Concurrent criminal charges. For purposes of these procedures, a "conviction" includes a guilty plea, jury verdict, judicial decision, or deferred judgment. In the event a convicted student, staff, or faculty member files a criminal appeal, the University will consider the question of criminal guilt to be final only after the matters on appeal have been resolved, although appropriate University officials may impose interim sanctions pending the outcome of the appeal.

c. Non-criminal misconduct. University regulations and procedures are distinct from criminal statutes and procedures. Ordinarily, a less stringent standard of proof is required under administrative procedures. Regardless of whether criminal charges are filed, students, staff, and faculty members who commit assaultive or threatening behavior listed in paragraph a above will be subject to disciplinary sanctions when the misconduct was committed under one of the circumstances described in II-10.4. In those cases where criminal charges filed in connection with the same incident are dismissed in court, the outcome in the criminal proceeding is not dispositive of the question of whether this Policy on Violence was violated in all cases.

## 10.6 BRINGING A COMPLAINT.

(Amended 3/07)

a. A complaint that this policy has been violated may be brought through informal or formal channels by any member of the University community, including a third party, or by the University itself. A complaint must state specific and credible allegations to warrant an investigation. There is no time limit for bringing a complaint; however, it may be difficult to substantiate the allegations made in a complaint brought after significant time has passed. Therefore, prompt reporting of complaints is strongly encouraged.

b. Substantial weight will be given to the wishes of the alleged victim when determining whether to investigate a complaint, but the University may investigate a complaint even without the alleged victim's consent if circumstances warrant (such as when there are multiple complaints against the same person or allegations are particularly egregious).

c. Persons who wish to consult with someone about a specific situation on a confidential basis or learn more about enforcement of this Policy on Violence may contact any of the following offices or organizations:

- (1) Office of the Ombudsperson, C108 Seashore Hall (for faculty, staff, or students)
- (2) Faculty and Staff Services, 121-50 University Services Building (for faculty or staff)
- (3) University Counseling Service, 3223 Westlawn (for students)
- (4) Student Health Service, 4189 Westlawn (for students)
- (5) Women's Resource and Action Center (for faculty, staff, or students)
- (6) Rape Victim Advocacy Program, 320 Linn Street Building (for faculty, staff, or students)

These offices are exempt from the reporting requirements set forth in II-10.7e below. Other offices may be required to report allegations as described in II-10.7e.

Representatives of these offices or other support persons may accompany an alleged victim during the investigation process if the alleged victim so desires.

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## 10.7 INFORMAL RESOLUTION OF COMPLAINTS.

(3/07)

a. A complaint may be brought informally to any academic or administrative officer of the University (as defined in II-10.3a). If the complaint alleges violence based on a protected classification as defined by [II-3 Human Rights](#) (race, creed, color, national origin, age, sex, disability, sexual orientation, or gender identity), the complaint may be brought to the Office of Equal Opportunity and Diversity, 202 Jessup Hall.

b. The academic or administrative officer will:

- (1) counsel the complainant as to the options available under this policy and, at the complainant's request, will help the complainant resolve the complaint informally and/or refer the complainant to the appropriate office as described in II-10.8a below so that the complainant may bring a formal complaint; and

(2) take appropriate interim action, which may include those actions described in II-10.9 below, to address the alleged behavior and protect the health or safety of the alleged victim, complainant, and/or witnesses.

c. The following assistance is available to the academic or administrative officer:

(1) The Office of Equal Opportunity and Diversity, 202 Jessup Hall (335-0705), will assist in determining whether there is a potential policy violation related to a protected classification, and whether reporting pursuant to paragraph e below is required.

(2) For situations involving faculty and/or staff, the Behavior Risk Management team is available to assist with assessing situations, planning the actions needed, and carrying out those actions. This team may be accessed by contacting Faculty and Staff Services, 121-50 University Services Building (335-2085).

(3) For situations involving students, contact the Office of the Vice President for Student Services, 249 Iowa Memorial Union (335-3557).

d. When a complaint is brought informally, the person(s) charged in the complaint will not ordinarily be informed of the complaint without the consent of the alleged victim unless circumstances require (such as when there are multiple complaints against the same person or allegations are particularly egregious). No disciplinary action can be taken against a person charged in an informal complaint, and there will be no record of the complaint in the person's employment or student disciplinary file, unless the person is notified of the charges and given an opportunity to respond.

e. Any academic or administrative officer of the University who becomes aware of specific and credible allegations of violence based on a protected classification (race, creed, color, national origin, age, sex, disability, sexual orientation, or gender identity), whether through the report of a complainant (including a third party) or otherwise, shall report the allegations promptly to the Office of Equal Opportunity and Diversity (except for allegations against a student regarding conduct occurring in the residence halls, which shall be reported to the Office of the Vice President for Student Services) for assistance in evaluating the situation and determining an appropriate course of action, even if the alleged victim has requested that no action be taken. If there is a supervisory relationship between the complainant and/or victim and the respondent, the appropriate course of action will include development of a plan to avoid any perceived or actual conflict of interest until the complaint is resolved.

The initial report should be made verbally in person or by telephone, but a written report also must be made after the complaint is resolved using the Office of Equal Opportunity and Diversity Informal Violence Complaint Resolution form, which requires disclosure of the employment or student status of the alleged victim(s), the complainant(s) (if other than the alleged victim), and the person(s) charged; the department(s) with which those persons are affiliated; a summary of the allegations; and a description of the steps taken to resolve the complaint. If the person charged is informed of the existence of the informal complaint, the names of the parties must be provided to the Office of Equal Opportunity and Diversity. If the person charged is not informed of the complaint, then the names of the parties shall not be provided to the Office of Equal Opportunity and Diversity.

f. Reasonable efforts will be made to process complaints in a timely manner, giving consideration to the nature of the allegations and the circumstances surrounding the complaint process.

g. It is the responsibility of the academic or administrative officer who facilitates the informal resolution of the complaint to monitor compliance with the terms of the informal resolution. Sanctions up to and including termination of employment or separation from the University may be imposed in the event that an individual fails to comply with the terms of the informal resolution.

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## 10.8 INVESTIGATION OF FORMAL COMPLAINTS.

(3/07)



a. A formal complaint pursuant to this policy must be brought to one of the following offices for investigation depending upon the status of the respondent and the nature of the allegations:

(1) Protected class violence. If the complaint alleges violence based on a classification covered by II-3 Human Rights (race, creed, color, national origin, age, sex, disability, sexual orientation, gender identity, or any other classification that deprives the person of consideration as an individual), a formal complaint should be brought to the Office of Equal Opportunity and Diversity regardless of the status of the respondent.

(2) Other violence. If the complaint alleges violence that is *not* based on a classification covered by the II-3 Human Rights (race, creed, color, national origin, age, sex, disability, sexual orientation, gender identity, or any other classification that deprives the person of consideration as an individual), a person should bring a formal complaint to one of the following offices depending on the status of the respondent:

(a) Faculty or instructor. If the respondent is a faculty member, teaching assistant, or other instructor, a formal complaint should be brought to an academic or administrative officer (including the complainant's DEO or collegiate dean). The investigation will be conducted by the respondent's collegiate dean or by the Office of the Executive Vice President and Provost.

(b) Staff member. If the respondent is a staff member (professional and scientific, organized merit staff, or non-organized merit staff), a formal complaint should be brought to an academic or administrative officer (including the complainant's human resources unit representative) or to University Human Resources. The investigation will be conducted by the Senior Human Resources Leadership Representative for the unit employing the respondent.

(c) Student. If the respondent is a student, a formal complaint should be brought to the Office of the Vice President for Student Services and Dean of Students.

b. A formal complaint may be brought after an informal resolution was not successfully reached, or may be brought immediately without pursuing informal resolution.

c. The purpose of the investigation is to establish whether there is a reasonable basis for believing that a violation of this policy has occurred. In conducting the investigation, the investigating office will make reasonable efforts to interview the alleged victim, the complainant (if other than the alleged victim), and the respondent, and may interview other persons believed to have pertinent factual knowledge, as well as review any relevant documentary evidence. At all times, the investigating office will take steps to ensure confidentiality to the extent possible.

d. When a formal complaint is brought, the respondent will be informed of the allegations, the identity of the complainant, and the facts surrounding the allegations. The investigation will afford the respondent an opportunity to respond to the allegations and evidence provided by the complainant and/or alleged victim, and to provide a statement of the facts as perceived by the respondent.

e. At the conclusion of the investigation, the investigating office will issue a written finding which will summarize the evidence gathered and state whether or not there is a reasonable basis for believing that a violation of this policy has occurred. The written finding will normally be issued within 45 days of when the complaint was filed. When it is not reasonably possible to issue the finding within that time, the investigating office will notify the alleged victim and the respondent that the finding will be delayed and indicate the reasons for the delay. The alleged victim and the respondent will receive a copy of the written finding, which is to remain confidential as defined by II-10.13c. Third-party complainants will be notified only that the proceedings are concluded.

f. If the investigating office finds a reasonable basis for believing that a violation of this policy has occurred, the matter will be referred to the appropriate administrator for further consideration as outlined in II-10.9 below.

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## 10.9 PROCESS FOR DISCIPLINARY ACTION.

(3/07)

a. The following administrators will review the finding of the investigating office:

- (1) the Office of the Executive Vice President and Provost, if the respondent is a faculty member or other instructional personnel (except graduate assistants);
- (2) the office of the vice president or dean responsible for the unit employing the person charged, if the respondent is a staff member;
- (3) the Office of the Vice President for Student Services and Dean of Students, if the respondent is a student;
- (4) the appointing dean/vice president, if the respondent is a graduate assistant.

b. The administrator may:

- (1) accept all or any part of the findings of the investigating office;
- (2) not accept all or any part of the findings of the investigating office;
- (3) reach a negotiated settlement of the complaint with the respondent; or
- (4) initiate formal disciplinary action.

c. Violations of this Policy on Violence may lead to disciplinary sanctions up to and including termination or separation from the University. Sanctions for violations of this policy should be commensurate with the nature of the violation and the respondent's disciplinary history. Those who violate this policy should bear the consequences of their actions, even if factors such as substance abuse or personal problems contribute to misconduct. When the offense is serious, it is appropriate to consider separation from the University even in cases of first offense, and even when the respondent experiences remorse and/or did not intend to cause the resulting degree of harm.

d. In addition to other disciplinary action, persons who are found to have violated this policy may be required to participate in group counseling or personal therapy sessions, complete community service, enroll in a specific academic course, attend an educational workshop, and/or make restitution for economic damages caused by their behavior. When the respondent is a faculty or staff member, the Office of Faculty and Staff Services, 121-50 University Services Building, is available to assist with locating appropriate resources. When the respondent is a student, University Counseling Service, 3223 Westlawn, is available to assist with locating appropriate resources.

e. It is the responsibility of the appropriate administrator to monitor compliance with the disciplinary and/or remedial sanctions imposed. More serious sanctions, up to and including termination of employment or separation from the University, may be imposed in the event that the individual fails to comply with the sanctions initially imposed.

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## 10.10 APPLICABLE PROCEDURES.

(3/07)

Formal disciplinary action resulting from violations of this policy by:

- a. faculty members will be governed by [III-29 Faculty Dispute Procedures](#) and that portion of those procedures dealing with faculty ethics ([III-29.7](#)).
- b. staff members will be governed by applicable University policies, including [III-16 Ethics and Responsibilities for](#)

University Staff, and the applicable discipline and/or grievance procedures (see III-28) and/or relevant collective bargaining agreement.

c. graduate assistants, when dismissal is sought, will be governed by III-12.4 Graduate Assistant Dismissal. When disciplinary action other than dismissal is taken by the appointing dean/vice president, a graduate assistant may appeal through any existing contractual grievance procedures.

d. students will be governed by Judicial Procedure for Alleged Violations of the Code of Student Life. Both the Code of Student Life and the Judicial Procedure are published and distributed to students annually in Policies and Regulations Affecting Students.

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## **10.11 PROTECTION OF ALLEGED VICTIMS, COMPLAINANTS, AND OTHERS.**

(3/07)

a. Alleged victims will be informed of relevant procedural steps taken during the investigation and any interim protective measures taken.

b. Throughout the investigation and resolution of a complaint, reasonable steps will be taken to protect alleged victims, complainants, witnesses, and others from harm associated with the complaint.

c. Retaliation against alleged victims, complainants, and/or witnesses who provide information during an investigation pursuant to this policy is prohibited by II-11 Anti-Retaliation. Reasonable action will be taken to assure that alleged victims, complainants, and/or witnesses suffer no retaliation as a result of their activities with regard to the process.

d. Steps that may be taken to protect alleged victims, complainants, witnesses, and others from continued violence and/or retaliation might include:

(1) lateral transfers of one or more of the parties in an employment setting and a comparable move if a classroom setting is involved, and

(2) arrangement that academic and/or employment evaluations concerning complainants or others be made by an appropriate individual other than the respondent.

e. Any retaliation against alleged victims, complainants, or witnesses should be reported pursuant to II-11 Anti-Retaliation. Retaliation may result in disciplinary action against the person committing the retaliatory act(s).

f. The Executive Vice President and Provost, a dean, a DEO, or any vice president may, at any time during or after an investigation of a violence complaint, suspend or partially restrict from employment any employee accused of violence if the Executive Vice President and Provost, dean, DEO, or vice president finds that it is reasonably certain that:

(1) the alleged violence has occurred, and

(2) serious and immediate harm will ensue if the person continues his or her employment.

Similarly, if the respondent is a student, interim sanctions may be imposed pursuant to Section 10 of the Judicial Procedure for Alleged Violation of the Code of Student Life.

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## **10.12 PROTECTION OF THE RESPONDENT.**

(3/07)

a. This policy shall not be used to bring knowingly false charges. Bringing such a charge constitutes a violation of this policy, and may subject the complaining party to remedial and/or disciplinary action up to and including termination or separation from the University. Any such disciplinary action will be initiated by the appropriate administrator overseeing the complainant(s).

b. In the event the allegations are not substantiated, the respondent may consult with the investigating office to discuss possible steps to address the restoration of the reputation of the respondent.

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### **10.13 CONFIDENTIALITY.**

(3/07)

a. In order to empower community members to voice concerns and bring complaints, the confidentiality of all parties will be protected to the greatest extent possible. However, legal obligations may require the University to take some action once it is made aware that violence has occurred, even when the alleged victim is reluctant to proceed. Appropriate University officials will be consulted, including the Office of Equal Opportunity and Diversity when the complaint alleges violence based on a protected classification (see II-10.7e above), and information will be shared only with those individuals who need to know it to implement this policy.

b. The parties to a complaint (alleged victims, third-party complainants, and respondents) and witnesses who provide information during an investigation are expected to maintain confidentiality as well, in order to protect the integrity of the investigation and the confidentiality interests of the parties. The matter should not be discussed with individuals who are involved in the complaint except as necessary to pursue an appeal or grievance or as part of another legal or administrative proceeding.

c. Dissemination of documents relating to a complaint and/or investigation, other than as necessary to pursue an appeal or grievance or as part of another legal or administrative proceeding, is prohibited.

d. Failure to maintain confidentiality by a respondent may be considered to be a form of retaliation in violation of II-10.11c of this policy. Failure to maintain confidentiality by any party (alleged victim, third-party complainant, or respondent) or witness may result in disciplinary action.

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### **10.14 NOTIFICATION.**

(3/07)

a. The Office of the Vice President for Student Services is responsible for informing all students of this University Policy on Violence. The policy will be distributed to all students annually and discussed with new students as part of their orientation to campus.

b. The Office of the Executive Vice President and Provost is responsible for informing all current faculty members of this University Policy on Violence. The policy will be distributed to all faculty annually and distributed to new faculty members as part of their orientation.

c. The Office of the Senior Vice President for Finance and Operations is responsible for informing all current staff members of this University Policy on Violence. The policy will be distributed to all staff annually and distributed to new staff members as part of their orientation.

d. Periodic training on managing workplace security will be available.

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### **10.15 OTHER UNIVERSITY OF IOWA POLICIES RELATED TO BEHAVIORAL EXPECTATIONS.**

a. In addition to the policies and procedures contained in this chapter that pertain to violent acts committed by University community members, the following policies may be helpful in determining a course of action to follow when responding to behavior of concern:

- (1) [II-4 Sexual Harassment](#)
- (2) [II-14 Anti-Harassment](#)
- (3) [III-15 Professional Ethics and Academic Responsibility](#)
- (4) [III-16 Ethics and Responsibilities for University Staff](#)
- (5) [IV-1 General Regulations Applying to Students](#)

b. In addition, the following *Operations Manual* chapters may be of assistance when considering the best course of action with regard to a concern that may fall under this chapter:

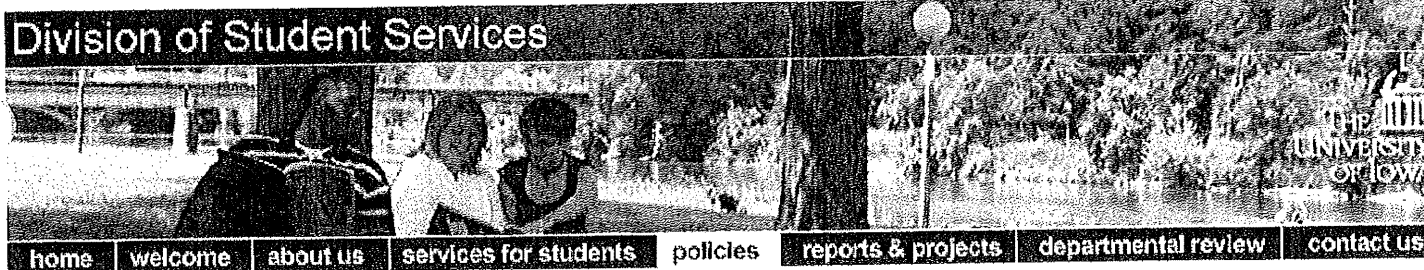
- (1) [III-28 Conflict Management Resources for University Staff](#)
  - (2) [III-29 Faculty Dispute Procedures](#)
  - (3) [V-16 Critical Incident Management Plan](#) (guidelines for institutional management of disruptions caused by violent behavior)
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Page last updated March 2007 by [Office of the Senior Vice President for Finance and Operations](#)



## Policies & Regulations Affecting Students

Campus Crime Information

A. Department of Public Safety

B. Reporting Crimes

C. Security of Campus Facilities

D. Campus Law Enforcement

E. Security Awareness Programs

F. Sexual Assault Policy and Programs

(View Section Navigation)

F. Sexual Assault Policy and Programs

### Introduction

The University of Iowa believes that sexual abuse in any form is reprehensible, especially within the University environment. All forms of non-consensual physical contact of a sexual nature, such as rape, unwelcome touching of genitals or breasts, and forced oral sex, are prohibited. When an assault occurs and a complaint is filed, the University will undertake every reasonable effort to discipline the offender and pursue criminal charges, regardless of the offender's status in the University community. For victims of sexual assault, the University provides a variety of confidential and free services, including advocacy and counseling, and makes reasonable adjustments to alleviate related problems with academic class schedules and housing arrangements.

### Criminal Definitions & University Standards

State law defines sexual abuse as a sex act done by force or against the will of another person (Code of Iowa, §709.1). A sex act generally means any sexual contact between two or more persons, including but not limited to intercourse (vaginal or anal), oral-genital contact, and contact of genitals or anus with a finger or an object (Code of Iowa, §702.17). Criminal sexual abuse is one example of non-consensual physical conduct prohibited by University policy. University policy prohibits all members of the University community - students, staff, and faculty - from engaging in non-consensual physical conduct of a sexual nature on University property or in connection with University activities. Policy violations warrant the imposition of University disciplinary sanctions and may result in criminal charges. Sanctions may also be imposed for non-consensual physical conduct committed on non-University property which adversely affects a student's educational status or a staff or faculty member's employment status.

On every occasion an individual old enough to give consent has the right to decide the extent of physical sexual activity in which he or she wishes to engage, if any, with another willing partner. Consent in other situations does not reduce an assailant's responsibility for non-consensual sexual activity. In some cases, consensual sexual activity occurs before an assault or after an assault. Disciplinary sanctions will be imposed regardless of whether the non-consensual sexual activity was preceded or followed by consensual sexual activity.

An individual who has consumed alcohol or other drugs, knowingly or unknowingly, may not be able to give free and full consent. The University urges students to be aware of the harmful effects of alcohol and other drugs on human interactions. The assailant's use of alcohol or other drugs does not diminish his or her responsibility for the assault. In cases where the victim unknowingly consumed alcohol or other drugs prior to an assault, additional sanctions will be imposed upon the assailant if he or she administered the drug to the victim or was aware that a drug had been consumed.

### Policy Sections

I. Student Rights

II. Student Responsibilities

III. Student Organizations

IV. Miscellaneous

V. Campus Crime Information

VI. Charts and Notes

**Resources, Options for Reporting and Seeking Medical Assistance: If You or Someone You Know Has Been Assaulted****Confidential Advocacy & Counseling Resources**

The following confidential resources are available to students, faculty and staff who have been assaulted:

**Counseling Resources**

- Sexual Abuse Crisis and Resource Line (335-6000 or 1-800-284-7821) open 24 hours a day.
- University Counseling Services (335-7294).
- Faculty & Staff Services University Employee Assistance Program (335-2085).

**Advocacy Resources.**

- Rape Victim Advocacy Program (335-6000 or 1-800-284-7821). RVAP provides advocacy services within any University of Iowa administrative process or any court proceeding.

**Other Confidential Resources**

- Women's Resource & Action Center (335-1486).
- Office of the Ombudsperson (335-3608).

**Options for Reporting**

A victim of a sexual assault has two primary reporting options. An assault may be reported to the appropriate law enforcement agency or to the University administration, or both. The victim should be aware that a criminal investigation is greatly enhanced if evidence is collected and maintained immediately by the appropriate law enforcement agency.

**A. Reporting an assault through the criminal justice system**

Assaults should be reported to the law enforcement agency that has jurisdiction over the location where the assault or abuse occurred. Institutional officials will assist victims in reporting the incident to the police if requested to do so.

- If the assault occurred on University of Iowa property, call the University of Iowa Department of Public Safety at 335-5022
- If the assault occurred in Iowa City, call the Iowa City Police Department at 356-5275
- If the assault occurred in Coralville, call the Coralville Police Department at 354-1100
- If the assault occurred in another area of Johnson County, call the Johnson County Sheriff's Department at 356-6020
- If you are unsure where to call, contact the RVAP Sexual Abuse Crisis and Resource Line (335-6000) for assistance
- If the assault took place on non-University property and was reported to another law enforcement agency, students and staff are encouraged to contact the University Department of Public Safety for assistance with safety issues while on campus
- In case of an emergency, call 911 from wherever you are and a law enforcement officer will respond to assist you.

In many cases, someone who has been assaulted can talk with a law enforcement officer about whether or not to file charges before making that decision. Victim advocates have special training in working with law enforcement. The RVAP Sexual Abuse Crisis and Resource Line can help the victim make an appointment with a law enforcement officer to discuss options.

- B. Reporting an assault to University administration** University administrators affiliated with non-police departments also receive reports of crimes. Assaults that are reported to the director of equal opportunity & diversity or the vice president for student services & dean of students are included in the annual campus crime statistics. Under the University Violence Policy, residence hall personnel (including resident assistants) are mandatory reporters and will forward reports of assaults to the dean of students and the Office of Equal Opportunity & Diversity.

The Office of Equal Opportunity & Diversity is the administrative department designated to investigate disciplinary complaints of sexual assault involving faculty, staff or students. When a complaint is filed, an investigation is undertaken pursuant to the Policy on Sexual Harassment. The findings of the Office of Equal Opportunity & Diversity will be forwarded to the appropriate University administrator responsible for discipline of the respondent depending upon the status of the person accused of misconduct.

Individuals with questions or concerns about the University's sexual assault policy and its enforcement may contact the Title IX Coordinator in the Office of Equal Opportunity & Diversity (335-0705).

**Seeking Medical Assistance**

If you were assaulted recently, you may want to consider going to a hospital or clinic to have a sexual abuse evidentiary examination. This examination preserves evidence in case you decide to press charges. It is a time when you can get medical advice and medication in case you have contracted a sexually transmitted disease (STD). The evidentiary exam is paid for by the State of Iowa. Some survivors don't seek medical care right away. Even if you were assaulted some time ago, it is okay to go to the doctor in order to be evaluated for STD's, pregnancy, etc. Some local clinics may provide free or reduced rates for people who have been sexually assaulted but choose not to have the evidentiary exam. Whether or not you want to seek medical help is your decision. The following information may help you in making that

decision.

1. You are entitled to have an advocate from a sexual assault crisis center present with you to provide support during the exam.
2. The sexual assault evidence exam and follow-up treatment are paid for by the State of Iowa. You should not receive a bill.
3. The exam is available to women and men. When children are assaulted they are often seen at one of Iowa's Child Protection Centers. You may want to check with your local law enforcement agency about this possibility.
4. You can get an evidentiary exam even if some time has passed since you were assaulted.
5. If the assault just happened, try and wait until after the exam to shower or bathe, so that the greatest amount of evidence might be preserved. If you have already showered, it is still fine to go ahead and have the exam.
6. If you have had any period of amnesia associated with the assault, tell the sexual abuse examiner you would like to give a urine sample to screen for possible drugs. If you cannot remember what happened you may have been given drugs without your knowledge.
7. If you are still wearing the clothes you had on during the assault, it might be best to wear them to the exam and bring a change of clothing with you to wear home.
8. If you are still wearing the clothes you had on during the assault, it might be best to wear them to the exam and bring a change of clothing with you to wear home.

### Student Disciplinary Action and Sanctions

A University of Iowa student who is found guilty of sexual assault in violation of the Code of Student Life is ordinarily suspended or expelled from the University. When a complaint is filed alleging that a student has committed a sexual assault, the Dean of Students imposes interim sanctions as appropriate in consultation with the Office of Equal Opportunity & Diversity. A University no-contact order is issued, and the student accused of assault is told in writing that any contact with the complainant will result in disciplinary action. In addition, the accused student may be involuntarily transferred to a different residence hall, different class, or different work unit following receipt of a complaint depending upon the circumstances of the case and available alternatives. University policy prohibits a student accused of misconduct from retaliating against the complainant or witnesses, regardless of the outcome of the complaint.

If the Dean has probable cause to bring disciplinary charges based on the Office of Equal Opportunity & Diversity investigation, the complaint will be resolved at a formal hearing. At the hearing, evidence will be presented against the accused student. Hearings are conducted by administrative hearing officers, who record the evidence presented and determine whether the student charged is guilty of violating University regulations. Both the complainant and the accused are entitled to have an advisor present during the initial investigation and during a hearing. A student accused of misconduct is provided a minimum of seven business days to prepare for a hearing, and the hearing officer will issue a decision within two weeks following the conclusion of the hearing. Both parties will be informed in writing of the final determination regarding the outcome of the complaint and any sanctions imposed upon the accused.

If the accused student is found guilty, the sanctions determined by the Dean of Students will be imposed. A student found guilty of violating the Code of Student Life may appeal the hearing officer's decision to the University Provost. Appeals must be filed within 10 days following receipt of the hearing officer's decision, and the Provost answers appeals within 30 days. A complete description of the Judicial Procedure for Alleged Violations of the Code of Student Life posted at section II.B of *Policies and Regulations affecting Students*.

[view table E \[pdf\]](#)

[view summary of table E \[pdf\]](#)

### Educational Programs

The University urges all students and employees to be aware of one's personal safety and assume a responsible role in educating others. Persons age 16 to 24 are more vulnerable to sexual assault than any other age group, and the Iowa City community is not immune to the problems which persist in more densely populated environments. Although no single individual is invulnerable to sexual assault, research indicates that most victims of unwanted sexual attention are women, and in many cases the male aggressor is not a stranger.

Each year, a copy of this policy is mailed to every student and employee, along with the Code of Student Life, the Sexual Harassment Policy, the Violence Policy, and the Campus Security Statement. Throughout the academic year, members of the University community are invited to attend a variety of extracurricular programs presented on campus. Programs include sexual harassment seminars conducted by the Office of Equal Opportunity & Diversity; security awareness skits in freshman student orientation; RAD (Rape Aggression Defense) classes taught by UI police officers; healthy relationship and communication workshops organized and conducted by students; professional training on sexual assault issues provided for University staff by RVAP; and Saferide, a late-night fixed route transportation service offered by the Campus Transit System. In addition to investigating reports of sexual assault and filing criminal charges, Public Safety law enforcement officers are available to speak to the University community about a variety of security-related issues, including sexual assault.

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**UI Campus Crime Policies and Information**  
**Section B. Reporting Crimes on Campus**

**Importance of Reporting**

All local police departments remain in operation 24 hours a day, 7 days a week. This includes the University of Iowa Police, the Iowa City Police Department, the Coralville Police Department, and the Johnson County Sheriff's Office. While police officers are trained to deter crime for the protection of the general public, crime prevention cannot take place without assistance from the greater community. As citizens of the community, all University students, faculty, administrators, and staff are urged to participate actively in the criminal prevention process. This includes the prompt reporting of crimes and suspicious behavior as well as cooperating with authorities during the investigation and prosecution of crimes, whether minor or serious infractions.

**Crime Prevention**

The Department of Public Safety maintains a full-time Crime Prevention Specialist. This specialist maintains a comprehensive crime prevention program that includes presentations, security audits, research, and crime prevention literature.

**Reporting Policies**

In order to maintain a safe environment for work and learning, the University supports a fully staffed professional police agency on campus, provides facilities for storing criminal information, and stations monitors in critical areas of campus. Because the cooperation of ordinary citizens is also essential to the prompt and accurate reporting of crimes, faculty, students, and staff members are instructed to contact the Department of Public Safety in the event they receive criminal or emergency information.

**Confidential Reports and the Procedure for Preparing the Annual Statistics**

The Department of Public Safety accepts confidential crime reports for inclusion in the annual disclosure of crime statistics. A confidential reporting form entitled "silent witness" is available on the Public Safety website <http://www.uiowa.edu/~pubsfty/>. Confidential reporting forms are also available at the University Counseling Services (UCS) and at the Employee Assistance Program (EAP), Faculty and Staff Services. Information about the Department of Public Safety and crime reporting is distributed at the UCS and EAP, and counselors there encourage crime victims to report crimes to local law enforcement officials for inclusion in the annual crime statistics.

While the proper reporting channel is direct communication with a law enforcement agency, University administrators affiliated with non-police departments also receive reports of crimes (see "Non-Criminal Investigations" below). The list of titles of administrators who receive crime reports includes the Vice President for Student Services and the Senior Vice President for Finance & Operations and Treasurer. In preparing the

annual security report, University officials gather campus crime data from the Office of the Vice President for Student Services and the Office of the Senior Vice President for Finance & Operations and Treasurer, as well as from the Department of Public Safety. The Iowa City Police Department and the Office of Student Life provide information about non-campus crimes in Iowa City included in the annual crime statistics.

## **Emergencies**

In the event of an emergency, the police should be contacted immediately, particularly in the case of fire and medical emergencies. In order to facilitate a prompt response in emergency situations, 911 telephone service is in effect for the entire county. Off-campus 911 calls are routed automatically to the appropriate police authority (the Department of Public Safety, Iowa City Police, Coralville Police, or the Johnson County Sheriff). All UI Police officers are certified to administer emergency first aid, cardiopulmonary resuscitation (CPR) and are trained in the use of Automated External Defibrillators (AEDs) which are carried in their marked police vehicles.

## **Emergency Telephones**

Twenty-three outdoor telephones with a direct line to University Public Safety and marked "Emergency" are located at critical points on University-owned property. In addition, several indoor telephones are available for emergency use, including one located in the women's locker room at the Fieldhouse. Visitors to campus are encouraged to use the telephones which have been installed in each residence hall near the main entrances and at various points in University Hospitals & Clinics.

## **Non-Emergency Situations**

Reports should be directed to the respective police agency that has authority to file criminal charges in the geographic area in which the crime was committed.

University-owned property includes all residence halls, all academic buildings, University Hospitals & Clinics, recreation facilities, parking lots located near these buildings, and the Oakdale Campus. Calls should be directed to the University of Iowa Department of Public Safety. In private dwellings in Iowa City, such as fraternity and sorority chapter houses, reports of crimes should be directed to the Iowa City Police Department. If there is any question as to which police agency has jurisdiction, students, staff, and faculty members should call the Department of Public Safety.

## **Public Safety's Response to Criminal Reports**

In the Department of Public Safety, a record is maintained of every call received by the dispatcher. In cases where on-going criminal activity is reported, the supervisor on duty assigns patrol officers to the scene. If necessary, DPS administration assigns staff investigators to conduct necessary follow-up investigations. When there is a reasonable basis to believe that a known individual has committed a crime on campus, the person is

apprehended by a University of Iowa police officer, charged by the arresting officer, and referred to the Johnson County Attorney for prosecution. In cases where incarceration is warranted, persons arrested are taken to the Johnson County Jail immediately following the arrest and booked.

### **Criminal Data Policies**

All University police officers and investigators are required to submit investigation reports and have received specific training in documenting crimes. The DPS administration monitors the department's response to reports. Information derived from reports is maintained in a written file and on computer by full-time records personnel, who issue daily summaries of criminal incidents which occur on University property to University departments.

### **Administrative Investigations**

In many cases where a University student, faculty, or staff member is charged with a crime, particularly in the case of incidents that occur on University property, a follow-up investigation is conducted by University officials. When the criminal perpetrator is a student, disciplinary review is undertaken by the vice president for student services (hereinafter, "vice president"). When academic instructors have violated criminal laws, disciplinary review is the responsibility of the Provost. When other staff members are charged with criminal activity, disciplinary review is the responsibility of the Vice President for Finance & Operations and the employment department.

### **Additional Services Provided**

In response to reports of a fire or medical emergency, the Department of Public Safety notifies the Iowa City dispatcher for fire fighters and ambulance service. Emergency medical care is provided at all hours at University Hospitals & Clinics. The University provides or otherwise supports post-emergency and post-crime counseling services for students, staff, and faculty members. Among the departments which provide such services are University Counseling Services, the Rape Victim Advocacy Program, Faculty & Staff Support Services, Student Health, and University Hospitals & Clinics. In addition, the Johnson County Attorney's Office maintains a full-time Victim Witness Coordinator, who assists students, staff, faculty, and other citizens who are crime victims during and after the criminal prosecution.

harassed in violation of this policy.

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## 4.2 PROCEDURES.

### a. Bringing a complaint.

(1) A complaint that this policy has been violated may be brought through informal or formal channels by any member of the University community, including a third party, or by the University itself. A complaint must state specific and credible allegations to warrant an investigation. There is no time limit for bringing a complaint; however, it may be difficult to substantiate the allegations made in a complaint brought after significant time has passed. Therefore, prompt reporting of complaints is strongly encouraged.

(2) Substantial weight will be given to the wishes of the alleged victim when determining whether to investigate a complaint, but the University may investigate a complaint even without the alleged victim's consent if circumstances warrant (such as when there are multiple complaints against the same person or allegations are particularly egregious).

(3) Anyone (victims or others) who wishes to consult with someone about a specific situation on a confidential basis or learn more about enforcement of the Policy on Sexual Harassment may contact any of the following offices or organizations:

- (a) Office of the Ombudsperson (for faculty, staff, or students)
- (b) Faculty and Staff Services (for faculty or staff)
- (c) University Counseling Service (for students)
- (d) Women's Resource and Action Center (for faculty, staff, or students)
- (e) Rape Victim Advocacy Program (for faculty, staff, or students)

Representatives of these offices or other support persons may accompany an alleged victim during the investigation process if the alleged victim so desires.

These offices are exempt from the reporting requirements set forth in II-4.2b(4) of this policy. Other offices may be required to report allegations as described in II-4.2b(4).

### b. Informal resolution of complaints.

(1) A complaint may be brought informally to any academic or administrative officer of the University.

(2) The academic or administrative officer will counsel the complainant as to the options available under this policy and the resources available from the Rape Victim Advocacy Program and, at the complainant's request, will

(a) help the complainant resolve the complaint informally, and/or

(b) refer the complainant to the Office of Equal Opportunity and Diversity so that the complainant may choose either to pursue informal resolution through that office or to bring a formal complaint.

The Office of Equal Opportunity and Diversity is available to assist persons to whom complaints are brought in determining whether there is a potential policy violation and whether reporting pursuant to II-4.2b(4) below is required.

(3) When a complaint is brought informally, the person(s) charged in the complaint will not ordinarily be informed of the complaint without the consent of the alleged victim unless circumstances require (such as

when there are multiple complaints against the same person or allegations are particularly egregious). No disciplinary action can be taken against a person charged in an informal complaint, and there will be no record of the complaint in the person's employment or student disciplinary file, unless the person is notified of the charges and given an opportunity to respond.

(4) Any academic or administrative officer of the University who becomes aware of specific and credible allegations of sexual harassment, whether through the report of a complainant (including a third party) or otherwise, shall report the allegations promptly to the Office of Equal Opportunity and Diversity (except for allegations against a student regarding conduct occurring in the residence halls, which shall be reported to the Office of the Vice President for Student Services) for assistance in evaluating the situation and determining an appropriate course of action, even if the alleged victim has requested that no action be taken.

If there is a supervisory relationship between the complainant and/or victim and the respondent, the appropriate course of action will include development of a plan to avoid any perceived or actual conflict of interest until the complaint is resolved.

The initial report should be made by telephone, but a written report also must be made after the complaint is resolved using the Office of Equal Opportunity and Diversity Report of Informal Sexual Harassment Complaint form, which requires disclosure of the employment or student status of the alleged victim(s), the complainant(s) (if other than the alleged victim), and the person(s) charged; the unit(s) with which those persons are affiliated; a summary of the allegations; and a description of the steps taken to resolve the complaint.

In order for the University to respond effectively to cases involving a potential pattern of prohibited conduct by the same individual, if the academic or administrative officer informs the person charged of the existence of the informal complaint, the academic or administrative office shall provide the names of the parties to the Office of Equal Opportunity and Diversity. If the academic or administrative officer does not inform the person charged of the complaint, the academic or administrative office shall not provide the names of the parties to the Office of Equal Opportunity and Diversity.

(5) The academic or administrative officer shall take appropriate interim action, which may include those actions described in II-4.2g, to address the alleged behavior and protect the health or safety of the alleged victim, complainant, and/or witnesses.

(6) The academic or administrative officer shall make reasonable efforts to resolve complaints promptly and effectively, giving consideration to the nature of the allegations and the circumstances surrounding the complaint process.

(7) It is the responsibility of the academic or administrative officer who facilitates the informal resolution of the complaint to follow-up with the parties at a reasonable interval(s) to assess their compliance with the terms of the informal resolution and take appropriate action as warranted based on the parties' level of compliance.

#### c. Investigation of formal complaints.

(1) A formal complaint pursuant to this policy must be brought to the Office of Equal Opportunity and Diversity, which will conduct an investigation.

(2) A formal complaint may be brought after an informal resolution was not successfully reached, when the terms of an informal resolution were not followed, or immediately without pursuing informal resolution.

(3) The purpose of the investigation is to establish whether there is a reasonable basis for believing that a violation of this policy has occurred. In conducting the investigation, the Office of Equal Opportunity and Diversity will make reasonable efforts to interview the alleged victim, the complainant (if other than the

alleged victim), and the respondent, and may interview other persons believed to have pertinent factual knowledge, as well as review any relevant documentary evidence. At all times, the Office of Equal Opportunity and Diversity will take steps to ensure confidentiality to the extent possible.

(4) When a formal complaint is brought, the respondent will be informed of the allegations, the identity of the complainant, and the facts surrounding the allegations. The investigation will afford the respondent an opportunity to respond to the allegations and evidence provided by the complainant and/or alleged victim, and to provide a statement of the facts as perceived by the respondent.

(5) At the conclusion of the investigation, the Office of Equal Opportunity and Diversity will issue a written finding which will summarize the evidence gathered and state whether or not there is a reasonable basis for believing that a violation of this policy has occurred. The written finding normally will be issued within 45 days of when the complaint was filed. When it is not reasonably possible to issue the finding within that time, the Office of Equal Opportunity and Diversity will notify the alleged victim and the respondent that the finding will be delayed and indicate the reasons for the delay. The alleged victim and the respondent will receive a copy of the written finding, which is to remain confidential as defined by II-4.2i(3). Third-party complainants will be notified only that the proceedings are concluded.

(6) If the Office of Equal Opportunity and Diversity finds a reasonable basis for believing that a violation of this policy has occurred, the matter will be referred to the appropriate administrator for further consideration as outlined in II-4.2d below.

d. Process for formal disciplinary action.

(1) The following administrators will review the finding of the Office of Equal Opportunity and Diversity:

- (a) the Office of the Provost, if the respondent is a faculty member or other instructional personnel (except graduate assistants);
- (b) the office of the vice president or dean responsible for the unit employing the person charged, if the respondent is a staff member;
- (c) the Office of the Vice President for Student Services and Dean of Students, if the respondent is a student;
- (d) the Office of the Dean of the Graduate College, if the respondent is a graduate assistant.

(2) These administrators may:

- (a) accept all or any part of the findings of the Office of Equal Opportunity and Diversity;
- (b) not accept all or any part of the findings of the Office of Equal Opportunity and Diversity;
- (c) reach a negotiated settlement of the complaint with the respondent; or
- (d) initiate formal disciplinary action.

(3) Violations of the Policy on Sexual Harassment may lead to disciplinary sanctions up to and including termination or separation from The University of Iowa. Sanctions for violations of this policy should be commensurate with the nature of the violation and the respondent's disciplinary history.

Those who violate this policy should bear the consequences of their actions, even if factors such as substance abuse or personal problems contribute to misconduct. When the offense is serious, it is appropriate to consider separation from the University even in cases of first offense, and even when the respondent experiences remorse and/or did not intend to cause the resulting degree of harm.

(4) In addition to other disciplinary action, persons who are found to have violated this policy may be required to participate in group counseling or personal therapy sessions, complete community service, enroll in a specific academic course, attend an educational workshop, and/or make restitution for economic damages caused by their behavior.

When the respondent is a faculty or staff member, the Office of Faculty and Staff Services (121-50 University Services Building) is available to assist with locating appropriate resources. When the respondent is a student, University Counseling Service (3223 Westlawn) is available to assist with locating appropriate resources.

(5) It is the responsibility of the appropriate administrator to follow up with the parties at a reasonable interval(s) to assess their compliance with the disciplinary and/or remedial sanctions imposed. More serious sanctions, up to and including termination of employment or separation from the University, may be imposed in the event that the respondent fails to comply with the sanctions initially imposed.

e. Applicable procedures. Formal disciplinary action resulting from violations of this policy by:

(1) faculty members will be governed by the III-29 Faculty Dispute Procedures and that portion of those procedures dealing with faculty ethics (see III-29.7).

(2) staff members will be governed by applicable University policies, including III-16 Ethics and Responsibilities for Staff and the applicable discipline and/or grievance procedures (see III-28 Conflict Management Resources for University Staff and/or relevant collective bargaining agreement);

(3) graduate assistants, when dismissal is sought, will be governed by the procedure for dismissal of graduate assistants (see III-12.4). When disciplinary action other than dismissal is taken by the Dean of the Graduate College, a graduate assistant may appeal through any existing contractual grievance procedures;

(4) students will be governed by Judicial Procedure for Alleged Violations of the Code of Student Life. Both the Code of Student Life and the Judicial Procedure are published and distributed to students annually in Policies and Regulations Affecting Students.

f. Isolated behavior. This section addresses isolated behavior that does not rise to the level of a violation of this policy. However, it should be understood that a single incident can under certain circumstances constitute harassment in violation of this policy. The purpose of this section is preventative, in that it authorizes and encourages appropriate intervention designed to avoid a violation of this policy.

(1) Isolated behavior of the kind described in II-4.1b(2), which does not rise to the level of sexual harassment but which if repeated could rise to that level, demonstrates insensitivity that may warrant remedial measures. Academic or administrative officers who become aware of such behavior in their areas should counsel those who have engaged in the behavior. Such counsel should include a clear statement that the behavior is not acceptable and should cease, information about the potential consequences if such behavior persists, and a recommendation, as appropriate, to undertake an educational program designed to help the person(s) understand the harm caused by the behavior.

(2) After such counseling occurs, if a person continues to engage in the conduct described in II-4.2f(1), he or she may be deemed to have engaged in sexual harassment.

g. Protection of alleged victims, complainants, and others.

(1) Alleged victims will be informed of relevant procedural steps taken during the investigation and any interim protective measures taken.

(2) Throughout the investigation and resolution of a complaint, steps will be taken to protect alleged victims,



complainants, witnesses, and others from harm caused by continuation of the alleged harassing behavior.

(3) Retaliation against alleged victims, complainants, and/or witnesses who provide information during an investigation pursuant to this policy is prohibited by II-11 Anti-Retaliation. Reasonable action will be taken to assure that alleged victims, complainants, and/or witnesses will suffer no retaliation as the result of their activities with regard to the process.

(4) Steps that may be taken to protect alleged victims, complainants, witnesses, and others from continued harassment and/or retaliation might include:

(a) lateral transfers of one or more of the parties in an employment setting and a comparable move if a classroom setting is involved, and

(b) arrangements that academic and/or employment evaluations concerning the complainant or others be made by an appropriate individual other than the respondent.

(5) Any retaliation against alleged victims, complainants, or witnesses should be reported to the Office of Equal Opportunity and Diversity for further investigation. Retaliation may result in disciplinary action against the person committing the retaliatory act(s).

(6) In extraordinary circumstances, the Provost, a dean, a DEO, or any vice president may, at any time during or after an investigation of a sexual harassment complaint, suspend or partially restrict from employment any employee accused of sexual harassment if the Provost, dean, DEO, or vice president finds that it is reasonably certain that:

(a) the alleged sexual harassment has occurred, and

(b) serious and immediate harm will ensue if the person continues his or her employment.

Similarly, if the respondent is a student, interim sanctions may be imposed pursuant to Section 10 of the Judicial Procedure for Alleged Violation of the Code of Student Life.

#### h. Protection of the respondent.

(1) This policy shall not be used to bring knowingly false or malicious charges. Bringing such a charge may subject the complaining party to remedial and/or disciplinary action up to and including termination or separation from the University. Any such disciplinary action will be initiated by the appropriate administrator overseeing the complainant(s).

(2) In the event the allegations are not substantiated, reasonable steps will be taken to restore the reputation of the respondent if it was damaged by the proceeding. The respondent may consult with the Office of Equal Opportunity and Diversity regarding reasonable steps to address such concerns.

#### i. Confidentiality.

(1) In order to empower community members to voice concerns and bring complaints, the confidentiality of all parties will be protected to the greatest extent possible. However, community members cannot guarantee confidentiality in all cases and are expected to take some action once they are made aware that sexual harassment may be occurring.

(2) Anyone (alleged victims or others) who wishes to consult with someone about a specific situation on a confidential basis or to learn more about enforcement of the policy may contact any of the following offices or organizations:

- (a) Office of the Ombudsperson (for faculty, staff, or students)
- (b) Faculty and Staff Services (for faculty or staff)
- (c) University Counseling Service (for students)
- (d) Women's Resource and Action Center (for faculty, staff, or students)
- (e) Rape Victim Advocacy Program (for faculty, staff, or students)

(3) The parties to a complaint (alleged victims, third-party complainants, and respondents) are expected to maintain confidentiality as well. Parties are not prohibited from discussing the situation outside of the work or educational environment. However, the matter should not be discussed in the work or educational environment.

(4) Dissemination of documents relating to a complaint and/or investigation, other than as necessary to pursue an appeal, grievance, or other legal or administrative proceeding, is prohibited.

(5) Failure to maintain confidentiality by a respondent may be considered to be a form of retaliation in violation of II-4.2g(3). Failure to maintain confidentiality by any party (alleged victim, third party complainant, or respondent) may result in disciplinary action.

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### 4.3 EDUCATIONAL PROGRAMS.

a. Education as a key element of University policy.

(1) Academic and administrative officers are responsible for knowing and understanding the contents of this policy and the procedures for processing complaints brought to them pursuant to this policy. The Office of Equal Opportunity and Diversity offers educational programs for academic and administrative officers about their responsibilities under this policy, and those individuals are expected to attend such a program.

(2) Educational efforts are essential to the establishment of a campus milieu that is free of sexual harassment. There are at least four goals to be achieved through education:

- (a) ensuring that alleged victims (and potential victims) are aware of their rights;
- (b) notifying individuals of conduct that is proscribed;
- (c) informing administrators about the proper way to address complaints of violations of this policy;
- and
- (d) helping educate the community about the problems this policy addresses.

(3) To achieve the goals set forth in paragraph (2) above, the Office of Equal Opportunity and Diversity offers programs designed to educate the University community about sexual harassment prevention. The Office of Equal Opportunity and Diversity also offers programs designed to inform those whose behavior does not rise to the level of a violation of this policy as defined in II-4.1b, but if repeated could rise to the level of a violation, of the problems they create by their insensitive conduct. Educational programs may be recommended for those described in II-4.2f and may be an element in the resolution of a complaint. Educational programs and/or individual training also may be mandated for persons found to have violated this policy.

b. Preparation and dissemination of information. The Office of Equal Opportunity and Diversity is charged with distributing information about this policy to all current members of the University community and to all those who join the community in the future. An annual notification from the Office of Equal Opportunity and Diversity is provided to all faculty and staff to remind them of the contents of this policy. A copy of the sexual harassment policy will be included in student orientation materials, including those distributed to students in professional schools. This policy also is published in *Policies and Regulations Affecting Students*, which is provided to all students annually. In addition, information about this policy will be made available continually at appropriate campus centers and offices.

## A. Code of Student Life

### Introduction

Academic institutions exist for the advancement of knowledge, the pursuit of truth, the development of students, and the general well-being of society. Free inquiry and free expression are indispensable to the attainment of these goals. As members of the academic community, students are encouraged to develop a capacity for critical judgment and to engage in a sustained and independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students are expected to exercise their freedom to learn with responsibility and to respect the general conditions conducive to such freedom. Accordingly, the University has developed the following general regulations pertaining to student conduct which provide and safeguard the right of every individual student to exercise fully the freedom to learn without undue interference by others.

The Code of Student Life is applicable whether or not the University is in session and pertains to all persons registered for a University of Iowa course, all persons admitted to any academic program, and all persons attending a University-sponsored program. In addition, conduct violative of the Code of Student Life and engaged in prior to admission or after withdrawal from the University may be taken into account in admissions decisions and may be grounds for filing disciplinary charges after admission or acceptance into a program. For purposes of the conduct regulations and judicial procedures, a student is any person fitting one or more of these descriptions.

In those cases where a complaint for misconduct in violation of the Code of Student Life is filed against an individual not currently registered as a student, the complaint may proceed to adjudication or the dean of students may elect to restrict the individual's registration and resolve the complaint later when the individual seeks to re-enroll. In the event that an individual named in a complaint has satisfied the academic requirements for a graduate or undergraduate degree after the misconduct allegedly took place but before the complaint was resolved, the individual may not receive his or her degree until the complaint is resolved.

It is the duty and responsibility of all students to acquaint themselves with all provisions of the code and particularly with the rules and regulations pertaining to personal conduct, and every student will be conclusively presumed to have knowledge of all rules and regulations contained in the code from the date of his or her initial registration at the University. The code may be amended at any time by authority of the president of the University. Amendments are effective upon approval of the president and publication on the Code of Student Life website, provided that students have been notified of the amendment by mass electronic mailing, which will be conclusively presumed as adequate notice to all students. A full and complete text of the code and other general University rules and regulations of personal conduct currently in effect, including all amendments, shall be on file in the Office of the Dean of Students at all times and shall be available for inspection by students.

### General Conduct Regulations

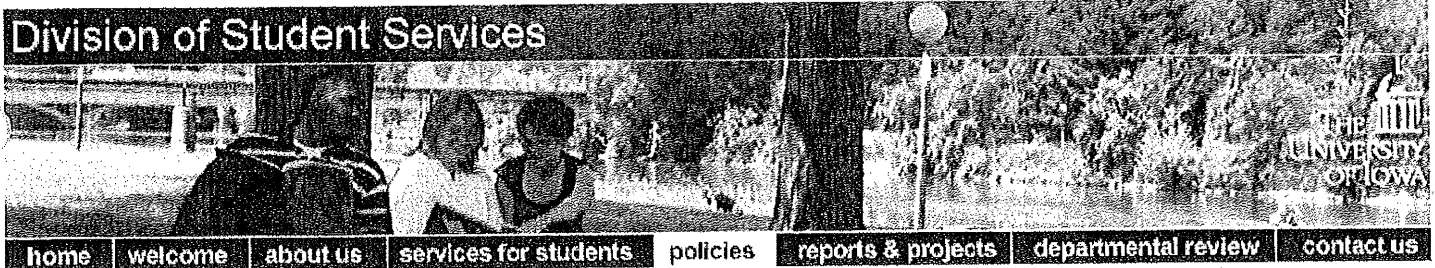
Any student who commits any of the following acts of misconduct shall be subject to disciplinary action by the University. "Campus" includes, in addition to University-owned or leased property, streets and pathways contiguous to University property or in the immediate vicinity of campus. As used in these procedures, "willful" and "intentional" conduct includes conduct which the student knew or reasonably should have known could lead to the results listed below. These regulations shall be construed so as not to abridge any student's constitutional rights of free expression of thought or opinion, free association, peaceable assembly, or the petition of authorities. In interpreting these regulations, administrative hearing officers may take notice of appropriate reference books, such as standard English dictionaries. Hearing officers may also refer to the Code of Iowa but are not bound by the strict definitions of criminal law.

1. Academic misconduct: defined as any dishonest or fraudulent conduct during an academic exercise, such as cheating, plagiarism, or forgery, or misrepresentation regarding the circumstances of a student's non-attendance, late assignment, or previous work or educational experience, or aiding or abetting another person to do the same. "Dishonest" conduct includes, but is not limited to, attempts by students to cheat or misrepresent, or aid or abet another person to do the same, whether or not the attempts are successful. Academic exercises covered by this rule include classroom assignments (such as examinations, papers, or research) and out-of-classroom activities (projects, practicum, internship and/or externship assignments off campus, or University employment, for example) that are related to an academic program at or through the University. A "classroom" can be a lecture hall, discussion room, laboratory, or clinic, for example. The acquisition of honors, awards, or degrees, or academic record

notations, course enrollments, credits, or grades, or certifications (including language proficiency or professional licensure or other endorsement) by any dishonest means is strictly prohibited. Resolution of academic misconduct complaints will be handled within the college or department concerned, with provision for review (see Part C, Academic Misconduct).

2. Willful misrepresentation of any material fact to a University of Iowa office, instructor, department, or committee; willful representation to anyone inside or outside the University regarding any material fact relevant to a University educational program or activity; or willful misrepresentation to anyone, within or without the University community, of his or her status or academic performance with the University or of the support, sponsorship, or approval by the University of the services or activities of any person, group, or organization. Willful misrepresentation may include, but is not limited to, oral or written statements; or forgery, alteration, or misuse of any University record, form, or document, including student identification card. "Misrepresentation" includes, but is not limited to, attempts by students to mislead someone, or aid or abet another person to do the same, whether or not the attempts are successful. If a student involved in a University-related dispute with a faculty or staff member agrees to resolve the dispute through mediation or binding arbitration or negotiates an agreement with a University official, acting within the scope of his or her authority, and subsequently violates one or more terms of the outcome of the dispute, he or she is considered to have violated Section 2.
3. Willful failure to comply with a reasonable directive or a proper order or summons of any member of the faculty or other University official, properly identified—by stating his or her name and title if requested by a student—and acting within the scope of his or her authority, or willful failure of a student to identify himself or herself by stating his or her name to such faculty member or official.
4. In a classroom or other instructional setting, willful failure to comply with a reasonable directive of the classroom instructor or other intentional conduct that has the effect of disrupting University classroom instruction or interfering with the instructor's ability to manage the classroom. When disruptive activity occurs, a University instructor has the authority to determine classroom seating patterns and require that a student exit the classroom, laboratory, or other area used for instruction immediately for the remainder of the period. Instructors who impose a one-day suspension are asked to report the incident to appropriate departmental, collegiate, and Student Services personnel.
5. (a) Intentionally disrupting the orderly process of the University, or (b) intentionally disrupting or denying access to services or facilities by those entitled to use such services or facilities, or (c) intentionally interfering with the lawful rights of others on the campus, or (d) inciting others to do acts proscribed by paragraphs (a), (b), or (c) of this section. Intentional conduct which has the effect of disrupting the orderly processes of the University violates this section.
6. Willful demonstrations within the interior of any University building or structure, except as specifically authorized and subject to reasonable conditions imposed to protect the rights and safety of other persons and to prevent damage to property.
7. Unauthorized entry into or occupation of any University room, building, or area of the campus, including such entry or occupation at any unauthorized time, or any unauthorized or improper use of any University property, equipment, or facilities.
8. Intentional setting of fires in any University building or on the campus without proper authority, or tampering or activation of a fire alarm without justification or improper use of fire prevention equipment in any University building or on the campus.
9. Misuse or misappropriation of University property or private property on campus or off-campus in connection with University activities, including but not limited to, theft or attempted theft, burglary, willful possession of stolen property, and willful destruction, damage, defacement, or mutilation of property belonging to or in the custody of the University or another member of the University community.
10. Assaulting, threatening, physically abusing, unduly harassing, or endangering in any other manner the health or safety of any person on the campus or at any University-sponsored or supervised function or event. Drunken driving (i.e., Operating a Motor Vehicle While Intoxicated) within the area patrolled by University Police violates this provision.
11. Use or possession of serviceable firearms, ammunition, explosives, fireworks, or other dangerous articles on campus or within any University building on the campus, or at any University-sponsored or supervised function or event. Weapons of any kind are prohibited on campus, including paintball markers and other devices that fire projectiles. Devices that resemble serviceable weapons are also prohibited, such as a pellet gun or toy gun that a reasonable observer would believe to be a handgun.

12. Possession or consumption of an alcoholic beverage on campus, within any University building, or at any University-sponsored or supervised function or event off-campus, except as permitted under the Policy Regarding the Use of Illegal Drugs and Alcohol, Code of Student Life, the Residence Hall Guidebook, or as authorized by other University regulations.
13. Use or possession of any narcotic drug, marijuana, or any other addictive, dangerous, or controlled substance on campus or at any University-sponsored or supervised function or event off-campus.
14. Sale, manufacture, distribution, or administration of any drug described in Section 12 or 13 on campus, or criminal conviction of any illicit drug distribution offense on campus or off campus. Drug distribution offenses include but are not limited to local, state, and federal laws which prohibit the distribution of, manufacture of, or possession with intent to distribute a controlled substance, such as marijuana, or counterfeit controlled substance.
15. (a) Intentionally disrupting access of other students, faculty, or staff members to University computer resources, or (b) intentionally obtaining the password of a computer account assigned to another person without authorization or attempting to do so, or any other unauthorized attempt to gain access to a computer account assigned to another person, or (c) knowingly using an account belonging to another University student, faculty, staff member, or academic department for other than its intended purpose without permission from the owner, or using an inactive account, or (d) using University computer equipment to interfere with the lawful rights of others by such activities as falsifying or altering records or documents, creating false or fraudulent documents, damaging programs belonging to another, sending harassing or threatening material, accessing confidential information without proper authorization, or duplicating copyrighted software unlawfully, or (e) downloading from the internet and/or uploading to the internet a copyrighted music file or video file using University computer equipment or the University network without express permission from the copyright holder; or (f) assisting another person to do any act proscribed under this section.
16. Conviction of any federal, state, or local crime committed on campus, or violation of any other rule, regulation, or policy which may be promulgated by the president of the University or an authorized representative, by any college, department, residence hall, office, or other facility within the scope of its authority, or by the State Board of Regents, provided such rules, regulations, or policies were published, posted, or otherwise adequately publicized or the student had actual knowledge thereof. Included among "such rules, regulations, or policies" are the Smoke-free Campus Policy, the University Policy on Human Rights, the Policy on Sexual Harassment, the Policy on Violence, the Alcohol & Drug Policy, Safe Saturday guidelines, Motor Pool regulations, Parking and Skateboarding rules, smoking regulations, employment work rules, the Policy on Acceptable Use of Information Technology Resources, the Policy Concerning Use of the Pentacrest and Kautz Plaza, the Anti-Retaliation Policy, relevant student organization regulations such as anti-hazing rules, alcohol restrictions, and other rules in the Interfraternity Council or Panhellenic Council Constitution or By-Laws, student financial aid rules, and all provisions contained in University residence halls contracts which pertain to personal conduct, including the Residence Hall Guidebook.
17. Any conduct or action in which the University can demonstrate a clear and distinct interest as an academic institution and which seriously threatens (a) any educational process or other legitimate function of the University or (b) the health or safety of any member of the academic community.
18. Violent conduct committed anywhere in Johnson County if the same conduct committed on UI property would violate UI conduct regulations. Conviction for Operating While Intoxicated (i.e., operating a motor vehicle while under the influence of alcohol or drugs) is considered to fall within this rule.
19. Student misconduct as defined in Regulations 1-18 that occurs on property governed by the State of Iowa Board of Regents is considered within the scope of this regulation. This includes the campuses of Iowa State University and the University of Northern Iowa. Misconduct committed on college campuses not governed by the State Board of Regents may also violate this regulation.



## Policies & Regulations Affecting Students

### Student Responsibilities

- A. Code of Student Life
- B. Judicial Procedure for Alleged Violations of the Code of Student Life
- C. Academic Misconduct
- D. Policy Regarding the Use of Illegal Drugs and Alcohol
- E. Uniform Rules of Personal Conduct at Universities Under the Jurisdiction of the State Board of Regents
- F. Judicial Procedure for Alleged Violations of the Regent's Rules of Personal Conduct
- G. Housing Regulations
- H. Residence Hall Judicial System
- I. Legal Assistance for Students
- J. Use of Campus Outdoor Areas
- K. Policy on Violence
- L. Policy on Acceptable Use of Information Technology Resources

[\(View Section Navigation\)](#)

### B. Judicial Procedure for Alleged Violations of the Code of Student Life

#### 1. Introduction.

These procedures are designed to cover complaints against students based on alleged violations of the Code of Student Life and the Policy on Sexual Harassment, which is incorporated in the Code of Student Life. Alleged violations of Regulation 1 (academic misconduct) are handled under the procedures described in Part C, Academic Misconduct. Alleged violations of Regulations 2-17 are ordinarily resolved by the dean of students, who may assign responsibility to a designated department head or assistant. For complaints of sexual harassment (including sexual assaults), the Office of Equal Opportunity & Diversity is the designated department for investigation. Procedures used to resolve residence hall misconduct complaints are described below in Section H, Residence Hall Judicial System. Complaints of abuse of service privileges, such as overdue library books, parking violations, intramural sports infractions, and misuse of placement offices and computer services, are resolved within the particular department that provides the service in question. Persons with questions as to which University procedures apply to a particular situation may contact the Office of the Dean of Students or the University Ombudsperson for more information.

#### 2. Complaint Procedure.

Any person may bring a complaint against a student under these procedures based on an alleged violation of the Code of Student Life (see extent of jurisdiction in introduction). The dean of students shall designate a person to investigate and review the complaint and determine whether formal charges should be brought against the accused student (refer to subsection 3). To initiate an investigation, the complainant should contact the Office of the Dean of Students, except for complaints of sexual harassment. Sexual harassment complaints are filed with the Office of Equal Opportunity & Diversity,

### Policy Sections

- I. Student Rights
- II. Student Responsibilities
- III. Student Organizations
- IV. Miscellaneous
- V. Campus Crime Information
- VI. Charts and Notes

which will investigate and forward the findings to the dean of students. The designee's investigation may be delayed in the event that concurrent criminal charges are pending against the accused student (refer to subsection 13). Depending upon the outcome of the investigation, complaints may be resolved in one of three ways: (1) informal agreement between the accused student and the investigator; (2) formal charges brought against the accused student at an administrative hearing; or (3) dismissal of complaint.

### 3. Investigation.

The dean of students or designee will gather relevant evidence to determine whether there is a reasonable basis for believing that the Code of Student Life was violated. In order to make such a determination, the dean of students or designee may interview the complainant and witnesses. During the investigation, the dean of students or designee may meet personally with the student accused. Alternatively, the student accused may be notified of the complaint in writing and given an opportunity to respond. In the event that the dean of students or designee believes that evidence shows that there is a reasonable basis for believing a violation did occur, formal charges will be brought. A student accused may consult with the University Ombudsperson or other advisers during the investigation as well as prior to a hearing or following a hearing.

During the period of investigation, the dean of students or designee may seek informal disposition of the complaint with the student accused. If an informal agreement is reached, no formal hearing will be held unless the terms of the informal disposition are breached or the student requests in writing a formal hearing within 20 calendar days. Students who fail to comply with 1 or more provisions of an informal agreement are in violation of Sections 2 & 3 of the Code of Student Life.

Once an informal agreement has been concluded, the accused student will be considered to have waived his or her right to a formal hearing if a written request for a formal hearing is not made within 20 calendar days. The 20-day period will commence when a written summary of the informal agreement has been mailed to the accused student. After the 20-day period has elapsed, the accused student may not request a formal hearing without a showing of good cause. The determination of good cause will be made by the dean of students.

### 4. Charge Procedure.

If it is determined that formal charges should be brought, the dean of students or designee (hereinafter "charging party") shall send the student involved a Notice of Hearing which shall (1) set out the rule or rules which have been allegedly violated, (2) state the alleged actions or behavior, (3) list the names of any witnesses intended to be called by the charging party, (4) advise the student of his or her rights and of the hearing procedure, by attaching a copy of the hearing procedure to the letter, (5) state the time and place of the formal hearing, and (6) specify the sanction(s) to be imposed if the student is found guilty.

When a student is formally charged with violating the Code of Student Life, the charging party may notify the student that an informal disposition of the charge may be pursued through discussions between the student and the charging party. If an informal disposition is made, the student will be sent a letter stating the terms of the disposition. If an informal agreement is reached following a Notice of Hearing letter, no formal hearing will be held unless the terms of the informal disposition are breached or the student requests in writing a formal hearing within 7 calendar days. Students who fail to comply with one or more provisions of an informal agreement are in violation of Sections 2 & 3 of the Code of Student Life.

Once an informal agreement has been concluded, the accused student will be considered to have waived his or her right to a formal hearing if a written request for a formal hearing is not made within 7 calendar days. The 7-day period will commence when a written summary of the informal agreement has been mailed to the accused student. After the 7-day period has elapsed, a request for a formal hearing will not be granted without a showing of good cause. The determination of good cause will be made by the dean of students.

A copy of the Notice of Hearing will be sent to the administrative hearing officer, who shall be drawn from the pool of administrative hearing officers selected by the president after consultation with the appropriate constituent groups. Another administrative hearing officer will serve if a student who is charged can adequately demonstrate why the assigned administrative hearing officer should not hear the case. Such an objection must be made in writing to the dean of students, with a copy to the assigned administrative hearing officer, at least 2 University business days before the hearing is scheduled to begin.

The dean of students may elect to resolve two or more complaints against one student at a single hearing. In addition, the dean of students may elect to resolve a complaint against two or more students at separate hearings or at a single hearing in the event that the complaints arose out of the same transaction or occurrence. Any challenge about complaint consolidation or separation will be determined by the administrative hearing officer. To challenge a decision to separate or consolidate a complaint, the student accused must notify the administrative hearing officer of the ground(s) for the challenge in writing at least 2 University business days before the hearing is scheduled to take place. If the student charged or the charging party cannot appear at the time specified, the student or the charging party must contact the administrative hearing officer at least 2 University business days before the hearing is scheduled to begin to arrange a different time for the hearing. If the student charged has not contacted the administrative hearing officer and does not appear at the hearing, the administrative hearing officer may make a decision on the charge and the sanction, if any. If the charging party has not contacted the administrative hearing officer at least 2 University business days before the hearing is scheduled to begin and does not appear, the administrative hearing officer may postpone or continue the hearing or may drop the charge.

The student charged will be mailed or served the Notice of Hearing at least 7 University business days before the hearing. Notice of Hearing will be sent by certified mail or served personally. The student charged will receive notification of names of any additional witnesses intended to be called by the charging party at least 2 University business days prior to the hearing.

### 5. Rights at Hearing.



The student charged is granted by the Judicial Procedure the following rights at a hearing: (1) to present his or her side of the story; (2) to present witnesses and evidence on his or her behalf; (3) to cross-examine witnesses presenting evidence against the student as long as the questions are relevant, material, and not unduly repetitive; (4) to be represented by an adviser at the student's expense (if any expense is entailed). Prior to the hearing, the student has a right to examine his or her disciplinary file in the Office of the Dean of Students. The student also has a right to know, upon request, which written documents or other physical evidence in the disciplinary file the University representative plans to present at the hearing. To examine the disciplinary file or learn what documents will be presented at the hearing, the student should contact the Office of the Dean of Students at least 2 University business days before the hearing is scheduled to take place and arrange a meeting with the keeper of the record.

The complainant has the following privileges at a formal hearing: (1) to testify on the issues raised by the complaint; (2) to be accompanied by a person who may advise him or her of the hearing process; (3) to remain in the hearing room following his or her testimony until all evidence has been presented; and (4) to be informed of the outcome of the hearing as permitted under federal laws governing confidential student record information.

#### 6. Hearing.

The administrative hearing officer shall preside at the hearing. The hearing officer shall (1) inform the student of the charge, the hearing procedures, the sanctions to be imposed if found guilty, and his or her rights and (2) answer any questions the student charged may have on these matters. The hearing officer shall hear and receive evidence to determine whether a violation of the Code of Student Life has occurred. The hearing shall be recorded.

The hearing shall be closed unless the student charged specifically requests in writing at least 2 class days before the hearing that the hearing be open. If the student requests an open hearing, the administrative hearing officer may nonetheless elect to close all or part of the hearing. The administrative hearing officer may elect to exclude persons who are to appear as witnesses.

After informing the student of the hearing procedures, the administrative hearing officer shall ask the student charged to plead guilty or not guilty. If the student pleads not guilty, the charging party shall present the University's case and shall offer evidence, which may include written testimony and/or witnesses, in support of the charge. Ordinarily, each witness will remain outside of the hearing room until called to testify and, once seated, will be requested to respond truthfully to the questions posed. The student charged may cross-examine the evidence presented by the charging party. The student charged may then present his or her case and may offer evidence, which may include written testimony and witnesses, in his or her behalf which shall be subject to cross-examination by the charging party. The student and the charging party may present character witnesses in cases where such evidence is relevant to the findings of fact.

If the student pleads guilty to all of the charges contained in the Notice of Hearing, neither party need present evidence and the hearing shall be concluded.

The charging party bears the burden of showing by a preponderance of evidence that the Code of Student Life was violated. The administrative hearing officer may exclude irrelevant, immaterial, or unduly repetitive evidence. In the event the hearing is disrupted, the administrative hearing officer may insist that 1 or more individuals leave the hearing room if such a measure is necessary to maintain the level of decorum appropriate for such a forum. A finding by the administrative hearing officer shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their serious affairs. Objections to evidentiary offers may be made and shall be noted in the record.

The administrative hearing officer's decision as to whether the Code of Student Life was violated may be rendered orally at the close of the hearing. A written decision shall ordinarily be issued within 5 University business days after the hearing, and, in any event, within 10 University business days after the hearing.

Notification of Decision shall be sent to the student charged by certified mail or campus mail, to the charging party, the dean of students, and to other appropriate University officers. If the charged student is found to have violated the Code of Student Life, the hearing officer shall attach to the Notification of Decision a copy of the sanction document previously enclosed in the Notice of Hearing letter. The hearing officer's Notification of Decision letter shall also include a statement of the appeal procedure.

If the charged student is found to have violated the Code of Student Life, the sanction document attached to the Notification of Decision will be placed in the student's disciplinary file in the Office of the Dean of Students as evidence that the sanction was imposed. In those cases where the student was charged with violating the Code of Student Life on more than one occasion, the dean of students may place a document in the student's disciplinary file to clarify which sanctions have been imposed, with a copy sent to the student.

#### 7. Appeal by the Accused.

All appeals must be filed with the Office of the Provost (hereinafter "provost") with supporting materials (if desired) in the provost's office within 10 University business days following the receipt of the written notification of the administrative hearing officer's decision. The student's written petition for appeal should specify the grounds for appeal from the list of five grounds enumerated below. The provost shall designate an appropriate individual to review the record of the hearing and the past disciplinary records of the charged person.

Ordinarily, no new evidence will be received with respect to the findings of fact and the interpretation and application of the conduct regulations. At the discretion of the provost's designee, evidence on the charged party's character may be submitted in writing to assist in determining an appropriate sanction.

During the appeal, sanctions imposed by the vice president shall remain in effect. A student suspended or expelled may request, from the vice president, permission to attend classes until the provost's designee has made a decision on appeal.



The provost's designee may recommend to the provost that the decision be affirmed. The provost's designee may also recommend that the decision be reversed, modified, or other appropriate relief be granted, if substantial rights of the student have been prejudiced because (1) the finding of guilt was unsupported by substantial evidence in the record made before the administrative hearing officer when the record is viewed as a whole; (2) with respect to issues disputed at the hearing, the decision to find the student guilty of violating the conduct regulations was, as a whole, unreasonable, arbitrary, or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion; (3) the sanction imposed for the violation was unreasonably harsh or inappropriate when the nature of the violation and the disciplinary record of the charged person are considered; (4) the procedures were not properly followed; or (5) new evidence, not reasonably available at the time of the hearing, is of sufficient importance to warrant reconsideration by the hearing officer. The student's written petition for appeal should specify the grounds for appeal.

The decision on appeal and the reasons therefore will be transmitted to the student charged, the charging party, the dean of students, and other appropriate University officials within 30 calendar days of the receipt of the Notice of Appeal. The decision of the administrative hearing officer and the final decision on appeal, as well as the notices and other related documents, will be kept in the student's disciplinary file in the Office of the Dean of Students.

**8. Appeal by the Charging Party.**

The charging party may appeal the decision of the administrative hearing officer to the provost to challenge the interpretation and application of the conduct regulations. The charging party may not appeal the administrative hearing officer's conclusions as to the facts of the case.

To appeal, the charging party shall file a written petition with supporting materials (if desired) in the provost's office within 5 University business days following the receipt of the written notification of the administrative hearing officer's decision. A copy of the petition shall be sent to the charged student.

The charging party's written petition for appeal should specify the grounds for appeal. To warrant a change in findings regarding the conduct regulation(s) allegedly violated, the hearing officer's interpretation and application of the regulation to the facts of the complaint must be so unreasonably narrow given the nature of the conduct and the regulation's purpose as to undermine the University's educational mission.

The provost shall designate an appropriate individual to review the record of the hearing and the past disciplinary records of the charged person. The provost's designee may recommend to the provost that the decision be affirmed, reversed, or modified. The provost may also remand the complaint to the administrative hearing officer with instructions to reconsider the decision.

The decision on appeal and the reasons therefore will be transmitted to the student charged, the charging party, the dean of students, and other appropriate University officials within 30 calendar days of the receipt of the petition, and will be kept in the student's disciplinary file in the Office of the Dean of Students.

**9. Sanctions.**

The vice president has the authority to impose any one or a combination of the following disciplinary sanctions if the student is found guilty by a hearing officer. The sanctions imposed will be those specified by the vice president in the Notice of Hearing. The following are to serve as guidelines rather than as a definitive list of sanctions.

- i. **Disciplinary Warning:** This is a strong, written warning that if there is a repetition of the same action or any other action in violation of the Rules and Regulations of the Code of Student Life, the student can expect additional disciplinary action. A record of the disciplinary action is kept on file.
- ii. **Disciplinary Probation:** When on disciplinary probation a student is not considered to be in good standing with respect to the non-academic disciplinary system and any further violations may lead to suspension or expulsion from the University.
- iii. **Restitution and Fines:** A student may be assessed reasonable expenses related to the misconduct. This may include, but is not limited to, the repair/replacement cost for any damage he or she causes to property or medical or counseling expenses incurred by the victim. If a student violates a residence hall policy that calls for the imposition of a fine, a fine will be assessed consistent with residence hall practice.
- iv. **Educational Sanction:** A student may be required to provide a specific service or participate in a specific program, receive specific instruction, or complete a research assignment. The student is responsible for related expenses, including expenses for education, counseling, or treatment, if any expense is entailed.
- v. **Exclusion from University Facilities or Activities:** A student may be prohibited from accessing University computer equipment or internet connections, attending a class, undertaking University employment, entering a building, participating in an extra-curricular activity sponsored by the University, representing the University in an official capacity, or using other services provided by the University. Such exclusion may be for a definite or indefinite period of time.
- vi. **Disciplinary Suspension:** A student may be involuntarily separated from the University for a stated period of time after which readmission is possible. A student with one or more violations may be suspended from the University for an indefinite period of time. A student suspended indefinitely may petition to the dean of students for reinstatement.
- vii. **Expulsion:** When a student has a record of serious violations, he or she may be dismissed from the University permanently.
- viii. **Residence Halls Suspension:** A student may be involuntarily separated from the residence halls indefinitely or for a stated period of time after which readmission is possible. Unless specifically permitted to do so by the dean of students, a student suspended from the residence halls is ineligible to use residence hall services, including board plans, and may not enter the residence halls. For purposes of progressive discipline, a student suspended from the Residence Halls may be suspended or expelled from the University if he or she is found to have violated the Code of Student Life subsequent to the housing suspension.

- ix. **No-Contact Order:** A student may be prohibited from intentionally contacting a student, employee, or visitor to campus in any manner at any time. Such prohibition may be in effect for a specific or an indefinite period of time. When a student fails to respect the general conditions conducive to learning in violation of the Code of Student Life, the University's response will be corrective rather than punitive in order to ensure that the student may learn to exercise his or her freedom responsibly. In furtherance of the University's educational mission, corrective action requires that the offending student be held accountable and receive a second opportunity to demonstrate good character after a single minor violation. In those egregious cases where the demonstrated misbehavior is subversive to the learning process and cannot be tolerated, an individual may be separated from the University.

Taking responsibility for one's misconduct goes beyond acknowledging the wrongful conduct and entails the formal ratification of disciplinary measures that anticipate the possibility of additional misconduct. In assigning sanctions consistent with the Code's educational purpose, the principle of progressive discipline is paramount. Thus, increasingly harsh sanctions will be applied for additional violations regardless of whether the misconduct is similar in nature. Furthermore, counseling sanctions (e.g., drug education and community service) are not intended to serve as a substitute for status sanctions (i.e., warning, probation, and suspension).

For example, a student found guilty of a second offense after being placed on one-semester probation for the first violation can expect suspension or an extension of the probation, in addition to any counseling sanction.

Ordinarily, a student found guilty of serious assault, threats with a weapon, possession of a gun or other dangerous weapon, sexual assault, possession of cocaine or other hard drugs, or distributing illegal drugs is suspended or expelled from the University even if there are no prior sanctions on the student's record. Students guilty of offenses warranting probation may also forfeit their residential privileges. The following violations ordinarily result in a Residence Hall suspension regardless of the student's prior record: possession or use of marijuana, false fire alarm, or an open flame violation. This list of offenses is not intended to be complete; other conduct not listed above may also warrant suspension from the University or from the residence halls. A student found in possession of a beer keg or other large quantity of alcohol on campus is subject to immediate Residence Hall suspension and possible University suspension.

10. **Interim Sanctions.**

A student may be suspended from the University or have privileges revoked pending the outcome of a disciplinary proceeding if, in the judgment of the dean of students, the student's continued presence or use of privileges at the University pending the outcome of the proceeding is likely to cause harm to faculty, staff, other students, other specified persons or groups, or University property. The dean of students will base an interim sanction judgment on evidence gathered in the initial stage of an investigation of the alleged conduct. Ordinarily, the dean or the dean's designee will converse with the student when interim suspension is considered.

A student suspended under this section may seek review of that decision by requesting the dean of students to reconsider the decision within 5 University business days after the student has received Notice of Suspension. The student may request that a formal University disciplinary hearing be held to resolve the merits of the complaint.

11. **Compliance with Sanctions.**

Students who fail to comply with a sanction in a reasonably timely manner are subject to additional disciplinary action by the vice president, which may include Suspension from the University. The vice president's authority to take additional disciplinary action in cases of non-compliance extends to complaints resolved through informal agreement, complaints resolved at a formal hearing, and complaints resolved by another student services department such as University Housing.

For purposes of this subsection, "sanction" includes but is not limited to Educational Sanctions, Restitution, and Exclusion from University Facilities or Activities described in subsection 9. In the event that a student fails to comply with a sanction and the vice president is prepared to impose a Suspension, the student will be notified of the apparent failure to comply and of the vice president's intent to suspend, and provided an opportunity to meet personally with the vice president and explain the circumstances prior to a final decision by the vice president. A student suspended for failing to comply with a sanction may appeal the vice president's decision to the Office of the Provost but is not entitled to a formal hearing before an administrative hearing officer. All appeals must be made in writing to the Office of the Provost within 10 business days following the date of the decision by the vice president.

12. **Records.**

If disciplinary action is taken against a student under these procedures and a sanction imposed, a record of the action will be kept by the Office of the Vice President. The Office of the Vice President will determine the length of time a disciplinary record is to remain on file.

Under federal law, disciplinary records are part of the education records of the student and, consequently, are not ordinarily available for public disclosure or discussion (refer to "Student Records Policy," section I.C of *Policies & Regulations affecting Students*). The Office of the Vice President will disclose information relating to a student's nonacademic disciplinary record with prior written permission from the student.

13. **Concurrent Criminal Charges.**

Students who face criminal charges may also be subject to University disciplinary sanctions if the conduct which gave rise to the criminal charges also violates the Code of Student Life. An initial investigation may be undertaken before criminal procedures have concluded in order to determine whether interim sanctions are to be invoked. The vice president may prefer to delay the resolution of a Code of Student Life complaint if concurrent criminal charges are pending. If the vice president elects to do so, the Code of Student Life complaint will be resolved after the criminal charges are resolved unless the student requests a hearing to resolve a University complaint while criminal charges are pending.

University regulations and procedures are distinct from criminal statutes and procedures. The outcome in a criminal or civil proceeding is not dispositive of the question of whether the Code of Student Life was violated in all cases. A student charged with criminal misconduct will be considered guilty of violating University conduct regulations and therefore subject to disciplinary sanctions if convicted in criminal court of conduct prohibited under the Code of Student Life. For purposes of

these procedures, a conviction includes a guilty plea, jury verdict, judicial decision, or deferred judgment. In the event a convicted student files a criminal appeal, the University will consider the question of criminal guilt to be final only after the matters on appeal have been resolved, although the vice president may impose an interim sanction pending the outcome of an appeal or proceed with disciplinary charges. Due to the less stringent standard of proof under these judicial procedures, a student accused but not convicted of a crime following a trial is still subject to University disciplinary action if found guilty by an administrative hearing officer.

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# THE UNIVERSITY OF IOWA STUDENT-ATHLETE CODE OF CONDUCT

## I. Introduction

This Student-Athlete Code of Conduct is designed to alert you, the student-athlete, to the behavior expected of you, and to the potential consequences that your behavior may have on your status as a student-athlete.

All student-athletes are members of The University of Iowa's student body. You are a student first, and your participation in intercollegiate athletics derives from your status as a student. Accordingly, all University policies governing student conduct apply to you.

In addition, your participation in the University's intercollegiate athletics program is governed by policies and procedures put into effect by the National Collegiate Athletic Association (NCAA); the Big Ten Conference (Big Ten), and the Board of Regents, State of Iowa. Your participation in the University's intercollegiate athletics program is also governed by all University of Iowa's Department of Athletics' rules and procedures as set forth in the Student-Athlete Handbook, including the Department of Athletics' Substance Abuse Policies, and Recruiting and Student-Host Guidelines.

The Department of Athletics may take action under this Code of Conduct regarding your participation in the University's intercollegiate athletics program, and also regarding the awarding, renewal, and modification of a scholarship that you may now have. This Code of Conduct is intended to complement, not replace, conduct rules that your sport team has adopted, including consequences for violating those sport team rules.

## II. Policies on Misconduct for University of Iowa Student-Athletes

There are two types of misconduct that may affect your ability to fully participate in the University's intercollegiate athletic program: "Category I Misconduct" and "Category II Misconduct."

### A. Category I Misconduct

Any of the following acts by a student-athlete is Category I misconduct:

- Violation of a criminal law that is classified as a felony by the State of Iowa;
- Violation of a term of probation or other condition imposed by a court in a criminal proceeding; or
- Serious violation of a term of probation or other condition imposed by a University official or the Department of Athletics Administrator.

A student-athlete is determined to have committed Category I misconduct when:

- The student-athlete is convicted of, does not contest (e.g., a guilty or *nolo contendere* plea), or receives a deferred judgment for a crime that is classified as a felony by the State of Iowa; or
- The student-athlete is found by a court to have violated a court-imposed term of probation or other condition; or
- The student-athlete is found by the Director of Athletics, in consultation with the Faculty Athletics Representative (FAR), to have violated a term of probation or other condition imposed by the Department of Athletics or a University official, and the conduct underlying the violation of probation or condition represents a substantial lack of compliance with the Student-Athlete Code of Conduct.

1. **Preliminary Action:** The Director of Athletics, at his or her discretion, may take preliminary action to temporarily suspend a student-athlete from participation in practice or competition and/or access to athletic department services when the Director of Athletics has verified that felony criminal charges have been filed against a student-athlete or when there is specific and credible information (e.g., arrest records, statements of law enforcement officers, University records, third-party or witness statements, or acknowledgement by the student-athlete) for reasonably believing that a student-athlete may have committed Category I misconduct.
2. **Sanctions for Category I Misconduct:** The Director of Athletics, in consultation with the FAR and appropriate University officials, will determine from specific and credible information whether there is a reasonable basis for concluding that the student-athlete has committed Category I misconduct. Thereafter, the Director of Athletics shall suspend the student-athlete from participation in practice, competition, and/or from receiving services provided by the Department of Athletics.
3. **Termination of scholarship benefits:** The Director of Athletics may pursue revocation or modification of athletically-related financial aid, such as a scholarship, as a consequence of any and all Category I misconduct. Any action to revoke or modify athletically-related financial aid will be in accordance with NCAA procedures and University procedures as outlined in the Student-Athlete Handbook.

## B. Category II Misconduct

Any of the following acts by a student-athlete is Category II misconduct:

- Violation of a criminal law that is not classified as a felony by the State of Iowa, including laws pertaining to alcohol (e.g., Operating While Intoxicated –OWI; Possessing Alcohol Under the Legal Age - PAULA);
- Violation of a term of probation imposed by a University official or Department of Athletics Administrator that does not constitute Category I misconduct;
- Violation of a Department of Athletics policy; or
- Violation of University policies, rules, and/or regulations, including:
  - The University of Iowa's Code of Student Life;
  - Academic dishonesty in violation of University, college, school, or department standards;
  - Violation of any University student conduct regulation; or
  - Willfully giving false and malicious information to a University official.

A student-athlete is determined to have committed Category II misconduct when:

- The student-athlete is convicted of, does not contest (e.g., a guilty or *nolo contendere* plea) or receives deferred judgment for a crime that is not a felony;
- The student-athlete is found by a court to have violated a term of court-imposed probation or other condition, and the conduct underlying the violation of probation or other condition does not constitute Category I misconduct;
- The student-athlete is determined by the Director of Athletics to have violated a term of probation or other condition imposed by the Department of Athletics and the conduct underlying the violation of probation or other condition does not constitute Category I misconduct; or
- A University official or hearing body has determined, in accordance with its official procedures, that the student-athlete has violated a University or college policy, rule, and/ or regulation.

1. **Sanctions for Category II Misconduct:** The Director of Athletics will determine from specific and credible information that there is a reasonable basis for concluding that the student-athlete has committed Category II misconduct. The Director of Athletics shall determine the appropriate sanction after consulting with the student-athlete's Head Coach and assigned Sport Administrator. The Director of Athletics may also consult with the FAR and appropriate University officials for recommendations regarding the appropriate sanction(s).

Sanctions for Category II misconduct may include, but are not limited to: warning, reprimand, probation with or without conditions, requirements for restitution, conditions to encourage personal rehabilitation (e.g., counseling and community service), conditions related to satisfactory academic performance, suspension from practice, suspension from

competition, and/or suspension from access to athletic departmental services.

### **III. Notice**

If the University has a reasonable belief that a student-athlete committed misconduct (Category I or Category II) that is sufficiently serious to warrant a suspension of 10 days or more, the Director of Athletics shall take the following action before making a determination that the student-athlete indeed has committed the misconduct in question: (i) notify the student-athlete and University officials of the specific charge(s) of misconduct and substantiation concerning the charges; and (ii) provide an opportunity for a meeting at which the student-athlete may explain the circumstances, orally or by submission of a written statement.

The Director of Athletics shall notify the student-athlete and appropriate University officials, in writing, of any decision to impose sanctions based on misconduct under this Code of Conduct. If a sanction is imposed, the written notice shall include a complete description of the appeal procedures available to the affected student-athlete.

### **IV. Appeal**

A student-athlete may appeal any sanction that suspends participation in practice, competition, and/or services provided by the Department of Athletics pursuant to grievance procedures provided in the Student-Athlete Handbook. A student-athlete may also appeal a revocation or modification of athletically-related financial aid in accordance with NCAA procedures and University procedures as outlined in the Student-Athlete Handbook. In addition, other appeal processes may be used by a student-athlete in accordance with applicable University policies.

As set forth by the Student-Athlete Handbook, a student-athlete may not contest on appeal:

- Any underlying determination of responsibility rendered by a court or other civil authority; or
- Any underlying determination of responsibility rendered by a University official or hearing body in accordance with official procedures.

If there is a substantial change in circumstances affecting a student-athlete who has been suspended from participation in practice, competition, and/or services provided by the Department of Athletics, the student-athlete may petition the Director of Athletics to review the changed circumstances. The student-athlete may submit a written statement in support of the request. Thereafter, the Director of Athletics shall consult with the FAR and other appropriate University officials on whether the suspension should be modified. If circumstances warrant a change in a suspension, a student-athlete may be reinstated by the Director of Athletics to resume participation in practice, competition, and/or services provided by the Department of Athletics.

Dismissal or reduction of a criminal charge is a change of circumstance that may or may not justify revision of a suspension from participation in practice, competition, and/or services provided by the Department of Athletics.

#### **V. Dismissal**

The student-athlete may be dismissed from all elements of participation in intercollegiate athletics when the Director of Athletics, in consultation with the coach, the FAR, the Chair of the Presidential Committee on Athletics, and other appropriate University officials, determines that either the severity or the frequency of the misconduct necessitates the dismissal. A student-athlete who has been dismissed from participation in practice, competition, and/or services provided by the Department of Athletics shall be provided the opportunity to appeal the decision consistent with grievance procedures explained in the Student-Athlete Handbook.

#### **VI. Records and Privacy**

Records of misconduct and actions taken will be maintained in your education record within the Office of the Associate Athletics Director for Student Services and Compliance. These records are subject to state and federal privacy protection, as well as University policies regarding confidentiality.

Notification to the public regarding your eligibility for intercollegiate competition shall be limited to your name and eligibility status, public information, and information that is not part of your education record subject to the privacy protections noted above.

#### **VII. Review of Policy**

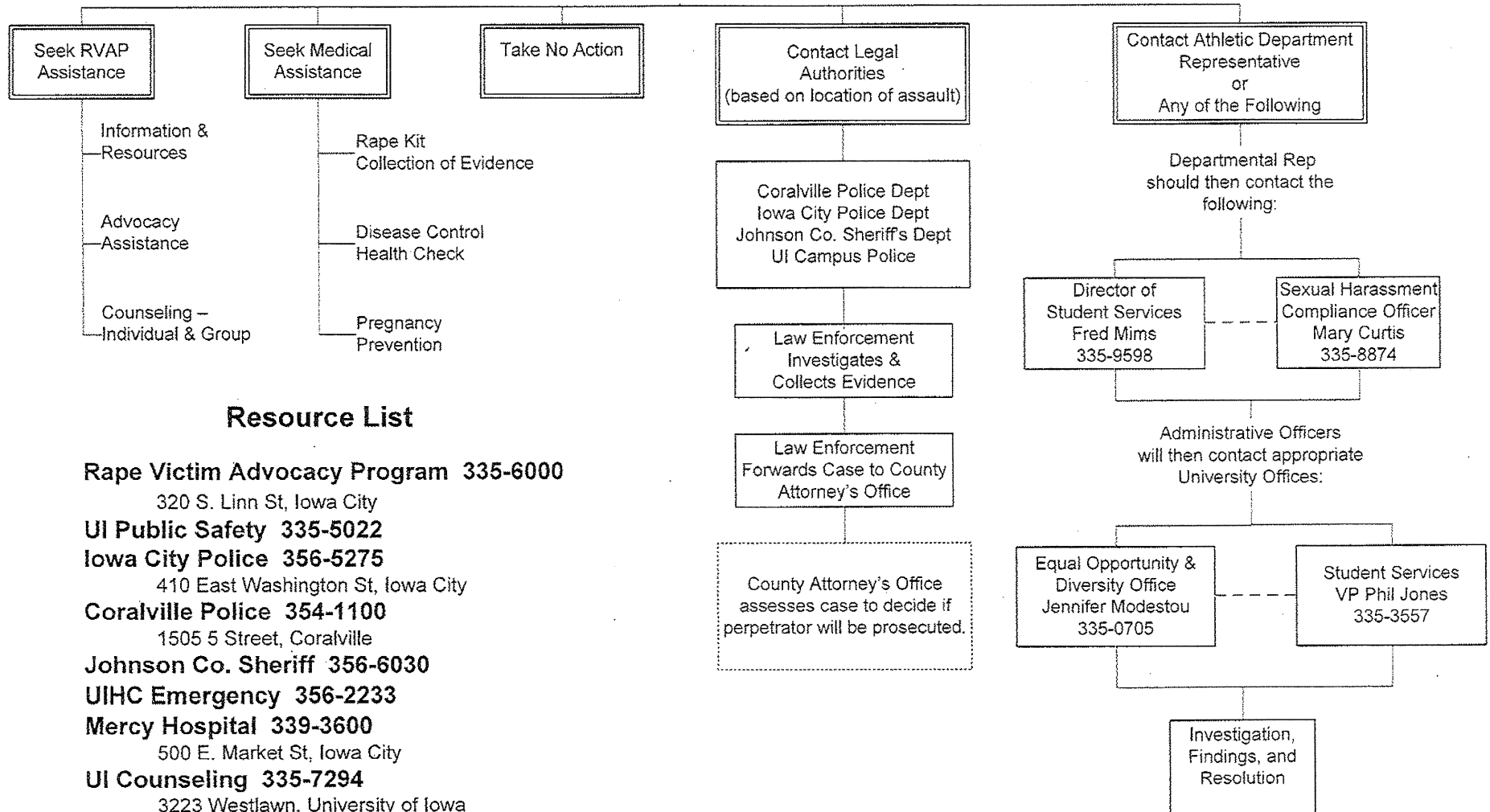
This Code of Conduct will be reviewed within three years after the latest revisions are implemented and revised as appropriate. This policy is subject to review at any other time deemed necessary by the President, the Presidential Committee on Athletics, the Director of Athletics, or the General Counsel.



# Resource and Referral Options For Victims of Sexual Assault

*UI Department of Athletics*

Victim may choose any or all of the following:



### Resource List

- Rape Victim Advocacy Program 335-6000**  
320 S. Linn St, Iowa City
- UI Public Safety 335-5022**
- Iowa City Police 356-5275**  
410 East Washington St, Iowa City
- Coralville Police 354-1100**  
1505 5 Street, Coralville
- Johnson Co. Sheriff 356-6030**
- UIHC Emergency 356-2233**
- Mercy Hospital 339-3600**  
500 E. Market St, Iowa City
- UI Counseling 335-7294**  
3223 Westlawn, University of Iowa

(See Page 2 for details on each option.)

# Information on Sexual Assault Resources

## Seek RVAP Assistance

### Rape Victim Advocacy Program

24 Hour Crisis Line - 335-6000 - crisis intervention, counseling, support, information, and referrals.

### Advocacy

Victim/survivors have a legal right to have a sexual assault advocate present at all legal and medical procedures. RVAP also provides advocacy within the University System.

### Counseling

Counseling is available through RVAP and/or University Counseling. Many survivors find it helpful to work with a counselor to help them deal with the impact of the assault and the recovery process.

## Seek Medical Assistance

A Sexual Assault Exam is available at UIHC or Mercy Hospital at no cost to the victim. The victim should try to do this within the first 72 hours.

The exam includes preventative medication for sexually transmitted infections, pregnancy, and evidence collection. The exam is done by a Sexual Assault Nurse Examiner (SANE) who is an R.N. with advanced training and certification in conducting sexual assault exams.

Go directly to the hospital or contact RVAP at 335-6000 to make arrangements to go to the hospital.

## Law Enforcement

### Law Enforcement

In Johnson County, the victim can tell a police officer about what happened without making an immediate decision about whether the victim wants criminal charges filed.

Contact law enforcement directly or call RVAP at 335-6000 to make arrangements to go to the police station.

### Court Situations

The Johnson County Attorney prosecutes the case on behalf of the State. The victim is a witness and does not usually need to obtain legal counsel in a criminal case. Civil cases do require that a victim retain an attorney.

## Departmental Notification

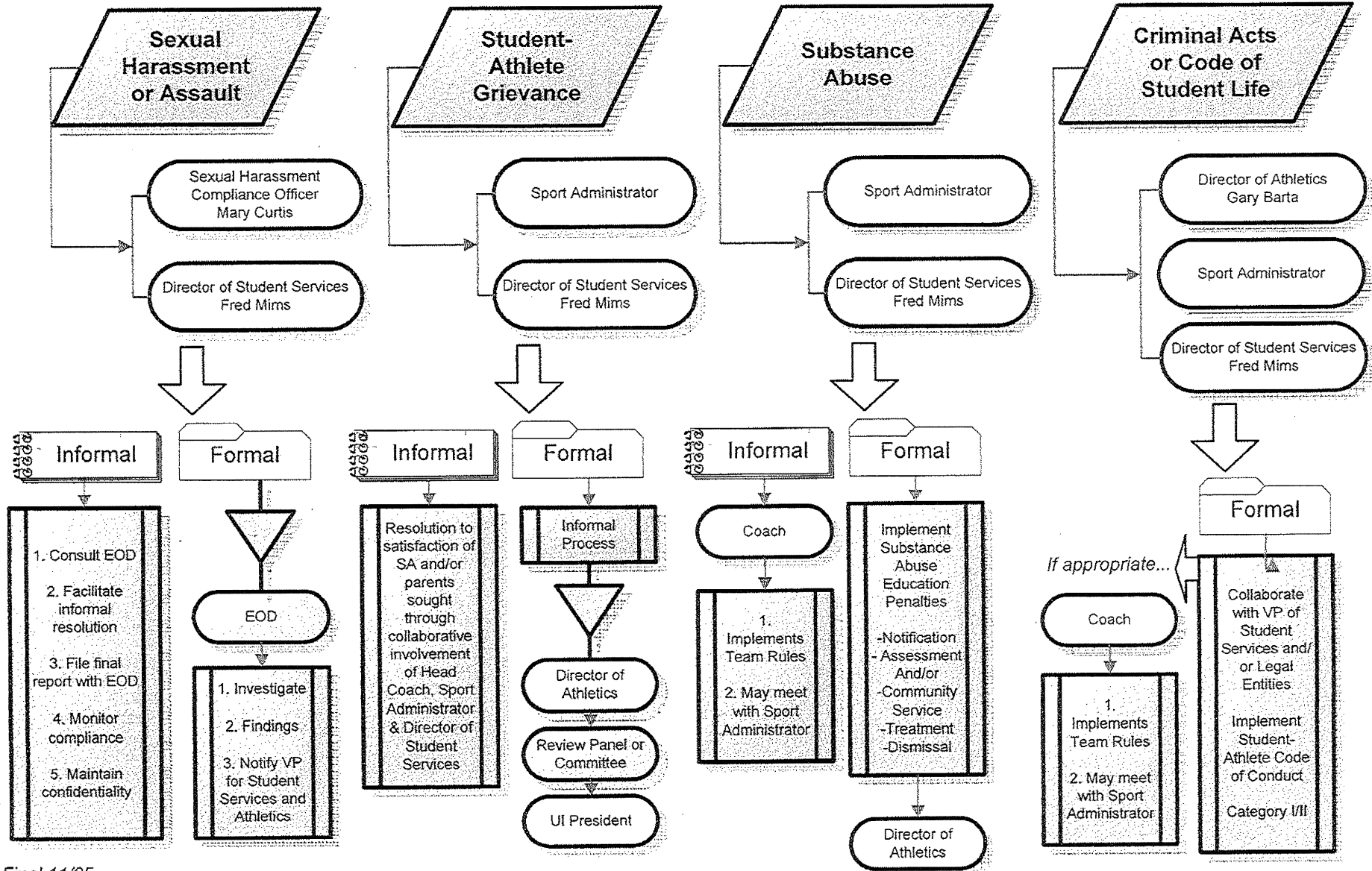
If an incident is reported to someone in Athletics, that departmental staff person has an obligation to notify the departmental Sexual Harassment Officer (staff and student-athlete incidents) and/or the Director of Student Services (student-athlete incidents).

The only time this does not occur is when the individual opts to speak with a Confidential Resource (Ombudsperson, Faculty and Staff Services, UI Counseling, WRAC, or a certified sexual assault RVAP counselor) instead of a departmental employee.

Senior Administrators will implement the appropriate protocol and notify the appropriate University offices – EOD and/or UI Student Services.

# Initial Notification Procedures Student-Athlete Incidents

*UI Department of Athletics*



## Relevant Provision of FERPA

### **20 U.S.C.A. § 1232g. Family educational and privacy rights**

(a) . . .

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping

**(1)** No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following--

**(A)** other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;

**(B)** officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

**(C)** (i) authorized representatives of (I) the Comptroller General of the United States, (II) the Secretary, or (III) State educational authorities, under the conditions set forth in paragraph (3), or (ii) authorized representatives of the Attorney General for law enforcement purposes under the same conditions as apply to the Secretary under paragraph (3);

**(D)** in connection with a student's application for, or receipt of, financial aid;

**(E)** State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted--

**(i)** before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or

**(ii)** after November 19, 1974, if--

**(I)** the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

**(II)** the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student. [FN1]

**(F)** organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

**(G)** accrediting organizations in order to carry out their accrediting functions;

**(H)** parents of a dependent student of such parents, as defined in section 152 of Title 26;

**(I)** subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons; and

**(J)(i)** the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

**(ii)** the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena.

Nothing in subparagraph (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

### **34 C.F.R. § 99.3 What definitions apply to these regulations?**

The following definitions apply to this part:

Act means the Family Educational Rights and Privacy Act of 1974, as amended, enacted as section 444 of the General Education Provisions Act.

Attendance includes, but is not limited to:

- (a) Attendance in person or by correspondence; and
- (b) The period during which a person is working under a work-study program.

Dates of attendance.

- (a) The term means the period of time during which a student attends or attended an educational agency or institution. Examples of dates of attendance include an academic year, a spring semester, or a first quarter.
- (b) The term does not include specific daily records of a student's attendance at an educational agency or institution.

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended.

Disciplinary action or proceeding means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written, or electronic means.

Educational agency or institution means any public or private agency or institution to which this part applies under § 99.1(a).

Education records.

(a) The term means those records that are:

(1) Directly related to a student; and

(2) Maintained by an educational agency or institution or by a party acting for the agency or institution.

(b) The term does not include:

(1) Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

(2) Records of the law enforcement unit of an educational agency or institution, subject to the provisions of § 99.8.

(3)(i) Records relating to an individual who is employed by an educational agency or institution, that:

(A) Are made and maintained in the normal course of business;

(B) Relate exclusively to the individual in that individual's capacity as an employee; and

(C) Are not available for use for any other purpose.

(ii) Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and not excepted under paragraph (b)(3)(i) of this definition.

(4) Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:

(i) Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;

(ii) Made, maintained, or used only in connection with treatment of the student; and

(iii) Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution; and

(5) Records that only contain information about an individual after he or she is no longer a student at that agency or institution.

Eligible student means a student who has reached 18 years of age or is attending an institution of postsecondary education.

Institution of postsecondary education means an institution that provides education to students beyond the secondary school level; "secondary school level" means the educational level (not beyond grade 12) at which secondary education is provided as determined under State law.

Parent means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

Party means an individual, agency, institution, or organization.

Personally identifiable information includes, but is not limited to:

- (a) The student's name;
- (b) The name of the student's parent or other family member;
- (c) The address of the student or student's family;
- (d) A personal identifier, such as the student's social security number or student number;
- (e) A list of personal characteristics that would make the student's identity easily traceable; or
- (f) Other information that would make the student's identity easily traceable.

Record means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

Secretary means the Secretary of the U.S. Department of Education or an official or employee of the Department of Education acting for the Secretary under a delegation of authority.

Student, except as otherwise specifically provided in this part, means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.



**34 C.F.R. § 99.30 Under what conditions is prior consent required to disclose information?**

(a) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in § 99.31.

(b) The written consent must:

(1) Specify the records that may be disclosed;

(2) State the purpose of the disclosure; and

(3) Identify the party or class of parties to whom the disclosure may be made.

(c) When a disclosure is made under paragraph (a) of this section:

(1) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and

(2) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

(d) "Signed and dated written consent" under this part may include a record and signature in electronic form that--

(1) Identifies and authenticates a particular person as the source of the electronic consent; and

(2) Indicates such person's approval of the information contained in the electronic consent.

**34 C.F.R. § 99.31 Under what conditions is prior consent not required to disclose information?**

(a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by § 99.30 if the disclosure meets one or more of the following conditions:

(1) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

(2) The disclosure is, subject to the requirements of § 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.

(3) The disclosure is, subject to the requirements of § 99.35, to authorized representatives of--

(i) The Comptroller General of the United States;

(ii) The Attorney General of the United States;

(iii) The Secretary; or

(iv) State and local educational authorities.

(4)(i) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

(A) Determine eligibility for the aid;

(B) Determine the amount of the aid;

(C) Determine the conditions for the aid; or

(D) Enforce the terms and conditions of the aid.

(ii) As used in paragraph (a)(4)(i) of this section, financial aid means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an educational agency or institution.

(5)(i) The disclosure is to State and local officials or authorities to whom this information is specifically--

(A) Allowed to be reported or disclosed pursuant to State statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released; or

(B) Allowed to be reported or disclosed pursuant to State statute adopted after November 19, 1974, subject to the requirements of § 99.38.

(ii) Paragraph (a)(5)(i) of this section does not prevent a State from further limiting the number or type of State or local officials to whom disclosures may be made under that paragraph.

(6)(i) The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

(A) Develop, validate, or administer predictive tests;

(B) Administer student aid programs; or

(C) Improve instruction.

(ii) The agency or institution may disclose information under paragraph (a)(6)(i) of this section only if:

(A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and

(B) The information is destroyed when no longer needed for the purposes for which the study was conducted.

(iii) If this Office determines that a third party outside the educational agency or institution to whom information is disclosed under this paragraph (a)(6) violates paragraph (a)(6)(ii)(B) of this section, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

(iv) For the purposes of paragraph (a)(6) of this section, the term organization includes, but is not limited to, Federal, State, and local agencies, and independent organizations.

(7) The disclosure is to accrediting organizations to carry out their accrediting functions.

(8) The disclosure is to parents, as defined in § 99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986.

(9)(i) The disclosure is to comply with a judicial order or lawfully issued subpoena.

(ii) The educational agency or institution may disclose information under paragraph (a)(9)(i) of this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with--

(A) A Federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

(B) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

(iii)(A) If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

(B) If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

(10) The disclosure is in connection with a health or safety emergency, under the conditions described in § 99.36.

(11) The disclosure is information the educational agency or institution has designated as "directory information", under the conditions described in § 99.37.

(12) The disclosure is to the parent of a student who is not an eligible student or to the student.

(13) The disclosure, subject to the requirements in § 99.39, is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to that alleged crime or offense. The institution may disclose the final results of the disciplinary proceeding, regardless of whether the institution concluded a violation was committed.

(14)(i) The disclosure, subject to the requirements in § 99.39, is in connection with a disciplinary proceeding at an institution of postsecondary education. The institution must not disclose the final results of the disciplinary proceeding unless it determines that--

(A) The student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and

(B) With respect to the allegation made against him or her, the student has committed a violation of the institution's rules or policies.

(ii) The institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.

(iii) This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

(15)(i) The disclosure is to a parent of a student at an institution of postsecondary education regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance if--

(A) The institution determines that the student has committed a disciplinary violation with respect to that use or possession; and

(B) The student is under the age of 21 at the time of the disclosure to the parent.

(ii) Paragraph (a)(15) of this section does not supersede any provision of State law that prohibits an institution of postsecondary education from disclosing information.

(b) Paragraph (a) of this section does not forbid an educational agency or institution from disclosing, nor does it require an educational agency or institution to disclose, personally identifiable information from the education records of a student to any parties under paragraphs (a)(1) through (11), (13), (14), and (15) of this section.

## Relevant Provision of HIPPA

### **45 C.F.R. § 164.502 Uses and disclosures of protected health information: general rules.**

(a) Standard. A covered entity may not use or disclose protected health information, except as permitted or required by this subpart or by subpart C of part 160 of this subchapter.

(1) Permitted uses and disclosures. A covered entity is permitted to use or disclose protected health information as follows:

(i) To the individual;

(ii) For treatment, payment, or health care operations, as permitted by and in compliance with § 164.506;

(iii) Incident to a use or disclosure otherwise permitted or required by this subpart, provided that the covered entity has complied with the applicable requirements of § 164.502(b), § 164.514(d), and § 164.530(c) with respect to such otherwise permitted or required use or disclosure;

(iv) Pursuant to and in compliance with a valid authorization under § 164.508;

(v) Pursuant to an agreement under, or as otherwise permitted by, § 164.510; and

(vi) As permitted by and in compliance with this section, § 164.512, or § 164.514(e), (f), or (g).

(2) Required disclosures. A covered entity is required to disclose protected health information:

(i) To an individual, when requested under, and required by § 164.524 or § 164.528; and

(ii) When required by the Secretary under subpart C of part 160 of this subchapter to investigate or determine the covered entity's compliance with this subpart.

(b) Standard: Minimum necessary.

(1) Minimum necessary applies. When using or disclosing protected health information or when requesting protected health information from another covered entity, a covered entity must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

(2) Minimum necessary does not apply. This requirement does not apply to:

- (i) Disclosures to or requests by a health care provider for treatment;
- (ii) Uses or disclosures made to the individual, as permitted under paragraph (a)(1)(i) of this section or as required by paragraph (a)(2)(i) of this section;
- (iii) Uses or disclosures made pursuant to an authorization under § 164.508;
- (iv) Disclosures made to the Secretary in accordance with subpart C of part 160 of this subchapter;
- (v) Uses or disclosures that are required by law, as described by § 164.512(a); and
- (vi) Uses or disclosures that are required for compliance with applicable requirements of this subchapter.

(c) Standard: Uses and disclosures of protected health information subject to an agreed upon restriction. A covered entity that has agreed to a restriction pursuant to § 164.522(a)(1) may not use or disclose the protected health information covered by the restriction in violation of such restriction, except as otherwise provided in § 164.522(a).

(d) Standard: Uses and disclosures of de-identified protected health information.

(1) Uses and disclosures to create de-identified information. A covered entity may use protected health information to create information that is not individually identifiable health information or disclose protected health information only to a business associate for such purpose, whether or not the de-identified information is to be used by the covered entity.

(2) Uses and disclosures of de-identified information. Health information that meets the standard and implementation specifications for de-identification under § 164.514(a) and (b) is considered not to be individually identifiable health information, i.e., de-identified. The requirements of this subpart do not apply to information that has been de-identified in accordance with the applicable requirements of § 164.514, provided that:

(i) Disclosure of a code or other means of record identification designed to enable coded or otherwise de-identified information to be re-identified constitutes disclosure of protected health information; and

(ii) If de-identified information is re-identified, a covered entity may use or disclose such re-identified information only as permitted or required by this subpart.

(e)(1) Standard: Disclosures to business associates.

(i) A covered entity may disclose protected health information to a business associate and may allow a business associate to create or receive protected health information on its behalf, if the covered entity obtains satisfactory assurance that the business associate will appropriately safeguard the information.

(ii) This standard does not apply:

(A) With respect to disclosures by a covered entity to a health care provider concerning the treatment of the individual;

(B) With respect to disclosures by a group health plan or a health insurance issuer or HMO with respect to a group health plan to the plan sponsor, to the extent that the requirements of § 164.504(f) apply and are met; or

(C) With respect to uses or disclosures by a health plan that is a government program providing public benefits, if eligibility for, or enrollment in, the health plan is determined by an agency other than the agency administering the health plan, or if the protected health information used to determine enrollment or eligibility in the health plan is collected by an agency other than the agency administering the health plan, and such activity is authorized by law, with respect to the collection and sharing of individually identifiable health information for the performance of such functions by the health plan and the agency other than the agency administering the health plan.

(iii) A covered entity that violates the satisfactory assurances it provided as a business associate of another covered entity will be in noncompliance with the standards, implementation specifications, and requirements of this paragraph and § 164.504(e).

(2) Implementation specification: documentation. A covered entity must document the satisfactory assurances required by paragraph (e)(1) of this section through a written contract or other written agreement or arrangement with the business associate that meets the applicable requirements of § 164.504(e).

(f) Standard: Deceased individuals. A covered entity must comply with the requirements of this subpart with respect to the protected health information of a deceased individual.

(g)(1) Standard: Personal representatives. As specified in this paragraph, a covered entity must, except as provided in paragraphs (g)(3) and (g)(5) of this section, treat a personal representative as the individual for purposes of this subchapter.

(2) Implementation specification: adults and emancipated minors. If under applicable law a person has authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care, a covered entity must treat such person as a personal representative under this subchapter, with respect to protected health information relevant to such personal representation.

(3)(i) Implementation specification: unemancipated minors. If under applicable law a parent, guardian, or other person acting in loco parentis has authority to act on behalf of an individual who is an unemancipated minor in making decisions related to health care, a covered entity must treat such person as a personal representative under this subchapter, with respect to protected health information relevant to such personal representation, except that such person may not be a personal representative of an unemancipated minor,



and the minor has the authority to act as an individual, with respect to protected health information pertaining to a health care service, if:

(A) The minor consents to such health care service; no other consent to such health care service is required by law, regardless of whether the consent of another person has also been obtained; and the minor has not requested that such person be treated as the personal representative;

(B) The minor may lawfully obtain such health care service without the consent of a parent, guardian, or other person acting in loco parentis, and the minor, a court, or another person authorized by law consents to such health care service; or

(C) A parent, guardian, or other person acting in loco parentis assents to an agreement of confidentiality between a covered health care provider and the minor with respect to such health care service.

(ii) Notwithstanding the provisions of paragraph (g)(3)(i) of this section:

(A) If, and to the extent, permitted or required by an applicable provision of State or other law, including applicable case law, a covered entity may disclose, or provide access in accordance with § 164.524 to, protected health information about an unemancipated minor to a parent, guardian, or other person acting in loco parentis;

(B) If, and to the extent, prohibited by an applicable provision of State or other law, including applicable case law, a covered entity may not disclose, or provide access in accordance with § 164.524 to, protected health information about an unemancipated minor to a parent, guardian, or other person acting in loco parentis; and

(C) Where the parent, guardian, or other person acting in loco parentis, is not the personal representative under paragraphs (g)(3)(i)(A), (B), or (C) of this section and where there is no applicable access provision under State or other law, including case law, a covered entity may provide or deny access under § 164.524 to a parent, guardian, or other person acting in loco parentis, if such action is consistent with State or other applicable law, provided that such decision must be made by a licensed health care professional, in the exercise of professional judgment.

(4) Implementation specification: Deceased individuals. If under applicable law an executor, administrator, or other person has authority to act on behalf of a deceased individual or of the individual's estate, a covered entity must treat such person as a personal representative under this subchapter, with respect to protected health information relevant to such personal representation.

(5) Implementation specification: Abuse, neglect, endangerment situations. Notwithstanding a State law or any requirement of this paragraph to the contrary, a covered entity may elect not to treat a person as the personal representative of an individual if:

(i) The covered entity has a reasonable belief that:

(A) The individual has been or may be subjected to domestic violence, abuse, or neglect by such person; or

(B) Treating such person as the personal representative could endanger the individual; and

(ii) The covered entity, in the exercise of professional judgment, decides that it is not in the best interest of the individual to treat the person as the individual's personal representative.

(h) Standard: Confidential communications. A covered health care provider or health plan must comply with the applicable requirements of § 164.522(b) in communicating protected health information.

(i) Standard: Uses and disclosures consistent with notice. A covered entity that is required by § 164.520 to have a notice may not use or disclose protected health information in a manner inconsistent with such notice. A covered entity that is required by § 164.520(b)(1)(iii) to include a specific statement in its notice if it intends to engage in an activity listed in § 164.520(b)(1)(iii)(A)-(C), may not use or disclose protected health information for such activities, unless the required statement is included in the notice.

(j) Standard: Disclosures by whistleblowers and workforce member crime victims.

(1) Disclosures by whistleblowers. A covered entity is not considered to have violated the requirements of this subpart if a member of its workforce or a business associate discloses protected health information, provided that:

(i) The workforce member or business associate believes in good faith that the covered entity has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services, or conditions provided by the covered entity potentially endangers one or more patients, workers, or the public; and

(ii) The disclosure is to:

(A) A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of the covered entity or to an appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by the covered entity; or

(B) An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to the conduct described in paragraph (j)(1)(i) of this section.

(2) Disclosures by workforce members who are victims of a crime. A covered entity is not considered to have violated the requirements of this subpart if a member of its workforce who is the victim of a criminal act discloses protected health information to a law enforcement official, provided that:

(i) The protected health information disclosed is about the suspected perpetrator of the criminal act; and

(ii) The protected health information disclosed is limited to the information listed in § 164.512(f)(2)(i).

## Relevant Provisions of the Clery Act

### **20 U.S.C.A. § 1092. Institutional and financial assistance information for students**

(a) . . .

(f) Disclosure of campus security policy and campus crime statistics

**(1)** Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

**(A)** A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

**(B)** A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

**(C)** A statement of current policies concerning campus law enforcement, including--

**(i)** the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

**(ii)** policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

**(D)** A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

**(E)** A description of programs designed to inform students and employees about the prevention of crimes.

**(F)** Statistics concerning the occurrence on campus, in or on noncampus buildings or property, and on public property during the most recent calendar year, and during the 2 preceding calendar years for which data are available--

**(i)** of the following criminal offenses reported to campus security authorities or local police agencies:

**(I)** murder;

**(II)** sex offenses, forcible or nonforcible;

**(III)** robbery;

**(IV)** aggravated assault;

**(V)** burglary;

**(VI)** motor vehicle theft;

**(VII)** manslaughter;

**(VIII)** arson; and

**(IX)** arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession; and

**(ii)** of the crimes described in subclauses (I) through (VIII) of clause (i), and other crimes involving bodily injury to any person in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice.

**(G)** A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

**(H)** A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1011i of this title.

**(I)** A statement advising the campus community where law enforcement agency information provided by a State under section 14071(j) of Title 42, concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

**(2)** Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

**(3)** Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall make timely reports to the campus community

on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

**(4)(A)** Each institution participating in any program under this subchapter [20 U.S.C.A. § 1070 et seq.] and part C of subchapter I of chapter 34 of Title 42 [42 U.S.C.A. § 2751 et seq.] that maintains a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including--

**(i)** the nature, date, time, and general location of each crime; and

**(ii)** the disposition of the complaint, if known.

**(B)(i)** All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim, be open to public inspection within two business days of the initial report being made to the department or a campus security authority.

**(ii)** If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police or security department.

**(iii)** If there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur from the release of such information.

**(5)** On an annual basis, each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 [42 U.S.C.A. § 2751 et seq.] shall submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(F). The Secretary shall--

**(A)** review such statistics and report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 2000;

**(B)** make copies of the statistics submitted to the Secretary available to the public; and

**(C)** in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

**(6)(A)** In this subsection:

**(i)** The term “campus” means--

**(I)** any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

**(II)** property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).

**(ii)** The term “noncampus building or property” means--

**(I)** any building or property owned or controlled by a student organization recognized by the institution; and

**(II)** any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

**(iii)** The term “public property” means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

**(B)** In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

**(7)** The statistics described in paragraph (1)(F) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act. Such statistics shall not identify victims of crimes or persons accused of crimes.

**(8)(A)** Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding--

**(i)** such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and

**(ii)** the procedures followed once a sex offense has occurred.

**(B)** The policy described in subparagraph (A) shall address the following areas:

**(i)** Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

**(ii)** Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

**(iii)** Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

**(iv)** Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that--

**(I)** the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

**(II)** both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

**(v)** Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

**(vi)** Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

**(vii)** Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.

**(C)** Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.

**(9)** The Secretary shall provide technical assistance in complying with the provisions of this section to an institution of higher education who requests such assistance.

**(10)** Nothing in this section shall be construed to require the reporting or disclosure of privileged information.

**(11)** The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

**(12)** For purposes of reporting the statistics with respect to crimes described in paragraph



(1)(F), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur--

(A) on campus;

(B) in or on a noncampus building or property;

(C) on public property; and

(D) in dormitories or other residential facilities for students on campus.

(13) Upon a determination pursuant to section 1094(c)(3)(B) of this title that an institution of higher education has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection, the Secretary shall impose a civil penalty upon the institution in the same amount and pursuant to the same procedures as a civil penalty is imposed under section 1094(c)(3)(B) of this title.

(14)(A) Nothing in this subsection may be construed to--

(i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

(ii) establish any standard of care.

(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(15) This subsection may be cited as the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act".

**34 C.F.R. §668.46(b)(11)(iii) Institutional security policies and crime statistics.**

(a) . . .

(b) Annual security report. An institution must prepare an annual security report that contains, at a minimum, the following information:

(1) . . .

(11) A statement of policy regarding the institution's campus sexual assault programs to prevent sex offenses, and procedures to follow when a sex offense occurs. The statement must include--

(i) . . .

(iii) Information on a student's option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that institutional personnel will assist the student in notifying these authorities, if the student requests the assistance of these personnel;

**34 C.F.R. § 668.46(e) Institutional security policies and crime statistics.**

(a) . . .

(e) Timely warning.

(1) An institution must, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are--

(i) Described in paragraph (c)(1) and (3) of this section;

(ii) Reported to campus security authorities as identified under the institution's statement of current campus policies pursuant to paragraph (b)(2) of this section or local police agencies; and

(iii) Considered by the institution to represent a threat to students and employees.

(2) An institution is not required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

34 CFR 668.46(b)(4)(ii)

- b. Encourages accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

**What does this mean?**

Your policy statement *must* encourage individuals to report all crimes to the campus police and police agencies for your institution's jurisdiction in an accurate and timely manner. If your institution does not have campus police, you must state this.

**Sample Policy Statement Addressing the Encouragement of Accurate and Prompt Crime Reporting**

**General Procedures for Reporting a Crime or Emergency**

Community members, students, faculty, staff, and guests are encouraged to report all crimes and public safety related incidents to the University Police Department (UPD) in a timely manner. This publication focuses on UPD because it patrols the majority of the Foggy Bottom campus and the Mount Vernon-campus. However, Hospital Security should be contacted when incidents, emergencies, or crimes occur in the Hospital.

To report a crime or an emergency on the Foggy Bottom campus, call UPD at extension 4-6111 or, from outside the University phone system, (202) 994-6111. To report a non-emergency security or public safety related matter, call UPD at extension 4-6110 or, from outside the University phone system, (202) 994-6110.

To report a crime or emergency on the Mount Vernon-campus, call UPD at 2-6111 or, from outside the University phone system, (202) 242-6111. To report a non-emergency security or public safety related matter call UPD at 2-6110 or, from outside the phone system, (202) 242-6110.

If a crime or emergency occurs in the Hospital, call Hospital Security at (202) 715-5000.

Dispatchers are available at these respective telephone numbers 24 hours a day to answer your call. In response to a call, UPD or Hospital Security will take the required action, dispatching an officer or asking the victim to report to UPD to file an incident report.

All UPD incident reports are forwarded to the Dean of Students office for review and potential action by the Office of Student Judicial Services. UPD Investigators will investigate a report when it is deemed appropriate. Additional information obtained via the investigation will also be forwarded to the Office of Student Judicial Services.

If assistance is required from the Metropolitan Police Department or the District of Columbia Fire Department, UPD will contact the appropriate unit. If a sexual assault or rape should occur, staff on the scene, including UPD, will offer the victim a wide variety of services. GW has a Sexual Assault Crisis Consultation Team that has trained members who are available to assist a victim 24 hours a day.

This publication contains information about on-campus and off campus resources. That information is made available to provide GW community members with specific information about the resources that are available in the event that they become the victim of a crime. The information about "resources" is not provided to infer that those resources are "reporting entities" for GW.

Crimes should be reported to the University Police Department to ensure inclusion in the annual crime statistics and to aid in providing timely warning notices to the community, when appropriate. For example, a crime that was reported only to the DC Rape Crisis Center would not be included in the GW crime statistics.

## Sample Policy Statement Addressing Sex Offenses

### Sexual Assault Prevention and Response

The University educates the student community about sexual assaults and date rape through mandatory freshman orientations each fall. The Police Department offers sexual assault education and information programs to University students and employees upon request. Literature on date rape education, risk reduction, and University response is available through the Office of Housing and Residential Education.

If you are a victim of a sexual assault at this institution, your first priority should be to get to a place of safety. You should then obtain necessary medical treatment. The University Police Department strongly advocates that a victim of sexual assault report the incident in a timely manner. Time is a critical factor for evidence collection and preservation. An assault should be reported directly to a University officer and/or to a Housing and Residential Education representative. Filing a police report with a University officer will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from officers. Filing a police report will

- › ensure that a victim of sexual assault receives the necessary medical treatment and tests, at no expense to the victim
- › provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam)
- › assure the victim has access to free confidential counseling from counselors specifically trained in the area of sexual assault crisis intervention.

When a sexual assault victim contacts the Police Department, the Metro Police Sex Crimes Unit will be notified as well. A representative from the Office of Housing and Residential Education will also be notified. The victim of a sexual assault may choose for the investigation to be pursued through the criminal justice system and the University Conduct Council, or only the latter. A University representative from the Police Department or the Office of Housing and Residential Education will guide the victim through the available options and support the victim in his or her decision. Various counseling options are available from the University through the Student Health Center, the Women's Center, University Ministries, Employee Assistance, and the Psychological and Counseling Center. Counseling and support services outside the University system can be obtained through the Rape and Sexual Abuse Center and the Victim Intervention Program of the Metro Police Department.

University disciplinary proceedings, as well as special guidelines for cases involving sexual misconduct, are detailed in the *Student Handbook*. The *Handbook* provides, in part, that the accused and the victim will each be allowed to choose one person who has had no formal legal training to accompany them throughout the hearing. Both the victim and accused will be informed of the outcome of the hearing. A student found guilty of violating the University sexual misconduct policy could be criminally prosecuted in the state courts and may be suspended or expelled from the University for the first offense. Student victims have the option to change their academic and/or on-campus living situations after an alleged sexual assault, if such changes are reasonably available.

## Iowa Open Records Act

### **Iowa Code § 22.7**

#### **22.7. Confidential records**

The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

1. Personal information in records regarding a student, prospective student, or former student maintained, created, collected or assembled by or for a school corporation or educational institution maintaining such records. This subsection shall not be construed to prohibit a postsecondary education institution from disclosing to a parent or guardian information regarding a violation of a federal, state, or local law, or institutional rule or policy governing the use or possession of alcohol or a controlled substance if the child is under the age of twenty-one years and the institution determines that the student committed a disciplinary violation with respect to the use or possession of alcohol or a controlled substance regardless of whether that information is contained in the student's education records.
2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However, confidential communications between a crime victim and the victim's counselor are not subject to disclosure except as provided in section 915.20A. However, the Iowa department of public health shall adopt rules which provide for the sharing of information among agencies and providers concerning the maternal and child health program including but not limited to the statewide child immunization information system, while maintaining an individual's confidentiality.
3. Trade secrets which are recognized and protected as such by law.
4. Records which represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body.
5. Peace officers' investigative reports, and specific portions of electronic mail and telephone billing records of law enforcement agencies if that information is part of an ongoing investigation, except where disclosure is authorized elsewhere in this Code. However, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual. Specific portions of electronic mail and telephone billing records may only be kept confidential under this subsection if the length of time prescribed for commencement of prosecution or the finding of an indictment or information under the statute of limitations applicable to the crime that is under investigation has not expired.

6. Reports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.
7. Appraisals or appraisal information concerning the purchase of real or personal property for public purposes, prior to public announcement of a project.
8. Iowa department of economic development information on an industrial prospect with which the department is currently negotiating.
9. Criminal identification files of law enforcement agencies. However, records of current and prior arrests and criminal history data shall be public records.
10. Personal information in confidential personnel records of the military division of the department of public defense of the state.
11. Personal information in confidential personnel records of public bodies including but not limited to cities, boards of supervisors and school districts.
12. Financial statements submitted to the department of agriculture and land stewardship pursuant to chapter 203 or chapter 203C, by or on behalf of a licensed grain dealer or warehouse operator or by an applicant for a grain dealer license or warehouse license.
13. The records of a library which, by themselves or when examined with other public records, would reveal the identity of the library patron checking out or requesting an item or information from the library. The records shall be released to a criminal or juvenile justice agency only pursuant to an investigation of a particular person or organization suspected of committing a known crime. The records shall be released only upon a judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling.
14. The material of a library, museum or archive which has been contributed by a private person to the extent of any limitation that is a condition of the contribution.
15. Information concerning the procedures to be used to control disturbances at adult correctional institutions. Such information shall also be exempt from public inspection under section 17A.3. As used in this subsection disturbance means a riot or a condition that can reasonably be expected to cause a riot.
16. Information in a report to the Iowa department of public health, to a local board of health, or to a local health department, which identifies a person infected with a reportable disease.
17. Records of identity of owners of public bonds or obligations maintained as provided in section 76.10 or by the issuer of the public bonds or obligations. However, the issuer

of the public bonds or obligations and a state or federal agency shall have the right of access to the records.

18. Communications not required by law, rule, procedure, or contract that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications from such persons outside of government could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination. As used in this subsection, “persons outside of government” does not include persons or employees of persons who are communicating with respect to a consulting or contractual relationship with a government body or who are communicating with a government body with whom an arrangement for compensation exists. Notwithstanding this provision:

a. The communication is a public record to the extent that the person outside of government making that communication consents to its treatment as a public record.

b. Information contained in the communication is a public record to the extent that it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.

c. Information contained in the communication is a public record to the extent that it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent that its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate that the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger.

19. Examinations, including but not limited to cognitive and psychological examinations for law enforcement officer candidates administered by or on behalf of a governmental body, to the extent that their disclosure could reasonably be believed by the custodian to interfere with the accomplishment of the objectives for which they are administered.

20. Information concerning the nature and location of any archaeological resource or site if, in the opinion of the state archaeologist, disclosure of the information will result in unreasonable risk of damage to or loss of the resource or site where the resource is located. This subsection shall not be construed to interfere with the responsibilities of the federal government or the state historic preservation officer pertaining to access, disclosure, and use of archaeological site records.

21. Information concerning the nature and location of any ecologically sensitive resource or site if, in the opinion of the director of the department of natural resources after consultation with the state ecologist, disclosure of the information will result in



unreasonable risk of damage to or loss of the resource or site where the resource is located. This subsection shall not be construed to interfere with the responsibilities of the federal government or the director of the department of natural resources and the state ecologist pertaining to access, disclosure, and use of the ecologically sensitive site records.

22. Reports or recommendations of the Iowa insurance guaranty association filed or made pursuant to section 515B.10, subsection 1, paragraph “a”, subparagraph (2).

23. Information or reports collected or submitted pursuant to section 508C.12, subsections 3 and 5, and section 508C.13, subsection 2, except to the extent that release is permitted under those sections.

24. Records of purchases of alcoholic liquor from the alcoholic beverages division of the department of commerce which would reveal purchases made by an individual class “E” liquor control licensee. However, the records may be revealed for law enforcement purposes or for the collection of payments due the division pursuant to section 123.24.

25. Financial information, which if released would give advantage to competitors and serve no public purpose, relating to commercial operations conducted or intended to be conducted by a person submitting records containing the information to the department of agriculture and land stewardship for the purpose of obtaining assistance in business planning.

26. Applications, investigation reports, and case records of persons applying for county general assistance pursuant to section 252.25.

27. Marketing and advertising budget and strategy of a nonprofit corporation which is subject to this chapter. However, this exemption does not apply to salaries or benefits of employees who are employed by the nonprofit corporation to handle the marketing and advertising responsibilities.

28. The information contained in records of the centralized employee registry created in chapter 252G, except to the extent that disclosure is authorized pursuant to chapter 252G.

29. Records and information obtained or held by independent special counsel during the course of an investigation conducted pursuant to section 68B.31 A. Information that is disclosed to a legislative ethics committee subsequent to a determination of probable cause by independent special counsel and made pursuant to section 68B.31 is not a confidential record unless otherwise provided by law.

30. Information contained in a declaration of paternity completed and filed with the state registrar of vital statistics pursuant to section 144.12A, except to the extent that the information may be provided to persons in accordance with section 144.12A.

31. Memoranda, work products, and case files of a mediator and all other confidential

communications in the possession of a mediator, as provided in chapters 86 and 216. Information in these confidential communications is subject to disclosure only as provided in sections 86.44 and 216.15B, notwithstanding any other contrary provision of this chapter.

32. Social security numbers of the owners of unclaimed property reported to the treasurer of state pursuant to section 556.11, subsection 2, included on claim forms filed with the treasurer of state pursuant to section 556.19, included in outdated warrant reports received by the treasurer of state pursuant to section 556.2C, or stored in record systems maintained by the treasurer of state for purposes of administering chapter 556, or social security numbers of payees included on state warrants included in records systems maintained by the department of administrative services for the purpose of documenting and tracking outdated warrants pursuant to section 556.2C.

33. Data processing software, as defined in section 22.3A, which is developed by a government body.

34. A record required under the Iowa financial transaction reporting Act listed in section 529.2, subsection 9.

35. Records of the Iowa department of public health pertaining to participants in the gambling treatment program except as otherwise provided in this chapter.

36. Records of a law enforcement agency or the state department of transportation regarding the issuance of a driver's license under section 321.189A.

37. Mediation communications as defined in section 679C.102, except written mediation agreements that resulted from a mediation which are signed on behalf of a governing body. However, confidentiality of mediation communications resulting from mediation conducted pursuant to chapter 216 shall be governed by chapter 216.

38. a. Records containing information that would disclose, or might lead to the disclosure of, private keys used in an electronic signature or other similar technologies as provided in chapter 554D.

b. Records which if disclosed might jeopardize the security of an electronic transaction pursuant to chapter 554D.

39. Information revealing the identity of a packer or a person who sells livestock to a packer as reported to the department of agriculture and land stewardship pursuant to section 202A.2.

40. The portion of a record request that contains an internet protocol number which identifies the computer from which a person requests a record, whether the person using such computer makes the request through the lowAccess network or directly to a lawful custodian. However, such record may be released with the express written consent of the

person requesting the record.

41. Medical examiner records and reports, including preliminary reports, investigative reports, and autopsy reports. However, medical examiner records and reports shall be released to a law enforcement agency that is investigating the death, upon the request of the law enforcement agency, and autopsy reports shall be released to the decedent's immediate next of kin upon the request of the decedent's immediate next of kin unless disclosure to the decedent's immediate next of kin would jeopardize an investigation or pose a clear and present danger to the public safety or the safety of an individual. Information regarding the cause and manner of death shall not be kept confidential under this subsection unless disclosure would jeopardize an investigation or pose a clear and present danger to the public safety or the safety of an individual.

42. Information obtained by the commissioner of insurance in the course of an investigation as provided in section 523C.23.

43. Information obtained by the commissioner of insurance pursuant to section 502.607.

44. Information provided to the court and state public defender pursuant to section 13B.4, subsection 5; section 814.11, subsection 6; or section 815.10, subsection 5.

45. The critical asset protection plan or any part of the plan prepared pursuant to section 29C.8 and any information held by the homeland security and emergency management division that was supplied to the division by a public or private agency or organization and used in the development of the critical asset protection plan to include, but not be limited to, surveys, lists, maps, or photographs. However, the administrator shall make the list of assets available for examination by any person. A person wishing to examine the list of assets shall make a written request to the administrator on a form approved by the administrator. The list of assets may be viewed at the division's offices during normal working hours. The list of assets shall not be copied in any manner. Communications and asset information not required by law, rule, or procedure that are provided to the administrator by persons outside of government and for which the administrator has signed a nondisclosure agreement are exempt from public disclosures. The homeland security and emergency management division may provide all or part of the critical asset plan to federal, state, or local governmental agencies which have emergency planning or response functions if the administrator is satisfied that the need to know and intended use are reasonable. An agency receiving critical asset protection plan information from the division shall not disseminate the information without prior approval of the administrator.

46. Military personnel records recorded by the county recorder pursuant to section 331.608.

47. A report regarding interest held in agricultural land required to be filed pursuant to chapter 10B.

48. Sex offender registry records under chapter 692A, except as provided in section 692A.13.

49. Confidential information, as defined in section 86.45, subsection 1, filed with the workers' compensation commissioner.

50. Information concerning security procedures or emergency preparedness information developed and maintained by a government body for the protection of governmental employees, visitors to the government body, persons in the care, custody, or under the control of the government body, or property under the jurisdiction of the government body, if disclosure could reasonably be expected to jeopardize such employees, visitors, persons, or property.

Such information includes but is not limited to information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of a government body to attack. This subsection shall only apply to information held by a government body that has adopted a rule or policy identifying the specific records or class of records to which this subsection applies and which is contained in such a record.

51. The information contained in the information program established in section 124.551, except to the extent that disclosure is authorized pursuant to section 124.553.

52. a. The following records relating to a charitable donation made to a foundation acting solely for the support of an institution governed by the state board of regents, to a foundation acting solely for the support of an institution governed by chapter 260C, to a private foundation as defined in section 509 of the Internal Revenue Code [FN1] organized for the support of a government body, or to an endow Iowa qualified community foundation, as defined in section 15E.303, organized for the support of a government body:

(1) Portions of records that disclose a donor's or prospective donor's personal, financial, estate planning, or gift planning matters.

(2) Records received from a donor or prospective donor regarding such donor's prospective gift or pledge.

(3) Records containing information about a donor or a prospective donor in regard to the appropriateness of the solicitation and dollar amount of the gift or pledge.

(4) Portions of records that identify a prospective donor and that provide information on the appropriateness of the solicitation, the form of the gift or dollar amount requested by the solicitor, and the name of the solicitor.

(5) Portions of records disclosing the identity of a donor or prospective donor, including the specific form of gift or pledge that could identify a donor or prospective donor, directly or indirectly, when such donor has requested anonymity in connection with the gift or pledge. This subparagraph does not apply to a gift or pledge from a publicly held business corporation.

b. The confidential records described in paragraph “a”, subparagraphs (1) through (5), shall not be construed to make confidential those portions of records disclosing any of the following:

(1) The amount and date of the donation.

(2) Any donor-designated use or purpose of the donation.

(3) Any other donor-imposed restrictions on the use of the donation.

(4) When a pledge or donation is made expressly conditioned on receipt by the donor, or any person related to the donor by blood or marriage within the third degree of consanguinity, of any privilege, benefit, employment, program admission, or other special consideration from the government body, a description of any and all such consideration offered or given in exchange for the pledge or donation.

c. Except as provided in paragraphs “a” and “b”, portions of records relating to the receipt, holding, and disbursement of gifts made for the benefit of regents institutions and made through foundations established for support of regents institutions, including but not limited to written fund-raising policies and documents evidencing fund-raising practices, shall be subject to this chapter.

d. This subsection does not apply to a report filed with the ethics and campaign disclosure board pursuant to section 8.7.

53. Information obtained and prepared by the commissioner of insurance pursuant to section 507.14.

54. Information obtained and prepared by the commissioner of insurance pursuant to section 507E.5.

55. An intelligence assessment and intelligence data under chapter 692, except as provided in section 692.8A.

56. Individually identifiable client information contained in the records of the state database created as a homeless management information system pursuant to standards developed by the United States department of housing and urban development and utilized by the Iowa department of economic development.

57. The following information contained in the records of any governmental body relating to any form of housing assistance:

- a. An applicant's social security number.
- b. An applicant's personal financial history.
- c. An applicant's personal medical history or records.
- d. An applicant's current residential address when the applicant has been granted or has made application for a civil or criminal restraining order for the personal protection of the applicant or a member of the applicant's household.

58. Information filed with the commissioner of insurance pursuant to sections 523A.204 and 523A.502A.

59. The information provided in any report, record, claim, or other document submitted to the treasurer of state pursuant to chapter 556 concerning unclaimed or abandoned property, except the name and last known address of each person appearing to be entitled to unclaimed or abandoned property paid or delivered to the treasurer of state pursuant to that chapter.

## **Iowa Code §262.7. Institutions governed**

The state board of regents shall govern the following institutions:

1. The state university of Iowa, including the university of Iowa hospitals and clinics.
2. The Iowa state university of science and technology, including the agricultural experiment station.
3. The university of northern Iowa.
4. The Iowa braille and sight saving school.
5. The state school for the deaf.
6. The Oakdale campus.
7. The university of Iowa hospitals and clinics' center for disabilities and development.

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

IN RE: )  
 ) ORDER  
INVESTIGATIVE MATTER )

NOW, on this 14<sup>th</sup> day of November 2007, it being a regular court day and the Court having been fully advised in the premises, and having considered the prosecuting attorney's request for a certain witness named below and the records under his/her control which are required by the prosecuting attorney's office in an investigation of certain violations of the criminal statutes of the Code of Iowa,

IT IS HEREBY ORDERED that the Clerk of the District Court of Johnson County shall issue a subpoena for the following person and the records under his/her control as set forth in the County Attorney's Application to Issue Subpoena Duces Tecum:

Equal Opportunity and Diversity Office  
University of Iowa

FILED  
NOV 14 AM 11:58  
CLERK DISTRICT COURT  
JOHNSON COUNTY IOWA

THE OFFICE OF EQUAL OPPORTUNITY AND DIVERSITY OR ANY OTHER DEPARTMENT, AGENT, OR EMPLOYEE OF THE UNIVERSITY OF IOWA IS NOT TO DIVALGE ANY INFORMATION CONTAINED IN THE MATERIALS RELEASED OR ABOUT THE INVESTIGATION ITSELF IN ANY CAPACITY.

IT IS FURTHER ORDERED that issuance of this subpoena shall not be disclosed to anyone, including the subscriber of the named records, excepting those who are responsible for gathering the named records and that this condition shall apply for a period of ninety (90) days.

  
\_\_\_\_\_  
JUDGE, SIXTH JUDICIAL DISTRICT OF IOWA





COPY

COUNTY ATTORNEY SUBPOENA DUCES TECUM

STATE OF IOWA, JOHNSON COUNTY, SS.

TO: Equal Opportunity and Diversity Office  
University of Iowa

YOU ARE COMMANDED to produce the below-described records to  
Agents of Department of Criminal Investigation and/or officers of University of  
Iowa Department of Public Safety, on or about the 14<sup>th</sup> day of November, 2007 by  
4:00 P.M.

YOU ARE FURTHER COMMANDED to produce and bring with you to the Office  
of the said County Attorney or deliver same to an agent of said County Attorney, to-wit:  
the following described papers, books, records, and documents, to-wit: any and all  
records of an investigation into sexual misconduct, victim being [REDACTED]  
[REDACTED] on or about October 14, 2007 by [REDACTED] and/or  
[REDACTED] or others including, but not limited to photographs, medical  
documents, interviews, videotapes, audiotapes, CD's and reports.

AND THIS YOU DO UNDER PENALTY OF LAW.

WITNESS, the Clerk of the District  
Court of said County, with the seal  
thereof, hereunto affixed, this  
14 day of Nov, 2007.

By: Barbara J. Segeton  
CLERK'S DESIGNEE

RETURN OF SERVICE

This subpoena came into my hands on \_\_\_\_\_, 2007,  
and I certify that I (faxed)(personally served) (served via certified mail) the subpoena on  
\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

IN RE: ) APPLICATION FOR  
 ) AUTHORITY TO ISSUE  
 INVESTIGATIVE MATTER ) SUBPOENA DUCES TECUM

COMES NOW, Anne M. Lahey as Assistant Johnson County Attorney, pursuant to Rule 2.5(6) of the Iowa Rules of Criminal Procedure, and states to the Court:

1. That (s)he is currently engaged in an investigation of Sexual Misconduct in violation of the criminal statutes of the State of Iowa.

2. That the following named person may have, or does, have information or evidence relevant to the investigation:

Equal Opportunity and Diversity Office  
University of Iowa

FILED  
2007 NOV 14 AM 11:58  
CLERK OF DISTRICT COURT  
JOHNSON COUNTY IOWA

3. The undersigned therefore requests that the Clerk of Court be authorized to issue a subpoena to the above-named person. That said subpoena shall direct the appearance of the above-named person, together with any and all records of an investigation into sexual misconduct, victim being [REDACTED] on or about October 14, 2007 by [REDACTED] and/or [REDACTED] or others including, but not limited to photographs, medical documents, interviews, videotapes, audiotapes, CD's and reports.

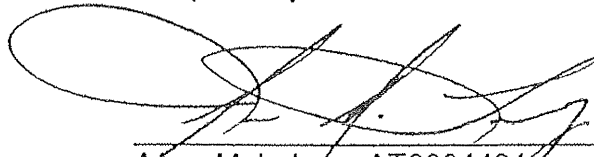
4. That the relevance of the information or evidence to the investigation is as follows: for the investigation of sexual misconduct victim being [REDACTED] [REDACTED], on or about October 14, 2007.

5. That issuance of said subpoena not be disclosed to anyone including the

above-named person nor to any employee of Equal Opportunity and Diversity Office, University of Iowa, excepting security personnel, and that this condition apply for a period of ninety (90) days.

6. That he/she shall produce said records at the office of Agents of Department of Criminal Investigation and/or officers of University of Iowa Department of Public Safety, on or about the 14<sup>th</sup> day of November, 2007 by 4:00 P.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Anne M. Lahey', is written over a horizontal line. The signature is stylized and somewhat cursive.

Anne M. Lahey AT0004424  
Assistant Johnson County Attorney

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

IN RE:

INVESTIGATIVE MATTER.

CASE NO. \_\_\_\_\_

ORDER

NOW on this \_\_\_\_ day of July, 2008, the University of Iowa's Application To Allow Disclosure of Information to the Board of Regents and Board Counsel came before the Court. The Court, having reviewed the University of Iowa's Application, finds that the Application should be granted.

IT IS HEREBY ORDERED that nothing in the Order of November 14, 2007 shall prohibit the Office of Equal Opportunity and Diversity or any other Department, agent, or employee of the University of Iowa from releasing any information subject to the Court order to the Board of Regents and Board counsel or from discussing the information with the Board of Regents and Board counsel.

*DLS. Russell*

JUDGE, SIXTH JUDICIAL DISTRICT OF IOWA

*cc Co. Atty  
G. Carroll, Asst Atty General.*

*7-28-08  
EB*

CLERK OF DISTRICT COURT  
JOHNSON COUNTY, IOWA

2008 JUL 28 PM 3:44

FILED

University of Iowa News Release

Nov. 14, 2007

### **UI officials issue statements on sexual assault report**

UI President Sally Mason is traveling but asked that this statement be issued on her behalf:

"The safety of all members of our campus and community is of paramount importance, so I am deeply disturbed to learn of allegations of a sexual assault. The university will do all that it can to insure that the investigation is thorough and that due process is followed so that a just resolution can be achieved.

"The issue of sexual assault has been very much on our minds this year. It is worth repeating what has been said at the various forums already held. Students, families, university employees and community members deserve and expect a safe environment, and we must all work together to create one. This new and unwelcome news is a sharp reminder that our collective efforts have only begun."

UI Athletics Director Gary Barta:

"Sexual assault is a very serious issue and we're treating it as such. I'm obviously concerned for the well-being and safety of the young woman; I'm concerned there are football players included in the investigation; and I'm concerned that we allow the legal process to take its course.

"Because this is an open investigation, authorities have asked me, Coach Ferentz and everyone in athletics to not comment further on this issue at this time."

UI Head Football Coach Kirk Ferentz:

"I have talked with Gary Barta on this matter. I share his concern for the young woman and her well-being. Likewise, I am concerned that football players are the subject of the investigation. Because it is an open investigation, I cannot comment more."

STORY SOURCE: University of Iowa News Service, 300 Plaza Centre One, Iowa City, Iowa 52242-2500

MEDIA CONTACT: Steven Parrott, University Relations, 319-335-0552, [steven-parrott@uiowa.edu](mailto:steven-parrott@uiowa.edu)

July 22, 2008

## UI President Mason responds to Regents' request

*the Press-Citizen*

Following is the text of a statement presented today to the Board of Regents, State of Iowa by University of Iowa President Sally Mason:

"Thank you for the opportunity to address you today on this important matter. Let me begin by expressing my profound and sincere regret for the failure to notify you of the letters that came to the University of Iowa from the mother of the UI student who reported being sexually assaulted last fall in Hillcrest Residence Hall. I apologize for this error and for not making certain that the board had access to all information relevant to this case.

"The original thinking that federal law known as FERPA, designed to protect student privacy, prevented the letters from being shared with our Board of Regents leadership is just not tenable. There is no excuse for the failure to turn over those letters as part of the investigation that you directed the Board of Regents office to conduct in the wake of the report of the assault.

"I will make it clear to all members of my administration that our obligation to maintain the privacy of student records should never be interpreted as preventing us from sharing information that you request in pursuit of your governance responsibilities.

"To ensure that you are able to pursue those responsibilities in this particular case, I welcome any additional process that you wish to set in motion. You will have the full cooperation of the UI faculty, staff and administrators. I trust that your further review will show that those involved in this case at the UI worked hard to follow the established policies and procedures under very difficult circumstances. I welcome and look forward to insight that will provide opportunities to improve our policies, processes, and the execution of both.

"Once you have completed your work on this case, I intend to engage independent outside expertise to examine our overall handling of all sexual assault cases. The results will be informed by best practices in higher education, and the expert and his or her findings will be shared with the board. We must, and we will, demonstrate that we continue to be an institution with integrity and with an abhorrence to violence. While we can hope that we will never again have to deal with such tragic and horrific cases, hard experience teaches us that we must be prepared.

"Finally, I offer my heartfelt sympathy to the young woman and her family for the stress, the trauma, and the sense of abandonment that they have expressed. From my observations of this situation throughout, I can say, honestly and sincerely, that many people tried very, very hard to help and be helpful. Good intentions, and even good actions, cannot, however, make up for what has happened.

"Let me close again with my apology for the failure to provide this information to the board."

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July 26, 2008

## Lyness: Sharing documents was UI's call

County attorney's office didn't give UI any advice on how to comply with seal, she says

*Lee Hermiston  
Iowa City Press-Citizen*

Johnson County Attorney Janet Lyness said a subpoena protecting documents related to the University of Iowa's investigation of an alleged sexual assault was not intended to keep those documents from reaching UI officials.

In a copyright story published Friday by The Des Moines Register, UI President Sally Mason said she did not read two of the UI's reports about its handling of the case. Mason cited UI's interpretation of a seal by a Johnson County judge.

"Ultimately, I have not seen any of the reports that were written," Mason told the Register.

Lyness said that wasn't the purpose of the seal.

"Our intention was that it would not be disclosed outside the university," she said Friday. "I would have hoped the university wasn't going to share it with anyone it wasn't appropriate to share with."

But Lyness said the university's view of the subpoena and how stringently it was enforced was up to them. Lyness said the county attorney's office did not offer UI any advice on how to comply with the seal.

"I guess that depends on how they interpreted the order," Lyness said. "How broadly or narrowly the university reads that is their call."

"I didn't have any particular directive to the university in terms of their internal procedures. I don't have a position one way or another," she said.

UI spokesman Steve Parrott said they viewed the judge's order very specifically.

"It was very clear the judge said we were not to share it with anybody," Parrott said Friday.

The documents concern the university's investigation of an alleged sexual assault in Hillcrest Residence Hall last fall. According to criminal complaints and search warrant affidavits, former football players Abeberell Satterfield and Cedric Everson sexually assaulted the young woman, a UI athlete.

Mason and UI have come under fire in the past week after letters written by the mother of the alleged victim to the university criticizing their response became public. The letters, one of which was written in November, were not included in an Iowa state Board of Regents investigation of UI's response to the allegations. As a result, the regents have reopened the investigation.

Sen. Joe Bolkcom, D-Coralville, said UI not disclosing the letters gives him "serious concerns," and he applauds the regents for investigating again.



"I'm glad that the Board of Regents has reopened the investigation into this matter," Bolkcom said. "I have confidence that (regents) President David Miles and members of the board are going to get to the bottom of this so lowans know the truth about what happened."

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