

**BOARD OF REGENTS
STATE OF IOWA**

**AGENDA ITEM 2a
SEPTEMBER 17 - 18, 2008**

Contact: Andrea Anania

**BOARD OF REGENTS, STATE OF IOWA
PAPPAJOHN BUSINESS BUILDING ROOM W401
UNIVERSITY OF IOWA
IOWA CITY, IOWA**

JULY 22, 2008

Board Members

Bonnie Campbell	Via Phone
Robert Downer	Present
Jack Evans	Present
Michael Gartner	Present
Ruth Harkin	Via phone
Craig Lang	Present
David Miles	Present
Rose Vasquez	Via Phone

Staff Members

Andrea Anania, Mark Braun, Tim Cook, Bob Donley, Sheila Doyle, Tom Evans

Regent Institutions

Present:

University of Iowa: Sally Mason

Via Phone:

Iowa State University, University of Northern Iowa, Iowa School for the Deaf, Iowa Braille and Sight Saving School

The corresponding docket memorandum, an integral component of the minutes, is available on the Board of Regents web site: www2.state.ia.us/regents.

Copies of the memorandum can also be obtained from the Board Office by calling 515-281-3934.

President Miles called the meeting to order at 3:05 p.m. on July 22, 2008.

Establishment of an Advisory Committee to the Board of Regents to Reopen the Investigation of the University of Iowa's Compliance with Policy and Procedures While Investigating a Sexual Assault Complaint

Statement from President Miles:

'On Friday of last week, I learned that the mother of the alleged victim of an assault on the University of Iowa campus sent a letter to the University in November of 2007 expressing her profound distress about the way that her daughter's case was handled by University officials.

I have now read the letter, as well as a subsequent letter from May, and they are heart wrenching. At a time when her daughter desperately needed our support, from this mother's perspective, they did not find it. Both of those letters have been provided to all of the Regents.

When I was told of the existence of these letters, I was dumbfounded. First, because the allegations contained in those letters placed into question the University's commitment to what must be our most important priority, the well being of each of our students. Second, because this is information that this Board should have received eight months earlier.

On November 16, 2007, then Board President Michael Gartner ordered a review by the Board's legal counsel into the University's actions with regard to this alleged sexual assault. The President of the University of Iowa was informed of the investigation and the full cooperation of the University was expected.

In the course of the review, Board counsel interviewed numerous University of Iowa officials. Those individuals were informed that he was seeking to get a complete picture of how the University handled the assault, both to determine whether the University's policies and procedures were followed, but also to determine whether the policies themselves were appropriate or required modification.

In that context, for the University to have failed to inform the Board of the existence of the letters is a serious breach of trust. The November letter should have been delivered to the Board counsel at the earliest opportunity. The questions raised in the letter deserve answers. In fact, the letter should have served as the roadmap for the Board's inquiry. The emergence of the November letter some eight months after the fact undermines the credibility of the report that counsel prepared and delivered to the Board on June 12th and the actions we took in response to that report. Worse, the matter in which this has unfolded undermines confidence in the University of Iowa.

In order to get to the bottom of this situation, to do right by the alleged victim and her family, and to restore confidence in the University of Iowa and the Board of Regents, I am today asking this Board to reopen the investigation into this alleged sexual assault and the actions of all University employees involved in responding to this event.

An action item has been distributed to the Regents and will be distributed to the public and the press at this point."

President Miles read the agenda item.

"The Task Force (Advisory Committee) is expected to follow this inquiry where it takes them and to get answers to the questions raised. Complete candor and full cooperation is expected from all employees of the University contacted in the course of this investigation.

This Board owes Iowans a complete accounting and we will provide it while we will protect the legitimate privacy and other rights of the persons involved. We intend to shine a bright light on to this situation. Only by gaining a complete understanding of the events following the alleged assault can this Board respond appropriately.

Pending completion of this investigation, the Board will suspend receipt of the University's response to the initial recommendations presented in the June report."

Statement from President Mason:

"Thank you, President Miles, and thank you for the opportunity to speak 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 simply 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'll 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're able to pursue those responsibilities in this particular case, I welcome any additional process that you wish to set in motion. You'll 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 I look forward to insight that will provide opportunities to improve our policies, our processes, and the execution of both.

Once you've 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 abhorrence to violence. While we can hope that we'll 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've 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. Thank you."

President Miles thanked President Mason.

Regent Gartner asked if a legal hold has been put on all documents. General Counsel Tom Evans said that step had not been taken. In response to Regent Gartner's question, General Counsel Evans said that it could be recommended or demanded that documents be held for the impending investigation. In response to Regent Gartner suggestion, Regent Downer directed that it be done.

Regent Downer said that, to make sure that the Board and its staff receive information from the institutions necessary to perform their jobs, he interprets item 1d broadly to include responses to Board Office inquiries relating to other areas within the institutions. President Miles agreed that the charge should be interpreted broadly.

In response to a question from Regent Gartner, President Miles said that this Advisory Committee should interpret the charge broadly and be unfettered in terms of what it believes are sound recommendations to bring to the Board, even if it requires legislative action.

President Miles thanked Regents Campbell, Harkin, and Downer for their willingness to serve and noted that they are uniquely qualified to represent the interest of Iowans.

Regent Campbell: (1) thanked President Miles for his confidence in her and Regents Harkin and Downer; (2) stated that their mission will be to get to the truth and find answers to the questions outlined in the charge; (3) reported that she has overseen a number of investigations such as this one in her role as former Iowa Attorney General; (4) assured that outside counsel, expert advisors, and whatever else is necessary will be used to assure the independence, straightforwardness, and integrity in the report that will be submitted to the Board on September 18th; (5) said that she believes that the Board's obligation should be no less than to get to the bottom of this issue and that the Advisory Committee will make its best, most solid recommendations to the Board. President Miles thanked Regent Campbell for her comments.

Regent Lang asked if the Board will be informed of the Advisory Committee's process and any findings prior to the final report. Regent Campbell said that she planned to keep fellow Board members informed as much as possible and that it is essential the Board knows what kind of progress is being made and where it looks like the investigation is heading. President Miles clarified that reaching any conclusions until the inquiry is finished would be inappropriate.

In response to a question from Regent Lang on holding legal documents, President Miles said that the Board has made it very clear what it expects and he anticipates that those instructions would be followed. General Counsel Evans clarified that the Board lacks subpoena power and noted that the statute does not authorize the Board to have subpoena power.

- **MOVED** by MILES, **SECONDED** by GARTNER, to create an Advisory Committee to the Board of Regents to investigate the University of Iowa's compliance with policies and procedures while investigating a sexual assault case.

This Advisory Committee will be chaired by Regent Campbell with assistance from Regent Harkin and Regent Downer. The Advisory Committee will be staffed by Tom Evans, General Counsel to the Board of Regents, and will be assisted by the Attorney General's Office. The Advisory Committee is further empowered to hire outside counsel as needed to assist in their investigation of the facts.

In light of the substantial time that has passed since the alleged assault, the Advisory Committee shall issue a report to the full Board no later than September 18, 2008.

Specifically, the Advisory Committee is being directed to address two separate, but related issues:

1. Reopen the investigation of the University of Iowa's handling of the alleged sexual assault on a female student on the morning of October 14, 2007, including but not limited to:
 - a. Using the June 12 Board's General Counsel's report as a starting point, conduct a review of all actions taken by University personnel in response to the alleged assault from October 14, to the present;
 - b. Assess whether the University's policies and procedures were followed;
 - c. Evaluate each of the charges advanced in the November and May letters from the alleged victim's mother to the University; and
 - d. Recommend any policy changes or other actions determined to be appropriate.
2. Examine the circumstances around the decision not to disclose to the Board of Regents the existence of the November and May letters, how the decision was made, and on what basis. Again, the Advisory Committee is to recommend any policy changes or other actions appropriate.

<u>Regent</u>	<u>Campbell</u>	<u>Downer</u>	<u>Evans</u>	<u>Gartner</u>	<u>Harkin</u>	<u>Lang</u>	<u>Miles</u>	<u>Vasquez</u>	<u>Vacant</u>
Aye	x	x	x	x	x	x	x	x	
Nay									

MOTION APPROVED by ROLL CALL.

President Miles adjourned the meeting at 3:25 p.m.