

CONFIDENTIAL SUBMISSION TO FACULTY MISCONDUCT REVIEW
COMMITTEE PURSUANT TO BL-ACA-D27¹

I. Introduction

Pursuant to the Indiana University-Bloomington Faculty Misconduct Policy (BL-ACA-D27), as Vice Provost for Faculty and Academic Affairs, I submit to the Faculty Misconduct Review Committee (FMRC) this complaint against Prof. Eric Rasmusen, a professor in the Kelley School of Business (KSB).

Following his receipt of a confidential Office of Institutional Equity (OIE) report on January 25, 2021, and wholly inconsistent with the privacy protections provided for such reports under applicable policy, Prof. Rasmusen then violated that privacy. He sent OIE's confidential report, in mass emails, and in texts, to, at the last known count, approximately 85 people. OIE's 21-page document reported findings and recommendations concerning whether Prof. Rasmusen's behavior in his Business Enterprise and Public Policy and Economics course violated University Policy UA-03.¹

UA-03 states, in relevant part:

“All individuals with knowledge of an alleged incident of sexual misconduct are expected to safeguard the privacy of **those involved and should refrain from discussing the incident with anyone other than appropriate university officials and law enforcement.**” [Emphasis added.]

OIE sent Prof. Rasmusen its report using the privacy tool, Slashtmp, designating it “high security level” in the Slashtmp transmission.³ OIE's report made findings and recommendations on numerous student complaints regarding Prof. Rasmusen's in-class behavior in 2018 and 2019 (faculty complaints were also included). The report noted that the in-class behavior concerns of students, as well as faculty concerns, were reflected in various Tweets and other social media posts from Prof. Rasmusen at various times, including through Summer of 2020.

¹ In accordance with the procedures in UA-03, at the conclusion of the investigation, the OIE investigator created a complete report, which - to protect privacy and to deter retaliation- was to issue only to the Deciding Officer (DO) and Respondent (Prof. Rasmusen). The OIE report issued on January 25, 2021. As the Respondent, Prof. Rasmusen had 10 days to submit his comments to the DO in writing. At this point, however, Prof. Rasmusen changed the rules. He sent OIE's report- which, per UA-03 was to have remained private - along with his extended commentary and his then-draft DO reply, to more than 80 of his former students from three different semesters. He used University data sources to locate the different groups' contact information. He commenced the first of several ex-student group emails by sending the private OIE report, along with other materials of his choosing, to his Fall 2019 class, at 11:29 pm on February 2, 2021 (see Exhibit 9). (Following the ten-day period for Prof. Rasmusen to comment, it is my responsibility, as DO, to review the matter and then to issue findings. I am required to carry out that responsibility separately from this matter now pending before the FMRC.) In summary, Prof. Rasmusen's decision to directly violate student and faculty privacy by sending the OIE report, which he clearly knew was private and protected, sheared away what were supposed to have been bedrock protections against discrimination. A number of students, realizing Prof. Rasmusen's approach was improper, made known their concerns. See Exhibits 1-4; see also Group Exhibit 5 [<https://twitter.com/currywitch/status/1356998996749922306>].³ Each page of the report was water-marked as “CONFIDENTIAL.”

¹ As provided by the policy, all Faculty Misconduct Review proceedings are to be kept confidential. See BL-ACA-D 27, Sec. III A.

Prof. Rasmussen violated the confidentiality of the OIE report by sharing it in group emails and texts with more than 80 former students from Fall 2018, Spring 2019, and Fall 2019 (and with an as yet undetermined number of others). He did this, despite the fact that he knew the report was confidential and should not be disseminated.

A brief summary of how Prof. Rasmussen's behavior came to my attention follows:

- 1) Students began alerting KSB and OIE about this breach of privacy on February 2, 2021. See Exhibits 1-4.
- 2) On February 2, 2021, after learning of this privacy breach, I emailed Prof. Rasmussen to remind him that he was not allowed to share OIE's report, which is clearly protected, private information, with others. Exhibit 6.
- 3) On February 4, 2021, student complaints about breach of privacy continued. I again emailed (see Exhibit 7) Prof. Rasmussen to further warn him that he was breaching the privacy provisions of UA03.
- 4) On February 8, 2021, Prof. Rasmussen again improperly emailed the confidential report, including various attachments, to two Indiana University Foundation employees, copying the University President. On this occasion, he sent the report and his annotated critique of the report, along with one student email response favorable to Prof. Rasmussen. Exhibit 8. At this writing, it remains unknown how many other individuals received the privacy-protected report from Prof. Rasmussen.

Despite these repeated warnings about preserving the confidentiality of the report, Prof. Rasmussen continued abusing student and faculty privacy with his messaging. His group emails and texts spread over (as far as we know, at this point) approximately a one-week period (February 2-8) and were delivered to more than 80 students (including, with one such group email, all students' full names and University email addresses; see Exhibit 9), as well as to at least three other non-students. He also sent multiple text messages to those who had dropped his course. See, e.g., Exhibit 10. His decision to send these messages to those who were at the heart of the investigation (and whose privacy deserved the highest degree of protection) repeatedly violated the University's Code of Academic Ethics [<https://policies.iu.edu/policies/aca-33-code-academic-ethics/index.html>], as well as other University policies.

The necessity for confidentiality is the cornerstone of the OIE investigation process. If students, faculty or staff can be identified² after they come forward with such complaints, to a group of 80-plus people whose email addresses and other contact information Prof. Rasmussen improperly accessed and used, the potential for retaliation against these students and faculty is increased. Prof. Rasmussen's improper data mining and his messaging based on this data mining will have a deterrent effect on OIE's basic functions of preventing discrimination and related acts of misconduct on this campus. It would be hard to overstate the impact of this behavior on OIE's mission to protect students and faculty from acts of misconduct under UA-03 – as well as from acts of retaliation prohibited by UA-03 [<https://policies.iu.edu/policies/ua-03discrimination-harassment-and-sexual-misconduct/sm-archived->

² A student who can be identified by inference in the OIE report Prof. Rasmussen chose to circulate made this problem known. See Exhibit 3 (redacted). Certain faculty members referenced in the report can also be readily identified. No names were used.

[08142020-accessible.pdf](#)]. The impact on student and faculty rights to raise these concerns and to avoid retaliation for doing so is enormous.

In improperly accessing and using data on his former students from Fall 2018, Spring 2019, and Fall 2019 and then sending group emails of the OIE report to each of these classes³ (using each classmate's full name and email address in the addressee line in the group email sent to the Fall of 2019 group; see Exhibit 9), Prof. Rasmusen has misused University data containing the class rosters and email addresses of former students. See Sec. III. This misuse resulted in further privacy invasions of our students that occurred in early February of 2021. These acts constitute a blatant disregard for student and faculty privacy. (As noted above, at least one student, as well as certain faculty members, can be identified, by inference, in the report.) These acts also breach the University's Code of Academic Ethics [<https://policies.iu.edu/policies/aca-33-code-academic-ethics/index.html>], a basic set of principles for all of us, as faculty, to follow.

I want to make it clear to the Committee that this request for FMRC review does not require you to make any recommendations concerning the faculty and student complaints that were the subject of the detailed OIE report. Those complaints will be reviewed separately in accordance with the procedures specified in University Policy UA-03 [<https://policies.iu.edu/policies/ua-03-discrimination-harassment-and-sexualmisconduct/sm-archived-08142020-accessible.pdf>].

OIE's report is relevant to these proceedings because students and faculty who participated in OIE's investigation, and who were promised privacy protections under governing policy did not receive that privacy protection. Prof. Rasmusen had a right to read and comment on the report to me and to OIE, and he did that. See, e.g., Exhibit 11. He did not have a right to release OIE's report, with his detailed annotations, to the more than 80 ex-students that he began sending it to in the late evening hours of February 2, 2021. Nor did he have a right to release it to others, which he did on February 8, 2021, when he sent his annotated OIE report, among other things, to two employees of the Indiana University Foundation, copying the University President. In releasing this report along with other actions which will be detailed below, Prof. Rasmusen has repeatedly and knowingly violated and actively disregarded student privacy and the privacy of those participating in an OIE investigation, violating the Code of Academic Ethics, violating UA-03, and violating several other University policies. It is these privacy and related violations that require your review for appropriate sanctions.

Prof. Rasmusen chose to go on unpaid leave this academic year. He remains part of our faculty, although he is not teaching. He, as well as the rest of us, is responsible for following the Code of Academic Ethics ("Code"), [<https://policies.iu.edu/policies/aca-33-code-academic-ethics/index.html>], as well as University policies protecting student and faculty privacy. This report will focus on how Prof. Rasmusen's extensive, egregious breaches of the Code have had, and will continue to have, an adverse impact on OIE's ability, to meaningfully assist students and faculty with discrimination and other concerns now and in the future - not to mention the direct impact on the students and faculty, themselves, who came forward to make this particular OIE report. These are the issues the FMRC is tasked to address.

³ Prof. Rasmusen used "GroupMe" to send text messages to students who had dropped his course. An example of one of the "GroupMe" text messages is attached as Exhibit 10.

As noted above, I have communicated promptly and repeatedly with Prof. Rasmusen in an effort to be sure he knew that his recent mass emailing to his ex-students, which contained the confidential OIE report on student and faculty complaints about Prof. Rasmusen's behavior, breached the Code and should not continue. Prof. Rasmusen did not immediately reply to my email correspondence advising him that he

was in violation of the Code. Rather, he continued to transmit OIE's report, disregarding my warnings. Further, when he sent me his response to the Investigative Report on February 5, 2021, he acknowledged having received my emails but stated that he disregarded my directive (see Exhibit 12), and continued contacting students (approximately 80 of them, plus other non-students) because he disagreed with me. As stated in section A.a of the Code:

"Indiana University is committed to the concept of academic freedom and recognizes that such freedom, accompanied by responsibility, attaches to all aspects of a teacher's or librarian's professional conduct. Within the context, **each person observes the regulations of the University**, and maintains the right to criticize and seek revision and reform." (Emphasis added.)

When a faculty member disagrees with a directive from a University official, there are two faculty bodies in place, the Faculty Mediation Committee and the Faculty Board of Review, to which they can appeal. Simply ignoring the policies or a directive is not an option and doing so is a serious violation of the Code (see also "Responsibilities as University Citizens" #25). Prof. Rasmusen made it clear he would not comply with my requests that student and faculty privacy be respected. He continued to send the report after both my February 2, 2021 and February 4, 2021 warnings.

Prof. Rasmusen's February 2021 behavior constitutes serious and egregious violations of numerous provisions of the Code [<https://policies.iu.edu/policies/aca-33-code-academic-ethics/index.html>]. Key among these is his deliberate choice to improperly access data for, and then improperly correspond with, all (approximately 85) students who took his KSB Enterprise and Public Policy course in Fall 2018, Spring 2019, and Fall 2019, sending all 80-plus of these students (even those who had dropped the class⁴) OIE's report. Prof. Rasmusen's annotated version of this report was submitted in sufficient detail that it more than doubled the original report's length.⁵

Compounding the data and privacy violations Prof. Rasmusen has committed, his actions- unless they are appropriately sanctioned - will logically lead to fewer students and faculty coming forward with concerns to OIE. This is so, particularly given that Prof. Rasmusen so blatantly breached University policy UA-03 – a policy which specifically provides privacy rights to the individuals who make these reports (see Sec. II below). Prof. Rasmusen was repeatedly advised of the application of this policy in all communications. It again bears noting that, because of the details presented in OIE's report (the report was never intended for general circulation – consistent with the policy – and therefore included

4 For those students who dropped his course, Prof. Rasmusen sent a "GroupMe" text, stating he was concerned about why they had "disappeared" from his class. A copy of the body of this text message (the student who sent it supplied redactions) is attached as Exhibit 10.

5 Prof. Rasmusen's annotations to the report (some of which were in a larger-than-typical font) expanded it from a 21-page report to approximately a 60-page report.

sufficient factual descriptions to allow for faculty identifications to be made, as well as a student's), student and faculty privacy was invaded.

Prof. Rasmusen has deliberately chosen to make this privacy-protected report sufficiently public that the *Indiana Daily Student* (IDS) has now published, as of this writing, two separate articles about it.

II. Background

A. OIE's Report of January 25, 2021⁶

OIE's report deals with complaints that Prof. Rasmusen exhibited racist-, gender-, and ethnic-biased behavior in the classroom and elsewhere within the KSB. As required by University policy UA-03 [<https://policies.iu.edu/policies/ua-03-discrimination-harassment-and-sexual-misconduct/sm-archived08142020-accessible.pdf>], OIE investigated and recently provided my office, consistent with its responsibilities under UA-03, a 21-page report that provides: a summary of the student and faculty complaints made to OIE and to KSB about Prof. Rasmusen's behavior, a summary of the applicable policy and OIE's analysis and recommendations, and a summary of Prof. Rasmusen's comments in reply (he met with OIE on September 8, 2020, by Zoom, to provide his verbal response). Prof. Rasmusen also submitted a detailed, written commentary to OIE; see Exhibit 11. I will act on this OIE report in my capacity as a decisional official, as required by UA-03. Although this is not a report that this Committee needs to act upon or review, I wanted to provide the following background information.

Consistent with UA-03, OIE sent the full investigative report to Prof. Rasmusen on January 25, 2021, using private Slashtmp transmission, marking the Slashtmp as "Security Level High" (see Exhibit 13). In their transmittal letter, OIE let Prof. Rasmusen know that he could meet with me to discuss any concerns. Exhibit 14. I did not hear from him, so I then followed up with Prof. Rasmusen by email correspondence dated February 1, 2021 (Exhibit 15), to remind him that he could meet with me by Zoom or by phone to provide any thoughts or comments to me before I issued my findings. Prof. Rasmusen chose not to meet with me. He instead sent me the detailed, annotated commentary on OIE's report that he also sent to his former Fall 2018, Spring 2019, and Fall 2019 students and others. This correspondence to me, dated February 5, 2021, also included an additional detailed set of warnings to the University from Prof. Rasmussen. These warnings set forth an extensive eight-point plan he said he would pursue to direct further attention and publicity about this matter should my findings not meet with his approval. He warned of eight specific steps he would take if things ended "less happily" than he would like.⁷ See Exhibit 16.

B. Individual Privacy Issues

⁶ As stated above, the FMRC is not being asked to analyze or review the OIE report in any respect. Background regarding how OIE functions and the information it collects and provides to my office is included to assist the Committee in its separate determination as to whether Prof. Rasmusen committed repeated, egregious violations of the University's Code of Academic Ethics.

⁷ For example, point six of this eight-point plan was: "Consider putting numerous individual members of the IU faculty on the spot by asking them to take one side or the other. If they refuse to take a side, I will publish their names together with the fact that they refused."

The behavior of Prof. Rasmusen, which was the basis for the OIE investigation and report, was handled under UA-03 [<https://policies.iu.edu/policies/ua-03-discrimination-harassment-and-sexualmisconduct/sm-archived-08142020-accessible.pdf>], the University's Sexual Misconduct policy. This policy protects students and others against many forms of discrimination, including the race-, gender-, and ethnic-based discrimination allegations students brought to OIE concerning Prof. Rasmusen. As summarized in the student and faculty complaint sections of OIE's report, the behavior of Prof. Rasmusen in Fall 2019 and at other times clearly offended the students and faculty members who participated in the

investigation, or they would not have come forward. Some were apparently hesitant to come forward, fearing retaliation, which is one of the strongest reasons why OIE reports must be kept confidential. Failure to do so serves as a strong deterrent for students, staff and faculty to bring forth complaints of bias or sexual harassment.

OIE, following policy that was in effect at the outset of the investigation, completed Prof. Rasmusen's interview on September 8, 2020 (after an initial rescheduling). His rebuttal information, as submitted to OIE, was transmitted to me in the January 25, 2021 report that OIE provided to me. I then gave Prof. Rasmusen (see email dated February 1, 2021; Exhibit 15) an opportunity to meet with me to explain the facts as he viewed them. I reminded him in this email that I was open to meeting with him. He declined this invitation, choosing to send only written communication to me on February 5, 2021. This written communication included his detailed, 8-point warning referred to above in Sec. II A. See Exhibit 16.

Instead of following the process, Professor Rasmussen chose to ignore the admonition behind OIE's "confidential" and "high-level security" labeling of the report⁸ (and as stated in my emails from February 2 and February 4) that the report was to remain confidential. Instead, he sent group emails⁹ to all 80plus students from his previous three classes - students he is no longer teaching (a number of whom had already complained about him directly to OIE and KSB). By doing so he violated the privacy interests of the students and faculty members who did come forward. Although they are not named in the report, it is relatively easy, as one student has pointed out (Exhibit 3) to establish at least one individual's identity. Faculty identities are easily inferred because they were described, although not named in the report, by their gender, race or ethnic background – information that formed the basis of their complaint about Prof. Rasmussen. Such dissemination violates, among other things, the significant protections for privacy found in University Policy UA-03 [<https://policies.iu.edu/policies/ua-03-discrimination-harassment-andsexual-misconduct/sm-archived-08142020-accessible.pdf>]. As noted above, UA-03 has very detailed privacy (as well as non-retaliation) protections. UA-03 states in relevant part:

"All individuals with knowledge of an alleged incident of sexual misconduct are expected to safeguard the privacy of **those involved and should refrain from discussing the**

⁸ The Slashtmp message with OIE's report to Prof. Rasmusen indicated that it was "High Security Level." Exhibit 13.

⁹ Prof. Rasmusen sent an abbreviated version of his communication (without the annotated OIE report) to those who dropped his course, using a "GroupMe" text. In this message, he asked each student: "How are you doing? You were coming along well in G406 in Fall 2019 until you disappeared... and later I saw that you dropped the course." Prof. Rasmusen then asked each of the students who had dropped to please respond to him to explain their reasons for dropping the course. See Exhibit 10. We do not know, at this time, what responses Prof. Rasmusen may have received to this text.

incident with anyone other than appropriate university officials and law enforcement.” [Emphasis added.]

Both the former version of UA-03 and the new 20-21 (interim) version of UA-03 contain this very clear privacy protection. By disseminating (after improperly accessing student email address and/or phone contact data) the OIE report to more than 80 former students, as well as to others in the University, Prof. Rasmussen clearly violated this policy and the explicit directions given to him. Prof. Rasmusen, in his email message to me on February 5, 2021 (“Memo on Contacting Students”) stated: “I also [in addition to other student groups] emailed the Fall 2019 students – 13 out of 17 of whom were witnesses in the report – and sent them the Report with my draft replies and this message...”. Exhibit 12. Prof. Rasmusen also

clearly reached beyond this Fall 2019 group of students and notified numerous other students, sending those other students his annotated copies of the OIE report, as well. Prof. Rasmusen’s lack of regard for student (and faculty) privacy, as well as the various policy and Code violations he committed, practically jumps off the page. Yet there was no expression of concern or regret of any kind for his actions.

C. Explicit Warnings to Prof. Rasmusen to Protect Student and other Complainants’ Privacy

I took care to specifically instruct Prof. Rasmusen, in correspondence dated February 2, 2021 and February 4, 2021 (Exhibits 6 and 7) that he was not allowed to contact or share confidential information about, or with, students. These efforts to help Prof. Rasmusen understand the implications of his current misconduct in breach of privacy rules were blatantly ignored. He continued to send the OIE report to whomever he chose, after being repeatedly warned not to do so. Instead of following IU policy designed to protect the privacy of others, and instead of appealing to the Faculty Board of Review, Prof. Rasmussen seems to believe he can write his own policy. His email to me, dated February 5, 2021, states: “ I disagree as to the propriety of my contacting former students for comment.” Exhibit 12. He then continued to send his annotated version of OIE’s report to others – to my knowledge, most recently on February 8, 2021.

After being contacted by several students who received the mass email from Prof. Rasmussen, Dean Kesner wished to explain to current and former KSB students that Prof. Rasmusen was not acting on behalf of KSB. Dean Kesner sent individual apology emails (see Exhibit 17) to each of the students that she was able to determine had received Prof. Rasmusen’s communications in breach of student privacy protections.

D. Prof. Rasmusen Engaged in a Pattern and Practice of Privacy Violations

The 2021 violations of student privacy are not isolated. Prof. Rasmusen has previously violated student privacy rights. While investigating the classroom behavior complaints, OIE learned that Prof. Rasmusen committed significant privacy violations covered under FERPA and University policy. One of the more concerning violations occurred when Prof. Rasmusen improperly copied, and then turned over to the IDS, in approximately December of 2019, a video of his KSB class. This video, because it originally contained students’ images, first names, voices, and one particular student’s email address (while also personally identifying some students’ faces due to the camera angle) was determined to be a violation of FERPA by the University’s office of General Counsel. Prof. Rasmusen was advised by General Counsel’s office that this video was not his property, that it was University property under Indiana

University policy UA-05, and that he should relinquish it, rather than publicize it, as he desired. He did not follow this directive, which came directly from his Dean. See Exhibit 18.¹⁰ He maintained, despite the fact that he called this unauthorized download a “hack” (see Exhibit 19) that this was his own personal property. He then provided a partially edited video to the IDS.

After learning of the video’s release, students became concerned and indicated they feared Prof. Rasmusen’s release of the video could result in online postings on social media, potentially impacting their personal safety. Even though Prof. Rasmusen attempted to edit the video, students’ faces could still be viewed on the video he released to the IDS due to the positioning of the video camera. Nevertheless, Prof. Rasmusen refused to retrieve the video from the IDS, as he had been directed to do by his Dean, and refused to relinquish or destroy other copies of the video, as he had been directed. Many students signed documents specifically indicating they declined their consent to have their images or other identifying features revealed by Prof. Rasmusen.¹¹

Prof. Rasmusen’s refusal, in late 2019, to follow University directives related to the student video is submitted for consideration as part of a larger pattern of misconduct Prof. Rasmusen demonstrates. This behavior demonstrates a strong disrespect for student privacy protections as well as for the University directives that indicate - clearly - why he could not do this. The pattern continues with the events of February 2021; Prof. Rasmusen continues to disrespect privacy and continues to disobey directives specifically related to protecting essential privacy rights. I include this information in my report to this Committee so that you will understand the further background for, and hence the severity of, Prof. Rasmusen’s repeated pattern of utter disregard for the rights of our students, as protected both by federal law and by IU policy, as well as the privacy interests of faculty.

III. Specific Code of Academic Ethics Violations

- A. The Code of Academic Ethics (University Policy ACA-33; <https://policies.iu.edu/policies/aca-33code-academic-ethics/index.html>) clearly, and specifically, prohibits violations of any aspect of University Policy UA-03. See “Responsibilities as University Citizens,” No. 28. To ensure complete protection of rights of those who come forward under UA-03 to make reports, this provision states that the Code prohibits *any* violations of UA-03 not otherwise explicitly mentioned in the Code. [Emphasis added.] Prof. Rasmusen has repeatedly breached this provision of the Code with his wide-reaching messages sending the report not only to his 80-plus former students, but also to others. None of these individuals were supposed to receive this report due to the privacy protections built into UA-03. Prof. Rasmusen clearly breached privacy protections that both students and faculty rightfully expected to have, despite warnings not to do so.

10 Dean Kesner wrote to Prof. Rasmusen on December 5, 2019, stating, in relevant part: “I asked you this morning-and you agreed--not to share the video of the class any further until IU General Counsel can advise on the matter. I ask that you respect your students’ concerns. As such, I am reiterating and reconfirming that you **may not** distribute this video without authorization. In addition, I am specifically asking you to delete it from your files.”[Emphasis in original.] See Exhibit 18.

11 Although Prof. Rasmusen worked with the IDS to release the video, to the best of my knowledge, the IDS ultimately did not publish or release the video.

- B. The Code also specifically prohibits retaliation and "... any behavior or activity that threatens or intimidates any potential participant in a judicial process and/or that is in violation of the Sexual Misconduct Policy, UA-03." See Section III, "Responsibilities as University Citizens," No. 27 [<https://policies.iu.edu/policies/aca-33-code-academic-ethics/index.html>].

Prof. Rasmusen sent more than 80 of his ex-students (dating back to Fall of 2018) a complete copy of the OIE report, along with his detailed annotations, thereby allowing some student and faculty identities to be inferred. The logical consequence of this act is to intimidate and discourage individuals from providing cooperation with OIE in the future.

In addition, considering the wide range of individuals Prof. Rasmusen chose to circulate the report to, it is only logical that those whose full names and Indiana University email addresses (these full

names and email addresses were provided in one out of three of Prof. Rasmusen's mass emailings; see Exhibit 9), would now be concerned about retaliation, either online or elsewhere. The same applies to those who can be identified based on the circumstances described in the report.

Significantly, the Faculty Misconduct Policy (BL-ACA-D27; <https://vpfaa.indiana.edu/policies/blaca-d27-faculty-misconduct/index.html>), which establishes the powers and rules for the FMRC, states that:

"Protections against retaliation are critical to the University community. Retaliation against anyone who has reported an incident of misconduct, provided information or participated in procedures of an investigation into a report of misconduct, is prohibited by the University and will not be tolerated. Acts of retaliation include intimidation, threats, and/or harassment, whether physical or communicated verbally or via written communication (including the use of e-mail, texts, and social media). **Retaliation also includes any other acts that are intended or reasonably likely to dissuade a reasonable person from reporting incidents, providing information, or participating in procedures as described above,** as well as adverse changes in work or academic environments or other adverse action or threats. The University will take steps to prevent retaliation and will impose sanctions on anyone or any group who is found to have engaged in retaliation in violation of this policy." [Emphasis added].

The Code of Academic Ethics further provides (No. 8 under "Personal Misconduct on University Property;") that "... failure to comply with the directions from authorized university officials in the performance of their duties..." also violates the code. Prof. Rasmusen, in refusing to comply with my reasonable directives, which were issued in an effort to protect the privacy of the report, violated this provision of the Code, as well as those cited above. He did the same when he disobeyed the reasonable directive from the Dean's office and from General Counsel's office regarding the KSB class video.

C. The Code of Academic Ethics also provides (No. 25 under “Personal Misconduct on University Property;” [<https://policies.iu.edu/policies/aca-33-code-academic-ethics/index.html>] that “Violation of other disseminated university regulations, policies, or rules” is a separate breach of the Code. This provision cites, in particular, to University computing policies. Prof. Rasmusen violated numerous University computing policies, as indicated below:

1. IT-21. While not currently teaching,¹² but while still a member of the faculty, he used IU data in violation of University policy IT-21 [<https://policies.iu.edu/policies/it-21-useemail/index.html>]. This policy states, in relevant part: “Electronic mail will not be sent by members of the University community to persons with whom the sender does not have an established, mutually-accepted personal, business or academic relationship.” Prof. Rasmusen sent his group emails to persons that he was no longer teaching and, for quite a number of those persons (especially those who had complained about his classroom behavior), could not be deemed to be a “mutually accepted” relationship. By using his separate, personal Gmail account to communicate with his ex-students, Prof. Rasmusen

underscored that personal these ex-student messages were not connected with legitimate Indiana University operations.

2. IT-01. Prof. Rasmusen sent these group emails (and texts to the students who dropped), taking these actions to further his own personal agenda and his own perceived personal gain. This use of IU data to further his own personal agenda and his perceived personal gain violates University policy IT-01 [<https://policies.iu.edu/policies/it-01-appropriate-use-itresources/index.html>]. IT-01 states, in relevant part, that: “Indiana University technology resources may not be used in a manner that violates the law, for private commercial activities that are not approved by the university, [or] for personal private gain...”.
3. DM-01 and DM-02. In addition, Prof. Rasmusen also has violated the following University policies that govern use of computer data: DM-01 and DM-02 [<https://policies.iu.edu/policies/dm-01-management-institutional-data/index.html>] and [<https://policies.iu.edu/policies/dm-02-disclosing-institutional-information/index.html>].

DM-01 states, in relevant part that “Users of institutional data must: ... respect the confidentiality and privacy of individuals whose records they may access,” as well as “... abide by applicable laws, regulations, standards, and policies with respect to access, use, disclosure, retention, and/or disposal of information.” As noted above, Prof. Rasmusen clearly has not complied with this portion of DM-01. DM-01 further states that institutional data should not be used for an individual’s personal gain. In this situation, Prof. Rasmusen has used the student email lists and “GroupMe” contact information for his former students to attempt to advance himself in an improper and personally motivated way, without respect for faculty or student privacy. His use of this contact information also invites retaliation by some against the students who initially brought the complaints of Prof. Rasmusen’s classroom behavior to OIE for investigation.

¹² Prof. Rasmusen chose to go on unpaid leave for the 20-21 academic year.

DM-02 states that any agent of the university contemplating disclosing institutional data should "...take proactive steps to reduce the risks associated with the sharing of that information." Prof. Rasmusen took no proactive steps and abided by none of the directives warning him not to share a very significant amount of private, institutional data. In addition to the group emails to students, he also sent the OIE report (his annotated version of the OIE document, as well as other confidential information) to non-students on February 8, 2021.

IV. Conclusion

I ask that the FMRC accept this case for immediate review and consider all of the information provided above concerning Prof. Rasmusen's repeated and egregious violations of the Code of Academic Conduct. I request that this matter be set for hearing within the time frame provided by BL-ACA-D27. Thank you for your consideration of this matter.

Respectfully submitted,

Eliza Pavalko, Vice Provost for Faculty and Academic Affairs

[REDACTED]@iu.edu>

Tuesday, February 2, 2021 11:42 PM

To: Perry, Josh <joshperr@indiana.edu>

Subject: Fwd: [External] G406 Students from Spring 2019: Any comment on the "sexual misconduct" allegations against Professor Rasmusen?

Hello Josh,

It's been quite some time since last we've spoken, and I hope you've been well.

I'm reaching out because Eric Rasmusen has sent the email attached below to every student who took his course in spring 2019 asking them to comment on, from what I gather, is an ongoing Title IX investigation.

This is one of the most inappropriate emails I've received in my entire academic career. You are one of few contacts I have left at the Kelley School, and I trust that you will bring this to the attention of the appropriate people.

Best,

[REDACTED]

[REDACTED]

J.D. Candidate

Indiana University - Maurer School of Law 2022

Pronouns: he/him/his

Begin forwarded message:

From: Eric Rasmusen <erasmuse61@gmail.com>

Date: February 2, 2021 at 11:03:08 PM EST

To: undisclosed-recipients;

Subject: [External] G406 Students from Spring 2019: Any comment on the "sexual misconduct" allegations against Professor Rasmusen?

This message was sent from a non-IU address. Please exercise caution when clicking links or opening attachments from external sources.

Dear Spring 2019 G406 Students,

As I explain in the attached pdf, the University has been investigating me and hopes to punish me for what I think are trivial or nonexistent offenses. If you have any comments that you think would be relevant, please email me at erasmuse61@gmail.com. I received the

From: Sent:

University's investigatory report on January 25, and I have until 5 p.m. February 5---Friday---
to submit a response before the Vice-Provost decides how to punish me.

I hope you are doing well in your various vocations.

Yours truly,

-

Professor Eric Rasmusen
Department of Business Economics and Public Policy
Kelley School of Business, Indiana University
Erasmuse61@gmail.com, Cell:(812) 345-8573

Exhibit 2

[REDACTED]@iu.edu>

Wednesday, February 3, 2021 12:50 PM

To: Springston, Emily Auld <emapatte@iu.edu>

Subject: Re: Recent Communication Regarding University Investigation

Hi Emily,

I really appreciate you reaching out about this and that your office does value the privacy of students coming forward about incidents of bias.

I did read through Rasmusen's response to the report. One thing I would like to note is that he seems to attribute the fact that several students came forward with bias reports against him after the November 2019 statements by Dean Kesner and Provost Robel to mean that those statements were fabricated or coerced. In my personal experience, I didn't submit any sort of report regarding classroom bias prior to their statements because I 1) didn't know how and 2) didn't think any sort of report would have any implications for a tenured professor like him. Their statements and follow up communications made it very clear how to file a bias report, which empowered me to do so. I admit that despite this information probably being readily available in every syllabus, that I did not fully read those instructions in the past, so the clear instructions from university leadership were essentially new information to me. Again, my error for not reading in full, but I remembered the incident that I reported clearly enough and was disturbed by it enough to file a report once IU leadership re-emphasized our rights and abilities as students to report inappropriate behavior like Eric Rasmusen's.

Please feel free to reach out with any follow-ups, I am more than happy to provide information to your office as I can see from the confidential report that Rasmusen distributed that you value presenting valid evidence. I am an alum of IU, so I'm not sure how much longer my email access will last, feel free to email me via my personal [REDACTED]@gmail.com. Thank you again for all of the work you do!

Best,

[REDACTED]

On Feb 3, 2021, at 10:15 AM, Springston, Emily Auld <emapatte@iu.edu> wrote:

Dear Former Students,

We have learned from some former students in the Kelley G406 class, that Professor Rasmusen may have recently contacted you in regard to our investigation. First, thank you again be willing to share information with our office and/or with Dean Kesner last year. As with all investigations, all parties, including Respondents, are provided clear instruction to safeguard the privacy of those involved and to only discuss the situation with appropriate university officials. You are always free to communicate with Professor Rasmusen if you choose, but you also are under no obligation to do so. We would prefer that if you have any follow-up information or questions, that you contact our office. In addition, we

From: Sent:

understand that Respondent may have shared with you confidential documents. While those was intended for the Respondent and his advisor to have and review, it was not to be circulated. Safeguarding the privacy of all individuals who provided information is a fundamental principle of our policy and our processes (see below for the language from UA-03):

“The university is committed to safeguarding the privacy of the parties in a manner consistent with the objective to effectively investigate and prevent incidents of discrimination, harassment and/or sexual misconduct. In all cases, the university will share the parties’ information and details of the allegation only with university officials, law enforcement personnel, and other individuals who have a legitimate administrative or legal reason to be so informed. Records will not be disclosed outside the university unless required by law or subpoena.”

We understand this may be distressing for you. Please do not hesitate to contact Sally or I, or our office directly (ois@iu.edu), if you have any concerns or questions.

Sincerely,

Emily Springston

University Director of Institutional Equity & Title IX
Office of Institutional Equity - Indiana University
400 E. 7th Street, Poplars 833, Bloomington, IN 47405 (812)
855-4453 - (812) 855-4889 (main office)

equity.iu.edu

(she/her/hers)

Exhibit 3

@iu.edu>

Wednesday, February 3, 2021 11:32 AM

To: Springston, Emily Auld <emapatte@iu.edu>

Cc: Ronald, Sally <sronald@iu.edu>; oie <ois@iu.edu>

Subject: Re: Recent Communication Regarding University Investigation

Hi,

Thank you for reaching out.

I did want to express concern because my witness statement involved my seat placement in the classroom, and I was the only student who could've made the statement that I did based on that seating chart (which he attached in his response, so he was aware of it). He directly addresses my witness statement and makes several baseless assumptions regarding my statement.

I wanted to reach out to express concern for that document being shared because it directly compromises my anonymity. I also wanted to offer to add to my statement to dispute any claims he made.

Thank you,

█

Exhibit 4

----- Forwarded message -----

From: █@iu.edu>
Date: Thu, Feb 4, 2021 at 11:59 AM
Subject: Fwd: [External] Fall 2018 G406 Students: Do you have any comments on the allegations of sexual misconduct against Professor Eric Rasmusen?
To: <jeffprin@indiana.edu>

Hello Jeff,

My name is █ and I'm a former student of Eric Rasmussen. I received this email which I found a bit concerning from him. While I don't want to accuse of him of any wrongdoing, it did seem odd that he would send this out to all his former students off his personal email. For that reason, I wanted to bring it to your attention and make sure you are aware.

Apologies if this is standard procedure for a professor under investigation, I just felt it was a bit inappropriate of him to solicit former students in this way.

Best,

█

----- Forwarded message -----

From: **Eric Rasmusen** <erasmuse61@gmail.com>
Date: Wednesday, February 3, 2021
Subject: [External] Fall 2018 G406 Students: Do you have any comments on the allegations of sexual misconduct against Professor Eric Rasmusen? To:

This message was sent from a non-IU address. Please exercise caution when clicking links or opening attachments from external sources.

Dear Fall 2018 G406 Students,

As I explain in the attached pdf, the University has been investigating me and hopes to punish me for what I think are trivial or nonexistent offenses. If you have any comments that you think would be relevant, please email me at erasmuse61@gmail.com. I received the

From: Sent:

University's investigatory report on January 25, and I have until 5 p.m. February 5---Friday---
to submit a response before the Vice-Provost decides how to punish me. I hope you are
doing well in your various vocations.

YT,

-

Professor Eric Rasmusen
Department of Business Economics and Public Policy
Kelley School of Business, Indiana University
Erasmuse61@gmail.com, Cell:(812) 345-8573



Explore

Settings

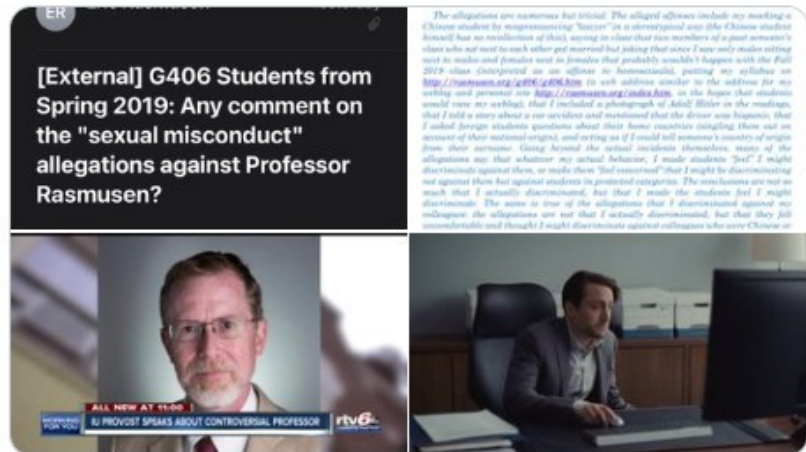
← Tweet



Curry Witch
@currywitch



POV: your professor from sophomore year is reaching out to you from his personal email to come to his defense as a character witness because he's facing sexual misconduct allegations. im so tired might just throw myself down a flight of stairs and frame him for the murder



11:12 AM · Feb 3, 2021 · Twitter for iPhone

35 Retweets 14 Quote Tweets 505 Likes



goonie @thxmbo · Feb 3

Replying to @currywitch

oof that's terrible. i'm sorry he reached out to you.



1



1



Curry Witch @currywitch · Feb 3

it's honestly so cringe like...i was in his class how could he possibly think i'd come to his defense



1



Sarah Biette @SarahBiette · Feb 3

Replying to @currywitch

Absolutely disgusting, I'm sorry you're having to deal with this



1



1



Curry Witch @currywitch · Feb 3

awh thank you can't believe he sent this fuckass email to one of the few people who's pro cyberbullying



9



lil! @womenbeboppin · Feb 3

Replying to @currywitch

this is so gross and unprofessional and weird



1



2



← **Tweet**

1 ↻ ♥ 2 ↗



Curry Witch @currywitch · Feb 3

...

honestly v sad and weird and intense of him desperate as shit

1 ↻ ♥ 1 ↗



samuelito @sknylegend · Feb 3

...

Replying to @currywitch

fucking insane and depraved of him but also your life is a movie

1 ↻ ♥ 7 ↗



Curry Witch @currywitch · Feb 3

...

jokes on him that he reached out to one of the most apathetic people alive

1 ↻ ♥ 9 ↗



mayonegg @grey_sea17 · Feb 3

...

Replying to @currywitch

The way my jaw dropped even further to the floor when I realized who this professor is

1 ↻ ♥ 4 ↗



Curry Witch @currywitch · Feb 3

...

i looked like coraline dad when that email hit absolutely killed the vibes

1 ↻ ♥ 2 ↗



Iarne Michaels @JinesyJines · Feb 3

...

Replying to @currywitch

The list literally just... ~kept~ going???

1 ↻ ♥ 15 ↗

← **Tweet**

1 ↻ ❤️ 15 ↗



Curry Witch @currywitch · Feb 3

...

he went "all i did was *document longer than the cheesecake factory menu*"

💬 ↻ ❤️ 36 ↗



Victoria Monét Stan Account @CouldNotBeMi · Feb 3

...

Replying to @currywitch

What gets me is the " I DIDNT discriminate, just that they ~feel~ I would ..."

... for as intelligent as he thinks he is, he really can't read a fucking room ... full of 300+ people lmao.

💬 ↻ ❤️ 8 ↗



abby malala @abymalala · Feb 3

...

Replying to @currywitch

omg you should update she rates dogs about this lmao

💬 ↻ ❤️ 3 ↗



Karsen @kkarsennn · Feb 3

...

Replying to @currywitch

@LuFaulk





🗨️ ↻ ❤️ 1 📤



Betsy @bellagothsgf · Feb 3

⋮

Replying to @currywitch

Are u allowed to fill out a statement *against* his behalf

🗨️ 1 ↻ ❤️ 8 📤



Curry Witch @currywitch · Feb 3

⋮

i'm not sure but so far i've got this tweet and my fuckass collage as my statement against his behalf

🗨️ 1 ↻ ❤️ 4 📤

⋮ [Show replies](#)



em :) @627pm · Feb 3

⋮

Replying to @currywitch

"i'm 'smart' so it's unfair to hold me accountable for my own actions and words ;(((("

🗨️ ↻ ❤️ 2 📤

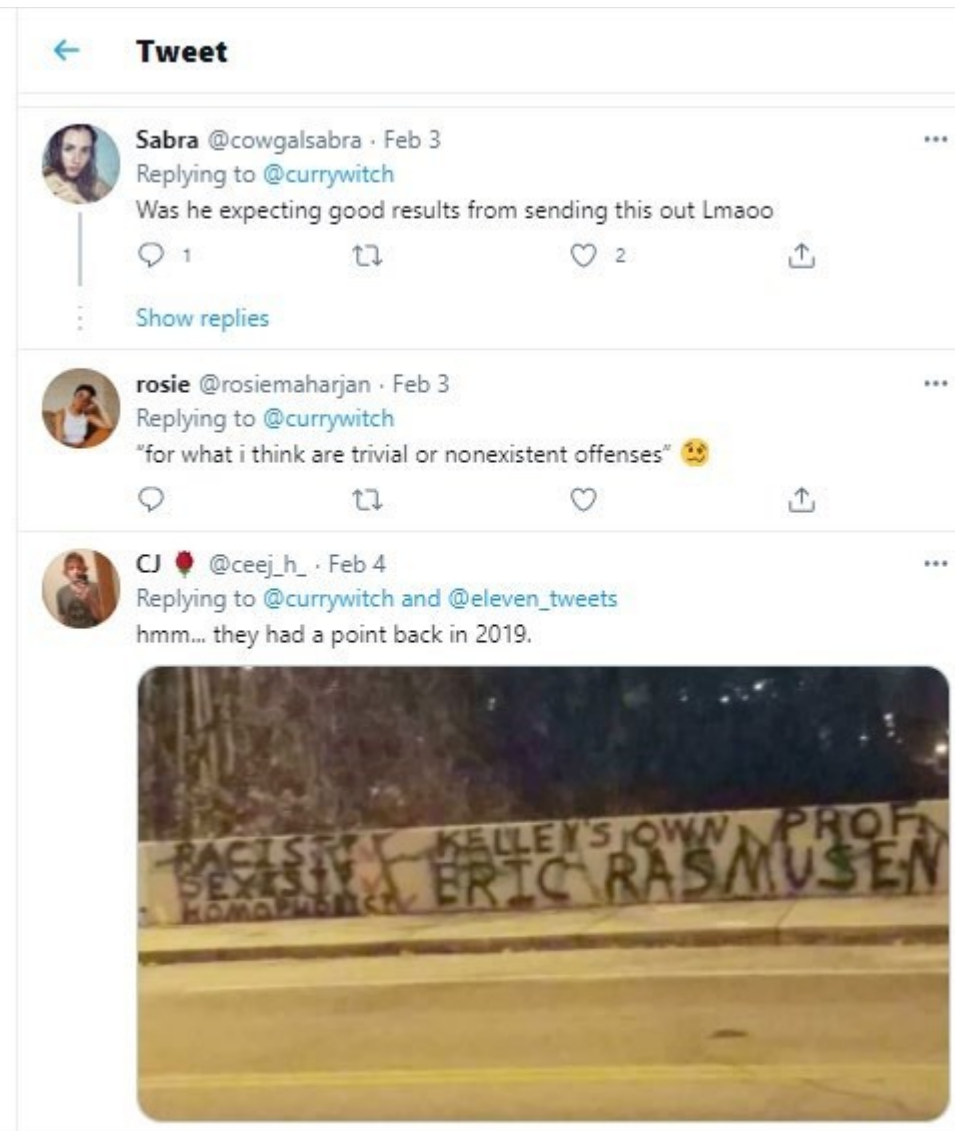


Exhibit 6

From: Pavalko, Eliza <epavalko@iu.edu>
Sent: Tuesday, February 2, 2021 4:49 PM
To: Rasmusen, Eric B. <erasmuse@indiana.edu>
Cc: Pavalko, Eliza <epavalko@iu.edu>
Subject: Office of Institutional Equity (OIE) Complaint

Dear Prof. Rasmusen:

As you know, you are the Respondent in the above-referenced matter, which is governed by University policy (UA-03, in its archived form). It is now clear that, in violation of UA-03, you have contacted certain students from your G406 class. As is clear from the report, former G406 class members are a significant part of the above-referenced complaint.

In accordance with UA-03 (the link for which has been provided to you on more than one occasion), you are expected to "... safeguard the privacy of those involved," as well as "refrain from discussing the incident with anyone other than appropriate university officials...". The policy also provides, in pertinent part: "Interference with the investigation may result in disciplinary measures pursuant to applicable university policy and procedure."

Please immediately discontinue attempts to communicate with former students about any matters related to the investigation. Eliza

Eliza K. Pavalko
Vice Provost for Faculty & Academic Affairs
Allen D. and Polly S. Grimshaw Professor of Sociology
Bryan Hall 105 107 S. Indiana Ave.
Bloomington, IN 47405
Ph: 812-855-9973; Fax: 812-855-9972; email: epavalko@iu.edu
Pronouns: she/her/hers

Exhibit 7

Sent: Thursday, February 4, 2021 1:30 PM
To: Rasmusen, Eric B. <erasmuse@indiana.edu>
Cc: Pavalko, Eliza <epavalko@iu.edu>
Subject: FW: Office of Institutional Equity (OIE) Complaint

Prof Rasmusen;

It has come to my attention that you have, in direct violation of University policy and my explicit instructions on Tuesday, continued to contact students and have released an OIE report to them that is confidential. This constitutes flagrant and willful violation of the privacy of students and faculty in the report whose identity may be inferred. Multiple students have told the University that they found this communication improper, alarming, and disturbing. I can understand why.

Your violation of University policy and of my specific instructions to you are clear violations of the University's Principles of Ethical Conduct as well as Policy UA-03. Any further contact from you to students or to faculty about the report or the investigation, or any release of this confidential report to anyone other than your legal advisor, is prohibited. These serious violations will be considered when making my decision about this case. These and any further disregard of student privacy may constitute additional misconduct leading to further sanctions.

Eliza

Eliza K. Pavalko
Vice Provost for Faculty & Academic Affairs
Allen D. and Polly S. Grimshaw Professor of Sociology
Bryan Hall 105 107 S. Indiana Ave.
Bloomington, IN 47405
Ph: 812-855-9973; Fax: 812-855-9972; email: epavalko@iu.edu
Pronouns: she/her/hers

Exhibit 8

From: Eric Rasmusen <erasmuse61@gmail.com> **Date:**
Monday, February 8, 2021 at 8:49 PM
To: "Kinder, Samuel Matthew" <kindersm@iu.edu>
Cc: "President Michael A. McRobbie" <iupres@iu.edu>, "Smith, Daniel C"
<dansmith@indiana.edu>
Subject: [External] Re: Meeting Request from IU Foundation

This message was sent from a non-IU address. Please exercise caution when clicking links or opening attachments from external sources.

Dear Mr. Kinder (cc: Dan Smith, Michael McRobbie),

Thank you for your inquiry. I'm afraid I'm not feeling very charitable towards Indiana University right now, so I must decline your offer of a half-hour meeting to discuss the work of the IU Foundation. Provost Robel seems to be out to fire me. I'm under investigation now for Title IX violations, for violating an obscure statute about announcing textbook prices, and for discussing the other two investigations.

The Title IX allegations are flimsy. An example of them is that I used a "term of violence" in my syllabus--- the term of violence being "he" as opposed to "he or she".

I attach three documents that might interest people at the Foundation. One is a long *Indianapolis Monthly* article from last May on the investigation. The second is my Reply to the investigative report. My Reply is an 80-page MS Word document, so I've also attached a pdf of just the first two pages, which summarises the situation. The third is a 2-page pdf of the first two pages of the long Reply, which summarize it.

I submitted my Reply to Vice Provost Eliza Pavalko on Friday, February 5, and she is now considering whether to punish me for Title IX violations. If her decision is adverse, I can appeal it to Provost Lauren Robel, and eventually to President McRobbie. This is all private for now—it would be in the interest of all concerned to keep this out of the media as long as possible. The IDS had an article on it Friday, but the Herald Times didn't pick up on it and the story seems to have died.

I told Vice Provost Pavalko that I wanted to keep this out of the media at least until the matter was finalized (all the appeals done). I also told her that if the University did decide to punish me, I would likely notify the media of all relevant details, including the specific allegations against me. The allegations reflect worse on the University for bringing them than on me, I think, and I would not want the world to think that "sexual misconduct" at IU means has the same meaning as in the rest of the world.

You might find the following email from _____, one of my former

students, relevant. He is replying to Dean Idie Kesner after she emailed apologizing for Professor Rasmusen and asking to [REDACTED] on me. He cc'd me, and he has told me I am free to attach his name to his sentiments.

YT,

Professor Eric Rasmusen
Department of Business Economics and Public Policy
Kelley School of Business, Indiana University
Erasmuse61@gmail.com, Cell:(812) 345-8573

*Fear not, for I am with you; be
not dismayed, for I am your God;*
--Isaiah 41:10

Dear Dean Kesner,

You are correct. I DID receive an email from Professor Rasmussen. I'm glad you reached out to me regarding his message. I'm excited to share my thoughts with you.

Where do you get off persecuting Professor Rasmussen for his political views? Sure, he may say and believe some things that I don't agree with, but he is an amazing professor. He presents course material in an understandable and engaging way. In my experience, **he is fair and respectful to all of his students**, and is an excellent academic resource. Removing him from IU's campus would be a DISSERVICE to students. I don't blame him one bit for emailing his former students as he prepares his JUSTIFIED defense against these charges.

His class was one of my favorites during my four year career at Indiana during which my family paid the school close to \$200,000. We THOUGHT that this money was going to an institution of higher learning that respects diversity of thought, but BOY were we wrong. If I could sue IU for a refund, I would. Your hypocrisy is UNBEARABLE.

I'll have you know that you and the other deans have open marxists teaching at IU. You have professors that teach that men are women and women are men. And worst of all, you have professors that teach that America is a nation founded on bigotry, racism and oppression, and that the only true lens through which modern America should be viewed is one dependent upon a hierarchy of oppression that teaches people that they are victims first and foremost. Why haven't you or your colleagues investigated these professors? What is your standard for fireable language/rhetoric? Anything Leftists don't like? The previously mentioned views are distasteful and offensive to many people. You and your fellow deans should either fire all professors with wrong-headed views, or fire none of them. BE CONSISTENT.

You and your colleagues, with your pseudo-intellectual, neo-marxist, cryptofacisist ideologies and administration techniques are what is wrong with this country. You are the cause of the political divide that we see tearing America in two. I don't so much have a problem with the ideas that I previously mentioned, although I find them to be cynical, illogical and unAmerican (I also have negative feelings toward

some of the implications that Professor Ramussen makes with his statements) so much as I have an issue with people like you and your colleagues DEMANDING that your ideas, and ideas that you approve of, be the only ones allowed in education, intelligentsia, media and political discourse. I could not be more delighted to have the opportunity to say this to you.

I highly doubt that this email will change your mind, so maybe the following threat will. After all, you and your ilk wrote the playbook for contemporary cancel culture:

If you fire Professor Rasmussen due to the alleged infractions with which you are currently charging him, or any charges related to him attempting to defend himself, then Indiana University will not receive a single dime from me or my family in donations; future tuition for my would-be children's education; or revenue from anything related to Indiana University sports.

Sincerely,



Class of 2019

On Mon, Feb 8, 2021 at 12:08 PM Kinder, Samuel Matthew <kindersm@iu.edu> wrote:

Professor Rasmusen,

I am following-up from my previous email requesting an introductory meeting.

I partner with members of the Indiana University community. You have long been a philanthropic partner with Indiana University and I would love to engage in an introductory meeting.

The purpose of our 30 minute meeting would be to learn more about you, hear about your connection to IU, and to discuss any possible interest in working together through a meaningful philanthropic relationship. Please let me know what date(s)/time(s) in the next few weeks would most accommodate your schedule for us to connect over phone or Zoom.

Professor Rasmusen, I look forward to hearing back from you and will follow-up in a week if we do not connect prior.

Go Hoosiers!

Sam Kinder

Senior Associate Director, Regional Development
Indiana University Foundation
812-856-8509

FOR ALL

The Indiana University Bicentennial Campaign

For all you have made possible, thank you.

forall.iu.edu

This e-mail message, including all attachments, is private and may contain confidential and privileged information. If you are not the intended recipient, do not use, disseminate, disclose, or copy this information. Please notify the sender by reply e-mail and immediately delete this message.

Exhibit 9

----- Forwarded message -----

From: Eric Rasmusen <erasmuse61@gmail.com>

Date: Tue, Feb 2, 2021 at 11:29 PM

Subject: [External] Fall 2019 G406 Students: Do you wish to comment on the Report investigating allegations of sexual misconduct against Professor Rasmusen? You may be quoted in it, anonymously.

To: [REDACTED] <[\[REDACTED\]@iu.edu](mailto:[REDACTED]@iu.edu)>, [REDACTED] <[\[REDACTED\]@iu.edu](mailto:[REDACTED]@iu.edu)>, [REDACTED] <[\[REDACTED\]@iu.edu](mailto:[REDACTED]@iu.edu)>, [REDACTED] <[\[REDACTED\]@iu.edu](mailto:[REDACTED]@iu.edu)>, [REDACTED] <[\[REDACTED\]@iu.edu](mailto:[REDACTED]@iu.edu)>, [REDACTED] <[\[REDACTED\]@iu.edu](mailto:[REDACTED]@iu.edu)>, [REDACTED] <[\[REDACTED\]@iu.edu](mailto:[REDACTED]@iu.edu)>, [REDACTED] <[\[REDACTED\]@iu.edu](mailto:[REDACTED]@iu.edu)>, [REDACTED] <[\[REDACTED\]@iu.edu](mailto:[REDACTED]@iu.edu)>, [REDACTED] <[\[REDACTED\]@iu.edu](mailto:[REDACTED]@iu.edu)>

This message was sent from a non-IU address. Please exercise caution when clicking links or opening attachments from external sources.

Dear Fall 2019 G406 Students,

As I explain in the attached pdf, the University has been investigating me and hopes to punish me for what I think are trivial or nonexistent offenses. If you have any comments that you think would be relevant, please email me at erasmuse61@gmail.com. I received the University's investigatory report on January 25, and I have until 5 p.m. February 5---Friday--- to submit a response before the Vice-Provost decides how to punish me.

Most of you have been interviewed by the Investigators--- thirteen out of the seventeen of you in the class, it seems. My guess is that you were not shown the final report, or even the parts where you are quoted. I've attached the report, together with the draft of my reply (which, however, I will still be revising until the Friday, February deadline at 5 p.m.).

If you have any comments, let me know. You are not identified in the report, which refers to you as "Witness 1", "Witness 2", and so forth. Witnesses 14 and beyond are from previous semesters. You can stay anonymous even if you want to respond. I hope you've remembered the valuable skill of anonymous email using Protonmail; you can email me as "Witness 7" or whatever your Report name is. Or, you can email me directly. If you do that, please also tell me if you want to be named in my Reply, or not quoted at all; I will follow your preference.

I have attached the 70-page combined Report and Reply, and a 2-page pdf summarizing it.

YT,
-
Professor Eric Rasmusen

Department of Business Economics and Public Policy Kelley
School of Business, Indiana University
Erasmuse61@gmail.com, Cell:(812) 345-8573

Exhibit 10

Please exercise caution when opening links or opening attachments from external sources.

Dear [REDACTED]

How are you doing? You were coming along well in G406 in Fall 2019 until you disappeared.

[REDACTED] and later I saw that you dropped the course.

On January 25 I received a report from Indiana University saying they had investigated me and concluded I had engaged in sexual misconduct. I think this is nonsense, as I explain in the attached pdf. I have until Thursday, February 4 to submit a reply. I am writing to ask if you dropped the course because you felt intimidated or uncomfortable or discriminated against, because the report says,

"These three students indicated that other students chose to drop the course, and assumed this was because students felt intimidated or uncomfortable, but they did not have any specific information about why these students opted to drop."

Please do respond if you have any comment on any of this.

IHS,

Professor Eric Rasmusen
Department of Business Economics and Public Policy
Kelley School of Business, Indiana University
Erasmuse61@gmail.com, Cell:(812) 345-8573

September 10, 2020
Eric Rasmusen

Supplementary Responses to the Investigative Meeting about Me on September 8, 2020

Thank you for your consideration in finding a convenient time for a meeting. I'm glad Indiana University isn't as nasty as some institutions. If I was a bit distracted at the meeting, it's because only two days before I became involved in an academic freedom case at Taylor University, the Christian college in Upland, Indiana. Their top scholar, philosopher Jim Spiegel, was summarily fired in late August, despite being tenured, for refusing to take down a pseudonymous *Youtube* of a song called Little Hitler about human depravity.¹³ The song, as you might expect, does not support Hitler in the least—it's about the classic Christian doctrine of original sin, and how there's a "little Hitler" inside all of us. I even wonder whether Professor Spiegel intended this as a booby trap for his notably unintelligent Administration, tempting them to spring it so he could get them removed after they'd demonstrated there was a little Hitler inside of them. I'm chair of the Indiana AAUP Committee A, which deals with academic freedom issues at the state level, so I contacted him. At IU we have Professor Timothy O'Connor, who is one of the best-known scholars nationally in Spiegel's area, philosophy of religion, and he may be rallying the philosophy community. I know an investigative journalist who is looking into it. Many students and faculty are sympathetic, and, of course, what the university is doing is completely illegal. Taylor University does not seem to have as many rules and procedures as Indiana University to protect its faculty. It's curious, though, that you should bring up the picture of Hitler in Figure 1.2 of my course notes (discussed below). I do hope it's not that some administrator skimmed my notes and thought: "Picture of Hitler: he must be endorsing the Nazi Party".

It was good to hear that there were no allegations of anything severe enough to justify moving me from my office in Hodge Hall to a an office far away in the next building. It wasn't clear to me what allegations there were, if any, actually, that would warrant an investigation. The January letter mentioned "harassing and discriminatory behavior towards students and employees in the academic and work environment, while a professor within the Department of Business Economics & Public Policy within the Kelley School of Business. Specific allegations include unwelcome comments based on race, sex, sexual orientation, and religion, which have created hostile academic and work environments," but perhaps that was just boilerplate. (I don't mean to be picky, but looking back, I see that the January 3 letter spells my name "Erik Rasmussen"—that's good Norwegian, but it's actually "Eric Rasmusen"; my father and great-grandfather preferred anglicized versions).

I'm perhaps a bit lengthy here, but I hope you'll excuse me. When I was up for tenure at Indiana University in 1993, my department voted unanimously in favor, the business school committee was 3-2 in favor, and the dean was in favor. The campus committee voted unanimously against, however, and I was turned down on the peculiar grounds that my student evaluations were low in my first year of teaching at IU, though I was known worldwide for my teaching because of my textbook being the leading one in game theory and my student

13 See *The New York Post*, "Christian college fires professor for warning against hate with 'Little Hitler' song," Justin Lee, September 4, 2020, <https://nypost.com/2020/09/04/christian-college-fires-professor-for-warning-againsthate/>.

evaluations had been fine at UCLA, where I'd taught for six years. I let the world know, generating from what I hear second-hand a lot of support worldwide from the scholarly community, and wrote a request for rehearing that was something like 20 pages long, and the Administration reversed itself without any need for a formal appeal. I heard second-hand that the IU President at the time thought my submission was overkill—but it did work, and sometimes it is easier to write something long than short.

The Hitler photo example is very apt for considering the present sad state of higher education. Some students perhaps have never been challenged by hearing something they disagreed with, so they can't understand why some people were Nazis or slaveowners, and have never thought about whether if they were running a society, someone like Hitler should be entitled to civil rights. In keeping with Professor Spiegel's "Little Hitler" song, most people can't seem to believe that if they'd been white Georgians in 1850 or the typical Bavarian in 1938 they would have been just as enthusiastic about slavery and expelling Jews as they are about the conventional views of the present day.

FIGURE 1.2
PARETO OPTIMALITY



(a) Anderson



(b) Brown



(c) Corman



(d) Daniels


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Pareto Optimality

A policy should be adopted if it makes:

- (a) some people better off, and
- (b) no one worse off.

Whose well-being should count when we define "some people" and "no one"?



I don't go into that in class, though, except to hint at the idea that people's views are largely determined by their culture. Rather, I use it after introducing the idea of Kaldor-Hicks welfare maximization with the example,

Anderson and Brown want a stricter arsenic regulation and would pay up to \$30 and \$70 to get it, whereas Corman and Daniels don't want it, and would require payments of at least \$20 and \$10 to balance out their dissatisfaction with the new regulation. Since supporters would pay \$100 and opponents would accept \$30, adopting the regulation maximizes surplus.

Students think this is obvious, so obvious as to hardly be worth mentioning, just something the professor is doing to be boring and pedantic. It is not, although it is the foundation of all

economic analysis, and should be, for practical reasons I later explain. It is not obvious for a number of reasons, but the one the Hitler picture illustrates is that it evades the philosophic questions of “Who’s welfare counts?” and “If someone had bad motivations, should his pleasure and pain still count?”. Thus, although Anderson may be a standard human whose pleasure and pain should count (“Rasmusen”, except for those who think I am like Hitler), do we count Adolf Hitler’s feelings just as much as anybody else’s? What about black slaves, who were treated as 3/5 of a free person for purposes of representation in the U.S. Constitution? What about cute dogs, who some philosophers say have feelings just as valid as human beings’? I tell the students that these are crucial questions, and you could still do the economic analysis if you adopt unconventional answers to them, but we put them aside in economics classes and they’re a reason it’s useful to take some philosophy classes too.

I forget if I did, but I think I may have said that when I showed my Fall 2019 students how to use anonymous email (so as to feel safe from me and, more important, from the Administration, in asking me questions about the Provost and Dean’s denunciations) that I used an article my most vociferous anonymous student critic asked for the spring 2020 readings. I think I didn’t, actually—looking at my course materials, I have it in the “Also good” folder and not in the five supplementary articles or the two that were required reading.¹⁴) I might use it for the published form of the book, though probably not. It’s a good article, on this same point—which makes me feel disappointed in myself, because the complaining student didn’t think I spent enough time on these issues, and perhaps didn’t even understand that that was the point of bring in Hitler, slavery, and dogs.

You asked me about whether people in my department felt constrained in what they could say to each other. I think they do. I haven’t felt anybody constrained in what they could say to me—as I said, we have vigorous disagreements, and, for example, one of our assistant professors even came to my office once specifically to talk about homosexuality and government policy--- but there is a definite atmosphere of fear when it comes to the Administration coming down on someone for their political statements. Free speech is as chilled as in Communist Eastern Europe before the fall of the Iron Curtain. Given that the Dean called one of the university’s top scholars racist, sexist, homophobic, and reprehensible, and the Provost called him vile, stupid, and bigoted, who wouldn’t expect that faculty and students at Indiana University are scared to speak? I have not talked about this with the junior faculty, because I do not want to put them on the spot. I, myself, am hardly likely to be a spy for the Administration, but it is not necessarily safe to voice your opinions even to someone who is sympathetic--- he might tell someone else what you said, through imprudence or inadvertence. But faculty nowadays are used to speaking very carefully on issues the Administration with which the Administration might disagree, at least if they are at all to the Right of the Administration. On the other hand, in economics, at least, we have a culture of offering lots of comments on each other’s work, a seminar culture designed to test out a paper’s every flaw and find it and correct it before it goes to the anonymous referees--- or to kill the paper entirely, as has happened to many of my own paper that seemed like a good idea at the time but turn out to be energy sinks that ideally would have been killed after the first six months.

14 (The article is “Limitations of the Economic Way of Thinking,” Paul Heyne, July 20, 2010, <https://www.acton.org/pub/religion-liberty/volume-8-number-4/limitations-economic-way-thinking#:~:text=The%20economic%20way%20of%20thinking%20has%20at%20least,dispute%20that%20last%20sentence%2C%20they%20are%20being%20disin> genuous.

We will have that, since most of our research is not on “hot-button” topics—though I think most of us would avoid hot-button topics for fear of persecution even if we thought we had a good research idea on something involving sexuality, race, abortion, etc.

Something relevant came up just today. Ibram X. Kendi has written this:

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To love capitalism is to end up loving racism. To love racism is to end up loving capitalism. The conjoined twins are two sides of the same destructive body. The idea that capitalism is merely free markets, competition, free trade, supplying and demanding, and private ownership of the means of production operating for a profit is as whimsical and ahistorical as the White-supremacist idea that calling something racist is the primary form of racism. Popular definitions of capitalism, like popular racist ideas, do not live in historical or material reality. Capitalism is essentially racist; racism is essentially capitalist. They were birthed together from the same unnatural causes, and they shall one day die together from unnatural causes. Or racial capitalism will live into another epoch of theft and rapacious inequity, especially if activists naïvely fight the conjoined twins independently, as if they are not the same.

That is Marxist, of course, and not moderate Marxism, either. But it is from a book that the Dean of the Kelley School of Business just recommended that all faculty and students read and learn from:

Sep 10, 2020 at 1:45 PM

Dear Kelley faculty and staff,...

Each month, I will announce a selection that students, faculty, and staff are encouraged to read, watch, or listen to on their own. ... My selection for September is the book “**How to Be an Antiracist**” by **Ibram X. Kendi**. It is available as a [free ebook](#) through IU Libraries. While this initiative is not required for students, faculty, or staff, I hope you will encourage participation. I know many faculty members have their own innovative ways to connect with students. Here are a few suggestions from some of your colleagues:

- Promote this month’s selection and panel discussion in class announcements
- Share posts about The Commons from Kelley’s social media If the selection is a film, host a virtual “watch party”
- Let students know if you’re participating; students like to have shared experiences with faculty
- Consider how the selection may tie in with what you’re teaching during the month
- If you have opportunities for extra credit, consider including participation in The Commons as an option
- Encourage student organizations to carry on the conversation in their groups

I do hope you will join me in these discussions to further the conversation about the value of diversity in business and in our communities, and to help our students learn more about themselves and the society in which we live.

With Kelley pride,

Idalene “Idie” Kesner
Dean, Kelley School of Business
Frank P. Popoff Chair of Strategic Management

If faculty in the business school feel reluctant to speak their minds as a result of the Dean’s endorsement of books condemning capitalism as racist, we shouldn’t feel surprised. The attitude of the Dean, who has a yes/no vote on every tenure decision, will of course be much more important than that of any single faculty member. I am not submitting a formal complaint, but if anyone is criticizing me for my political views as a full professor, and implying that I am hurting the intellectual atmosphere because of my power and the relevance of my views for their area of study, I do hope that they will think about the bigger picture. I think Indiana University may have a hard time recruiting new faculty, given the way faculty here are treated.

At our meeting Tuesday, you asked about the atmosphere in my department, Business Economics and Public Policy. It is generally collegial--- though as I perhaps mentioned, three of the non-tenure-track faculty attacked me severely in public emails to the department last fall, saying, for example, that my rather conventional if conservative church was “a cult”-- we did have some unpleasantness a couple of years ago. We were searching for a new PhD to hire, and followed the usual procedure: a three-person committee looked at the 100+ job market papers that were submitted, narrowed it down to 25 or so to interview at the annual economics meeting, did the interviews (with help from others in the department who were at the meeting), and selected some to fly out—I think about five that year, which is more than usual. They flew out, presented their papers, met with all the faculty in office visits, and the chairman invited us to send in our comments. At that point, however, it became strange. There was disagreement over how to rank the candidates, but we didn’t have a meeting to discuss who to hire. Instead, the department chair, Jeff Prince, not only said he wanted to hire candidate X, but refused when asked to have faculty get together to even discuss it, much less vote. He said that as chair he had the right to hire untenured faculty unilaterally. He said he had delegated that to the three-person committee, consisting of the very prominent and “alpha male” Michael Baye, the Bert Elwert Professor of Business Economics, who, having been head of the department at Penn State, gives much useful advice to the chair, an associate professor who does not like conflict, and an assistant professor. He made the job offer, and rather than embarrass the department nationally, I acquiesced, after some strong words about uncollegial and unprofessional conduct. I complained to the Associate Dean and to the campus officer in charge (I forget her title), but they did the usual thing and supported the chair.

The next summer, however, the Associate Dean called a Kelly School of Business faculty meeting to have the faculty vote on school rules for hiring. She said that the school needed to have written rules saying that there would be a faculty vote for tenure-track hiring. Almost everybody at the meeting voted for the rule, which is, of course, almost universal among research universities. Michael Baye and Jeff Prince bravely put their hands up as No votes, but the rest of the faculty of the business school voted overwhelmingly for what was really a necessary rule given that Indiana University is supposed to have the usual degree of faculty governance that respectable universities have.

This came up again at a business economics faculty meeting later. I do not remember the details— it was the kind of unpleasantness one tries to forget in the interest of “forgive and forget”—but Chair Jeff Prince made some false statement about the affair, and I publicly called him out on it. It was a nasty confrontation, no doubt scaring the junior faculty, but we got back to normal relations fairly quickly, and I think he learned to be more careful and not try to pull tricks.

Academia has lots of stories like this. Between when I arrived in 1992 and 2016 or so, the department operated by consensus quite successfully, but I have to admit that trust in the chairman is less now. At the same time, while I do not trust him, Jeff Prince is a good chairman generally: he does the hard work, he has administrative ability, and he’s a good scholar, though he had no appreciation for the idea of transparent and collegial decisionmaking and perhaps still does not.

The story of the disappearance of the Dalton Chair, which I held until summer 2019, is also interesting, but I will defer it till another day. The Daltons are still alive.

One final point. You asked about whether I’d posted course materials online, on <http://rasmusen.org>. I have. I bought that internet domain with my own funds sometime around 2003, after the University had attacked me for my weblog, and I have long used it for both personal and professional uses, since I pay for it myself. I used the Internet long before the University started doing so, finding it useful and convenient for my students, who do not have to sign in using the burdensome bureaucratic rules the University imposes. Of course, as you know, no faculty member is required to use the University internet course materials system, though I think sometimes administrators may forget that—but not needing to use it is something explicitly stated as a matter of academic freedom. I did post the course notes there with the Hitler-slavedog example that I mentioned above. Dean Kesner did not seem to like it that I used my own domain. She mentioned that to me after the November 2019 controversy, and also mentioned that she did not like my idea of the course packet auction, so she is perhaps the complainant you mentioned at our Tuesday meeting; no student has ever complained, with the exception I will shortly relate.

The exception was not actually at Indiana University, but at Harvard, where I was on leave 2015-15 as John M. Olin Faculty Fellow at Harvard Law School and Visiting Professor at the Harvard Department of Economics. I taught the same undergraduate course there as I do at Indiana University. As is my usual custom, I told the students that we would not be using a textbook, because I had searched and not found a text on government regulation that was very high quality, and the best of the bad lot cost something well over \$100, which I didn’t want to inflict on them. Rather, I wrote up my own notes, which might eventually become a published book. I explained that the market for that kind of text was small, and it was a difficult subject on which to write a book because regulations are always changing, so nobody competent to write it had done so—they lacked the incentive of either money or reputation. I give out the first chapter, so they can get started on the reading, but then, in the first class session, I ask them what we should do to get them the rest of the chapters. This starts a discussion on the very theme of the course--- how do we provide the right incentives to get the right people to exert effort that will help other people?

Typically, they first suggest that I, the instructor, make copies and provide them with the rest of the chapters too, not just the first. I tell them I'm too mean (jokingly-- I hate to even have to put in this parenthetical caveat), and that they should already be grateful that I'm not making them pay for a commercial textbook like other instructors do. Someone will ask if they can just read it online. I say No--- I, as an experienced teacher, think it's important that they have a hardcopy text, which they can underline, write in the margins of, and keep on a bookshelf after they graduate—even though I recognize that many of them won't do any of those things. Some will say that they can each print it out using their printing allowance. I say that this has two problems. First, I want each of them to have some pressure to actually do that and have the text rather than blowing it off, and I'd have to somehow be able to check that, and second, it would be a big waste of duplicated effort if each person had to print it off themselves, especially since they really ought to get it bound or punched into looseleaf folder form. This introduces the economic idea of “economies of scale”, which we may talk about for a bit. Then, someone will suggest that one person in the class print it off for everyone. “Who will do it?” I ask, “when he has to do all the work for everybody else, for no reward?” The response I hope for is “We could pay him,” to which my question is “How much, and how do we choose who will do it?”. I talk about how I could randomly assign someone to do the work for everybody else, but I might accidentally pick the person in the class for whom that would be most difficult and awkward—an athlete with a game the next week, or someone taking six classes this semester, or who holds two part-time jobs, etc.

At length—hopefully not too soon, since this makes for a very good progressive discussion, point by point, someone in the class suggests that we have an auction and see who will sell the course packet at the lowest price. I jump on that and say, “Yes, that's exactly what we'll do.” I explain that this will reveal who has the lowest effort cost and who can figure out the cheapest copyshop, or who would like the experience the most, or who needs to earn some extra money by making a profit on the sales. I lay out very specific rules for submitting bids—the exact kind of binding for the packet, and so forth--- and tell them that each must submit a bid, as a course assignment. They can easily deduce that if they don't want to have to sell the packet, they can bid \$1,000/packet and they will lose the auction and not have to fulfill the contract. What almost always happens (always, maybe?) is that half the people in the class submit crazy bids like that, intending to lose, most of the rest submit bids on the order of \$50/packet that they know will probably lose, and a few of them submit low bids on the order of \$20 having carefully researched various copyshops and strategized on the tradeoff between a low bid with greater chance of winning and a high bid with more profit but lower chance of getting that profit. Then, in the next class, I teach them about the efficiency of the market in eliciting information as to who can most cheaply produce goods and who most needs the revenue from doing so.

At Harvard, it worked out differently. The Harvard students are very smart, but they do not have quite the business sense of Kelley students--- at Harvard, they were economics majors, because there is no business major, and their interests are much more on extracurriculars (theatre, intramurals etc.) than on coursework, compared to Kelley. The girl who won offered too low a price. She discovered that she was going to lose money. I offered to split her loss using my own wallet, but said that losing money was an even better learning experience than making money. She acquiesced, but then I got a call from the Chair of the Economics Department, an old friend of mine from our days at grad students at MIT. He told me someone else—not her—had complained to the Dean of Students, who had complained to him. “At Harvard, Eric,” he said, “it

is not allowed to ever have students lose money. Make it go away!” And so I went to the class and said I’d pay for all the copying myself.

This story is a great help, because I tell it to my students at Indiana and it teaches them something crucial for their business careers. I can make them feel good about being Kelley students instead of Harvard snowflakes who don’t have any business sense and who complain if they get themselves into messes. And then I ask my Kelley students for the moral of the story. It’s important: the moral of the story is, “If you go to Harvard and you lose money in your business, you’ll get bailed out.” That’s what the Harvard students learned from the experience, and it’s important that Indiana students realize that without the clout of the Ivy League, they should rely on their own ability and judgement rather than expecting their connections in government to make their businesses profitable.

I’ve been meaning to write up this story for a while, so I’ve taken this opportunity. I might try to publish it in some “Teaching economics classes” journal, since it’s a good teaching tool.

Those are my thoughts on this matter. I am available if you have any further questions.

February 5, 2021
Eric Rasmusen

Memo on Contacting students

I, Eric Rasmusen, emailed former students to ask for input. Vice Provost Eliza Pavalko found out and told me to stop. I did not. Kelley Dean Idalene Kesner emailed [REDACTED] [REDACTED], one former student, who replied to her and cc'd me.

In this document, I start with the emails. Then I talk about which university policies are relevant.

Basic fairness, the old rules Indiana University claims are still valid, the May 2020 Federal Title IX rules that are being ignored, and Constitutional due process all say that the Respondent has the right to collect information for his defense. I just talk about the old rules below.

In a number important ways, IU has not followed the old rules. The simplest is that it never name the complainant(s), as the rules require, not even in the final Report. In fact, the Report doesn't even say which if the people talked about as Witness 1, 2, etc. are complainants as opposed to witnesses.

Let's start with this week's letters:

On February 2, 2021, Vice Provost Eliza Pavalko wrote:

Dear Prof. Rasmusen:

As you know, you are the Respondent in the above-referenced matter, which is governed by University policy (UA-03, **in its archived form**). It is now clear that, **in violation of UA-03, you have contacted certain students** from your G406 class. As is clear from the report, former G406 class members are a significant part of the above-referenced complaint.

In accordance with UA-03 (the link for which has been provided to you on more than one occasion), you are expected to "... **safeguard the privacy of those involved,**" as well as "**refrain from discussing the incident** with anyone other than appropriate university officials...". The policy also provides, in pertinent part: "**Interference with the investigation may result in disciplinary measures** pursuant to applicable university policy and procedure."

Please **immediately discontinue attempts to communicate with former students** about any matters related to the investigation.

Eliza

On February 3, 2021, Kelley School of Business Dean Idalene Kesner wrote to

██████████ ██████████, a former student of mine whom I'd emailed along with all my student for the past 4 semesters. He replied and cc'd me:

Dear Dean Kesner,

You are correct. I DID receive an email from Professor Rasmussen. I'm glad you reached out to me regarding his message. I'm excited to share my thoughts with you.

Where do you get off persecuting Professor Rasmussen for his political views?...[much vitriol against IU is here omitted to save space, tho it is highly entertaining]

Dear ██████████,

I have recently been made aware that Professor Rasmusen has sent messages to former students from his G406 course concerning an Office of Institutional Equity (OIE) report that deals with his behavior while he was your professor. I am sorry you were contacted by this professor. I want to be clear that if you have received any message from Professor Rasmusen, this was a communication from him that he developed on his own and was not, in any way, authorized by the Kelley School of Business or by the University. I want to reassure you that, in this particular case, any information you may have provided to OIE or to the Kelley School concerning Professor Rasmusen has not been communicated to Professor Rasmusen with anyone's names attached to that information. In this case, every effort has been made to protect student privacy throughout OIE's investigation and at Kelley, as well. This communication from Professor Rasmusen breached University policy and also directly violated very clear directives from the Vice Provost for Faculty and Academic Affairs.

Because Professor Rasmusen sent highly confidential material with his email message, in direct contravention of policy and VPFAA [Vice Provost...] directives, we must ask that you please not forward this information any further as this would only serve to further violate policy and privacy concerns. It would be helpful, however, for you to do the following: if you have

received any recent communication from Professor Rasmusen, I ask that you please send it to OIE (oie@iu.edu) or to me, directly, so that this information can be made available as part of the record for a University report currently under preparation in this matter by the VPFAA's office. If you have already shared any communication you have received from Professor Rasmusen directly with my office or with OIE, it is not necessary that you send it again.

Sincerely,
Idie Kesner

What I did was to email several semester's worth of students attaching my 2-page summary of my reply, with emails similar to this one:

Dear Spring 2019 G406 Students,

As I explain in the attached pdf, the University has been investigating me and hopes to punish me for what I think are trivial or nonexistent offenses. If you have any comments that you think would be relevant, please email me at erasmuse61@gmail.com. I received the University's investigatory report on January 25, and I have until 5 p.m. February 5---Friday—to submit a response before the Vice-Provost decides how to punish me.

I hope you are doing well in your various vocations.

Yours truly,

--
Professor Eric Rasmusen

I also emailed the Fall 2019 students— 13 out of 17 of whom were witnesses in the report--- and sent them the Report with my draft replies and this message:

Dear Fall 2019 G406 Students,

As I explain in the attached pdf, the University has been investigating me and hopes to punish me for what I think are trivial or nonexistent offenses. If you have any comments that you think would be relevant, please email me at erasmuse61@gmail.com. I received the University's investigatory report on January 25, and I have until 5 p.m. February 5---Friday—to submit a response before the Vice-Provost decides how to punish me.

Most of you have been interviewed by the Investigators--- thirteen out of the seventeen of you in the class, it seems. My guess is that you were not shown the final report, or even the parts where you are quoted. I've attached

the report, together with the draft of my reply (which, however, I will still be revising until the Friday, February deadline at 5 p.m.).

If you have any comments, let me know. You are not identified in the report, which refers to you as “Witness 1”, “Witness 2”, and so forth. Witnesses 14 and beyond are from previous semesters. You can stay anonymous even if you want to respond. I hope you’ve remembered the valuable skill of anonymous email using Protonmail; you can email me as “Witness 7” or whatever your Report name is. Or, you can email me directly. If you do that, please also tell me if you want to be named in my Reply, or not quoted at all; I will follow your preference.

I have attached the 70-page combined Report and Reply, and a 2-page pdf summarizing it.

YT,

--

Professor Eric Rasmusen

Let’s go through the policies to see whether I violated them by emailing former students. The old UA-03 rules the University claims apply because they were in force in January 2020 and not displaced by the Federal Title IX rules till May 2020 and not by new interim University rules till August 2020 are at <https://policies.iu.edu/policies/ua-03-discrimination-harassment-and-sexualmisconduct/sm-archived-08142020-accessible.pdf>. The new August 2020 UA-03 rules are at <https://policies.iu.edu/policies/ua-03-discrimination-harassment-and-sexualmisconduct/>.

I think the drafter forgot to label sections I and II, so referring to specific clauses is difficult. I’ve used pages numbers where there doesn’t seem to be an applicable roman numeral. (Did I miss them?).

p. 9: i. Privacy

1. The university is committed to safeguarding the privacy of the parties in a manner consistent with the objective to effectively investigate and prevent incidents of sexual misconduct. In all cases, the university will share the parties’ information and details of the allegation only with university officials, law enforcement personnel, and other individuals who have a legitimate administrative **or legal reason to be so informed**. Records will not be disclosed outside the university **unless required by law** or subpoena.

I think the Indiana Open Records Act probably requires the Investigative Report to be made available to the public, if they ask. In Illinois this seems to have been the case. See the *Petry v. Illinois* case. A reporter asked for the Petry report under the Illinois FOIA in 2020 and got it.

2. All individuals with knowledge of an alleged incident of sexual misconduct are expected to safeguard the privacy of those involved and should refrain from discussing the incident with anyone other than appropriate university officials and law enforcement.

How are we to interpret this? To be sure, it says “are expected” rather than “are commanded”, which renders it a mere request. If it is supposed to be read as “are commanded”, however, this means that a student victim of sexual assault would not be allowed to tell her mother, or her best friend, or a psychologist, or a doctor, or talk to reporters, or talk to a lawyer. It also means that witnesses would be forbidden from talking to anyone. Or, if someone is accused, he would not be allowed to talk to defense counsel, or to try to find witnesses who would corroborate his version of the story, or to comment to the press.

3. Throughout the process, the parties will have equal opportunities to present information, have an advisor present, and pursue an appeal, if applicable. The university will have as a priority the interests of all parties involved, in regard to fairness, dignity, privacy, and due process. a. Investigation....

5. All members of the university are expected to cooperate with the investigative process. Failure to do so may result in disciplinary measures pursuant to applicable university policy and procedure.

The Respondent should have equal opportunity to present information, and I read this as meaning an equal opportunity to collect information too. If he is forbidden to ask anyone anything, he would have no information to present except his personal observations and opinions.

Section 5 is what the Vice Provost threatened me with if I asked students whether they had anything to say about the allegations against me.

p. 10 k. 2 Information for the investigation may be provided by the parties, witnesses identified by any party, or the university.

Thus, the parties can provide witnesses and evidence.

p. 11. 2. Summary of Rights of the Complainant and Respondent in Sexual Misconduct Procedures

a. The rights of the parties to a sexual misconduct proceeding include:

...

8. Equitable participation in the investigation and disciplinary process, including the opportunity to identify witnesses and other appropriate evidence.

Thus, the parties can identify witnesses and evidence. They can participate equitably with the investigator, which means they can participate just as much as he does.

[IV-B] All parties will have equal opportunities to present information

Again: the Respondent should have equal opportunity to present information, and I read this as meaning an equal opportunity to collect information too. If he is forbidden to ask anyone anything, he would have no information to present except his personal observations and opinions.

[IV-I-2] Information for the investigation may be provided by complainant, respondent, witnesses identified by any party, or the university. The Investigator shall ensure that the respondent has been informed of all allegations raised and the name of the complainant(s).

Thus, the Respondent can provide information and identify witnesses, which requires asking who might know something so they can give evidence as a witness. I was not told the allegations in anything but the height of generality in the opening letter of January 2020, which said:

“Specifically, it is alleged that you have engaged in harassing and discriminatory behavior towards students and employees in the academic and work environment, while a professor within the Department of Business Economics & Public Policy within the Kelley School of Business. Specific allegations include unwelcome comments based on race, sex, sexual orientation, and religion, which have created hostile academic and work environments.”

The August 26, 2020 letter adds:

“Based on additional information and reports to our office, the additional allegations include regularly-occurring and unwelcome comments on Twitter and other social platforms, based on sex and other protected classes, and which parties complaining to the university allege have created a hostile environment.”

When I was interviewed in September, I was asked questions about incidents, but I was not told which were the basis of which allegations against me. I was never informed of the allegations in writing until the report was issued January 25, 2021. Even then, the allegations are not clear--- there is a mass of material that somehow in aggregate is said to be discriminatory behavior, with new material even appearing in the conclusions section.

Remarkably, I still have not been given “the name of the complainant(s)” as required. In fact, the investigative report does not even identify them anonymously! It lists a couple dozen witnesses, but doesn’t say which of them are complainants. I did a search for the word “complainant”, and the only occurrence in the report is when they say some people “declined to be identified as complainants”. They never say anybody was willing to be identified as a complainant. That one mention is:

“Some junior faculty described being fearful to speak up for concern of negative effects on their career progress, and **declined to be identified as complainants**, making further pursuing this aspect of the investigation difficult.”

(The word does show up one other place, but that is in what I, the Respondent, wrote in my September 2020 supplement.)

The University is supposed to be acting as the judge here, not the prosecutor, so the University cannot be the complainant. And a complainant cannot complain about harms inflicted on other people, only on himself. So how many of the allegations in the report actually have a complainant?

[IV-I-5] The report will be forwarded to the DO. The parties shall also be provided access to the report, and shall be provided 10 calendar days to submit any comments to the DO in writing.

This is noteworthy because it says “parties”, not “respondent”. If there do exist complainants, they are supposed to get a copy of the report. So if “Witness 1” is a complainant, they should gotten the report; if no witness got a report, it must be there are no complainants.

Exhibit 13

Anonymous <erasmuse@indiana.edu> Downloaded file OIE Report - Full Respondent Copy 1-25-21.pdf (sronald/661914HxfeS) security level HIGH (auth token 11634D2E authorized by sronald@iu.edu)	25/Jan/2021 05:25:33 PM
sronald <sronald@iu.edu> has ALLOWED <erasmuse@indiana.edu> to download OIE Report - Full Respondent Copy 1-25-21.pdf (sronald/661914HxfeS)	25/Jan/2021 05:06:31 PM

From: Springston, Emily Auld <emapatte@iu.edu>
Sent: Monday, January 25, 2021 5:07 PM **To:**
Pavalko, Eliza <epavalko@iu.edu>
Cc: Kincaid, Jennifer U <jenkinca@iu.edu>; Ronald, Sally <sronald@iu.edu>; [REDACTED]
[REDACTED]
Subject: OIE Report of Investigation

Dear Vice Provost Pavalko,

Attached is OIE's report of investigation into the allegations of misconduct against Professor Eric Rasmusen. Per the applicable procedures (link copied below), I have also provided Professor Rasmusen a copy of our report by email today, and have informed him that he has the opportunity to contact you if he wished to meet to discuss the report, and that if he has any corrections or written response to the report, that those should be provided to you by February 5, 2021 (I added 1 additional day given I sent late in the day).

The Report, including the attachments A-C, are attached as PDFs. The applicable procedures can be found here: <https://policies.iu.edu/policies/ua-03-discrimination-harassment-and-sexualmisconduct/sm-archived-08142020-accessible.pdf>

Sincerely,

Emily Springston

University Director of Institutional Equity & Title IX
Office of Institutional Equity - Indiana University
400 E. 7th Street, Poplars 833, Bloomington, IN 47405
(812) 855-4453 - (812) 855-4889 (main office)

equity.iu.edu

(she/her/hers)

From: Pavalko, Eliza <epavalko@iu.edu>
Sent: Monday, February 1, 2021 2:48 PM
To: Rasmusen, Eric B. <erasmuse@indiana.edu>
Cc: Pavalko, Eliza <epavalko@iu.edu>
Subject: follow-up to OIE report

Dear Professor Rasmusen,

I am just following up regarding the report you recently received from the Office of Institutional Equity. If you wish to discuss the report with me, I am happy to meet with you this week. You are also welcome to send any written comments you have on the report to me so that I can consider them before coming to my decision. Any written comments should be sent to me before the end of the day on February 5, and if you wish to meet with me, we should do so before the end of the day on February 5 as well. Don't hesitate to contact me if you have any questions.

With regards,
Eliza

Eliza K. Pavalko
Vice Provost for Faculty & Academic Affairs
Allen D. and Polly S. Grimshaw Professor of Sociology
Bryan Hall 105 107 S. Indiana Ave.
Bloomington, IN 47405
Ph: 812-855-9973; Fax: 812-855-9972; email: epavalko@iu.edu
Pronouns: she/her/hers

Exhibit 16

From: Eric Rasmusen <erasmuse61@gmail.com>
Date: February 5, 2021 at 4:37:48 PM EST **To:**
"Pavalko, Eliza" <epavalko@iu.edu>
Subject: [External] Eric Rasmusen's Reply to the Investigative Report

This message was sent from a non-IU address. Please exercise caution when clicking links or opening attachments from external sources.

Dear Vice-Provost Pavalko,

Thank you for your offer to talk with me in your office. I do not think that would be useful enough to be worth your time and mine. I attach my Reply to the Investigative Report.

We disagree as to the propriety of my contacting former students for comment. I will attach a memo discussing Indiana University's rules with respect to that.

It would be good for the Administration to know what might happen next. My preference would be for this investigation to conclude with you finding that I have done nothing that merits rebuke, restriction, or punishment. If it ends less happily, however, here are my thoughts as to what might happen. I regret that the IDS published an article today. I do not intend to let any of this get into the media before Indiana University has made its final decisions after the various appeals that might be made. These are steps, however, which I am considering for later if things do not work out.

- 1. Hire legal counsel and explore whether I might have a good court claim. I am currently talking with James Bopp of the Bopp Law Firm and Jonathan Mitchell, formerly the Texas Solicitor-General, and have put feelers out to others, but have not yet engaged anyone. Possible claims might include defamation (from actions of November 2019), breach of contract, and violation of my First Amendment rights.**
- 2. Respond vigorously in the media. I will circulate details of the situation to a long list of individual reporters, both liberal and conservative, state and national, who might be interested.**
- 3. Ask the American Association of University Professors for support. Ironically, I am the chair of the state of Indiana AAUP "Committee A", which handles academic freedom issues. I would have to recuse myself, but I know its procedures and have discussed other people's cases with Indiana President Nalbene and the national office.**
- 4. Contact IU Trustees and members of the state legislature and inform them of the situation.**

5. **I will notify the members of the Faculty Misconduct Review Committee and the Bloomington Faculty Council that faculty governance has been improperly bypassed with respect to the allegations that do not involve discrimination on the basis of sex.**
6. **Consider putting numerous individual members of the IU faculty on the spot by asking them to take one side or the other. If they refuse to take a side, I will publish their names together with the fact that they refused.**
7. **Follow up on public discussion of the question of whether a university should eliminate an endowed chair already held by a professor if the chair's donor refuses to continue funding it. I refer, of course to the Dan and Catherine Dalton Chair which I held until it disappeared. I know the Daltons are good friends of the Kelley School and paid some millions for the bridge over Fee Lane, but I do not think they should have done this. I actually did write an op-ed on this issue in Fall 2019, before the November 2019 controversy, and submitted it to Inside Higher Education, but using a hypothetical example. They were going to publish it in January 2020, but I told them to hold off because it would complicate my situation and they would not publish it under a pseudonym.**
8. **Comment when the Biden Administration revises May 2020 reforms of the Title IX procedures. Such revision requires going through notice-and-comment; an executive order would not work. I actually teach this procedure in G406, and require the students to make comments to the official site. I have seen my comments change regulation wording from draft to final in the case of the tax whistleblower regulations. I will use my own experience to make an official comment on the changes the Biden Administration proposes. When this comes up (we don't know now), it will cause a revival of media interest in Title IX procedures, another opportunity for me to have input.**[Emphasis added.]

In my field of game theory we distinguish between Threats and Warnings. Both are statements by person X to person Y that he will take a particular action if Y does not respond adequately. A threat is a commitment by person A to take the action. A warning is just a statement of what person X will do if Y does not respond. The difference is that if the statement that the action will be taken is a warning, it is telling person Y what will happen--- that is--- what X would do whether Y is told it or not. A threat, on the other hand, is worse than useless if person X commits to taking the action but never tells Y.

If you have seen the movie Dr. Strangelove, it illustrates Threats very nicely. The theme of the movie is that the Soviet Union has invented the Doomsday Machine, which will destroy the world if a nuclear bomb explodes anywhere. The Soviet leaders only built it in order to deter a U.S. attack, and it was useless for that if they didn't tell the U.S. they'd done it. They hadn't, because they were planning to announce it on May Day, and disaster ensued.

An example of a Warning is when in 2003 during my weblog affair the head of the GLBT office, Doug Bauder, came to visit me in my office to feel me out. I told him that though I really wasn't interested enough in GLBT affairs to want to spend much time on it, if the attacks on me continued, I might well become upset enough to waste time going on the offensive instead of pursuing my normal research on esoteric topics such as Japan's judicial system. After he left, the focus of the attack suddenly shifted from me to the Administration and I was able to resume my ordinary research.

Unlike in the appeals process, you have no fixed deadline. When, roughly, will you make your decision?

Yours Sincerely,

Professor Eric Rasmusen
Department of Business Economics and Public Policy
Kelley School of Business, Indiana University
Erasmuse61@indiana.edu<<mailto:Erasmuse@indiana.edu>><http://gmail.com>>, Cell:(812) 345-8573

“Trust in the LORD and do good; Dwell in the land and cultivate faithfulness. Delight yourself in the LORD; And He will give you the desires of your heart. Commit your way to the LORD, Trust also in Him, and He will do it.”
Psalms 37:3-5

Exhibit 17

On Wed, Feb 3, 2021 at 3:18 PM Kesner, Idalene Fay <ikesner@indiana.edu> wrote:

Dear _____,

I have recently been made aware that Professor Rasmusen has sent messages to former students from his G406 course concerning an Office of Institutional Equity (OIE) report that deals with his behavior while he was your professor. I am sorry you were contacted by this professor. I want to be clear that if you have received any message from Professor Rasmusen, this was a communication from him that he developed on his own and was not, in any way, authorized by the Kelley School of Business or by the University. I want to reassure you that, in this particular case, any information you may have provided to OIE or to the Kelley School concerning Professor Rasmusen has not been communicated to Professor Rasmusen with anyone’s names attached to that information. In this case, every effort has been made to protect student privacy throughout OIE’s investigation and at Kelley, as well. This communication from Professor Rasmusen breached University policy and also directly violated very clear directives from the Vice Provost for Faculty and Academic Affairs.

Because Professor Rasmusen sent highly confidential material with his email message, in direct contravention of policy and VPFAA directives, we must ask that you please not forward this information any further as this would only serve to further violate policy and privacy concerns. It would be helpful, however, for you to do the following: if you have received any recent communication from Professor Rasmusen, I ask that you please send it to OIE (oiie@iu.edu) or to me, directly, so that this information can be made available as part of the record for a University report currently under preparation in this matter by the VPFAA’s office. If you have already shared any communication you have received from Professor Rasmusen directly with my office or with OIE, it is not necessary that you send it again.

Sincerely,

Idie Kesner

Idalene “Idie” Kesner
Dean, Kelley School of Business
Frank P. Popoff Chair of Strategic Management

Indiana University
Kelley School of Business

1275 E. 10th Street
CG 3002
Bloomington, IN 47405-1701
Office: 812-855-8489
ikesner@indiana.edu



GO FROM MOMENT TO MOMENTUM

Exhibit 18

On Thu, Dec 5, 2019 at 6:03 PM Kesner, Idalene Fay <ikesner@indiana.edu> wrote:

Eric,

Once again, a number of students in your G406 class have approached me and others in the Deans office with a concern. They are aware that you edited the video of your class session from Monday, December 2, and shared that video with a reporter. They do not want their images or likenesses on that video shared by you, nor do they want to be associated with you in your interactions with the media or on the internet. They are understandably concerned for their privacy and their safety because of the heightened nature of the media and the online attention stories and posts related to you have garnered.

I am especially troubled by your actions, given that you downloaded and edited the video without authorization. You were given access to the video in Box with Previewer permissions only, and at your own admission, you knowingly circumvented that limited access in order to edit the video and share it with the journalist, fully understanding that you had not been given download rights.

I asked you this morning--and you agreed--not to share the video of the class any further until IU General Counsel can advise on the matter. I ask that you respect your students' concerns. As such, I am reiterating and reconfirming that you **may not** distribute this video without authorization. In addition, I am specifically asking you to delete it from your files.

Idie

Idalene "Idie" Kesner
Dean, Kelley School of Business
Frank P. Popoff Chair of Strategic Management

Indiana University
Kelley School of Business
1275 E. 10th Street
CG 3002
Bloomington, IN 47405-1701 Office:
812-855-8489 ikesner@indiana.edu



GO FROM MOMENT TO MOMENTUM

From: Rasmusen, Eric B.

Sent: Friday, December 6, 2019 12:30 AM

To: Kesner, Idalene Fay <ikesner@indiana.edu>

Cc: Prenkert, Jamie D <japrenke@indiana.edu>; Maxwell, John W. <jwmax@indiana.edu>; Simmons, Jacqueline <simmonja@iu.edu>

Subject: Re: URGENT--- a memo on the FERPA law of schools releasing video of students in the classroom

Hello, Idie---

I have no immediate plans to share the video, so we can postpone conflict. I won't delete the video, though. One reason--- a major reason--- I agreed to the video of my class, something to which I think the caselaw strongly supports my right to object to--- was that I thought it would be good to have a copy myself, since I don't have any video of myself teaching a live and present class, as opposed to KD style video. Jamie said I'd have access, which I assumed meant I would get a copy. I then found that I couldn't download it, and I thought that either this was by a mistaken setting of the permissions or that you were trying to make it hard for me to use the video to defend myself. Rather than wait for Jamie to answer, since I (mistakenly) thought that the reporter had a shorter deadline than she actually did, I figured out how to download it with a "hack". I didn't think of FERPA at all, because I didn't think it applied, which I've now confirmed. This isn't just FERPA law and IU policy. I did some googling and in fact there is lots and lots of video and stills of IU students on the web in classes as well as in other official settings, and I very much doubt anybody bothered to get their permissions. You're in one such video yourself, Idie.

Sorry if this email is a bit rough. I'm writing it late, and so if I seem too direct, please forgive that in this instance, at least.

We can figure this out Monday or later, especially the student angle. I have a list of student questions that I'm going to carefully answer for them by Monday, and doing that will help me understand their concerns better. Do remember, too, that the students knew video was being recorded, that most of them don't appear in the video, and probably most of their voices aren't in it (though maybe a majority of the class did speak at some point; I don't know).

YT,
Eric

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