

Friends of Kinsey public statement in response to Kinsey Institute Listening Sessions

January 22, 2024

Summary

This document presents a synthesis of the concerns raised at the Listening Sessions held by Indiana University to collect feedback and concerns about the University's response to Indiana HB1001, which includes a provision to prohibit state appropriations dollars from supporting the Kinsey Institute. Concerns raised by the IU community included five main themes:

- 1) Failure to comply with IU policies during this process
- 2) Damage to IU's reputation
- 3) Harm to the Kinsey Institute Library and Special Collections
- 4) Impact on donors and fundraising
- 5) Threats to safety and security

In light of these concerns, supporters of the Kinsey Institute request the following from the IU administration:

- 1) Keep the Kinsey Institute and its Collections intact at Indiana University
- 2) Pursue an accounting solution to an accounting issue
- 3) Provide effective, proactive leadership in defense of the Kinsey Institute and academic freedom

Background

Indiana's state budget, [HB1001](#), passed in the spring of 2023, includes an amendment prohibiting the use of state appropriations funds for support of the [Kinsey Institute](#) (KI) at Indiana University (IU). In an effort to comply with the law, IU proposed the creation of a new 501c3 organization that would [separate](#) part or all of KI from IU. Some versions of this plan included severing the Kinsey Institute [Library and Special Collections](#) from KI. This proposal, not revealed to KI faculty, staff, or affiliates until the end of October 2023, was met with alarm and strong opposition from KI supporters. The IU administration did not have answers to a number of crucial questions raised at the time. Nevertheless, they planned to move forward with the 501c3 proposal and present it to the IU Board of Trustees (BOT) at the BOT's November meeting. Advocacy from KI supporters, including a [Change.org petition](#) that collected nearly 10,000 signatures, led to the proposal being [tabled](#) by the BOT, to be taken up at a subsequent meeting. Any such proposal must follow IU policies (see below) and be approved by the BOT. Their next [meeting](#) is February 29 - March 1, 2024. To date, no one at the Kinsey Institute, including the Executive Director, has seen a final version of the proposal. This lack of transparency is indicative of the IU administration's overall handling of the situation with HB1001 and the Kinsey Institute.

Listening Sessions

One of the many concerns raised by KI supporters in fall 2023 was the lack of notice and opportunity for feedback about the 501c3 or any other plan for compliance with HB1001. In response, IU created a special Working Group to provide feedback about its

response to and compliance with HB1001. The IU administration also organized three [listening sessions](#) for members of the IU community to address the Working Group on January 17, 18, and 19, 2024. These sessions were not widely advertised by IU, required an IU email address for registration, and offered no Zoom/remote option for attendance, continuing the practice of limiting transparency in these proceedings. Despite these limitations, each of the meetings hit the registration cap. Two additional sessions are planned to hear from donors and alumni. To our knowledge, none of the sessions will be open to the public or will be recorded.

The Working Group made it clear that they had no authority to answer questions raised at the Listening Sessions but that concerns and questions raised would be presented to the relevant decision makers in the IU administration. Those administrators were not named, and requests for clarity on the decision making process and leadership went unanswered. Provost [Rahul Shrivastav](#) was present for a few minutes at the beginning of the January 17th session but left shortly after the introductory remarks. He did not attend either of the other sessions. IU President [Pamela Whitten](#) was not present for any of the sessions.

Across the three sessions for IU community members, five main themes emerged from the issues and concerns expressed: 1) Failure to comply with IU policies during this process; 2) Damage to IU's reputation; 3) Harm to the Kinsey Institute Library and Special Collections; 4) Impact on donors and fundraising; and 5) Threats to safety and security.

Failure to comply with IU policies

In pursuing the creation of a new 501c3 organization for all or part the Kinsey Institute, the IU administration has violated a number of long-standing policies that govern organizational structure at Indiana University.

[Creation, Reorganization, Elimination, and Merger of Academic Units and Programs](#): IU policy grants the Bloomington Faculty Council (BFC) authority over the structure and organization of academic units through the Creation, Reorganization, Elimination and Merger ([CREM](#)) standing committee. According to the [policy statement](#), “the Constitution of the Bloomington Faculty [section 2.1.a.1.e] provides legislative authority to the faculty in matters pertaining to the ‘Creation, reorganization, merger, and elimination of programs and units affecting more than one school on the campus,’ and consistent with our commitment to shared faculty and administrative governance, the policies outlined in this document shall be followed except in the cases of financial exigency¹, when the policies outlined in (BL-ACA-D17 Faculty Participation in Campus-Level Budget Decisions on Financial Difficulties) shall apply.” The CREM

¹IU policy defines a “[financial exigency](#)” as “the worst type of financial crisis; a demonstrably bona fide, imminent financial crisis which threatens the survival of IUB as a whole and which cannot be alleviated by means less drastic than the termination of faculty appointments before the end of the specified terms.” committee has not been consulted about IU's efforts to comply with HB1001, including the possible creation of a 501c3, which would constitute a reorganization of the Kinsey

Institute. **IU has failed to comply with this policy and with the principles of shared governance between the faculty and administration.** CREM leadership denounced the Working Group and Listening Sessions as illegitimate for not complying with existing IU policy and procedures.

[University-Related Legal Entity](#) (UA09): Indiana University policy UA09 governs the creation of “any organization with a legal existence separate from the University (e.g., a not-for-profit corporation, limited liability company, or corporation) that is likely to be viewed as an instrumentality of the University or affiliated with the University,” which would include any new Kinsey Institute 501c3 organization. The IU administration has repeatedly claimed that it must present the idea of a 501c3 to the IU BOT before “exploring” the creation of a new organization or entity. However, procedures spelled out in UA09 clearly indicate that a number of steps must be taken before a proposal for a new university-related legal entity is presented to the BOT. It is unclear that all or any of these procedures have been followed.

UA09’s [Procedures](#) section includes the following (emphasis added): “**Before** creating a University-Related Entity, the party interested in creating such an entity must:

1. Receive sponsorship from a University unit, **obtain a letter of support from the head of that unit (i.e., the Dean or Vice President)**, and receive approval from the Provost or Chancellor, as applicable.
2. Submit the letter of support, documentation of Provost or Chancellor approval (if applicable), and a detailed proposal to the Office of the Vice President and General Counsel. The proposal should include the following information:
 - Proposed purpose for the entity;
 - **Justification for setting up a separate legal entity instead of doing the work within the University;**
 - Proposed governance structure, including the names of individuals tentatively selected to be the directors and officers;
 - **Proposed budget and business plan for the first three (3) years;**
 - Business risk assessment; and
 - Proposed Memorandum of Understanding (MOU) with the University, describing the entity’s proposed relationship with the University.

...**If** the proposal is endorsed by all of the relevant offices listed above, a summary of the proposal will **then** be provided to the Board of Trustees for consideration.”

The head of the relevant unit is Dr. Justin Garcia, Executive Director of the Kinsey Institute. When asked specifically if he had written a letter of support for a new KI organization or entity, Dr. Garcia said he had not. No documentation was sent to anyone at KI prior to the November BOT meeting. It is unclear whether a business plan or budget has been created for the new entity, as required by UA09. A lack of transparency in the compliance process to date makes it unclear whether anyone at KI will see any of the required documents before the February BOT meeting. **IU does not appear to have followed the policies and procedures governing the creation of a new university-created legal entity.**

Damage to Indiana University's reputation

A number of faculty, staff and students raised concerns about the harm to IU's reputation both nationally and internationally. The Kinsey Institute is one of the strongest brands at IU and has served as a jewel in the crown of IU for over 75 years. It is world famous for its groundbreaking scholarship and leadership in exploring human diversity. A faculty member stated that her international colleagues knew only two things about IU: the Ostrom Workshop and the Kinsey Institute. Another faculty member said that she had recruited graduate students to IU in large part because of the KI.

Other speakers said that it was often difficult to recruit faculty to work in a small town in Indiana but that KI served as a draw and a deciding factor for some. As a public university in a conservative state, one faculty member warned that IU risks being seen as a **"cultural backwater"** if the administration does not fully protect and support the Kinsey Institute and the principles of academic freedom. This perception could affect recruitment and retention of faculty, staff, and students.

More than one participant stated that **KI was a major draw for them when deciding whether to come to IU** and that, if they were not here already, they would not choose IU today because of the current situation with KI and IU's lackluster support. Participants raised specific concerns about IU's commitment to protecting faculty and students from marginalized communities (e.g. people of color, members of the LGBTQ+ community, etc.), particularly given IU's muted response to HB1001 (see below).

Even if it is not IU's intention to abandon KI, the optics of this moment may still be damaging. More than one speaker at the Listening Sessions drew attention to IU's lack of a public response when the Kinsey funding provision was first raised as part of HB1001 last spring. IU offered "pretty words" about its support of KI in an FAQ statement but offered no clear, public opposition to the Kinsey provision in the state budget or to the false claims made in the legislature about the KI and its faculty and staff (see *Threats to Safety and Security*, below).

When HB1001 was being drafted in spring 2023, freshman representative Lorissa Sweet introduced the amendment prohibiting state appropriations funds from going to the Kinsey Institute. During her remarks on the floor of the Indiana House of Representatives, Sweet referred to [old, debunked conspiracy theories](#) about Alfred Kinsey and the Kinsey Institute, including allegations of sexual misconduct by researchers. She also suggested that current faculty and staff at KI are engaged in misconduct, including possibly harboring child predators. These unsubstantiated, defamatory statements were not effectively countered by IU. Faculty and staff at KI were told not to issue statements on their own behalf but rather to allow IU to handle the situation. HB1001 passed with the anti-Kinsey amendment intact and without a full-throated rebuttal of the spurious accusations used to justify it. **Whether intentional or not, this situation contributes to the impression that IU's commitment to academic freedom and to the reputation of its faculty is, at best, lackluster.**

Harm to the Kinsey Institute's Library and Special Collections

The Kinsey Institute's [Library and Special Collections](#) is the **largest sexuality-related collection and archive in the world**. It encompasses print materials, film and video, fine art, artifacts, photography, and archives and serves as a unique resource for scholars. One example present is the collection of Japanese art depicting sexual subjects, which can be difficult to study in Japan. Having such works at KI allows for important scholarship and makes IU a world leader in academic research. A member of the [Lilly Library](#), a rare book and manuscript library, described the KI collections as rare and unique, possibly more so than those at Lilly.

Previous statements from the IU administration claim that the archive and collections will remain **“in service of”** the Kinsey Institute. What this would mean in practice remains unclear. Listening Session participants expressed grave concerns about maintaining the integrity of the collections as “Kinsey Institute” collections, which echoed concerns raised in the fall. A lack of clarity on this issue from the administration leaves open the possibility that the collections and archives could be separated from KI and dispersed to other units within IU, destroying this unique, world-renowned collection. No clear answer has been given as to why the archives and collections would not remain with KI if a separate organization is created.

The KI Library and Special Collections also serves as a living archive, connecting historical records and representations to current events and ongoing debates. The current political climate of attacks on academic freedom and book banning requires more, not less, protection for important but controversial materials like those at KI. Vague promises about retaining the Collections “in service” to KI are insufficient to meet this need for support of the Collections and commitment to scholarship. **According to an IU historian, removing the Collections from KI would be “disastrous.”**

Impact on donors and funding

Several people raised the issue of how a new organization would handle donations that have been made specifically to the Kinsey Institute. Many donors are interested in donating money and materials to KI specifically, not IU in general. **No clear answer has been given about how such donations would be handled, either from past gift agreements or in future donations.** A number of donor agreements specifically state that, if the Kinsey Institute moves, the donation moves with KI and does not remain at IU. Donors have already expressed concern about the situation at IU to KI leadership. Similar concerns apply to grants made specifically to “Kinsey Institute” researchers. One researcher, who is part of a grant that has brought in over \$5 million to IU, noted that annual review by the granting body expressed admiration for KI as a unique site for scholarship. **Such considerations are often part of critical funding decisions for research.** The IU administration had no clear answer for how grant funding would be handled, including processing and management of funds, in the event that part or all of KI was separated from IU.

Students and faculty also raised concerns about funding for graduate students who receive student academic assistantships (SAAs) from Kinsey and/or are funded through grants to KI researchers. **These students rely on this funding to support their**

academic work and gain valuable experience working at KI. Restructuring KI could threaten their funding and their ability (or willingness) to complete their degrees at IU.

Threats to safety and security

After the passage of HB1001 with the anti-Kinsey amendment and IU's inadequate response, KI has seen an uptick in harassment, including emails, phone calls, and even comments on research surveys. The situation has led to a general feeling of unease among KI faculty and staff. At the Listening Sessions, participants expressed concern that the IU administration did not speak out against this harassment or make any effort to discourage it from continuing. KI's current location on campus is highly secure, but it is not clear that such security would be maintained if a separate 501c3 organization is created. KI supporters raised concerns about security and safety management for any new organization, but the administration has yet to provide a clear response or details about how security would be managed. Several KI supporters expressed concerns that a separate KI organization could be moved off campus, which would make KI more physically vulnerable and exacerbate feelings of unease among faculty, staff, and students who work at KI.

The situation also affects IU more broadly, since attacks on research may start with Kinsey but could spread across IU. A number of speakers at the Listening Sessions warned of opening a Pandora's box of vulnerability for IU departments that may fall out of favor because of a changeable political climate. If IU does not stand up for KI and retain it as a vital part of the University, which departments, schools, and programs might be next? IU is KI, and KI is IU.

Action steps

In light of the concerns raised above, we request the following from the IU administration:

- 1) *Robustly defend the Kinsey Institute from attack:* Faculty, staff, and students at IU deserve the full throated, unambiguous support of their administration. IU's failure to firmly denounce defamatory statements made in the state legislature and its ineffective work to thwart the anti-Kinsey amendment contribute to the impression that faculty support and academic freedom are not priorities for this administration. KI faculty, staff, and students expressed concerns that IU has betrayed their professional and moral leadership responsibilities by allowing misinformation and defamatory attacks to persist with no attempt at public rebuttal. This lack of affirmative support from the administration will allow harassment to snowball and put people's professional careers and personal safety at extreme risk.
- 2) *Keep the Kinsey Institute and its Collections intact at Indiana University:* IU administration has fielded several iterations of a plan for compliance with HB1001. Most of the plans that have been presented to KI members involved the creation of a 501c3 that would sever all or part of KI from IU. We strongly urge the administration to retain the Kinsey Institute and its Library and Special

Collections as a cohesive entity within IU proper.

- 3) *Seek an accounting solution to an accounting problem:* The anti-Kinsey amendment in HB1001 states that no state appropriations dollars may go to KI, but KI is not funded directly by the state; it receives support from IU, which has many sources of funding outside state dollars (e.g. grants, tuition, etc.). This creates an accounting problem for IU that should be solved through the creation of “clean” accounts that do not contain state money. The creation of a separate organization like a 501c3 is not required by the new law, nor is it clear that such an organization would actually make IU compliant with HB1001.
- 4) *Provide effective, proactive leadership:* In purporting to pursue compliance with HB1001, the administration has violated a number of IU policies. Stronger, more effective leadership that complies with IU’s own governing regulations must be provided by the IU administration in support of the Kinsey Institute and IU as a whole. This requires greater transparency in these proceedings, including specifics about compliance with existing IU policies. The administration must fully and openly justify any and all proposed plan(s) for addressing the anti-Kinsey amendment in HB1001.

Signed,

Friends of Kinsey