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UIS paid \$200K to settle sex impropriety charge against coach

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The University of Illinois Springfield paid \$200,000 to a student in 2009 to settle allegations of sexual impropriety involving a coach for the women's softball team, who resigned after the allegations came to light.

The university late Thursday released **the settlement agreement**, which contained payment information and a heavily redacted letter concerning the allegations. The release was in response to records requests filed by The State Journal-Register, which has been seeking the documents for more than a year.

The letter indicates that conduct by a coach may have risen to the level of sexual assault and battery.

The university released the settlement agreement and the letter, apparently written by an entity outside the university, after the attorney general's public access counselor's office told university officials this week the records must be made public under state law.

In a letter issued Friday, the attorney general's staff also said UIS had failed to follow state law, which requires that public bodies notify the attorney general much sooner when an agency wants to use a FOIA exemption to withhold records.

The newspaper first requested documents in May 2009. The university then refused to release any records regarding the resignations of women's softball coach Joseph F. Fisher and his assistant Roy Kendrick Gilmore. It is not clear which coach engaged in the behavior that prompted the \$200,000 payment.

The newspaper also sought records concerning the resignation of former women's golf coach Jay C. Davis, who had been on paid leave for three weeks before resigning one week after the softball coaches left the university.

University officials have said the resignations of Davis and the softball coaches weren't related.

The newspaper again sought documents on Jan. 4, 2010, the first day that revisions to the state Freedom of Information Act took effect. The revisions were aimed at making government more transparent, with the attorney general's office taking on the role of enforcer.

The newspaper has yet to receive any information regarding Davis' resignation. And it is still not clear what, exactly, led to the resignations of the softball coaches.

Neither Gilmore nor Fisher could be reached for comment.

Attorney general reversal

The attorney general's office, which previously said written student accounts of what happened were subject to disclosure, reversed itself on Friday. The office said the university could withhold the records on the grounds that the accounts were preliminary notes. The attorney general in September rejected the university's position that disclosure of the student accounts would be a clearly unwarranted invasion of privacy.

The university did not cite the preliminary-note exemption until late October, after the attorney general rejected the privacy argument.

Cara Smith, public access counselor for attorney general Lisa Madigan, said public bodies should not switch from exemption to exemption midway in a case.

"In the coming year, we will be much less forgiving of exemption shopping than we certainly have been in the past year," Smith said.

Student accounts aren't the only thing that the university hasn't turned over.

The name of the student who received money is blacked out in the settlement agreement. And a letter dated March 23, 2009 -- one week after the incident between coaches and students took place -- is blacked out entirely, except for the names of addressees, the date the letter was sent and the title "Re: Sexual Assault and Battery By UIS Softball Coach" at the top of the correspondence.

Student privacy paramount, UIS says

The state Freedom of Information Act says:

"All settlement agreements entered into by or on behalf of a public body are public records subject to inspection and copying by the public, providing that information exempt from disclosure under Section 7 of this Act may be redacted."

Section 7 allows public bodies to redact information to preserve privacy, among other things.

Asked why the university kept the agreement secret for more than a year, Derek Schnapp, UIS spokesman, said that the university would have treated release of the settlement differently if the agreement had been with an employee instead of a student.

"Our position has always been to protect the privacy of our students," Schnapp said.

Chancellor Harry Berman said as much in an email sent Thursday evening to faculty and staff members, alerting them that the university had given documents to the newspaper, even though officials believed that federal law allowed secrecy.

"Today, we received advice from the attorney general's office to release to the SJR two of the documents submitted for review (by the public access counselor's office)," Berman wrote in the email, which was sent by Edward Wojcicki, associate chancellor for constituent relations and chief of staff. "I want you to know that we cooperated fully with the attorney general's office at all points in this process, while continuing to view the protection of student privacy to be of paramount importance."

Smith said her office learned of the settlement only after issuing a subpoena to the university on Dec. 27 for records relating to the case. It was the first time the attorney general has used its subpoena power in a FOIA case under the 2010 changes in the law, she said.

"We were alarmed that it hadn't been released and made that position very clear to the university," Smith said. "It absolutely concerned me."

From the start, The State Journal-Register has made clear that the newspaper is not interested in the names of any students. The newspaper also has a policy against publishing the names of alleged victims of sexual assaults.

The Freedom of Information Act also states that if some part of a record is exempt from disclosure but another should be public, then the public body should redact the exempt portion and disclose the rest.

Almost all of the letter released Thursday, including the name of the person who sent it, is blacked out.

Schnapp said redactions to the settlement and the letter were made due to student privacy concerns.

Smith said she has seen the letter, but not what the university redacted. The university has the burden of showing that redactions are allowable under the law, she said.

The State Journal-Register late Friday filed an appeal with the attorney general, asking Madigan's office to review the redactions and stating that the newspaper believes that information subject to disclosure in the letter has been withheld.

Resignations were requested

Records previously released by the university show that Fisher and Gilmore resigned their positions shortly after the team returned from Florida, signing standard forms stating that their departures were voluntary and not due to "threat, force, duress, menace or undue influence of any kind, by any person or persons whomsoever."

On his resignation form, Fisher wrote "personal" as the reason for his departure. Gilmore wrote "other opportunities."

However, Richard Ringeisen, then chancellor, told university trustees and Joseph White, then president of the University of Illinois, that the departures came at the request of the university.

"I write to let you know that we have asked for and received the resignations, effectively immediately, of our women's softball coach, Joe Fisher, and his assistant coach, Roy Gilmore," Ringeisen wrote in a memo dated March 23, 2009, the day Fisher resigned.

"There was an incident involving the assistant coach and some women players on a recent softball trip to Florida that we simply cannot tolerate," Ringeisen wrote. "Alcohol was involved and the head coach had allowed it to be used."

Schnapp declined to comment on the reasons contained in the resignation forms and the reason cited by Ringeisen in his memo. Schnapp also would not say whether the university had considered terminating the coaches.

Former Springfield mayor Karen Hasara, who was appointed a University of Illinois trustee in the fall of 2009, said she wants to know the details of what happened that triggered the \$200,000 settlement. The agreement was reached less than a month before her appointment.

"Certainly, I would want to be informed about the details of what happened," Hasara said.

But Hasara said she isn't certain that the public should know those details.

"I am concerned about people's privacy," Hasara said. "It's always a tricky issue between the public's right to know and a person's right of privacy."

After being read the section of the Freedom of Information Act that says that settlement agreements are public documents, Hasara said she didn't know whether the university acted properly in keeping the agreement secret for more than a year.

"I'm honestly not qualified to comment on that," Hasara said. "I'm not in a position to second-guess what the university's lawyer said."

Case 'represents what FOIA was for,' official says

A quest for records from the University of Illinois Springfield that has lasted more than 18 months shows why the state Freedom of Information Act is important, according to the state's top public-records cop.

"I think this case represents what FOIA was for," said Cara Smith, public access counselor for attorney general Lisa Madigan. "I think this case is a poster child for why we needed the change (to the law)."

The University of Illinois Springfield in 2009 rejected requests by The State Journal-Register for records relating to the forced resignations of university athletic coaches. The newspaper re-submitted its request last year, when revisions to the law aimed at increasing transparency took effect.

The university on Thursday finally turned over key records, including a settlement agreement with a student-athlete who was paid \$200,000 and a letter indicating that a coach might have engaged in sexual impropriety. Why did it take so long?

"This case went through every phase of the new legislation," Smith answered. "At the heart of it were some very significant issues. We, I think, reached the right result by using our subpoena authority for the first time. There were some records disclosed that the public would never have known existed."

"I think the process worked exactly as it was intended to."

Timeline

*March 4, 2009: Golf coach Jay Davis is placed on administrative leave with pay.

*Mid-March 2009: An incident involving members of the women's softball team and coaches Roy Gilmore and Joseph Fisher during a trip to Florida prompts a university investigation.

*March 20, 2009: Gilmore signs a form stating that he is resigning for "other opportunities."

*March 23, 2009: Fisher signs a form stating that he is resigning for personal reasons. Chancellor Richard Ringeisen sends a memo to trustees and university president Joseph White stating that the university asked for and received resignations from Fisher and Gilmore due to an incident involving Gilmore and players that involved alcohol. That same day, Ringeisen and a university lawyer were sent a letter alleging that conduct by a coach amounted to sexual assault and batter.

*March 26, 2009: Davis resigns

*Late May 2009: The State Journal-Register requests records on the resignations and what prompted them.

*Early June 2009: The university refuses to release the requested records and the newspaper appeals the decision to Joseph White, university president

*June 17, 2009: White upholds the decision to keep records secret

*Sept. 8, 2009: The university reaches agreement with a member of the women's softball team who is paid \$200,000 to settle any claims arising from conduct that occurred during the Florida trip

*Jan. 4, 2010: The State Journal-Register files another records request on the first day that a revised Freedom of Information act takes effect

*Sept. 30, 2010: The attorney general tells the university the requested records should be made public.

*Oct. 1, 2010: The university says it will not release the records despite the attorney general's opinion. The newspaper files an appeal of the university's decision the same day with the attorney general, which subsequently asks the university for additional information.

*Oct. 28, 2010: For the first time, the university asserts that student accounts of what happened are exempt from disclosure because they are preliminary notes. The university had previously said that the accounts were exempt due to privacy issues.

*Dec. 27, 2010: The attorney general issues a subpoena to the university, demanding records. It is the first time the attorney general has used its subpoena power in a FOIA case.

*Dec. 30, 2010: In response to the subpoena, the university gives the attorney general records, including a copy of the settlement agreement.

*Jan. 6, 2011: The attorney general tells the university that it must give the newspaper copies of the settlement agreement and the letter dated March 29, 2009.

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