

Complaint Form  
IUSG Election Commission

Date Complaint Submitted: Thursday, April 9, 2020

Complaint Submitted By: Defy

Complaint Submitted Against: Inspire

Date & Time of Violation: Tuesday, 12AM

Hello Election Commissioners,

Defy would like to preface this complaint by first clarifying the 48 hour time period for reporting to the Election Commission about violations to the Procedural Election Code. Both campaigns intermediate financial statements were originally due Monday, but the deadline was extended and they were posted online at an unknown time Tuesday. Therefore, the Defy campaign is submitting this complaint with the notion of a 48 hour time period beginning at 12AM Tuesday and ending 12AM Thursday night. Additionally, definitions referring to Indiana University policy termination can be located at the end of the document for your reference. Thank you!

**I. The Defy campaign would like to open an investigation led by the Election Commission to investigate the Inspire Campaign's collection of Indiana University student emails.**

- A. The Intermediate Financial Statements produced by the Inspire campaign states that \$250 was spent towards an online company called "DirectIQ" where the service can "send email campaigns in minutes"<sup>1</sup>. Under the assumption that Inspire chose to purchase a "Contact List Sized Based Plan" at a monthly fee for \$250, Defy has reason to believe that Inspire has an email list of a maximum of 50,000 contacts.<sup>2</sup>
- B. IU Student Government has access to an all-school email list. Defy has reason to believe that with several members of Inspire involved in Congressional leadership positions, Inspire could have potentially abused this privilege and power to access this email list for their own personal gain.
- C. Defy would like to ask the Election commission to investigate Inspire's collection of Indiana University emails. The mass emails sent to students were used for the promotion of campaign materials through mass marketing emails.

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<sup>1</sup> <https://www.directiq.com/>

<sup>2</sup> <https://www.directiq.com/pricing/#list-based>

## II. Description of Violation:

Background: A mass email was sent to many students at Indiana University on April 1, 2020 from Andrew Ireland, the campaign manager for Inspire. The email had the subject line “COVID-19 Digital Town-Hall” and announced a campus-wide town-hall the Inspire campaign hosted on April 2 via Zoom. Additionally, a flyer with information about their campaign and a call for support was also relayed in the message from Ireland. In alliance to Indiana University policy violations, several students have contacted both the Election Commission and Inspire with grievances concerning their placement on a marketing list without their consent.

Violation of Section 508: Violations of University Policies.

*Any ticket, candidate, or any person acting on behalf of any ticket or candidate found to have violated a publicly disseminated university policy, including the policies of the Student Life and Learning Office, University Information Technology Services (UITs), and those found in the Code of Student Rights, Responsibilities, and Conduct, for the purpose of promoting a candidate or ticket shall constitute a violation of this Code.*

### A. Use of Electronic Mail IT-21<sup>3</sup>

The Indiana University policy “Use of Electronic Mail IT-21” explicitly states

“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.**”

Although it can be argued that academic relationships can encompass the entirety of the student body, several students who are not currently enrolled at Indiana University Bloomington received Ireland’s email. These students include both graduated and transfer students who have no academic relationship to the Inspire campaign because they cannot vote in the election (Photos 1 & 2).

Additionally, the policy states:

“University electronic mail will not be used for personal commercial purposes or for personal financial or other gain.”

Ireland’s email clearly showed support and bias for the Inspire campaign. The mass emails, while sent individually via the DirectIQ service, were sent with the sole purpose of personal gain in the form of voting support as stated in the original email from Ireland, “All students will receive an email for online voting April 15 and I hope Rachel and Ruhan can count on your support,” Ireland said, along with the previously aforementioned flyers and campaign materials.

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<sup>3</sup> <https://policies.iu.edu/policies/it-21-use-email/index.html>

## B. IU Acceptable Use Agreements- Access to Information and Information Technology Resource<sup>4</sup>

Indiana University's Acceptable Use Agreement outlines the acceptable usage standards students agree to when accessing institutional data and information from technology resources. All IU Acceptable Use Agreements policies stated below were violated by Inspire:

### Ethical Usage

1. **Access institutional information only in the conduct of university business** and in ways consistent with furthering the university's mission of education, research, and public service.
2. Use only the information needed **to perform assigned or authorized university duties.**
3. Never access any institutional information **to satisfy your personal curiosity.**
4. Never access or use institutional information (including public directory information) for your own personal gain or profit, or **the personal gain or profit of others**, without appropriate authorization.
5. **Never disclose University-internal, Restricted, or Critical data (as defined by policy; see above) or distribute such data to a third party in any medium** (including oral, paper, or electronic) without proper approval, and in the case of Restricted or Critical data, without a contract processed through or waived by the IU Purchasing Department.
  - a. Note of clarification: Inspire disclosed all IU email contacts with DirectIQ.com a third party medium for sending mass campaign emails.
6. Never send mass email (i.e. unsolicited bulk email or spam) without appropriate approval.
  - a. Note of clarification: Inspire has not provided approval from an IU official office to send mass emails.

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<sup>4</sup> <https://one.iu.edu/task/iu/acceptable-use-agreement><sup>4</sup> (Must log into One.iu.edu to access)

Additionally, the IU Acceptable Use Agreement states examples of relevant federal laws that may apply if violated:

**Family Educational Rights and Privacy Act (FERPA)** Provides students' rights of access to their education records and generally prohibits the disclosure of student education records without the prior written consent of the student.

**State of Indiana Access to Public Records Act** With some exceptions, provides for public access to government records, including records of public universities like IU. All requests for records under the Indiana Access to Public Records Act must be forwarded immediately to the IU Office of the Vice President and General Counsel.

### C. Management of Institutional Data DM-0<sup>5</sup>

The Management of Institutional Data policy statement is read as the following:

“The value of data as an institutional resource is increased through its widespread and appropriate use; its value is diminished through misuse, misinterpretation, or unnecessary restrictions to its access.

The permission to access institutional data should be granted to all **eligible employees** and designated appointees of the university for all legitimate university purposes.”

The violations made by Inspire in the Management of Institutional Data policy are similar to the IU Acceptable Use Agreement stating:

Users of institutional data must:

- **Access data only in their conduct of university business**, and in ways consistent with furthering the university's mission of education, research, and public service.
- **Respect the confidentiality and privacy of individuals** whose records they may access.
- Observe any **ethical restrictions** that apply to the data to which they have access.
- Abide by applicable laws, regulations, standards, and **policies** with respect to access, use, disclosure, retention, and/or disposal of information.

Users of institutional data must not:

- **Disclose data to others** except as required by their job responsibilities.
- Use data for their own or others' **personal gain** or profit.
- Access data **to satisfy personal curiosity.**”

“Institutional Data falls into four classifications (Critical, Restricted, University-Internal & Public). In the absence of being formally classified, institutional data should be treated as **University-Internal** by default.”

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<sup>5</sup> <https://policies.iu.edu/policies/dm-01-management-institutional-data/index.html>

Additionally, the Management of Institutional Data policy states consequences for violation:

“Failure to comply with Indiana University information technology policies may result in sanctions relating to the individual's use of **information technology resources** (such as suspension or termination of access, or removal of online material); the individual's **employment** (up to and including immediate termination of employment in accordance with applicable university policy); the **individual's studies** within the university (such as student discipline in accordance with applicable university policy); **civil or criminal liability**; or any combination of these.”

#### D. Use of Electronic Mail IT-21<sup>6</sup>

The Inspire campaign violated following ‘Use of Electronic Mail’ policies:

1. 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.**
  - a. An overwhelming majority of students receiving the emails did not previously consent to receive campaign advertisements, nor did most students have any tie to the campaign that would have warranted receiving an email.
2. Sensitive institutional and personal information will not be sent via email, unless specific steps are taken to confirm that the transmission is secure.
  - a. Note of Clarification: As previously stated, DirectIQ is a third party service that was utilized to send the mass emails as individual emails to students. We are currently unaware of steps taken to ensure the transmission was secure.
3. University electronic mail will not be used for **personal commercial purposes** or for personal financial or other gain.
4. Mailing lists will be moderated so that inappropriate postings are intercepted and rejected, and electronic mailing lists will be protected as far as technically possible from commercial exploitation.”
  - a. Note of Clarification: Only **approved** mailing lists will be moderated. Moreover, using public email addresses found on IU Directory and BeInvolved explicitly prohibit mass mailings as stated in the IU Acceptable Use Agreements.

Indiana University’s reason for the ‘Use of Electronic Mail’ is stated as:

“Mailings from marketers and anonymous sources on the Internet are increasing - users are being placed on marketing lists **without their consent**, and often if the user responds to ask to be removed, the volume of unsolicited e-mail simply increases because the validity of their email address is confirmed. Unfortunately at this time there is no real technical way to stop this unsolicited e-mail, and as of December 2001 there are no Indiana State or Federal statutory limits on these mailings.”

Lastly, the policy outlines consequences for violation:

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<sup>6</sup><https://policies.iu.edu/policies/it-21-use-email/index.html>

“Complaints concerning violations of this or other technology policies should be reported to UIPO Incident Response. After technical verification is complete using system or other logs, and in accordance with other applicable policies and procedures, the incident will be reported to the appropriate University judicial officer for review and possible action.”



#### E. Appropriate Use of Technology Resources IT-01<sup>7</sup>

“Unless otherwise specified in this policy or other university policies, use of Indiana University information technology resources is restricted to purposes related to the university's mission of research and creative activity, teaching and learning, and civic engagement. Eligible individuals are provided access in order to support their studies, instruction, duties as employees, official business with the university, and other university-sanctioned activities. **Individuals may not share with or transfer to others their university accounts including network IDs**, passwords, or other access codes that allow them to gain access to university information technology resources.”

Due to the large number of contacts for email sends paid for in the DirectIQ subscription, we have reason to believe Inspire collected up to 50,000 students' university accounts including network IDs (usernames)

“Indiana University technology resources may not be used in a manner that violates the law, for private commercial activities (defined below) that are not approved by the university, for personal private gain, or for political campaigning and similar activities that are inconsistent with the university's tax-exempt status.”

Through our interpretation of this policy, paired with many students coming forward to ask how their email had been placed on a mailing list, we understand that Inspire did not receive consent to share these students' emails, and therefore their network IDs, to a third party corporation, DirectIQ.

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<sup>7</sup> <https://policies.iu.edu/policies/it-01-appropriate-use-it-resources/index.html>

## F. Disclosing Institutional Information to Third Parties<sup>8</sup>

Indiana University's 'Disclosing Institutional Information to Third Parties' policy describes the procedures agents of the university must abide by when disclosing university institutional information to a third party. This party must be "aware of and take proactive steps to reduce the risks associated with the sharing of information." To our knowledge, Inspire has not produced any evidence of following university procedural code.

Additionally, the policy states:

"The university also recognizes the need to share institutional information with partners to accomplish its mission and that, when disclosing this information, the university must exercise due care. Furthermore, to ensure compliance with applicable federal and state laws, regulations, and university policies, **it is vital to evaluate and approve the ability of third parties to appropriately handle and protect information before information is shared.**"

Under the definition of Disclosing Information, the policy also reads:

"Maintenance of information: examples include warehousing paper or electronic records at a third party site; **using a hosted platform provider to store institutional information; email outsourcing;**"

Furthermore, procedures in place moving forward with approving of third-party disclosures include:

Prior to disclosing institutional information, the agent is responsible for initiating and managing the process below to ensure that:

- There is an adequate understanding of the third party's security environment;
- Business needs, risks, and mitigating safeguards are analyzed and documented; and
- Institutional information is adequately protected.

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<sup>8</sup> <https://policies.iu.edu/policies/dm-02-disclosing-institutional-information/index.html>

## Definitions all provided by cited sources:

**Access to institutional data** refers to the permission to view or query institutional data; permission does not necessarily imply delivery or support of specific methods or technologies of information access.

**Commercial activities** are defined as economic activities geared toward a mass or specialized market and ordinarily intended to result in a profit, and that are not part of one's university responsibilities. Commercial activities do not include the use of information technology resources for one-time, minimal transactions, such as students using their Indiana University email accounts to communicate with potential buyers for used textbooks or with potential sub-lessees. This type of transaction is considered incidental personal use.

**Eligible employees** are faculty and staff holding full-time appointments at Indiana University, or other employees specifically designated as eligible to access institutional data by the head of their department, division, school or campus.

**Information technology resources** includes all university-owned computers, peripherals, and related equipment and software; voice communications infrastructure, peripherals, and related equipment and software; data communications infrastructure, peripherals, and related equipment and software; all other associated tools, instruments, and facilities; and the services that make use of any of these technology resources. The components may be individually controlled (i.e., assigned to an employee) or shared in a single-user or multi-user manner; they may be stand-alone or networked; and they may be stationary or mobile.

**Mass Email:** Any unsolicited email, or group of emails, sent to a significant fraction of any of the communities – faculty, students, or staff – of the IUB campus.

**Mutually-accepted personal, business, or academic relationship** is an association between two individuals established as a result of a job function, a business function, or an academic

activity. Examples: a person sending an invitation to a party to a friend; a Human Resources employee sending an email to employees enrolled in a specific benefits plan; a professor sending class information to students in the class; a student asking another student in class a question about an assignment.

**Personal private gain** is defined as securing profit or reward for an individual in his or her personal capacity, that is not otherwise permitted by this policy.

**Political campaigning and similar activities that are inconsistent with the university's tax-exempt status** include campaign purposes that would further the interests of the candidate or candidates of any one political party.

**Third party** -- A separate legal entity that has a business, contractual, legal or other relationship with the university, approved external agencies, and affiliated organizations.

**University-internal** - May be accessed by eligible employees and designated appointees of the university in the conduct of university business; access restrictions should be applied accordingly.

## Photos:

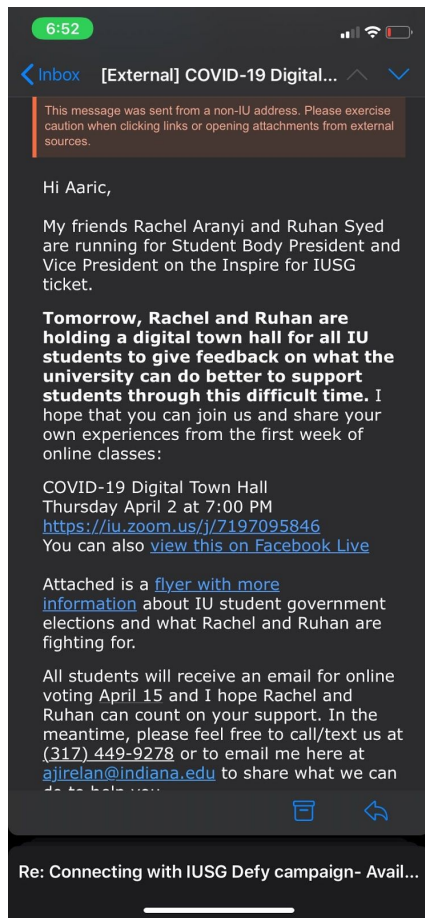


Photo 1: Email sent to Aaric Hoyer, a transferred student. Although Aaric's email address is not visible in this screenshot, when searching 'Aaric Hoyer' in the IU Directory, the search result DOES NOT return his name or email address. Therefore, there is reasoning to believe that the Inspire campaign did not collect email addresses via IU Directory. He has not affiliated with the Inspire ticket or consented to receive messages from this campaign, nor was he aware of ever forming a mutually-accepted personal, business, or academic relationship with Andrew Ireland, the sender, or either affiliated candidate.

Photo 2: Maci Pickering is a graduated student from Indiana University Bloomington, although her username does still appear on the IU Directory.

