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**From:** Tuttle, Ilene [BOARD]  
**Sent:** Tuesday, November 04, 2008 1:35 PM  
**To:** 'vicki.lensing@legis.state.ia.us'; 'thomas.courtney@legis.state.ia.us'  
**Cc:** Donley, Robert [BOARD]; Smith, Dianne [BOARD]; 'Baumert, Andy [GOV R]'; Saunders, Keith [BOARD]; Murphy, Joseph D [BOARD]; Campbell, Bonnie J.; Downer, Robert; Evans, Jack B.; Gartner, Michael; Harkin, Ruth; Johnson, Greta A.; Lang, Craig; Miles, David; Vasquez, Rose  
**Subject:** Letter with Guiding Principles attached -- Government Oversight Committee meeting at 10:00 a.m., Monday, December 15, 2008  
**Attachments:** diannes@iastate.edu\_20081104\_135235.pdf

Senator Courtney and Representative Lensing:

Please advise is you would like "hard" copies in the U. S. Mail. Thank you.

Ilene Tuttle  
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David W. Miles, President, *West Des Moines*  
Jack B. Evans, Pro Tem, *Cedar Rapids*  
Bonnie J. Campbell, *Des Moines*  
Robert N. Downer, *Iowa City*  
Michael G. Gartner, *Des Moines*  
Ruth R. Harkin, *Cumming*  
Greta A. Johnson, *Le Mars*  
Craig A. Lang, *Brooklyn*  
Rose A. Vasquez, *Des Moines*

Robert Donley, *Executive Director*

November 4, 2008

The Honorable Thomas Courtney  
Chair, Government Oversight Committee  
Iowa Senate

The Honorable Vicki Lensing  
Chair, Government Oversight Committee  
House of Representatives

Dear Senator Courtney and Representative Lensing:

Thank you for the opportunity to meet with the Government Oversight Committee on Monday, December 15, at 10:00 a.m. At that meeting, I will be prepared to discuss with you the sexual assault policies and procedures that the Board of Regents is expected to adopt at its meeting on December 11, 2008. These policies and procedures are being developed in response to the University of Iowa assault case and the recommendations of The Stolar Partnership.

To provide you with an update at this time, I have included the Sexual Assault Guiding Principles adopted by the Board of Regents at its meeting on October 29, 2008. These principles, which will guide the development of the sexual assault policies and procedures for the Regent institutions, are based on a comprehensive, collaborative effort of the institutions to evaluate the best available practices in the higher education community. As indicated previously, the Regent universities are participating in a U.S. Department of Justice Campus Violence Prevention Project, which recently named the University of Northern Iowa a "Flagship Institution" under the Grants to Reduce Violent Crimes against Women on Campus Program. This designation includes a \$1 million grant which is being used to create a Campus Gender Violence Task Force where professionals from the violence prevention field, and representatives from each of the Regent campuses, are working together to assess the policies, programs, and issues needed to create safe campus communities.

Please do not hesitate to contact me or Bob Donley, Executive Director of the Board of Regents, should you have questions or concerns. We look forward to meeting with you on December 15.

Sincerely,

David W. Miles  
President  
Board of Regents

cc: Members, Board of Regents, State of Iowa

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**PROPOSED**  
**IOWA BOARD OF REGENTS**  
**SEXUAL MISCONDUCT GUIDING PRINCIPLES**

Pursuant to the Iowa Board of Regents Resolution passed on September 25, 2008, the following *Guidelines* were established to assist the University of Iowa, Iowa State and University of Northern Iowa, Iowa Braille and Sight Saving School, and Iowa School for the Deaf, with the comprehensive review of their policies and procedures dealing with sexual assault and related issues. The Board of Regents *Guidelines* are intended to ensure that all five universities sexual misconduct policies are consistent with the best practices in higher education. The *Guidelines* set forth policy and legal compliance elements which result in proactive campus sexual misconduct policies and create effective sexual assault risk management practices.

**Policy Compliance Elements:** Creation of a proactive sexual misconduct policy requires the following elements to be addressed:

- Policy statements must begin with an institutional statement of mission and values. The statement of intent must include the institution's position regarding all forms of sexual misconduct, including sexual harassment, and sexual assault
- Establish physical jurisdictional limits for policy
- Identify specifically to whom the policy applies; student policies should be distinct from employee policies
- Provide coordinated victim services utilizing campus and/or community-based resources, which address reporting options for victims, including reporting to law enforcement, initiating civil action, as well as providing physical and emotional support. Include a statement of victim's rights, which must include the following:
  - Information on reporting to law enforcement that clearly informs the victim of this option
  - An opportunity to participate in campus discipline hearings
  - The right to be accompanied by an advisor during the investigation and hearing
  - The right to provide a victim's impact statement if the accused is found in violation
  - The right to know the outcome of the hearing, including determination and sanction imposed

- Policy must clearly identify the intersection of sexual misconduct policies with other policies such as drug and alcohol, and hazing policies
- Clearly articulate prohibited conduct and include unambiguous definitions of behaviors
- Provide a timeline for reporting incidents of sexual misconduct
- Designate a primary institutional employee or an office to coordinate all sexual misconduct, including specific contact information
- Ensure staff are properly trained on Title IX regulations where the student is the complainant
- Provide a detailed explanation of university sexual misconduct policy procedures, investigation processes, reporting requirements, and a time frame for the investigation process
- Identify and articulate the adjudication process, including time frame and the manner in which the hearing is to be conducted
- Provide clear statement regarding confidentiality and limits on sharing and release of information
- Identify the institution's authority to take immediate action, which may include the following:
  - Imposing interim suspension
  - Modifying academic schedule of victim
  - Modifying housing arrangements for victim
  - Providing resources for medical and/or psychological support
- Specifically state the prohibition of retaliation for filing a complaint in good faith, or participating in an investigation or inquiry to a complaint
- Determine and set forth appeal framework, if any
- Set forth policy dissemination standards
- Set forth training protocol
- Describe the sanctions for violations and specific definitions of each sanction

**Legal Compliance Elements:** Creation of effective sexual assault risk management policies requires adherence to applicable state and federal laws:

- Title IX, **20 U.S.C. §§ 1681 – 1688**, 34 C.F.R. Part 106
- Jeanne Clery Campus Crime and Security Act, 20 U.S.C. 1092(f) §§
- Family Educational Rights and Privacy Act “FERPA”, 34 C.F.R. Part 99
- Iowa Open Records Act, Iowa Code Section 22
- United States Department of Education, Office of Civil Rights Revised Sexual Harassment Guidance: Harassment of Student by School Employees, Other Students, or Third Parties, January 2001.

Dated: October 20, 2008

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## **General Considerations for Policy Development:**

- ❖ Policies must withstand legal scrutiny by reflecting unambiguous language and procedures
- ❖ Avoid demonizing the accused
- ❖ Provide appropriate due process
- ❖ Ensure a fair and ethical process
- ❖ Recognize that confidentiality is a balancing act with the victim's interests, the rights of the accused, and legal parameters
- ❖ Sexual harassment and sexual assault should be addressed in separate sections
  - Provide details of what the offense means, not just a list of prohibited behaviors, but meaning, content and context; avoid speech codes to reduce risk for sexual misconduct liability
  - Definitions of prohibited conduct must provide students sufficient notice of behavioral expectations so that they may conform their conduct accordingly, and clearly recognize when behavior crosses the acceptable line
- ❖ Title IX requires a prompt and equitable response even if the complainant does not want to take further action. The university is required to respond to the extent possible to all reports of sexual misconduct. There must be a balance among the evidence, the legal requirements, and college policy in order to determine the proper equitable response
- ❖ Provide, within the policy delegations of authority, for reporting, investigating and correcting sexual misconduct of students and ensure those delegations are sufficiently articulated
- ❖ Consider creating a response team to oversee and evaluate certain types of complaints and make recommendations while the criminal and discipline process is ongoing
- ❖ Clearly articulate institutional policy regarding timing and protocol related to simultaneous criminal proceedings and discipline proceedings
- ❖ Ensure all staff are trained in sexual misconduct reporting, responding, investigation, and adjudication, and the implementation of university policy and procedures