

Contact: Andrea Anania

**BOARD OF REGENTS, STATE OF IOWA
CORALVILLE MARRIOTT HOTEL AND CONFERENCE CENTER
SALONS 3, 4 AND 5
300 EAST NINTH STREET
CORALVILLE, IOWA**

MINUTES OF SEPTEMBER 17 - 18, 2008

Board Members

	September 17, 2008	September 18, 2008
Bonnie Campbell	Present	Present
Robert Downer	Present	Present
Jack Evans	Present	Present
Michael Gartner	Present	Present
Ruth Harkin	Present	Present
Craig Lang	Present	Present
David Miles	Present	Present
Rose Vasquez	Present	Present

Staff Members

Andrea Anania, Andy Baumert, Brad Berg, Mark Braun, Marcia Brunson, Tim Cook, Bob Donley, Sheila Doyle, Tom Evans, Diana Gonzalez, Joe Murphy, Joan Racki, Keith Saunders, Patrice Sayre, Ilene Tuttle

Regents Institutions

SUI Sally Mason, Karim Abdel-Malek, Ellen Barron, John Buatti, Sue Buckley, Ken Fisher, Aaron Gwinnup, Lindsey Hocker, Roberta Johnson, Craig Just, Wallace Loh, Teresa Mangum, Jean Robillard, Chet Rzonca, Tom Rocklin, Paul Rothman, Richard Saunders, Doug True, Gordon Williams, Ann Williamson (via phone)

ISU Gregory Geoffroy, Elizabeth Hoffman, Warren Madden

UNI Benjamin Allen, Roland Carillo, Roberta Johnson, Jim Lubker, Tom Schellhardt

ISD Jeanne Prickett

IBSSS Patrick Clancy, Don Boddicker

Others

The Stolar Partnership: James Sears Bryant, Doreen Dodson, Peter Goplerud, Richard Mersman, Charla Scott

The corresponding docket memorandum for each agenda item, an integral component of the minutes, is available on the Board of Regents website: www2.state.ia.us/regents.

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

President Miles called the meeting to order at 3:25 p.m. on September 17, 2008.

Evaluation of Institutional Head

President Miles said that the Board will move into closed session to evaluate President Mason's first year at the University of Iowa and reported that the Board will discuss all elements of her first year other than the University's handling of the sexual assault case, which will be handled at a future meeting. He said that the Board would not be taking any action later today when the Board reconvenes in open session.

Executive Session

- MOVED by LANG, SECONDED by EVANS, to enter into closed session pursuant to Iowa Code section 21.5(1)(i) upon request of an individual whose performance is being considered. The individual has requested that their performance be discussed by the Board in closed session.

<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.

The Board convened in closed session at 3:30 p.m.

The Board reconvened in open session at 5:20 p.m.

President Miles adjourned the meeting at 5:20 p.m.

President Miles called the meeting to order at 8:35 a.m. on September 18, 2008.

Consent Agenda

- ◆ Minutes of July 22, 2008, Board Meeting
 - ◆ Regent Gartner noted that the minutes indicate that he was absent and requested that they be amended to reflect that he was present.
 - ◆ Minutes of August 6-7, 2008, Board Meeting
 - ◆ Institutional Personnel Transactions
 - ◆ Conflict of Interest Vendors
 - ◆ Request to Award an Honorary Doctor of Humane Letters Degree at the University of Iowa
 - ◆ Regent Downer disclosed that Himie Voxman, the proposed recipient of this Award, is a client and noted that Board Office Counsel indicated that he did not need to recuse himself.
 - ◆ Request to Award an Honorary Doctor of Science Degree at the University of Iowa
 - ◆ Request to Award an Honorary Doctor of Humane Letters Degree at the University of Iowa
 - ◆ Request to Award an Honorary Doctor of Humane Letters Degree at the University of Iowa
 - ◆ Revision to 2009 Board Meeting Schedule
- MOVED by LANG, SECONDED by GARTNER, to amend the Minutes of July 22, 2008, to reflect that Regent Gartner was present, and approve the Consent Agenda as amended.

<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									
Abstain									

MOTION APPROVED by ROLL CALL.

Executive Director Report

Executive Director Bob Donley reported that the institutions worked together over the last several months on student tuition and financial debt and that that Diana Gonzalez will be discussing the issue later today; recommendations will be presented to the Board at its October meeting.

Executive Director Donley announced the following:

- ◆ The October Board meeting will be a one-day meeting on October 29th; October 30th will be a strategic planning session with facilitator Dennis Jones, President for The National Center for Higher Education Management Systems. He said that Mr. Jones has been through the strategic planning process with several states over the past 30 years.
- ◆ The February 2009 meeting will include a strategic planning workshop on February 2nd; February 3rd will be the Board meeting.
- The Board received the report by GENERAL CONSENT.

Institution Updates

President Geoffroy reported on ISU's: (1) enrollment increase; (2) National Science Foundation grant for establishing an engineering research center focusing on biorenewable chemicals; (3) recent Bioeconomy Conference; (4) groundbreaking for the new Biorenewables Research Laboratory and the new Chemistry Building; and (5) dedications planned for the new Alumni Center and additions to the Seed Science Center and Coover Hall. President Miles congratulated President Geoffroy on the Biorenewables Research Laboratory and the Bioeconomy Conference, noting that Iowa's institutions for higher learning are places for spirited debate which occurred at this conference.

Superintendent Clancy reported on IBSSS's: (1) AmeriCorps induction ceremony; (2) return of students and their families to campus; and (3) award of a five-year federal deaf/blind grant for high-need, multiple disabilities services. In response to questions from Regent Gartner, Superintendent Clancy reported that there are 11 students on campus, a few in Vinton schools, and approximately 400 around the state; nearly all on-campus students have multiple disabilities and include secondary, middle, and high-school students.

Superintendent Prickett reported on ISD's: (1) response to the federal mandate on implementation of wellness policies and the School's goal for students and staff to maintain healthy lifestyles; (2) establishment of the first parent-teacher-student-staff association; (3) plan to participate in the Coordinating Council's meeting to review achievement data for state-wide and on-campus students; (4) involvement with the Area Education Agency's implementation of the Iowa core curriculum and literacy and math cadres; (5) curriculum and professional development; and (6) faculty member Megan Jones' photography award from the Iowa Schools and Public Relations Association and Cindy Soppe's funding grant from the National Endowment for the Humanities.

President Allen reported on UNI's: (1) student achievements, including Daniel Velasco, an undergraduate student from Ecuador who was the winner of The National Flute Association's 2008 Young Artist Competition; (2) Department of Communication Sciences and Disorders rank of 7th in the country; (3) planned educational activities and events prior to a visit from the 14th Dalai Lama of Tibet, which will focus on education and the values inherent in teaching and learning; (4) hosting the Iowa Teacher of the Year reception in October; (5) enrollment increase; (6) sustainability efforts and faculty member Professor Bill Stigliani's public service award from the Sierra Club for protecting the environment. President Pro Tem Evans asked how the Ecuadorian flautist found UNI. President Allen thought it was due to the School of Music's connections, reputation, and aggressive recruiting of talent from around the world.

President Mason reported on SUI's: (1) flood recovery efforts and enrollment increase - the third largest entering class in history; (2) current flood recovery and clean-up efforts; (3) research funding, including two new grants for understanding and combating hearing loss in preschool children and for research on chronic pain disorders related to kidney disease; (4) receipt of a \$25 million dollar gift commitment to the University of Iowa Foundation from the Fraternal Order of Eagles (FOE) to support diabetes research; (5) efforts to move forward on sustainability; and (6) budget proposal for the Iowa Institute on Sustainable Water and Energy.

President Miles congratulated President Mason and the entire University for the FOE award and acknowledged that it was a very competitive situation and speaks highly of the work coming out of the University of Iowa.

➤ The Board received the updates by GENERAL CONSENT.

Flood-Related Approvals for the University of Iowa

Regent Gartner asked if the University of Iowa has gone through everything and decided if they want to rebuild in the same location. Vice President True said no.

Regent Gartner asked what kind of protection the University is building for the future. Vice President True said that is part of the complex, intellectual work to be done. He said that some facilities should be rebuilt and that some mechanicals can be moved or the use can be changed in such a way to substantially mitigate risks. He added that each building will need to be evaluated as to how to go back and rebuild.

Regent Gartner asked about the future of Hancher Auditorium. Vice President True said that the University will have a dynamic performing arts center in the future and that the details are something that the University needs to consider, work on, and come back to the Board to discuss.

Regent Downer asked about the status of the river crossing and how soon that project is likely to be completed. Vice President True said that it is scheduled to be completed by December 15th.

Regent Lang stated that he hoped the University is working with the US Army Corps of Engineers with the idea to keep the reservoir level down far enough to contain a large amount of water at any given time. He thought that some problems could have been avoided. Vice President True said that the University is committed to work with them in a very positive way.

President Miles stated that a listing of all of the facilities affected and where the University is in terms of decisions would be helpful. Vice President True said that will be done.

In response to a request from President Pro Tem Evans, Vice President True elaborated on the relationship between FEMA and FM Mutual.

Regent Gartner stated that the Governor hired a consulting company and asked if the University has access to that company to help with FEMA. Vice President True said that the University separately engaged the consulting company and that the University has a pretty direct connection with FEMA. He said that, by the next Board meeting, he would be able to report to the Board how the system is working.

a. Status Report on Approved Capital Projects

- The Board received the report by GENERAL CONSENT.

b. Financing of Flood Relief

- MOVED by EVANS, SECONDED by GARTNER, to approve the Board Office and staff of the University of Iowa to pursue the following to assist the University in efforts to pay certain costs and expenses incurred in connection with flood related damage; provided that no such action shall jeopardize, impede or supplant insurance proceeds or other state, federal, or grant receipts:
 1. Pursue statutory amendments to the 2004 Academic Building Revenue Bond authorization;
 2. Pursue statutory amendments to the 2007 Academic Building Revenue Bond authorization; and
 3. Explore the possibility and feasibility of issuing revenue anticipation notes under Chapter 76 of the Iowa Code, anticipating receipt of insurance proceeds, or other state, federal or grant moneys, with the understanding that no Notes would be sold until the issuance is approved by the Board.

<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.

c. Reimbursement Resolution – University of Iowa Residence System

- MOVED by GARTNER, SECONDED by DOWNER, to adopt A Resolution declaring an official intent under Treasury Regulation 1.150-2 to issue debt to reimburse The State University of Iowa Residence System for certain original expenditures paid in connection with capital improvement projects.

<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.

Board President Report

President Miles deferred his remarks.

Audit/Compliance and Investment Committee Report

- MOVED by EVANS, SECONDED by LANG, to:
 - ◆ Approve the New Investment Options, Asset Allocations, and Fund Manager Selection;
 - ◆ Approve the Regents Investment Policy Revision; and
 - ◆ Approve Banker and Broker Changes

<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.

University of Iowa Hospitals and Clinics (UIHC) Trustees Report

Chair Downer provided a brief overview of the September 17, 2008, UIHC Committee meeting.

- The Board received the report by GENERAL CONSENT.

Resolution Honoring Marvin Pomerantz

President Miles noted the passing of one of Iowa's extraordinary leaders, Marvin Pomerantz, and said that he was many things to the Board of Regents, the institutions, and higher education in Iowa. He reported that Mr. Pomerantz rose out of poverty to great success and remains an inspiration. He said that Mr. Pomerantz's leadership still has an impact on the Board of Regents and that his vision improved education throughout the state. He acknowledged the generosity of Marvin and Rose Lee Pomerantz and said that it allowed the institutions to achieve excellence in a wide variety of areas.

President Miles stated that the Board's vision statement says, in part, that Iowa will become the nation's higher education leader by developing the best education state in the nation. He said that this describes the vision and life mission of Marvin Pomerantz.

To pay tribute to his memory and influence and to thank him for everything he did for education in Iowa, President Miles offered the following Resolution on behalf of the Board of Regents:

WHEREAS, Marvin A. Pomerantz inspired all Iowans as a man of great accomplishment and generosity; and

WHEREAS, he valued education as the key to his tremendous personal achievement in rising out of poverty to great business success and state educational leadership; and

WHEREAS, he made philanthropy and public service the cornerstones of his life philosophy; and

WHEREAS, he dedicated his life to providing the best education that the State of Iowa can give to every child; and

WHEREAS, he served the educational needs of Iowans through leadership on such boards and initiatives as the Commission on Educational Excellence for the 21st Century, the Business Forum for Education, the University of Iowa Foundation Board of Directors and capital campaigns; and

WHEREAS, he served two terms as President of the Board of Regents, State of Iowa, overseeing outstanding growth and ambitious increases in quality among the Regents institutions, exemplary commitment to affordability and accessibility in education, higher national institutional profiles that served Iowans and the entire country well, excellent stewardship of the resources provided by the citizens of Iowa, and deeper connections to the needs of the state for its prosperity and high quality of life; and

WHEREAS, his and his family's philanthropic generosity and personal advocacy were manifested in myriad areas across the Regents institutions, including a professorship in education and the Robert and Yvonne Koob Community Engagement Fund at The University of Northern Iowa; the Mary Louise Smith Chair for Women in Politics and support for faculty enrichment and athletics at Iowa State University; the Lied Multi-Purpose Complex at the Iowa School for the Deaf; and, at The University of Iowa, his alma mater, building projects such as the Pomerantz Family Pavilion of UI Hospitals and Clinics, the Pomerantz Career Center, the Pappajohn Business Building housing the Tippie College of Business which now includes the Pomerantz Business Library, the Levitt Center for University Advancement, the College of Public Health building, and others; Pomerantz chairs in cardiology, finance, orthopaedics, ophthalmology, political science, and public health; and other support for several Colleges, Hancher Auditorium, the University of Iowa Libraries, the Office of Student Services, the UI Museum of Art, the UI Alumni Association, and numerous other programs across campus; and

WHEREAS, He earned the respect and accolades of the people of the state and nation through such exemplary honors and awards as the Alexis de Tocqueville Award from United Way of Central Iowa, the National Governors Association Award for Distinguished Service, the Outstanding Philanthropist Award from the National Society of Fund Raising Executives, the Distinguished Iowa Citizen Award from the Mid-Iowa Council-Boy Scouts of America, the People of Vision Award from the Iowa Society to Prevent Blindness, the Hancher-Finkbine Alumni Medallion from The University of Iowa, the Oscar C. Schmidt Iowa Business Leadership Award from The University of Iowa, the first Roosevelt High School Humanitarian Award, induction into the Iowa Business Hall of Fame, and the Horatio Alger Award from the Horatio Alger Association of Distinguished Citizens;

NOW, THEREFORE, BE IT RESOLVED that the Board of Regents, State of Iowa, expresses its profound thanks and appreciation to Marvin A. Pomerantz, a man who provided extraordinary contributions to the Regents institutions and all its students; a man of unparalleled wisdom, generosity, tenacity, and dedication to the betterment of education in Iowa; a man whose legacy of leadership, philanthropy, and inspiration will live on in our state and nation; and a man who will remain in the memories and hearts of all citizens as one of the greatest of Iowans.

- MOVED by MILES, SECONDED by LANG to approve the resolution honoring Marvin A. Pomerantz. MOTION APPROVED UNANIMOUSLY.

President Miles said that the resolution will be extended in the form of a proclamation to his family.

Operating and Capital Budget Requests

Patrice Sayre provided a brief overview of the operating budget requests.

Regent Gartner asked if the Veterinary Diagnostics Laboratory (VDL) request is a continuation of the line item appropriation from last year or a decision to continue it as a separate line item. Ms. Sayre said that the request is for additional funding on what is assumed to be recurring funding. President Geoffroy said that the legislature's intent is to increase total recurring funding for the VDL to \$4 million, and noted that it is written in the legislative language. He added that \$2 million is included in the Agricultural and Natural Resources (ANR) appropriation and they are asking for the final \$2 million to be put in ANR thereby relieving the carveout burden to the education appropriation, noting that last year the legislature directed that \$1 million of the education appropriation be used for the VDL. In response to a question from Regent Gartner, President Geoffroy said that ISU will work hard to make sure that an education carveout does not occur again.

Joan Racki provided a brief overview of the capital budget request.

Regent Gartner asked if the Regents are still under the moratorium for new money. Ms. Racki said that the moratorium expires at the end of FY 2013. President Gartner asked if these requests are exceptions. Ms. Racki responded affirmatively.

President Miles asked how much progress has been made over the last five years in fire and environmental safety and deferred maintenance (FESDM). Ms. Racki said that it is higher than five years ago and is due to aging facilities, flat or reduced building repair funds, and increased construction costs. President Miles asked what the \$50 million request covers. Ms. Racki said that it is a down payment on the \$275 million five-year plan.

Regent Gartner asked if a piece of the \$50 million is flood recovery. Ms. Racki said that is to be determined based on the needs of the University of Iowa. Regent Gartner said that that the cumulative total will probably go down and not up since the flooded buildings most likely had deferred maintenance. Ms. Racki said yes and no since some buildings have recently been completed and would not have had any deferred maintenance.

Regent Gartner noted that deferred maintenance goes down when buildings are repaired or torn down. Vice President Doug True added that it can go up when buildings are audited and that, over the last 10 years, the trend is that the University's buildings are in better condition because of the diligence of the Board and the University to care for them.

President Miles asked for the dollar amount needed to cure all fire and environmental safety concerns. Ms. Racki estimated \$10 million dollars for general fund facilities such as academic facilities as opposed to residence halls, student unions, and parking facilities. President Miles thought that the \$10 million sounded low and asked Ms. Racki to get this information to him at a later date. Vice President Madden thought the \$10 million was low as well and discussed items that ISU includes such as asbestos abatement, underground storage tank issues, lead paint removal.

Regent Lang asked about exceptions to the moratorium. Regent Gartner said that the Regents received a large amount of capitals a few years ago and, in return, agreed to not request additional state capital funding for new academic buildings through FY 2013. He added that exceptions include: (1) capital projects already receiving funding; (2) new infrastructure projects resulting from economic development initiatives; (3) completion of Phase II of ISU's College of Veterinary Medicine project; (4) projects for deferred maintenance, fire safety, and campus security improvements; and (5) anything that did not need state money. In response to President Miles' request, Ms. Racki confirmed that these are the exceptions.

Individual budget presentations were made by the Superintendents and Presidents.

Regent Downer expressed serious reservations about whether renovation of Baker Hall at UNI is appropriate at this time and thought that a new building would be more valuable. Regent Downer said that renovation is not an economical approach or an optimal solution to the problem and hoped that a different solution could be found. President Allen agreed with Regent Downer and said that a new building could be smaller and more efficient.

Regent Gartner asked how much a new building would cost. Vice President Schellhardt estimated that the cost for a 75,000 square foot building would be around \$20 million. In response to Regent Vasquez, President Allen said that the \$20 million estimate is for a 75,000 square foot building.

Regent Gartner said that private funds can rarely be raised for renovation, but that sometimes private funds can be raised for new buildings. President Miles asked President Allen to work with the Board Office to prepare a report comparing and contrasting the costs of renovation versus construction of a new building.

President Allen cited legitimate concerns regarding odors, mold, and lead paint for the urgency.

President Miles noted the October 1, 2008, deadline to present a request to the Governor and the moratorium, and said that he understood what brought President Allen to this point.

President Mason stated that the University wishes to remove the request for Center for Elder Health and Productivity (CEHP). President Miles asked if that money was moved elsewhere. President Mason said that efforts in this area would be continued and the University would not ask for state funds knowing that the budget is tight. She added that the CEHP money was not added somewhere else.

Regent Downer asked if there is a possibility of an additional residence hall in the numbers for resident services, improvements, and replacements. Vice President True said no and that the University may request it in the future after careful consideration. Regent Downer said that he hoped that consideration be given sooner rather than later citing the age of the whole residence hall system.

Regent Downer noted that the Carver Hawkeye Arena (CHA) proposal was not on the list. Vice President True said that projects that have received permission to go forward, as the CHA proposal has, then it is not on the list.

In response to a question from Regent Lang on the \$4.1 million requested for sustainable water and energy, President Mason stated that the University plans to make an internal commitment to increase faculty to 30 members.

President Pro Tem Evans asked for the status of Baker Hall in the motion. President Miles said that it was submitted as a renovation and that an amendment would be needed if it were to change to construction of a new building. President Allen offered that one approach would be to keep the request as is and adjust it at a later date, if necessary.

Regent Lang said that he is troubled by the process. He said that, from his perspective, he does not fully understand the ramifications of everything that the Regents are being asked to consider. He said that the Regents then are asked to approve recurring operating budgets and expressed his desire to see the total cost when the Regents are asked to vote.

President Miles agreed and said that Executive Director Donley will be working on providing information to the Board months earlier next year. Executive Director Donley gave an overview on the Florida system's process, which lasts several months long and includes development of full budgets for each proposal. Regent Lang said that it would be helpful to fully understand ramifications of each budget.

Regent Harkin asked about the political feasibility about getting this budget passed in the legislature. Executive Director Donley said that he was not sure because of what the flood recovery might look like. He said that a special session is not planned so there will be no indication ahead of time.

Regent Gartner said that it will be a very tough year in the legislature and suggested that a plan b and plan c be developed and include how any potential decrease in appropriations impacts tuition.

President Miles recognized the challenges from the flooding facing the state and its citizens. He said that it is important to convey the critical nature of what the Regent enterprise does and the important work of the universities and special schools. He said that the Regents will be prepared and will not shy away from saying that we are trying to build world-class institutions in Iowa.

Regent Downer requested that the study on UNI's Baker Hall be part of the motion. President Miles noted no objection to the proposed amendment.

- MOVED by LANG, DOWNER, SECONDED by EVANS, to:
 - ◆ FY 2010 Operating Appropriations Requests
 - ◆ Approve the identified operating appropriations requests for FY 2010 totaling \$792.2 million. Funds to support the UIHC IowaCare Program are projected to be \$80.3 million. For the first time, Iowa Public Radio is included in the Board of Regents appropriation request in the amount of \$0.5 million.
 - ◆ Five-Year Capital Plans, Including FY 2010 Capital Request
 - ◆ Approve the Five-Year State-Funded Capital Plan for FY 2010 – FY 2014 of \$688.8 million, including a capital request of \$147.0 million for FY 2010, to be funded by capital appropriations or Academic Building Revenue Bonds;
 - ◆ Receive the Five-Year Capital Plan (FY 2010 – FY 2014) of \$49.9 million for the University of Iowa Hospitals and Clinics to be funded by Hospital Building Usage Funds and Hospital Revenue Bonds; and
 - ◆ Receive the report on FY 2010 – FY 2014 capital plans of \$383.0 million for the universities and special schools to be funded by sources other than capital appropriations, Academic Building Revenue Bonds, or UIHC Funds.
 - ◆ Institutional Budget Presentations
 - ◆ Receive the institutional budget presentations.
 - ◆ Request that the University of Northern Iowa prepare a report comparing and contrasting the costs of renovating Baker Hall versus construction of a new building and submit it to the Board at its October meeting.

<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.

Modification of University of Iowa Flexible Benefits System

Marcia Brunson explained the modifications in the University of Iowa Flexible Benefits System. These modifications would be phased-in over three years. The modifications include decreasing the cap on life insurance and reducing the amount of flex credit that may be directed to spending accounts.

Regent Gartner asked would these modifications result in savings to the University.

Vice President True explained the University started looking at the flexible benefits program in an effort to get control of the ongoing fringe cost. He indicated the modifications were expected to result in \$2 to 3 million savings per year after the modifications are made in 2011. He also stated the cost of fringe benefits will not go down.

Regent Gartner stated he understood the phase-in on the flexible credits cap but did not understand the need to phase-in the life insurance reduction.

Vice President True stated there have been a number of issues and special circumstances. The University felt it would be best to give employees ample time to acquire insurance elsewhere.

Regent Downer asked if there would be some sort of conversion possible for the faculty or staff members faced with an insurability problem.

Richard Saunders, University of Iowa Director of Benefits, explained a total of 11,000 faculty and staff were covered by the flexible benefits program. Of that total approximately 600 individuals would be affected by the life insurance change and of those only 40 individuals would be unable to get coverage through other means.

Sue Buckley, Associate Vice President for Finance and Operations, stated the modifications were recommended in the life insurance program without regard to these individuals. She explained alternatives were being explored with Principal for these 40 individuals to bear the cost of additional life insurance coverage.

Regent Gartner asked why the life insurance change was not made immediately.

Ms. Buckley explained there was an intense lively debate on the campus about the need for modifications in the flexible benefits program. After these discussions, President Mason chose a path that was a phase-in because of the changes. She said, while the campus community realized the changes made sense, there was one clear message in the campus discussions that it was too much too quickly.

Regent Lang asked how the flex credits affect health and dental insurance.

Ms. Buckley explained each individual receives one allocation of flex credits. The amount of flex credits given for each product is based upon a formula using the employees, age, salary, and marital status. The employee may decide to purchase only the minimum offered for the insurance products and place the remainder of the flex credits into medical or dependent care spending accounts.

Regent Lang stated many times health and dental insurance are separate from flexible benefit programs.

Ms. Buckley stated the recommendations from the Funded Retirement and Insurance Committee, which will be implemented on January 1, 2011, is fusion of a traditional plan and what the University feels are best components of the flex program.

➤ **MOVED** by EVANS, **SECONDED** by DOWNER to approve the modifications to the flexible benefits program at the University of Iowa as follows:

On **January 1, 2009**, maintain the existing flexible benefits program under the current structure, except:

1. Decrease the cap on University flex credits directed to spending accounts from \$9,000 to \$7,500; and
2. Adopt a new Group Life Insurance cap level: Employer funds 2½ times salary up to a maximum salary of \$200,000. (Maximum Group Life coverage will be \$500,000). All other features of life insurance will remain the same, including the option to purchase supplemental life.

On **January 1, 2010**, maintain the existing flexible benefits program under the current structure, except:

1. Decrease the cap on University flex credits directed to spending accounts from \$7,500 to \$6,000.
2. Reduce the funding and coverage cap of Group Life Insurance from 2½ to 2 times salary. Continue maximum salary cap of \$200,000. (Maximum Group Life coverage will be \$400,000). All other features of life insurance will remain the same, including the option to purchase supplemental life.

On **January 1, 2011**, implement the May 2008 Funded Retirement and Insurance Committee (FRIC) recommendations as detailed in Attachment A of the agenda item. The University of Iowa administration may modify these recommendations if financial circumstances warrant or if the University governance process produces additional modifications that improve upon the 2008 FRIC recommendations while still achieving the goals of financial sustainability and competitive fringe benefits. Significant changes different from the recommendations outlined will be subject to subsequent consideration by the Board.

Regent Gartner asked if there was an interest from the Board members to move the full implementation from 2011 to 2010.

President Miles stated Regent Gartner could offer an amendment to the motion if he chose to. President Miles stated he was not prepared to take this out of the hands of the University's administration. He did encourage the University to take what was discussed today and move as quickly as possible.

Regent Harkin stated she had asked for information regarding the total compensation packages for faculty. Ms. Brunson stated that information would be part of the Human Resources Comprehensive Report presented to the Board at its December meeting. Regent Harkin asked the information be provided sooner.

<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.

Resolution for the Sale and Issuance of \$33.7 Million Estimated Hospital Revenue Bonds, Series S.U.I. 2008

President Miles stated that this item was removed from the agenda.

Institutional Agreements, Leases and Easements

- MOVED by DOWNER, SECONDED by HARKIN, to approve the lease and the sub-lease for the benefit of the University of Iowa as summarized in the agenda item, subject to approval of the final documents by the Board Office and Attorney General's Office.

<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	
Nay									
Abstain						x			

MOTION APPROVED by ROLL CALL.

Register of University of Iowa Capital Improvement Business Transactions

- MOVED by LANG, SECONDED by GARTNER, to approve the University of Iowa's request to use of a construction manager for the **Data Center** project.

<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.

University of Iowa Proposed Property Purchase

- MOVED by GARTNER, SECONDED by DOWNER, to approve the purchase of property located at 435 Ridgeland Avenue, Iowa City, Iowa, at the purchase price of \$400,000 from Gary Klinefelter and Cynthia Parsons.

<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.

Register of Iowa State University Capital Improvement Business Transactions

President Miles requested, for future revised budgets such as the one presented for the Chemistry Facilities project, that the University provide a more thorough explanation and justification for the revised budget to allow the Board to have a better understanding of the need for the budget increase.

- MOVED by DOWNER, SECONDED by EVANS, to authorize permission to proceed with project planning, and the selection of InVision Architecture, Des Moines/Waterloo, Iowa (design professional), and J. E. Dunn Construction Company, West Des Moines, Iowa/Kansas City, Missouri, and Story Construction Company, Ames, Iowa (construction manager firms) for the **College of Veterinary Medicine – Phase 2 – Small Animal Hospital Renovation and Addition** project, and approve the revised project budget for the **Chemistry Facilities (Hach Hall)** project (\$78,107,090).

<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.

Highlighted Technology Transfer Presentation

The Board heard a report on the Virtual Soldier Program from Dr. Karim Abdel-Malek, Professor in the SUI College of Engineering and Director of the Center for Computer Aided Design. Dr. Abdel-Malek is an international expert in human simulation, is the creator of SANTOS, a comprehensive environment for simulating biomechanics, and is the founder and director of the Virtual Soldier Research Program.

- The Board received the presentation by GENERAL CONSENT.

Faculty Presentation at the University of Iowa: “Service Learning at the University of Iowa”

Professors Teresa Mangum, Craig Just, and their students, Lindsey Hocker and Aaron Gwinnup, explained that students in service-learning courses partners with community organizations to address community-identified needs. However, unlike volunteer work, service-learning experiences also enable students to learn course content just as textbooks, classroom discussions, lectures, and labs do. Therefore, students not only learn to serve but they also serve to learn. Service-learning has a positive impact on students’ understanding of course content, as well as leadership skills, social responsibility, and acceptance of diversity. Students in service-learning courses are also more likely to graduate. Alumni who participated in service-learning are not only more involved in their communities but also indicate higher satisfaction with their college experience.

Regent Lang asked if the next step would be commercialization of the water filtration system. Mr. Gwinnup stated that he is looking into it.

- The Board received the presentation by GENERAL CONSENT.

Request to Establish a New Center at Iowa State University – Center for Biorenewable Chemicals

Provost Elizabeth Hoffman indicated that the proposed Center for Biorenewable Chemicals will transfer the chemical industry by integrating biological and chemical catalysis systems to produce biorenewable chemicals.

President Pro Tem Evans asked Provost Hoffman to explain what is happening in the industry. She responded that the industry is in its infancy and that there are not many biorenewable chemicals yet. President Geoffroy indicated that he recently attended a bioeconomy conference and there had been two days of breakout sessions on this topic. Regent Lang indicated that the possibilities for biorenewable chemicals include more than energy; that everything we use will be affected, including food.

- MOVED by GARTNER, SECONDED by DOWNER, to approve the establishment of the Center for Biorenewable Chemicals in the College of Engineering at Iowa State University.

<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.

Access and Affordability – Part 1 – A Board of Regents Initiative

Diana Gonzalez and Iowa State University Financial Aid Director Roberta Johnson made a Power Point presentation. The purpose of Part I was to describe and understand how cost of attendance, ability to pay, and financial aid resources (federal, state, university, private, other) available to students, in combination, affect how students pay for their education.

Regent Gartner asked about the proportion of students who have debt upon graduation. Ms. Johnson responded that it is about 72% at ISU; UNI Financial Aid Director Roland Carrillo indicated that it approximately the same at UNI; at the University of Iowa, it is slightly less. President Miles requested that the minimum, maximum, and median debt loads of students be included in the part II report. He indicated that the Board is trying to get a handle on why the Regent universities have low tuition in comparison to their peers but have high debt loads for their students. The Board wants to understand this phenomenon and whether it is a problem.

Regent Downer reported that a major focus of the Midwest Higher Education Compact has been on student financial aid. He indicated that the next MHEC symposium will be on November 17-18, 2008 in Minneapolis. He encouraged participation.

Regent Lang referred to the data on average household income and to the fact that in 2006-07, the average family gross income for more than 75% of students who received financial aid was \$75,000 or more. He asked that information be provided about how this related to ten years ago.

President Miles thanked the team for a comprehensive report.

- The Board received the report by GENERAL CONSENT.

Iowa Lakeside Laboratory Regents Resource Center (ILLRRC) Annual Report and Budget Request

Diana Gonzalez and SUI Associate Provost and Dean of Continuing Education Chet Rzonca discussed the ILLRRC annual report and proposed FY 2009 budget. Dr. Rzonca thanked Dr. Gonzalez for providing leadership in preparing the annual report and proposed budget.

Regent Harkin asked Dr. Rzonca if there is a possibility that the universities do not want to continue to use the Lakeside Lab. Dr. Rzonca responded that there is a possibility; however, with the enhanced work being done at the ILLRRC, including providing a place for people to learn about the environment, more interest in using the Lab will likely be generated.

- MOVED by LANG, SECONDED by DOWNER, to receive the annual report of the Iowa Lakeside Laboratory Regents Resource Center and approve the FY 2009 budget.

<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.

Advisory Committee's Report on the University of Iowa's Compliance with Policy and Information Procedures While Investigating A Sexual Assault Complaint

President Miles provided a brief overview of the situation and thanked Regent Campbell for chairing the Committee and Regents Downer and Harkin for their hard work.

Regent Campbell thanked her colleagues; Board Office staff, especially General Counsel Tom Evans; Attorney General Tom Miller and his staff; and the media noting their patience and understanding.

CAMPBELL: "I think it's fair to say we've been totally silent on the substance of our activities while trying to keep people informed about the process. I just want to make, in the very broadest of terms, a few comments. When we embarked upon this effort, we all made a commitment to the people of Iowa that this investigation would be as transparent as humanly possible given the nature of it. It would be independent and it would be fast, for which I express my thanks to The Stolar Partnership. This is procedurally how things unfolded over the past few weeks – The Committee was updated by the Stolar team once a week on process. We had literally no input into the results of this investigation. We did, obviously, identify people who were known to us and shared the information that we received from other sources. But as to the content of the report, we have not edited this report in any way. We have seen a draft, we three. I think we got a final electronic report last night, but this didn't download too well on my I-phone. So, the truth is, I don't think any of us has read this report. I will tell you that you'll get instructions later about receiving the report, but, for the moment, I will introduce the leader of this investigative team, James Bryant, and ask James to say a little bit about himself and to introduce his colleagues. And thank you for being here today."

BRYANT: "Thank you, Regent Campbell and good afternoon Regents and others. Let me first introduce our team.

- ♦ *Dick Mersman is the COO of Stolar and a Senior Partner at Stolar;*
- ♦ *Doreen Dodson. Doreen is a Senior Partner at Stolar and a trial lawyer with an extensive background in sexual harassment law as well as corporate investigations;*
- ♦ *Peter Goplerud. Peter is Of Counsel to The Stolar Partnership. He is Dean of the Florida Coastal School of Law, which is one of the largest law schools in America. He was formerly the Dean of Drake, the University of Oklahoma, and Southern Illinois. Peter also is a specialist in Sports Law and NCAA, which is a very unique academic specialty in the law school administration ranks; and finally*
- ♦ *Charla Scott. Charla is an Associate in our Higher Ed Department. She is also a former Northwestern Athlete. She was a fencer and, as we debate finer issues of law, she reminds me she can make the point so I try not to debate her too much.*

I would like to first thank the Regents for entrusting us with this very serious task and also for giving us the tools necessary to do it, and the leeway and the full cooperation. We could not have taken it and would not have taken it had it not been a no-holds barred arrangement, where we could go ultimately find the truth, regardless of what it was.

I would also like to thank numerous people at the University of Iowa community. Staff in particular – Marilyn in the President's Office, Sandy in the Athletics Department, and many others for helping us physically arrange the interviews. We had seven weeks to interview 40, 50 plus people and the staff literally assembled people in their office or conference rooms, had them return our phone calls for follow ups, and had that not been done, this would have taken months and months and months – just the physical issues.

I would like to also thank everyone who participated and was interviewed and investigated. Staff, students, administrators, in both off-the-record, background interviews, and on-the-record interviews. I think I can say for the group that everyone fully cooperated with us and told their story. And they did that even though the story they were telling was going to put them under scrutiny or maybe even criticism and some of the people that were interviewed or criticized today, but they're not criticized for lack of transparency or openness with us or over competence.

I'd like to also thank the press also. You really let us do our job. You have a job, too. We couldn't have done it without some room and you gave us some room.

Some general comments. Despite the intensity of this issue here, we didn't really know much about it until a couple of days before our job interview with the Regents, and actually were able to get up to speed pretty quickly because of the press accounts. We assembled a press book quickly and it really had a nice timeline and really made us aware.

We only had very general knowledge of the Iowa landscape. The University of Iowa has a great long-term tradition in higher ed. The Athletic Department has a fine tradition. The state, as a whole, has a wonderful tradition, but we didn't know much about this case. We quickly became immersed in it and we have a very specific function here today and our investigation was a very specific focus. That is the only thing we are reporting on today.

And our engagement, our very specific engagement, as was alluded to, was to investigate the response of The University of Iowa to the alleged sexual assault of a Student Athlete. We didn't go into the facts of the assault, except as necessary, to try to give context to the larger question. We needed to determine was the response effective? Were University policies followed? Were those policies adequate? Were the individual departments at The University of Iowa responsive? Were individual administrators at The University of Iowa responsive and effective? Was there a cover-up? Was the victim pressured into pursuing an informal investigation or not reporting it to the police as a part of a cover up?

Our protocol was really, I think, unique, but fit this task. We had this group divide up the documents and the witnesses. Some of us, people sitting right next to me, saw all the documents. We divided the interviews up among us. Some of us interviewed one person, some of us interviewed others. We didn't necessarily interview the same ones going in, but we cross referenced each other. I might do an initial interview. One of the other team might follow it up with additional questions or vice versa. We would cross check the notes of our interview with the three or four or five thousand documents that were produced to us and the media accounts. We would cross reference them with their own notes and with others' emails.

So really, we think we created a very valid academic research base to reach an opinion. At the end of the process, which took about six or seven weeks, we literally locked ourselves in a conference room like a jury would and hashed it out. What to me was amazing and remarkable was, despite our very different backgrounds, our very different specialties, the fact that we didn't talk to all the same people or look at all the same documents, we very quickly had a uniform handle on what we thought happened. And from the research perspective, just as a higher-ed project or a dissertation, or a study or a report, we felt very good about it. And it surprised us. We expected to debate and fight and fence a lot more than we did. And we did, we did a bit of that, but it was very apparent to us quickly what the major trends were and what the data said, which leads us to the findings.

I want to make a couple of disclaimers. Read the report in its entirety. I'm going to speak to it orally, but the written report speaks for itself. It is very fact specific; it is very department specific; it is very administrative, administrator, and employee specific. You can't just read the beginning of it, where it has the mother's allegations and the responses, because so much of that depends on what comes later. You just can't read the later part because a lot of that interrelates to the first part. It would be very easy to be out of context. Having said that, I'm going to do two things before we yield the floor to questions. I'm going to give some broad findings that I think permeate the report as a whole. Then I'm going to literally, allegation by allegation, take the family's letter, and the allegation contained in the letter, and I'm going to respond to it based on the investigation.

First, generally about the report as a whole. The University's response to the alleged sexual assault was simply not adequate. While a majority of the University's policies and procedures were followed in form, the substance of the response was unacceptable. There was, however, no cover up by the University, nor its employees. No attempted cover up, nor did anyone attempt to pressure the victim or her family into somehow not reporting the assault or to deal with it informally.

Some University administrators, such as the Office of the Dean, failed to take actions which could have prevented much of what went wrong, but they chose not to out of policy disputes, territorial disputes with other departments, and because of a misunderstanding of their own rules and regulations.

There existed an unacceptable conflict of interest in the General Counsel's Office, who, in effect, led this investigation. The victim had the right to have her interests protected by the person leading this investigation and the General Counsel's Office appropriately only represents that of the University. The General Counsel's Office also failed to turn over needed documents to the Regents for its first investigation for no justifiable reason.

The policies and procedures at the University of Iowa dealing with these issues are conflicting, inconsistent, not well understood, and inadequate. They must be rewritten to conform to both higher-ed best practices nationally and in a manner consistent with the other universities within its own system.

The victim in this case, and all such cases, should have the opportunity to have a rape advocate counselor with him or her at all times. No department should ever be allowed to informally investigate a violent act such as a sexual assault itself on an informal basis. Our evidence also showed that the department that investigated this had no interest in doing that and was also very uncomfortable in doing that.

The Student Athlete was subjected, in this case, to intolerable harassment and bullying by other male and female student athletes despite the efforts by their respective coaches and others to encourage a supportive environment.

And finally, there was great confusion by the victim and her family about what was actually occurring during the investigation by virtue of the confusing procedures and policies, and because of the lack of an independent advocate to help them explain and navigate the process.

I now want to go to the specific allegations of the family's two letters, which would be page nine in the report.

At the center of Special Counsel's investigation was an 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:

1. Allegations contained in the Student-Athlete's Mother's letter of November 19, 2007:

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. Athletic 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 the department. Given the lack of understanding between the parties and the emotional state 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 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 investigative 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 how to proceed, and were without a trained advocate.

Allegation: The Department of Athletics did not advise the Student Athlete that she could have a rape-victim advocate.

Response: The investigation indicates that the Department of Athletics did recommend that the Student Athlete and her family retain legal counsel to protect her 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. Some sources within the Athletic Department state that the Student-Athlete's father asserted that he would be serving as the advocate. In his interview with investigators, the Student-Athlete's father stated he never made such a statement. During her interviews with investigators, the Student Athlete stated that she was not aware that she was allowed to bring her own advocate with her, given the high-level officials who would be present at the meeting.

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 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 24th, 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 number two and football player number one had not been removed from Hillcrest Hall, Mills' response was that there was a lot of bureaucracy involved in the University investigations and that things would happen in time. Mills spoke with the Student-Athlete's father between October 24th and November 13th, after which time their communications 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 within the Office of General Counsel acting in that capacity.*

Allegation: *President Sally Mason was uninformed and unresponsive with respect to the incident.*

Response: *The investigation determined that Sally 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 15th. In general, she relied upon her General Counsel to oversee the University's response. President Mason contacted EOD officials in early November and encouraged them to complete the investigation into the incident as quickly as possible so appropriate action could be made. On November 5th the Student-Athlete's father placed a call to Sally Mason and 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 20th, President Mason also made a phone call to the Student-Athlete's mother expressing her sympathy for what had happened. However, a call later that day from the Student-Athlete's mother ended in frustration.*

Allegation: *EOD officials were aggressive and accusatory while interviewing the Student Athlete and accused her of bringing the incident on 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 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 sexual assault upon herself. However, there are other factors surrounding the interview, including the type of questioning used, which may have led the Student-Athlete's negative perception of the interviews.*

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 13th that he had nothing on the alleged sexual assault and that he did not know her name or her daughter's name, Jones was: (a) informed of the incident by Fred Mims on the morning of October 15th; (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 23rd. Jones failed to give the investigators a 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, 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 Hillcrest Hall dining area and the Student Athlete Learning Center. The response by University officials to this harassment was ineffectual.

Allegation: The Department of Athletics officials were aware that football player number two 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 number two's probable involvement in the incident. The Department of Athletics was contacted by an attorney for football player number two on or about October 19th. The Student Athlete was not informed of football player number two's probable involvement at that point. Department of Athletics officials stated that they assumed the Student Athlete knew about football player number two's involvement because, during the October 16th and 17th meeting, she referred to two student athletes. However, the Student Athlete was not referring to football player number two, but to another student athlete who had been in the room with football player number one prior to the incident and who she later stated had no involvement in the alleged assault.

Allegation: Football player number two was permitted to reside down the hall from Student Athlete for three weeks.

Response: The investigators found that Phillip Jones failed to remove football player number two and football player number one from the dormitory they shared with the Student Athlete, although he acknowledged to investigators that he had authority to do so. The UI policy on Violence, Sexual Harassment Policy, and 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 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 number one on October 15th. He was aware of the allegations against football player number two on October 23rd when he received the Department of Athletics report. 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 number two on November 9th, she realized that he'd 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.*

Response: *It appears that until November 16th, 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 the President 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 Sexual Harassment Policy clearly provide for informal investigation of alleged 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 Sexual Harassment Policy, he essentially made a 'supremacy' argument stating that the UI code of Student Life is preemptory of the other policies, and therefore, the other policies were somehow not valid. The UI code of Student Life refers, however, to EOD, which conducts both informal and formal investigations.*

Allegation: *The University did not handle the situation in a professional way that followed University protocol in 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 towards a fellow student athlete in need of support and nurturing. The Office of 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 the intent of those policies. Finally, the Office of General Counsel should have never assumed a supervisory role in the investigation. To do so was an inherent conflict of interest.

#2 The allegations contained in Student-Athlete parent's second letter of May 16, 2008.

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 else 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 20th to ask a question about the progress of the investigation, the President told her that said she typically didn't 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 in getting in touch with him.*

Response (continued): Both parties agree, at that point, the Student-Athlete's mother became 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 the lack of communication she and her family were experiencing up to that point.

Allegation: Phillip Jones promised the Student Athlete she would be protected from harassment, but 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 21st and 28th 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 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 that the letters had been sent and seeing no effect from her reports of the harassment, did not report the continuing behavior to Jones thereafter.

Allegation: The Student-Athlete's coach and his staff abandoned the Student Athlete following the incident.

Response: The evidence suggests that 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 the staff support declined substantially in the second semester. Evidence obtained as a 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 the 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 emotional affects 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 indicates that Betsy Altmaier exhibited an appropriate response to the October 14th incident and thereafter. Altmaier informed the Department of Athletics officials of the continued harassment of the Student Athlete. On November 14th, 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 that 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. 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.

Questions.”

MILES: "I note in the report, and we can take questions on this section, that you've also gone on to talk about policies and you have recommendations in here. Do you intend to go to those at some point? If you're not intending to now, I'd like you to before we finish today."

BRYANT: "Let me say, generally, I need to be real careful with the policy recommendations because I don't want it perceived that that's some kind of best practice analysis. All we recommend is things that were inherent and obvious in what happened here that needs to be changed. They're not to be mistaken for a solution because I think the solution is more comprehensive than the recommendations. So if something popped out up to us as clearly wrong and should be changed, it's in here."

MILES: "We'll come back to those. Regent Gartner."

GARTNER: "Mr. Bryant, thank you very much. You mention two things in your introductory remark, if I wrote them down correctly. You said there was no cover up and then you said that the General Counsel failed to turn over documents, or maybe it was the University, failed to turn over documents to the Regents for no justifiable reason. Am I correct that you said those two things?"

BRYANT: "Yes sir."

GARTNER: "I guess then, my question is 'What is a cover up?' If there was a Regents investigation going on by Tom Evans and there were relevant documents and they weren't turned over to the Regents for no apparent reason. To me, that's a cover up. There are different things you cover up and for different people you cover up things from. But it strikes me that that's a cover up at the University in relation to the Board of Regents. Am I missing something?"

BRYANT: "Well, it's a great question and it was an area that gave us a lot of real soul searching. We didn't think it was a cover up because there was no concerted effort among people at the University to agree to do that."

GARTNER: "Lateral cover up?"

BRYANT: "Well, and General Counsel was very open about the fact that he didn't turn the documents over. He said he should have. He said it was a mistake. He wasn't sure the documents were what the Regents were looking for. He thought it was focused on policy and he should have turned them over and didn't. But the documents were well known shortly thereafter. So it was clearly inappropriate not to turn them over, but I did not perceive him to be a person that was doing it for some immoral purpose. It's just a call based on interviews and character judgment. I think it was a huge mistake and I think that he admits it. I think he felt, probably, and I can't speak for him, that the Regents would get it. I mean, he said words to the effect of 'they'll get it when they get it.' I guess the mother had called the Regents' office wanting to know, if she sent the letter to the Regents, would they would keep it in confidence and it not go public. And she wasn't sure what the answer was. And my sense in talking to him was that he felt like the Regents would get it, but didn't know what to do with it. So I don't call it a cover up, but it certainly was inappropriate. But he was very open with us about his actions about it."

GARTNER: "After the fact?"

BRYANT: "Yes, sir."

MILES: "Regent Lang."

LANG: "During your discussion with members of the Athletics Department, was there an understanding or knowledge of their participation whether it was right or wrong?"

BRYANT: "Would you restate that again?"

LANG: *"During your discussion with individuals from the Athletics Department, was there an understanding with these individuals whether it was right or wrong, because or because not a policy, to be involved in this particular alleged sexual abuse?"*

BRYANT: *"There was almost complete, uniform agreement among Athletics Department officials that they did not want jurisdiction to investigate themselves. They were uncomfortable with it. It was a task they couldn't win on. They felt, they said, compelled to do it because they felt very strongly the victim and her family wanted to resolve it that way. And they were not comfortable with it, particularly in light of some of the history."*

LANG: *"And their reason for involvement was because of a family?"*

BRYANT: *"They felt like the family wanted to meet with both coaches and wanted it resolved quickly, without publicity. Their paramount concern, the Athletics Department interviews showed, was to protect their daughter, to have some consequences for the young men, or man, at the time, and they were trying to abide by that."*

MILES: *"Regent Gartner."*

GARTNER: *"Mr. Bryant, on pages 14 and 15, the allegation the Student Athlete was subjected to harassment and retaliatory behavior by other members of the student-athlete community. It says '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 the Hillcrest Hall dining area and the Student Athlete Learning Center. The response by University officials to this harassment was ineffectual.' Where was the response coming from?"*

BRYANT: *"Well, there were two sets of responses. The ineffectual response was that, we believed, the Dean's Office ought to have moved appropriately to separate the parties."*

GARTNER: *"Mr. Jones' office?"*

BRYANT: *"Yes, sir. To act swiftly. On the other hand, the athletic coaches. The coach met with his football team, called a meeting, and said the team needs to support the Student Athlete and rally to her and, you know, basically support her. The swim team had another meeting similar. So at least it appeared that the coaches in the Athletics Department tried to rally the teams to support her, but there was a lot of what I call rogue behavior going on anyway."*

GARTNER: *"But the ineffectual response, you're saying, should not be laid to the Athletics Department?"*

BRYANT: *"No, I thought...we thought the Athletics Department."*

GARTNER: *"I mean, the athletes may have responded..."*

BRYANT: *"Individual athletes..."*

GARTNER: *"...badly, but the structure didn't respond ineffectually, but it was the structure of the Dean's Office that responded ineffectually."*

BRYANT: *"Right, the Athletics Department, the coaches, administrators tried to do the appropriate thing. They called team meetings. Told them to support the athlete. Don't do anything negative to her in swimming and in football. The letters were ineffectual. Doreen, do you want to speak to that?"*

DODSON: "Excuse me. I was going to add that, particularly with the letters, the coaches did try above the Student-Athlete's team and the young men's team, spoke to them a couple of times. Now, how well the students listened to that, they appeared not to have listened real well. But the coaches tried. The problem with the letters, we believe, sent by the Vice President of Student Services, was that they were sent, it was, fairly late at that point, first of all. But they didn't even point out that the students were being accused of retaliation. They simply report the retaliation policy and there's no follow up to them and there was no in-person by anyone. And so, that, plus the failure to, of any kind of sanctions or concern about sanctions. The other thing is we don't know if the young men even received the letters. We do know that they were sent."

GARTNER: "As all of us have just received this for the first time, are those letters at least redacted copies of those letters in the report?"

DODSON: "No sir, they are not. The only...in the appendices, we have policies, the mother's letters, some newspaper articles. We do not attach any of the minutes or the emails. There's an explanation in the very front page and we have marked with an asterisk all of those other items. They are...our understanding was subject to litigation and that the Board of Regents would make those available as they can under court orders in that litigation."

GARTNER: "Thank you."

MILES: "Regent Downer."

DOWNER: "The allegation has been made, during the course of this matter and before you became involved in it, that the Regents' General Counsel was somehow negligent in the investigation that he undertook at the Board's direction. Did you have any findings with respect to that, and, if so, what were they?"

BRYANT: "I'm just going to jump to the body of the report because that is specifically dealt with."

DODSON: "Page 66."

BRYANT: "It wasn't a part that I read. Basically it says the initial investigation was fine. Certainly no, no negligence. It was thorough. There were things that the Regents didn't have access to that we did and would have changed some of the findings. For instance, the mother's letters. That was the big item. But, we found no fault in the original investigation. We thought it was thorough, based on what was available."

MERSMAN: "Regent Downer, one additional thing. We would like to point out that the recommendations in the Board's General Counsel's original investigative report track very similarly to ours. So, even given the fact that he did not have the availability of all of the information we did, he was on the right track."

DODSON: "And, if I might add, Regent Downer, the interviews, we were able to review the interview notes that Mr. Evans had conducted. Much of the information was in there. And, I think, if that report had said 'This is a full investigation. I've done the very best I can, given the fact that some things, either pursuant to the court order or a misunderstanding of FERPA were withheld.' But, as Dick pointed out, the recommendations track ours remarkably. And we had no...obviously we didn't check them against each other."

MILES: "Mr. Bryant, can you speak to your confidence that you've actually gotten an accurate picture of the circumstances in your work over the last whatever it's been, seven eight weeks?"

BRYANT: "I'm real confident. Again, you have five different people with different backgrounds and different perspectives. We talked to different people. We looked at different notes. And we came together and really very rapidly saw the same trends emerging. So I feel real confident that we basically saw what happened."

MERSMAN: "President Miles, the other thing that we would like to note is that everyone that we dealt with, including the Student Athlete and her family, were absolutely cooperative and transparent. That includes the University personnel officials that our team met with personally. We had no inclination in any of our meetings, which is why we used different people in different venues or circumstances, that anybody was not being wholly forthcoming."

BRYANT: "Well, even in the response to the 'was it a cover up based on the documents?' If General Counsel had wanted to cover it up, he might have argued federal law didn't let me disclose that or some kind of policy. He didn't. He just said 'I should have disclosed it. I didn't. I should have. It was my mistake.' And I gave him the opportunity to claim a legal theory in defense, which could have really made the non-cover up solid. That could have been a good argument for him that I had something to hang my hat on, but he said it was a mistake so I thought it was an honest answer."

DODSON: "President Miles, just in addition to that, we were able to have the opportunity to spend about eleven hours with the family and spoke with them in their home and have had some opportunities to talk since then. And checking what we learned from them against the reams of documents, handwritten notes that were done at the time, in addition to the interviews, I think gave us a lot of comfort...we were...there was a tremendous amount of miscommunication, and misunderstanding and confusion. Again, as James said, partly because, there was not a trained advocate there, in many of these situations. But we felt that it was a consistent picture, if you will."

MILES: "Regent Gartner."

GARTNER: "I was going to ask one question, which I'll save for a minute because your response to the last one...and maybe Tom Evans should answer this question, but I thought when we asked, when these letters were...first came out, in I think was The Press Citizen is where we first saw, at least most Regents first became aware of this. I thought that when we asked the University the reason given was the law. Is that not right? When we said how come we didn't have...wasn't the answer to the Regents I don't know if it was you, Tom, or somebody else or Bob or whoever that they weren't given to us because they thought they couldn't under FERPA or under a subpoena or something?"

TOM EVANS: "I think, Regent Gartner, we were speculating in the Board Office, in terms of what was the rationale for why we didn't get the documents. And we were speculating perhaps it was the subpoena, perhaps it was some issue related to FERPA, and..."

GARTNER: "But we never officially were told that?"

EVANS: "We were never officially told that."

GARTNER: "OK."

BRYANT: "And that was kind of in the backdrop when I discussed it with other administrators that that might have been a reason. And when I asked counsel, general counsel that, I said, was that why you did, I mean it was a perfect out, and he said 'No. I just blew it. I should have.' "

GARTNER: "The question I was going to ask was: In the course of your investigation, did you have any reason to get in to an incident, either two incidents called the Pierre Pierce cases, three or five years ago? Did your investigation at all get in to any of that and any impact that might have had on policies or procedures?"

BRYANT: "That's a really good question, and yes, the Pierce case is everywhere. Everyone you talk to at the Athletics Department and otherwise is walking around just trying not to repeat the Pierce case; and may be trying so hard that they are. I mean, they're just...it's going to follow the policies to the letter, regardless of what happens, form, do the book, go by the book. And what this case maybe needed, more than anything, was someone to roll up their hands and go 'The book isn't working. Let's get it fixed.' And, so, the Pierce thing is everywhere. It shapes everything about the policies and the culture in responding here."

GARTNER: "Thank you."

MILES: "Mr. Bryant, I think it's important...there are a number of recommendations here and so I'd like to direct you back to that section, section six, just to take the Board at least quickly through and for the benefit of all those assembled. I recognize this isn't a complete, as you said, a complete and thorough analysis of best practices. But, it's at least those things that were readily apparent to you and I think we get those on the record, here."

BRYANT: "I'll just read through them briefly:

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 incorporated with the adoption of best practices, when that occurs:*
 - (a) *A trained advocate must be made available to the alleged victim 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. Had such existed in this case, the failure of the University to adequately respond to this 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 victims and how to explain them in a way that can be readily understood.*
 - (f) *Easily comprehensible information with respect to University sexual assault reporting and investigative 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.*
 - (h) *The officials responsible for investigating sexual assault investigations 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 the investigators who may be perceived as having a conflict of interest.*
 - (j) *Sexual assault should remain part of the University's Violence Policy. It should not be handled under the University 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 this Board, to ensure that they are consistent with both best practices and the University of Iowa."*

MILES: "Mr. Bryant, just on item 1g, you note 'to the extent it is beneficial to retain an informal method of sexual assault investigation.' I'd like to ask you about whether you think, or your group thinks, that it is beneficial. I note that, just in some research that I did, the University of Virginia, for example, has an informal and formal procedure process. The informal process only comes into play when it becomes a criminal matter and the University's role is simply to support the victim. That's what they call an informal process. To the extent that it is contained within the University, it's all formal and very clearly designated as to what will happen and how it will happen. Did you form a view on whether an informal policy on dealing with such thing makes sense?"

BRYANT: "Well, in a tentative view not refined yet, a sexual assault like this should never be handled informally. As opposed to a harassment claim or bantering between two student athletes – by bantering...my son got in a pushing match with another basketball player in high school and they had to run the steps holding hands. The coaches took care of it. That's not a violent sexual assault, but there's a certain amount of discretion each department might have with a less serious thing, but not sexual assault, not a crime of violence. So, broadly defined, there are types of harassment or types of issues that might arise that could be dealt with informally, but it's going to be hard to craft an informal thing for true, violent crime, such as this allegation."

SCOTT: "President Miles, I'd also like to add: When we spoke with officials from the Women's Resource Center and the RAPE Victim's Advocacy Program, they expressed their concern that there's the potential, if you remove an informal option, that some women may not report at all. And they were very concerned with when you force a young woman to have this more open, more formal investigation where records are kept and held, that less women will report and have anything done at all. So I think that's something that has to weigh in to the equation as well."

BRYANT: "I mean...it's a dilemma. This case may never have been reported, but for, despite its criticism, we made of it, the informal method, the victim may have never come forward."

MILES: "I appreciate that. I would just note, for example, again, it's just an example and I don't say it necessarily as best practice. Formal process at the University of Virginia, for example, includes a completely private mediation between the two...between the alleged victim and the alleged perpetrator. That is part of a formal process, however, completely confidential. So, certainly, I just raise it as the potential for informal process becoming complex and hard to understand the same way that you described."

SCOTT: "I think that's a very good point because I believe that one of the things that we found over and over again in our interviews was a great deal of misunderstanding with University officials as well as students about what formal and what informal were, and what could be done via formal investigation and what could be done via informal investigation so it's confusing as it is now."

MILES: "Thank you. Regent Gartner."

GARTNER: "I'd like to ask Mr. Bryant a question similar to David's, but this one on Item C. Did you form an opinion yourself whether it would be appropriate to mandate such notification?"

BRYANT: "We haven't come to that conclusion."

MERSMAN: "Mandate is an interesting term. Mandate means that you direct the alleged victim that they must have the person present. And I think that that's where the disagreement in the overall higher education community comes. Do you mandate that that person is present or do you provide the opportunity?"

GARTNER: "I don't think we're talking about the same thing. I say the University should consider whether it would be appropriate to mandate DPS notification when a University official receives information on an alleged sexual assault."

GOPLERUD: "I think, Regent Gartner, that its fair to say that, at this point, this team has not sat down to go over some of the details of what a best practice recommendation might be. And we're very well aware that there are some nuances to all of these procedures. The other thing that I wanted to point out is, perhaps among the most confusing aspect of these various procedures that at least a couple of us found and that definitely people within the University community were confused about, is the name of the department that conducted the investigation. EOD gives no indication through its name that it is a department or an office to which such complaints should be brought. Indeed, it looks, at first glance, like an HR-related office."

DODSON: "And, in fact, Regent Gartner, one of the...we found that kind of confusion, even in speaking to some of the young students who were witnesses and called by EOD. They were, like the student-athlete victim, very confused and said they had no idea why this office that had nothing to do with sexual assault, wanted to interview them. That was their impression, despite orientation materials, despite all the good efforts of the University to apprise them of this. For whatever reason, there is a real lack of understanding. And part of it is in the title. The other I wanted to make with specific reference to your point on notification of DPS, some of those arguments are the same that Charla (Scott) mentioned. There is a concern that, if you mandate, that there will be some, maybe most, young victims who will say...most of them say initially – I will not go to police. I won't. Part of that is probably a misunderstanding that they can report to DPS and not have it investigated. We found out that, even Department of Athletics officials didn't understand that. People with a great deal of knowledge had no idea that an assault victim can report it to DPS. They can then gather evidence and they won't do anything with it unless the victim says so. But that is very poorly understood."

GARTNER: "In response, apart from the fact that the University of Iowa department handling this is ill named, was it ill equipped to handle it as well?"

DODSON: "I think if you will...we have a section in the report on EOD. I think they...we believe that they followed their procedures. We do think that there are some problems, and that some of those problems arise from a lack of training from a victim's point of view, a lack of training and how to interview sexual assault victims, and there are some other considerations written up in that section, Regent..."

GARTNER: "I apologize because I haven't read it."

DODSON: "Oh no, no. I know you haven't, sir, and I don't mean to, to put you off. They did do their investigation. There were some particular factors in this case which complicated the way they did that investigation. In part, because it was second after the Department of Athletics so there had already been about six days of investigation by Athletics before it was turned over to EOD, which then began again, the lack of understanding by the Student Athlete, by the witnesses who were called as to why they were being asked again and what EOD was doing and lack of understanding by the family. And because the Student Athlete had no idea why that was happening and probably because of her, perhaps, the situation at the time, the lack of a trained advocate to work with her and explain it to her, she did not respond initially. So the investigation was handled as a third-party investigation, rather than as one brought by a complaint. So she was interviewed late in the process by EOD, which then complicated the type of questioning and how it was handled."

GARTNER: "Thank you very much."

MILES: "Go ahead, Regent Campbell."

CAMPBELL: "I just want to make a comment on the topic of mandatory notification. We're not writing a new policy now, but to say that the advocacy community has a strong opinion about that would be an understatement. There are also federal statutory provisions about it, which in the rewriting and developing of new policies have to be considered."

DODSON: "And perhaps we should also add that the Clery Act does not require mandatory notification. It requires that it be strongly encouraged reporting, but does not mandate reporting."

CAMPBELL: "And the Violence Against Women Act speaks directly to it."

MILES: "Regent Lang."

LANG: "Misunderstanding has come up many times in your report and I can't help but think, is that a justifiable reason for the way this case has been handled, even absent of policy?"

BRYANT: "What this case reminds me of is a perfect storm. Everything went wrong that could have gone wrong, despite really an overriding paranoia with process. Everyone has Pierce on their mind. Everyone's got the manual out. Everyone's trying to go step by step with the manual. And it's very confusing. And I don't want to overuse the word, but there are so many points during this process, if the confusion had been cleared up, it would have been remedied immediately. That's why we give such emphasis to an independent coordinator. If there were someone in charge of holding this woman's hand and her family, and going from department to department and saying 'What they're saying is they can throw the guys off the football team, but they can't throw them out of school. What they're saying is they have no authority to do this. What they're saying is EOD is the investigative unit and you need to go talk to them or return their calls. That's why they are trying to get a hold of you.' And with what the victim and her family were going through, there's a lot of confusion going to be inherent in that mindset. I mean, they did so much better than I could have done had it been a child of mine. You know, they're victims of a terrible alleged crime. They're upset and there's just no...forms being followed, but substance isn't getting it done."

MILES: "Anything further? Mr. Bryant, do you have anything to close with?"

BRYAN: "No sir."

MERSMAN: "Mr. President, we do have extra copies of the report on disk for the Regents use if they want them."

MILES: "Thank you. I think what we'll use those for actually is the press. I don't know how many you have."

MERSMAN: "I brought...I think I have 24 now."

MILES: "...The report will be available at the Board of Regents' web site...as soon as it is accepted by this Board, which we will do momentarily. Regent Campbell, do you have anything further from the Committee?"

CAMPBELL: "I really want to express my thanks to all of you. First of all, for the seriousness of which you conducted this investigation. And secondly, for the speed because, in Iowa, as by now all of you know, we care deeply about our institutions and that everything work right, particularly in the lives of our students. That you focused on the student, the Student Athlete, to assure, as we all have, the interest of students. I'm very grateful for. I'm eager to take this and absorb it and get a keener feeling for exactly what transpired here, but I think you've done a great job."

MILES: *"The Chair would entertain a motion to accept the report."*

- MOVED by GARTNER, SECONDED by HARKIN, to receive the report of the Board of Regents Advisory Committee prepared by Stolar Partnership, LLP, Special Counsel to the Committee, regarding the University of Iowa's compliance with policies and procedures and statutes while investigating an allegation of sexual assault on campus.

MILES: *"Is there any further discussion?"*

GARTNER: *"I also want to say that, on behalf of those that weren't on the Committee, to thank you. First of all, thank the Committee people for the enormous amount of work that they did, Bonnie, Ruth, and Bob. And also to thank the members of the Stolar group for what they did as well."*

MILES: *"Thank you. Seeing no further discussion...Regent Downer."*

DOWNER: *"I just wanted to echo what Bonnie indicated about the speed and the commitment with which The Stolar Partnership pursued this. I made the initial contact as I recall with Mr. Mersman on a Thursday. They started work on this on a Saturday before they were even hired and immediately showed great interest in this and also outlined background of the people who made up this team that showed at that initial point, both great interest in this as well as excellent qualifications of the personnel that they brought to bear on this to do the job and so I'd also like to express my personal thanks to all of you for an excellent job and a timely job."*

STOLAR GROUP COLLECTIVELY: *"Thank you."*

<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 stated that the report is accepted and that the Committee is dissolved.

President Miles announced a special meeting of the Board of Regents planned for September 25th at 9:00 a.m. to discuss the Stolar Report. He said that he has asked President Mason to provide her perspective as the President of the University of Iowa.

President Miles adjourned the meeting at 3:30 p.m.