

**MEMORANDUM**

**To:** Board of Regents  
**From:** Board Office  
**Subject:** Annual Report on Competition with Private Enterprise  
**Date:** March 31, 2003

**Recommended Actions:**

Receive the annual report.

**Executive Summary:**

State law precludes the Regent institutions from competing with private enterprise, except in certain situations. To be in compliance with the law, the Board has adopted a policy that Regent institutions shall not engage in competition with private enterprise unless the activity will assist in the education, research, extension, or service mission of the institutions.

**Regent Institution Policies**

Each institution has established written policies regarding competition with private enterprise. These policies ensure that:

1. Activities provided by the institutions are consistent with Board policy;
2. Processes are identified to handle inquiries about activities carried out by the institution; and
3. There is a means for community businesses to interact with the institutions including discussion of complaints.

**Report Purpose**

The purpose of this report is to inform the Board of institutional activities, including any formal complaints related to competition with private enterprise, during the past calendar year.

**One Complaint Received**

One complaint was received during the past year at the Regent institutions involving Iowa State University's ISUCard.

**Strategic Plan:**

The procedures established at each institution help to improve understanding between the universities and their respective communities and assures effective stewardship of the institutions' resources as outlined in the Board's Strategic Plan (KRA 4.0.)

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**Background:**

Iowa Code	<p><u>Iowa Code</u> Chapter 23A prohibits a public entity from competing with private enterprise unless specifically authorized by statute, rule, ordinance, or regulation.</p> <p>The same chapter authorizes the Board of Regents to provide, by administrative rule, exemptions to this prohibition for the Regent institutions under the control of the Board. The exemptions detailed in <u>Iowa Code §23A.2(2)</u> and <u>§23A.2(10)k</u> are listed in Attachment A.</p>
Iowa Administrative Code / Board Policy	<p><u>Iowa Administrative Code</u> §681-9.4 and <u>Regent Policy Manual</u> §7.07C specify the Board's rules and requirements regarding competition with private enterprise by Regent institutions.</p> <p>To fulfill their missions effectively, institutions under the control of the Board occasionally provide goods and services, which enhance, promote, or support the instructional, research, public service, and other functions to meet the needs of students, faculty, staff, patients, visitors, and members of the public participating in institutional events.</p>
Regent Institution Policies	<p>The Regent institutions have established written procedures for receiving, reviewing, and responding to inquiries about activities carried out by the institution that could be considered competition with private enterprise.</p> <p>Each Regent institution provides a means for business interests in the institution's community to consult with and advise the institution on policies and procedures regarding the sale of goods or services that might compete with private enterprise.</p> <p>The Regent institutions have committees that meet as necessary to review potential situations that may compete with private enterprise. The chief business officer at each institution may approve an activity that competes with private business only after a review demonstrates that one or more of the following conditions are met:</p> <ul style="list-style-type: none"><li>• The activity is deemed to be an integral part of the institution's educational, research, public service, and campus support functions, and other educational and support activities.</li><li>• The activity is needed to provide an integral good or service that is not reasonably available in the community; or the activity is needed to provide an integral good or service at time, price, location, or terms that are not reasonably available in the community.</li><li>• The activity is carried out for the primary benefit of the campus community and is incidental to the education, research, service, or extension missions of the university.</li><li>• The activity is carried out due to the importance of maintaining the quality of the institution.</li></ul>

Iowa Administrative Code §681-9.4(8) details the formal appeal process for resolving complaints involving competition with private enterprise:

- If a private enterprise seeks to appeal an action or activity of a Regent institution, it shall attempt to resolve the issue at the institutional level. The form of appeal shall be a letter to the chief business officer.
- If dissatisfied with the institution's response, the private enterprise may notify the Executive Director in writing and request assistance.
- If the issue remains unresolved, the Executive Director may docket the matter for review by the Board. Board action constitutes final agency action.

The universities may receive comments or concerns that do not follow this process. These comments or concerns are regarded as "informal" complaints and are included in this annual report to the Board.

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**Analysis:**

The following information is presented by institution and includes changes in institutional policies, activities that occurred during the year as a result of the policy, and notification of any complaints received by an institution.

***University of Iowa***

REVIEW COMMITTEE

SUI reports that the Committee on Competition with Private Enterprise and Community Concerns meets periodically and, as needed, meets with the Vice President for Finance and University Services to address issues involving proposed activities, specific inquiries or complaints, and to consult with the local business community.

Members of the committee include representatives from the Provost's Office; the Office of University Relations; the Office of the Vice President for Finance and University Services; the Office of the Vice President for Students Services; the Office of the General Counsel; and one faculty member appointed by the Vice President for Finance and University Services in consultation with the Faculty Senate.

LOCAL COMMUNITY  
RELATIONSHIP

SUI reports that it has an established policy to consult with business interests in the Iowa City community.

COMPLAINTS

The University received no complaints from the private sector during the past year.

One issue was identified during the past year that is currently being reviewed. The Department of Speech Pathology and Audiology, Center for Disabilities and Development, and the Department of Otolaryngology are proposing to dispense hearing aids directly to patients. This has not been done in the past. This issue is currently under review and a recommendation will be made to the Vice President for Finance and University Services.

**Iowa State University**

REVIEW COMMITTEE ISU reports that all activities involving the sale of goods, services, or facility usage to the general public must be in accordance with University Review Committee policies.

Members of the committee include a representative from the President's Office, the Vice President for Business and Finance's Office, and the Business Affairs Office.

LOCAL COMMUNITY RELATIONSHIP ISU reports that it maintains positive relationships with community business groups such as the Ames Chamber of Commerce and the Ames Convention and Visitors Bureau regarding business relationships with the local community. The University takes local merchants' concerns seriously.

COMPLAINTS The University received one concern from the private sector during the past year:

CyCash Program The CyCash program allows students to conduct transactions electronically using their ISUCard to:

- Transfer up to \$250 from their checking or savings account to their ISUCard;
- Charge up to \$50 to their university billing;
- Set up their ISUCard as a debit bankcard and ATM card through a local bank;
- Serve as student identification;
- Provide access to several campus services, such as laundries, library copiers, vending, bus services, copy centers, etc.; and
- Be used at the University Book Store.

The local bookstore was concerned that by adding funds to the ISUCard or by charging items to the students' university billing, it makes it easier for students to purchase items at the University Book Store than at the local private bookstore.

The University reports that the ability to add funds to the ISUCard has been in place since 1995 and had been disclosed to the local bookstore at that time. The ability to add limited funds (\$50) by charging to the student's university billing recently became an option.

As a result, ISU offered to allow the local bookstore to purchase the card reading equipment, obtain the necessary communication connection, and pay the administrative fees associated with the program. The local bookstore accepted ISU's offer and the program has been implemented. ISU does not plan to extend the offer beyond the local bookstore.

**University of Northern Iowa**

- REVIEW COMMITTEE The review committee at UNI reviews all activities involving the sale of goods, services, or facility usage at the University. Members of the review committee at UNI include a representative or designee selected by the President and two representatives selected by the Vice President for Administration and Finance.
- LOCAL COMMUNITY RELATIONSHIP The University maintains regular communication with the Cedar Falls Chamber of Commerce and has asked to be informed of any concerns or problems that involve the University.
- COMPLAINTS The University received no complaints from the private sector during the past year.

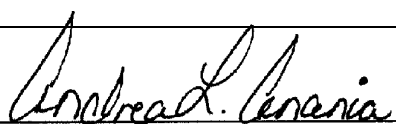
**Iowa School for the Deaf**

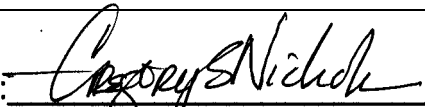
- REVIEW COMMITTEE The review committee at ISD receives, reviews, and responds to inquiries involving the School's activities. Members of the committee include the Superintendent, the Director of Facilities, and the Director of Business Operations.
- LOCAL COMMUNITY RELATIONSHIP ISD operations generally do not include activities that compete or have the potential to compete with private enterprise.
- The School engages in leasing activities with faculty, staff, deaf-related entities, education and cooperative extension services, as well as a day-care facility. ISD consults with the local private business sector to ensure lease rates are comparable to the local market. In addition, the School opens the Multipurpose Center on campus to the public during certain hours for a fee to participants.
- COMPLAINTS ISD reports that there have not been any complaints regarding competition with private enterprise during the past year.

**Iowa Braille and Sight Saving School**

- REVIEW COMMITTEE The review committee at IBSSS receives, reviews, and responds to inquiries involving the School's activities involving the sale of goods, services, or facility usage. Members of the committee include the Superintendent, the Director of Administrative Services, and may involve others depending on the issue.
- LOCAL COMMUNITY RELATIONSHIP IBSSS operations generally do not include activities that compete or have the potential to compete with private enterprise.
- The School does rent unoccupied or underutilized property on its campus to entities (such as local businesses and community groups) whose activities benefit the campus community.
- COMPLAINTS IBSSS did not receive any complaints regarding competition with private enterprise during the past year.

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Andrea L. Anania

Approved:   
Gregory S. Nichols

**Board of Regents Exemptions  
From Noncompetition With Private Enterprise**

**Iowa Code  
§23A.2(2)**

The Board of Regents may, by rule, provide for exemption from the application of this chapter for the following activities:

- Goods and services that are directly and reasonably related to the educational mission of an institution or school.
- Goods and services offered only to students, employees, or guests of the institution or school and which cannot be provided by private enterprise at the same or lower cost.
- Use of vehicles owned by the institution or school for charter trips offered to the public, full or part-time, or temporary students.
- Durable medical equipment or devices sold or leased for use off premises of an institution, school, or University of Iowa Hospitals or Clinics.
- Goods or services which are not otherwise available in the quantity or quality required by the institution or school.
- Telecommunications other than radio or television stations.
- Sponsoring or providing facilities for fitness and recreation.
- Food service and sales.
- Sale of books, records, tapes, software, educational equipment, and supplies.

**Iowa Code  
§23.A2(10)k**

This chapter does not apply to any of the following on-campus activities of an institution or school under the control of the Board of Regents:

- Residence halls.
- Student transportation, except as specifically listed in subsection 2, paragraph "c".
- Overnight accommodations for participants in programs of the institution or school, visitors to the institution or school, parents, and alumni.
- Sponsoring or providing facilities for cultural and athletic events.
- Items displaying the emblem, mascot, or logo of the institution or school, or that otherwise promote the identity of the institution or school and its programs.
- Souvenirs and programs relating to events sponsored by or at the institution or school.
- Radio and television stations.
- Services to patients and visitors at the University of Iowa Hospitals and Clinics, except as specifically listed in subsection 2, paragraph "d".
- Goods, products, or professional services which are produced, created, or sold incidental to the schools' teaching, research, and extension missions.
- Services to the public at the Iowa State University College of Veterinary Medicine.