

Contact: Andrea Anania

**BOARD OF REGENTS, STATE OF IOWA
DRURY INN AND SUITES
5505 MILLS CIVIC PARKWAY
WEST DES MOINES, IOWA**

MINUTES OF SEPTEMBER 25, 2008

Board Members

Bonnie Campbell	Present
Robert Downer	Present
Jack Evans	Present
Michael Gartner	Present
Ruth Harkin	Present (via phone)
Craig Lang	Present
David Miles	Present
Rose Vasquez	Present

Staff Members

Andrea Anania, Andy Baumert, Mark Braun, Marcia Brunson, Bob Donley, Sheila Doyle, Tom Evans, Diana Gonzalez, Joe Murphy, Ilene Tuttle

Regents Institutions

SUI Sally Mason, Wallace Loh, Doug True
ISU Gregory Geoffroy, Pam Elliott Cain, Paul Tanaka
UNI Jim Lubker, Tim McKenna, Tom Schellhardt
IBSSS Patrick Clancy

Others

James Bryant, The Stolar Partnership

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 9:00 a.m. on September 25, 2008.

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

President Miles offered the following Resolution on behalf of the Board of Regents:

WHEREAS, on July 22, 2008, the Board of Regents created an Advisory Committee to the Board of Regents and directed the Committee to reopen the investigation of the University of Iowa's compliance with policies and procedures while investigating a sexual assault case; and authorized the Committee to hire outside counsel to assist in their investigation. On July 28, 2008, the Committee retained The Stolar Partnership, LLP, of St. Louis, Missouri, to assist it in the investigation; and

WHEREAS, the Board requested that the Advisory Committee issue a report no later than September 18, 2008, that addressed the following:

1. Conduct a review of all actions taken by University personnel in response to the alleged assault from October 14, to the present;
2. Assess whether the University's policies and procedures were followed;
3. Evaluate each of the charges advanced in the November and May letters from the alleged victim's mother to the University;
4. Recommend any policy changes or other actions determined to be appropriate; and
5. Examine the circumstances around the decision not to disclose to the Board of Regents the existence of the November and May letters, how the decision was made, and on what basis. Again, the Advisory Committee is to recommend any policy changes or other actions appropriate; and

WHEREAS, on September 18, 2008, the Board of Regents received a report from the Advisory Committee prepared by The Stolar Partnership, LLP, regarding the University of Iowa's compliance with policies and procedures and statutes while investigating an allegation of sexual assault on campus; and

WHEREAS, the report recommended certain changes in the University of Iowa's policies and procedures; and that the University of Iowa and all other universities governed by the Board of Regents undertake a comprehensive review of their policies and procedures dealing with sexual assault and other related issues to be sure they are consistent with best practices available in higher education; and

WHEREAS, the Board of Regents is statutorily responsible for the governance of the University of Iowa, Iowa State University, University of Northern Iowa, Iowa School for the Deaf, and Iowa Braille and Sight Saving School; and

WHEREAS, the Board of Regents is statutorily required to develop and implement written policies which address sexual abuse.

NOW THEREFORE, the Board of Regents directs the heads of all institutions to undertake a comprehensive review of their policies and procedures dealing with sexual assault and other related issues in light of the report's recommendations set forth herein:

- (1) Make available a trained advocate to alleged victims of sexual assault during all stages of the reporting and investigative process;
- (2) Designate a single, coordinating office and procedure to deal with all sexual assaults and other related issues at each institution;
- (3) Consider whether it would be appropriate to mandate Department of Public Safety notification when a university official receives information of an alleged sexual assault;
- (4) Ensure that General Counsel for each institution is not involved in the management of sexual assault and sexual harassment investigations;
- (5) Train all sexual assault advocates with respect to: (1) University reporting, (2) investigation options available to alleged victims, and (3) how best to explain those options in a way that can be readily understood by a potentially traumatized victim;
- (6) Make readily available to all members of the institution's community easily comprehensible information with respect to the institution's sexual assault reporting and investigation options;
- (7) Remove authority from any and all departments – other than the single, designated coordinating office – to conduct investigations of sexual assault, whether formal or informal; and require that all investigations of alleged sexual assaults be handled solely by the office designated to handle such investigations;
- (8) Provide extensive training in the proper handling of sexual assault allegations – with respect to alleged victims and alleged perpetrators – to the officials charged with this responsibility;
- (9) Implement a formal procedure by which investigators in the office designated to handle sexual assault investigations, who may be perceived as having a conflict of interest in investigations conducted by that office, may be recused;
- (10) Ensure that policies for addressing alleged sexual assaults are addressed as part of the institution's *violence policy*, rather than as a part of its *sexual harassment policy*.

The Board of Regents (the "Board"), in pursuit of the objective of the implementation of best practices throughout the institutions governed by the Board, takes the following additional action:

1. Directs the heads of all institutions to work quickly and collaboratively with the Executive Director to develop for discussion common policies and procedures dealing with sexual assault and other related issues that (a) address the recommendations of the report; and (b) are consistent with standards and best practices available in the higher education community.
2. Such proposed common policies and procedures shall be presented to the Board for action at the December 11, 2008, Board meeting.

The foregoing development of proposed policies and procedures shall be undertaken in consultation with the Office on Violence Against Women of the United States Department of Justice, and may include securing the assistance of experts with broad experience in dealing with sexual assault on campus. The University of Northern Iowa's Project Director for the Regents' Flagship Campus Grant, working with the head of each institution or his/her designee and the Executive Director of the Board, is directed to provide the primary staffing for completion of this directive.

- MOVED by EVANS, SECONDED by CAMPBELL, to approve the resolution. MOTION APPROVED UNANIMOUSLY.

President Miles asked President Mason for her response to The Stolar Report:

Statement from President Mason:

"Failing a student who asks for our help is unacceptable. Failing to be transparent and accountable to the Board of Regents, and ultimately the people of Iowa, is also unacceptable. Our students and their parents expect more of us. The University community as a whole expects more of us; the citizens of Iowa expect more of us; and I expect more of us. I offer my apologies to the young woman involved in this case, to her parents, to our community, to our Board, and to the citizens of Iowa.

I'm particularly grateful to the Board of Regents for commissioning an in-depth and impartial investigation of the University's policies, procedures, and actions with respect to the allegations of sexual assault made by a student athlete against other University athletes last fall. It's clear from The Stolar Group's report that most University officials followed our established procedures. However, it's also clear that those procedures are flawed, and that some University officials did not do all that they could have done or should have done, even within those procedures, to ensure that the young woman was protected and supported by the University.

I took several steps this week aimed at restoring trust in the University of Iowa. I terminated the employment of Vice President for Student Services Phillip Jones and UI General Counsel Marc Mills on Tuesday, September 23rd.

Vice Provost Tom Rocklin has assumed the responsibility of Interim Vice President for Student Services with all of the reporting responsibilities of that office. I've asked Interim Vice President Rocklin to begin work immediately on the following tasks:

First, is to work collaboratively with the committee that we set up this past summer, led by Professor Lee Anna Clark, to review all aspects of student services and I expect a report from this group by early February;

Second, implement immediate measures to address students not living in their assigned residence hall rooms, and recommend changes in policies and language in the residence hall room contracts for next year to clamp down on this phenomenon known as 'ghosting,' and

Third, work with Athletics Director Gary Barta to foster a culture of mutual respect, not only among student athletes, but also throughout our entire student body. We must make certain that the kind of harassment of the young woman that occurred after the alleged assault is tolerated by no one.

We'll begin a national search for a new Vice President for Student Services before the fall semester is over. We'll be searching for an individual who knows and understands the best practices of student services, can bring new ideas and new energy toward changing the alcohol culture among our students, and will help build a community of mutual trust and respect.

I've also asked Carroll Reasoner to step in as Interim Vice President for Legal Affairs and General Counsel. Ms. Reasoner is eminently qualified to stand in as UI's General Counsel. She was the first woman and the youngest person to serve as the President of the Iowa State Bar Association. She served on the state judicial nominating commission selecting individuals for appointment to the Supreme Court of Iowa. She's been recognized by listings in Who's Who in American Law, Who's Who in American Women, and Who's Who in Emerging Leaders; recognized by the Des Moines Register as an Up and Comer; and has been ranked in the Best Lawyers in America for over 20 years.

We'll also begin a national search for a new Vice President for Legal Affairs and General Counsel immediately. It's my goal to have both Vice President searches completed by the end of this academic year.

Our task now is to move ahead and to take those additional steps that will restore trust in our ability to maintain a safe and vibrant learning community. Since we met last Thursday, I have read and re-read The Stolar Report. I've consulted with people both inside and outside the University of Iowa. I completely agree with the report's recommendations and conclusions, and I pledge to lead the University's efforts to implement, and even exceed, the recommendations without delay.

First, I demand and expect zero tolerance of sexual assault and sexual misconduct at the University of Iowa. We all must take swift and decisive action to show both victims and offenders that we will not tolerate such behaviors in any form;

Second, we will work closely and collaboratively with the Board and all the Regents institutions. Together we'll engage experts outside of the universities who are well versed in best practices and can recommend easy-to-understand and easy-to-follow policies and procedures on these sensitive issues; and

Third, I am immediately making our policies clear, workable, and enforceable. We're committed to a victim-centered process in which victims are fully informed about the options available to them, are allowed to make the decision on which options to choose, and are supported in that process to the fullest extent of our abilities. However, we are also aware that victims are in a stressful situation and must be given maximum assistance and support so it's possible for them to understand their options and make their decisions.

The interim steps we'll be taking are as follows:

No University official or department will attempt to engage in an "informal" resolution of sexual assault allegations.

There will be a central point of contact for victims. Monique DiCarlo, Director of the University Women's Resource Action Center, has agreed to take on this task and will serve as the University's Sexual Assault Response Coordinator during this interim period. She will report directly to me. I've also asked her to strongly encourage every victim to report the assault to the police.

When anyone reports a sexual assault, the victim will immediately be assigned a trained victim advocate who is mandated to accompany the victim in all dealings with University employees and officials concerning the assault and who can not be dismissed at any time. The advocates will be assigned by the Rape Victim Advocacy Program, directed by Karla Miller.

I've consulted directly with Karla Miller and Monique DiCarlo about these changes; both are committed to making sure there is a seamless system focused on the victim in place starting today and continuing until the new formal policy is in place.

With the steps already taken, those new steps that we have outlined today, and those that we will be taking with the Board and our sister institutions, I believe we can begin to move the University forward. We will not only meet what's expected of us, but we will exceed those expectations. We'll work at creating a model process; one that other institutions can look to with confidence.

The safety of our students and our entire University community, the trust that our state's citizens place in us, and the integrity of our institution are and must be our highest priorities. My commitment is to ensure that our policies and procedures fulfill those highest expectations and values.

I want to thank you again for the opportunity to share these important matters and thoughts with you today."

President Miles introduced James Bryant from The Stolar Partnership and opened the floor for discussion.

CAMPBELL: "Let me just thank you for responding quickly and for including the input, enveloping the input of advocates in to your thinking because they are truly the most informed about how victims should be treated and how to explain clearly what their options are. So thank you for that."

MASON: "You're welcome. Thank you for the opportunity to do this."

GARTNER: "What if a person is raped and goes to the hospital? In your policy, I didn't hear anything. What's the responsibility of the hospital in this?"

MASON: "The responsibility of the hospital will be to get in contact with Monique DiCarlo right away as our central coordinator, but to also make sure that a rape-victim advocate is there. And our first responders, in other words, those who are likely to see these things first, are going to know that that's the way to proceed going forward, at least for the interim, until we have our complete policy in place."

GARTNER: "And at least the hospital comes under your jurisdiction."

MASON: "Right."

GARTNER: "Are they signed on to this?"

MASON: "The hospital will have no problem following those instructions."

CAMPBELL: "If I could just put a finer point. I thought I heard you say, as part of your mechanism, that those advocates are not at risk of being dismissed..."

MASON: "That's correct."

CAMPBELL: "...under any circumstances relating to that complaint."

MASON: "That's absolutely correct. We're prepared to work with victims if they're not comfortable with the first advocate that they're provided, but they're not going to be without an advocate at any point."

MILES: "Regent Vasquez."

VASQUEZ: "Can you speak a little bit around the idea of prevention of things that...I mean, we're talking a lot about what happens after a really bad event and wondering about things that could help to just avoid this. I'm not saying we can cure all of that, but are there some ideas floating around in terms of..."

MASON: "Quite a few. Quite a few. A lot of it is centered around our work in trying to change the alcohol culture because we know that, at college-age students, I think its 94 or 98% of all reported sexual assaults are related to alcohol consumption. That high correlation says that we've got to work on culture changes on multiple fronts. One has to do with the alcohol culture and changing those behaviors and the other obviously has to do with increasing the education and awareness about violence, sexual assaults, sexual harassment, and all of the related kinds of various that are...frankly I'm not sure or certain how well understood these are, certainly by young people."

VASQUEZ: "Because it seems to me that its interesting that we're at this stage this year and trying to make the point that a sexual assault is a crime of violence and that everyone has a stake at preventing violence in this atmosphere."

MASON: "Correct."

MILES: "Regent Gartner."

GARTNER: *"Would you read me the line again about encouraging reporting to police."*

MASON: *"That would be...I can read that to you. I can also just tell it to you. I've asked Monique DiCarlo, who is going to be our central point of contact, to be certain that a victim is encouraged right away to talk to the police and explain how that would work if they were to do that because we'd like to have the police doing investigations if at all possible."*

GARTNER: *"And I suspect from what I've read the laws vague or may be even contradictory on this, but what if another person, the rape-victim's advocate or the office within the University were to report it to the police. A victim needn't file charges..."*

MASON: *"That's correct."*

GARTNER: *"...but wouldn't it be beneficial for at least the police to be notified whether the victim is a cooperating witness or not and I defer to my colleague here whether that is a bad idea or a good idea."*

MASON: *"I'd like to hear from your colleague, but I can tell you that we've had, over the last 48 hours, some heated discussions on this very issue because of the sometimes chilling effect it can place on victims coming forward. And, while I appreciate that, I also feel very strongly that our best, best opportunity for an investigation is if we can let the police know as soon as possible."*

GARTNER: *"Immediately."*

CAMPBELL: *"It is the crux of a very difficult issue in this whole discussion. I always try to think in a linear fashion. First and foremost, a rape exam is a critical thing for the victim to do for all kinds of reasons. But putting on your law enforcement hat is also a reality that her or his body is the crime scene. It's a critical piece of evidence, obviously. There is this whole debate about mandatory reporting. There are probably advocates in the room who could stand up and give the speech in a heartbeat about how many victims don't do anything for fear they'll get caught up in this swirl of victim blaming and media attention. And so it has been the decision of various, at least federal-funding decision makers, that you can not mandate reporting. It has been an issue at every level. Do doctors and medical personnel have to mandate? Do advocates have some obligation? And the answer has always come down no. I have always had sympathy for this notion that Michael described, but if it has the opposite, unintended effect, which there's pretty good evidence that it does, then I come down the side of not mandating reporting."*

GARTNER: *"But, could you...again, if you mandated reporting, but the victim could opt not to cooperate, or whatever the appropriate word is, would you still not have a better understanding of the crime in case the victim later changes her mind, as happened in this case? One of the things in this case is there is rape kit, but beyond that, there was like a two- or three-week delay, which who knows what happened in that delay. Would that be imperiling the victim? I'm taken with what Rose said, is we must remember rape is a crime of violence, but until it's treated as a crime of violence, rather than as a shameful episode in the victim's life, it won't be viewed as a crime of violence. Not unlike AIDS, cancer when I was young, and so I respect you as one of the world's leading experts, but I'm wondering if there is at least an immediate lead the University could take in developing its..."*

MILES: *"Regent Gartner and Regent Campbell, I would just interject at this point that I think the approach that President Mason and the University of Iowa are going to take in the interim while we explore all of these in depth is, indeed, the exact appropriate way to approach this in the interim, which is to strongly encourage immediate reporting, but to get all sided flushed out on whether or not it ought to be mandated. To me, that's something that we should very much consider as we are reviewing our final policies and weigh carefully the pros and the cons. And I think there are clearly folks who believe strongly both ways. Given that, I think it would be ill advised to take a dramatically different tact in the interim and let's focus on it when we make our final decision."*

GARTNER: *"I just wanted to get the issue on the table."*

MILES: "And it's a very important issue and clearly the reporting here led to some issues so I think it's a point well made, Michael. Yes, Regent Downer."

DOWNER: "Thank you. President Mason, in the interest of getting the most current information at least that's within my knowledge before the Board as it reviews this, I have heard that since the terminations occurred, the allegation has been made that The Stolar Report, in effect, was a cover up for the Athletics Department. I know that this is addressed in the report as far as The Stolar Partnership's view of the Athletics Department's responsibility in all of this and that you have taken the position, I believe, that departments should not be a part of these matters, henceforth. But I wondered if since we met last week, since this report was released, that you personally had any further information that might address this assertion that is apparently now being made with respect to the role of the Athletics Department and its culpability in all of this. And it would be my intention at the appropriate time to address the same question to Mr. Bryant to see if he has further information beyond what's in the report."

MASON: "Well I think that would be useful because he certainly did many of the investigations. My sense is that the report, remember this was prepared by a group that does not know the University of Iowa. That, had no, at least to my knowledge, had no background other than what they were given coming in to this and the mandate to look at this. And I don't believe they exercised any bias in this. I hope and I believe that everyone who was interviewed, everyone who was invited to be a part of this, understood the significance of it. And, was doing as I and others were, which was to be as transparent, as honest, as open as we possibly could be to tell our stories, what we knew, what we were thinking about, and how things transpired from our perspectives. And I don't...I look at that report and feel very, very good about the outcomes in terms of what it presents to us as a roadmap going forward. And I am looking at this as a very, very good roadmap going forward. We have to look forward. We have to rebuild trust. We have to get on with, what I think is the very important work of the University, and that's part of which is making certain that our students and all of our members of campus are safe. And that was a big part of this. I have no reason to believe or even think that there was some conspiracy or cover up. I mean, I thought that the report had dealt with that quite effectively. Mr. Bryant had notes and testimony and talked to many, many, many people, and did so with outside objective eyes. I might be more inclined to think that there was something to those claims had that not been the case. Had we tried to examine ourselves or even if the Board had tried to examine the University of Iowa because some of you have connections to the University of Iowa, but that was not the case here. So from my perspective, the time to speak, the time to say your peace, the time to have your opinions heard and your actions evaluated was during the investigation and not in retrospect. After you've seen the results of the investigation and had an opportunity to reflect on, well, maybe again, there was another motivation there, or this wasn't the way I was thinking about it. I think it's...I hope people understood the importance of doing this investigation, the importance of making certain that their voices were heard at that time."

DOWNER: "Thank you."

MILES: "Mr. Bryant."

BRYANT: "I think if anything, when the investigation began, probably the only bias, which was subconscious that we had, was probably against Athletics. I deal a lot with athletics departments through my practice and generally our suspicions of coaches and administrators in athletics, often times they talk a lot about character, but don't live that so I think my mindset and probably that of the team, if there was any bias, was probably against Athletics because there's generally problems in athletics. So to the extent we found Athletics was not guilty of a cover up or very culpable, probably was a surprise to all the team. And I will say, all of the interviews, all of the documentary evidence, notes we took, notes they took, very comfortable with our conclusions about Athletics. Couldn't have said it any clearer. Really, that wasn't the center of the problem."

On other hand, some of the areas where key problems emerged. We're totally surprised. A total surprise to us. I will say that, when I interviewed both the General Counsel and the Dean of Students, I had no real premonition or focus on them as people that I would criticize. And again, they were both very transparent and told me their view.

I barely had my notebook open when Jones started telling me his whole problem with the process, the problem with Athletics being involved. The issue of forum shopping. I mean, he had me scrambling through my notes, making sure I understood the policies, and we debated them in kind of an open and friendly manner. Certainly the ones that were criticized the most weren't on our radar, Athletics was. And my gut experience in the adversary process sometimes tells me when the truth is not what you...when you find facts at the end that weren't the ones you were looking for, that's probably a good sign that you found the truth, to the extent you can find the truth. Also, and I said in my earlier presentation, was just astonished that the five of us, when we closed the door, came up with the same view. We looked at different documents, we talked to different people, we had clearly different biases and life experiences. And when we did the first rough draft of the report, we kind of nodded and said 'Yeah, I think this is what happened.' So, the truth isn't perfect, but I think Athletics was the department we were most suspicious of and that clearly wasn't..."

MILES: "Regent Lang."

LANG: "And I may have missed it in your discussion of transparency of policy, understanding policy. A couple questions, number one, where does the office of Equal Opportunity and Diversity fit in now?"

MASON: "Right now, they have...they will help...they're in the process of getting more training, investigatory training, but they will help with investigations and we will bring in outsiders to help with investigations should we need more senior and seasoned talent to do that, but they're still a part of the investigation process."

LANG: "And there seemed to be a real amount of misunderstanding of what the value of this office could be. Will there be a campaign so students understand the value of this office?"

MASON: "Probably...yes...and probably even some changing of titles and names so that people have a better sense of what the office is all about and what it's suppose to be doing. So, yes."

LANG: "We talked about the students and the quick action taken. Will all sexual assaults now be handled as a formal investigation?"

MASON: "Yes."

LANG: "Good."

LANG: "The other thing that seems to be an issue is that certain faculty did not show the sensitivity that was necessary for a victim. And, it goes even to the athletes themselves within the report where it said 'the athlete was subject to harassment and retaliation.' This is extremely distressing. And I want to know how that's going to be handled with the faculty to show the kind of sensitivity necessary, and what action is going to be taken. I know you said you were going to work with the Athletics Director to prevent this kind of thing in the future, but it can not be tolerated."

MASON: "The...and, in fact, it goes a little bit broader than that, Craig, because what I really want to do is that I want Student Services and the Athletics Department working together on this issue. They have, in the in past, sometimes worked together and worked together well, but they've also in the past, sometimes worked on their own initiatives and there wasn't good communication. I am going to insist now on good communication, particularly when it comes to our students. And singling student athletes out, because they're easy to find and they often are in a living group together, is relatively easy. But it really cuts across our entire student body. It also cuts across our faculty. We have work to do with our faculty and our staff and we've put in place some good educational training opportunities for all faculty and staff and that's going to continue to grow. I'm insisting on that."

And, similarly, we've got to do additional things with our students because they have an even less appreciation for the significance and importance of some of these sensitive issues or even a general understanding of some of these things in some cases, as we learn when we encounter some of these behaviors that we find reprehensible. So, now Tom Rocklin and Gary Barta have already begun the conversation on how best to begin to attack some of the problems with our students, and Marcella David and Equal Opportunity and Diversity is helping both strengthen and expand our programs for sexual harassment and sexual assault training for the faculty, and education for faculty and staff."

LANG: "Thank you."

MILES: "Thank you. Other questions, comments? Regent Campbell."

CAMPBELL: "Will you also be reviewing sexual harassment policies as well?"

MASON: "All of them. Yes."

CAMPBELL: "Good, thanks."

HARKIN: "Regent Miles?"

MILES: "Yes, Regent Harkin. Go ahead."

HARKIN: "Yes. If I might, I just had three comments I wanted to make. First of all, I really wanted to thank Bonnie Campbell and also Bob Downer for their work on the Committee. I was pleased to serve on the Committee with them. And, of course, I think it's extraordinary that we actually have an expert, as in Bonnie Campbell, on the Board of Regents, on the very topic we are talking about. I also just wanted to say that I was personally very pleased with the Stolar firm and Mr. Bryant and his team's work. I think we've now heard from them and it's certainly time to move on. The second point I wanted to make is to you, President Mason. I'm just very, very supportive, as I feel the rest of the Board is, of all the efforts you have taken since the report came out. And I just want you to know how much I support your personal efforts."

MASON: "Thank you, Regent Harkin."

HARKIN: "And then lastly, President Miles and the rest of the members, I just wanted to say...to speak in favor of the resolution. I think it's an excellent one and covers all the points moving forward. Thank you."

MILES: "Thank you, Regent Harkin. Any further comments? Yes, Regent Gartner."

GARTNER: "One question...and I can't find it in the report, here...and maybe this isn't the appropriate time to raise it. But, in a footnote or somewhere in report, you were quoted or someone is quoted as saying you cited FERPA in the issue of not turning over the letters."

MASON: "I did."

GARTNER: "Is that correct?"

MASON: "Yes."

GARTNER: "And yet, throughout the report, Counsel Mills does not raise that issue. And, according to Mr. Bryant, he was given the opportunity to raise the issue several times. Is that not right?"

BRYANT: "Yes."

GARTNER: "And so my question is 'What led you to raise the issue when your counsel, at least, in his interview with The Stolar Group, did not raise the issue? Do you...is it your recollection that he raised it with you, or...'"

MASON: "Yes he did. Yes he did. In fact, it was...what my comment was that it was based on a misunderstanding of FERPA and that was..."

GARTNER: *"That was his misunderstanding or your misunderstanding?"*

MASON: *"That would have been his misunderstanding of FERPA. At least that is how he had put it to me. That was a comment I made in July at the meeting where this issue first came up in the ...moving then to the next investigation, into the second investigation, obviously. So."*

MILES: *"I was only going to add, Regent Gartner, that President Mason's written comments to that effect are part of the record from the July 22nd meeting."*

MASON: *"Right."*

GARTNER: *"Right."*

MASON: *"Right, they're in there."*

MILES: *"If there are no further comments before I call the role, I'd like to just make a couple of observations. I re-read the report last night and I thank, again, the entire special committee, in particular, Bonnie Campbell, who I'm not sure will be sending me any Christmas cards in the future, for her great work. This is an extraordinary effort on a very serious matter. And, I think the special committee acquitted itself very well. Thank you, Regent Harkin. Thank you, Regent Downer. And I think The Stolar Group did a splendid job. And again, a very difficult circumstance. We very much needed their expertise and we appreciate it."*

Statement from President Miles:

It is apparent that our current policies are fatally flawed. That's something that we can and we will address.

The more significant failings, it seems to me, can be broadly organized into two categories:

First, was the failure to put the needs of this student paramount: Before rote adherence to policies. Before disputes over turf. Before the understandable fears of repeating the mistakes of the past. Before petty irritations with the alleged victim herself.

Our policies must change, but even more so, we must provide leadership from the top down, and from the bottom up, so that when a student needs our help we will be there – consistently, reliably, and actively to support him or her.

The second failing was one of appropriate transparency with and accountability toward the governing board of the institution. In one instance a decision was made to knowingly and intentionally withhold material evidence sought in a formal investigation into this matter by the Board of Regents. That action, which led to the reopening of this investigation, is simply unacceptable.

Finally, I'd just like to comment a little bit about the Athletics Department. That's come up again this morning. The Athletics Department, I think, too often is painted with a broad brush. While they're very much in the spotlight. In fact, the Athletics Department, like any other department of any university, is comprised of individuals, each working hard each day accomplishing many positive things but sometimes making mistakes.

The Athletics Department played its role here as well and it was an imperfect one. On the one hand, I do believe Coach Ferentz is to be commended for promptly taking the most stringent disciplinary action in his authority, which was to suspend the two players from the team. It's also apparent that not only did the Athletics Department not seek to cover up the incident, they quickly met with the alleged victim and sought to help.

But unfortunately, the Athletics Department, like many others within the University, got caught up in procedure and form over substance, which ultimately resulted in their providing less effective assistance than they might have.

So the one thing that I would do today, President Mason, is to encourage you to challenge the Athletics Department to achieve a more positive impact in shaping the values and ideals of their student athletes going forward. As has been noted in the report, some, not all, but some of our student athletes behaved abysmally toward the alleged victim, as Regent Lang also pointed out this morning. And they were maddeningly resistant to change. They harassed her; they shouted insults and threats. And this despite multiple meetings with Athletics Department officials. So, again, it's not that officials didn't try, but there were things that were just very difficult to change. Also, this, which you've already mentioned, this 'ghosting,' this issue of students not living in the rooms that they're assigned, is something that we need to take greater action on. So, again, I don't by any means condemn the Athletics Department. I think there were some remarkable efforts made. But, as a whole, I think we have all concluded we did not have satisfactory results, and we failed to serve this student in the way that we should have. And I invite and encourage you and the entire Athletics Department to take on the challenge of focusing on the student and student athlete in trying to make the most positive impact they can in shaping our students lives for the better.

And in that regard, this has been not a positive story in many respects. I do want to take just a moment to comment quickly on Betsy Altmaier's performance, who's our Faculty Athletics Representative to the Big 10 Conference and the NCAA. Because in a situation that had very little good to say about it, she's certainly shown, in terms of her excellence response, her steadfast concern and support for the victim and the integrity she displayed and the level of responsibility she assumed on the victim's behalf is really a stellar example of the kind of proper response, that puts the student first. And it's imperative that her fine example be reflected, not just in our policies, but all of our commitments. And I trust that you will take on that challenge, President Mason."

MASON: "Happily."

- MOTION: To receive the University of Iowa's response to 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

<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 UNANIMOUSLY by ROLL CALL.

Evaluation of Institutional Head

On behalf of the Des Moines Register, Reporter Lee Rood requested that this part of the special meeting be held in public. She said that the burden in the law is irreparable damage and thought there had been no discussion to that effect.

President Miles appreciated the spirit of her suggestion and thanked her for her concern. He said that he has been an advocate of openness and transparency in the discharge of the Board's duties, but that there is a legitimate interest in the privacy right of state employees when it comes to personnel matters. He added that the opinion of the Iowa Attorney General is that performance evaluations, even as to public employees, are confidential if so requested by the employee, which it has been in this case.

Executive Session

- MOVED by CAMPBELL, SECONDED by DOWNER, to enter into closed session pursuant to Iowa Code section 21.5(1)(i) upon request of President Mason, whose performance is being considered.

<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 9:50 a.m.

The Board reconvened in open session at 11:03 a.m.

President Miles reported that all Regents were in attendance.

- MOVED by GARTNER, SECONDED by LANG, to retain President Mason’s current base salary compensation for the coming year, and increase her incentive pay from \$50,000 per year to \$80,000 per year if she meets the goals laid out by President Miles.

Statement from President Miles:

“Before we act on the motion, I’d just like to make a couple of comments regarding President Mason’s compensation, and I’d particularly like to address these comments to the many Iowans who care deeply about our public universities and our special schools.

President Mason has my full trust and confidence, and that of this Board as well. She accepted our invitation to become the 20th President of The University of Iowa at a particularly challenging time in the University’s history. Nevertheless, in her first year on the job, the University’s fall enrollment reached record levels, more than \$386 million in research grants and contracts – once again a record – were awarded to the University, and thanks to the generosity of so many Iowans and others, a record \$162 million in private contributions was secured.

She has embraced Iowa and Iowans, participating in more than 200 speaking and listening meetings across the State – including visits to Sioux City, Dubuque, the Quad Cities, West Liberty, and Burlington, as well as outreach events across the United States.

She has been equally active on campus, making a half-day visit to each of the University’s eleven academic colleges, meeting regularly with on-campus leadership groups, and recruited five outstanding individuals, including most recently our new Provost, Wallace Loh, to her senior leadership group.

Demonstrating her commitment to providing education for all Iowans, whatever their financial circumstances, she created the Iowa Promise Scholarship, which offers continued financial support throughout their academic career to recipients of the one year All Iowa Opportunity Scholars program.

Perhaps more than anywhere else, her leadership during and following the unprecedented flooding of the University this summer, has been extraordinary. Under her leadership, our preparations for the flood were aggressive. And she did not simply organize those preparations, she worked on the front lines, helping to fill and place sandbags to protect our buildings. She worked effectively with Iowa City community, state and federal officials, FEMA, and others to bring a remarkable level of organization and control to the very chaotic and uncertain circumstances associated with a major disaster. She, her executive team, and the entire University of Iowa community are to be congratulated for making a high-quality educational experience for all of our students their first priority. The University re-opened for Summer classes within ten days following the flood, and began the Fall semester with a full complement of courses for our students.

As we all know, this has not been a perfect year. The University failed in its handling of the sexual assault, and for that President Mason bears responsibility. The Board has been clear with her on this. Yet, we also recognize that the event itself occurred just a few weeks following her arrival on our campus. She inherited the flawed policies and procedures in place at the time. She relied upon members of her executive team, some of whom, in retrospect, did not serve the University well in this matter.

However, as The Stolar Report makes clear, she stayed informed, she reached out to the alleged victim's mother to express her sympathy, she made phone calls to encourage that the investigation be completed expeditiously so that appropriate actions could be taken.

And now, she has moved decisively to address personnel issues in her organization, and to issue a clarion call to transform the fatally-flawed process that she inherited to a model process, that puts the safety of our students first, and that our entire University community can look to with confidence.

We believe she is the right person at the right time to lead this effort.

So, what sort of compensation adjustment is appropriate under the circumstances? You can imagine we asked ourselves that.

The approach that we took attempts to reflect a year of great progress and leadership on many fronts, but that was also marred by the topic of today's meeting. As President, she is responsible for the good and the bad, and thus our approach.

We urge the public to take from this approach a message of accountability for results. It is not meant to convey dissatisfaction or a limited future for this President, but rather our high expectations for her and of what we continue to view as great promise for The University of Iowa under her leadership.

In sum, we believe President Mason to be a good and able President. More importantly, we believe in her capacity to become a great President."

- MOVED by DOWNER, SECONDED by CAMPBELL, to amend the motion to adopt the statement read by President Miles as representing the sense of 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.

- MOVED by GARTNER, SECONDED by LANG, to:
 - ◆ Retain President Mason's current base salary compensation for the coming year, and increase her incentive pay from \$50,000 per year to \$80,000 per year if she meets the goals laid out by President Miles; and
 - ◆ Adopt the statement read by President Miles as representing the sense of 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.

Other Business

President Miles expressed the sense of the Board of Regents on an important matter of transparency. He reported that The Stolar Group has been asked to provide its notes from the sexual assault investigation. He said that the sense of the Board is that it wants those notes to be disclosed to the fullest extent possible, and added that the Board would waive its privilege and allow The Stolar Partnership to share the notes to the fullest extent possible as long as the statutory commitment to protect the privacy rights of students is honored.

President Miles reported that serious questions have been raised with respect to the proper display of the United States flag at the Regents institutions. He said that it is an issue deeply personal to many Iowans and that the Board must ensure that all rules and regulations, as well as established rules of custom and etiquette, are followed. He said, from this point forward, it is the expectation of the Board that:

- ◆ Each Regent institution will strictly follow the requirements and guidelines set forth in the United States Flag Code (USFC); and
- ◆ The United States flag be lowered to half staff only upon the order of the President of the United States or the Governor of Iowa.

President Miles said that, while the Board understands that it has been customary to fly the flag at half staff to honor individuals who have made significant contributions to the missions of the institutions, the Board directs each campus to identify other means to celebrate and honor the achievements of such individuals.

President Miles adjourned the meeting at 11:15 a.m.