

No. 01 *

Indiana University Supreme Court

_____ Defy _____,

Petitioner

v.

_____ Inspire _____,

Respondent

PETITION FOR REVIEW OF DECISION BY THE ELECTION COMMISSION

— Pursuant to the PROCEDURAL ELECTION CODE, §708 —
Madeline Garcia, Defy Candidate, mggarcia@iu.edu

QUESTION PRESENTED

Did Inspire break University policies IT-01, IT-21, DM-01, DM-02, as well as DirectIQ's Terms of Use with their collection and transmission to a third-party site of up to 50,000 IU student emails and non-IU student emails?

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Violation of IUSG Procedural Election Code 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.*

IT-21: Use of Electronic Mail

- *"Mutually-accepted personal, business, or academic relationship"*
 - *"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."*

DirectIQ's Terms of Use (found at <https://www.directiq.com/terms-of-use/>)

- *"DirectIQ expressly forbids SPAM (the sending of unsolicited e-mail to parties unknown to the sender). DirectIQ has a zero tolerance SPAM policy. Any user found to be using DirectIQ for SPAM will have their account subject to immediate termination."*
- *"DirectIQ may only be used in connection with email lists for which recipients have voluntarily registered. Using DirectIQ to send email to an address you obtain without the consent of such addressee is a violation of the DirectIQ Terms of Use."*
- *"You may not import any email addresses to your list that have not chosen to receive your mailings. You may only send email to customers that have willingly signed up to receive your mailings. If DirectIQ receives complaints about your list, your account is subject to immediate termination."*

University Policies (<https://policies.iu.edu/categories/information-it.html?>), specifically:

<https://policies.iu.edu/policies/usss-05-release-student-information/index.html>

<https://www.directiq.com/terms-of-use/>

IT-01: Appropriate Use of Information Technology Resources

- *“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.”*

DM-01: Management of Institutional Data (<https://policies.iu.edu/policies/dm-01-management-institutional-data/index.html>)

- *“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.”*

DM-02: Disclosing Institutional Information to Third Parties

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

- *“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.**”*
- *“If the information to be shared with, or added to or collected by the third party is classified as public, the agent must:”*
 - *“For situations involving the purchase or acquisition of goods and services, seek advice from the appropriate Data Steward(s) and the Purchasing Department on relevant procedures.”*
 - *“If the request is made pursuant to the Indiana open records statute, or for other situations, contact the Office of the VP and General Counsel.”*

- **Definition Clarification:** *“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;”*

IU Acceptable Use Agreements- Access to Information and Information Technology

Resource (<https://protect.iu.edu/online-safety/acceptable-use.html>)

- *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.*
- *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.*

State of Indiana Access to Public Records Act (<https://www.in.gov/pac/2342.htm>) sets a stage for how university or other public data can be disclosed.

STATEMENT OF THE CASE

Yes, in assessing this question, we offer the following statements to show that specific university policies were broken. We believe that Inspire has violated the policies above in the following ways.

- 1. Emailed high school students who are not yet enrolled at their Indiana University email address, violating University Policy IT-21.** Since these high school students were not yet university students, and there is great potential that some recipients were not yet 18 years of age, were their parents given time to opt-out of this disclosure, and how were the recipients’ emails even accessed in the first place if they are not available on the IU Directory, not visible on Zoom company contacts, and have no mutually-accepted personal, academic, or business relationship with Inspire members?¹
 - a.** We found three disturbing results: 1) many of their names and email addresses were not publicly available on the IU directory, 2) some potentially were minors under the age of 18, whose parents may not have been given appropriate time period to opt-out of FERPA-protected directory information release, and 3) all of the students we asked had NO personal connection with any Inspire campaign, Andrew Ireland, Ruhan Syed, or IUSG.

¹ <https://www2.ed.gov/policy/gen/guid/fpco/brochures/parents.html>

<https://policies.iu.edu/policies/usss-05-release-student-information/index.html>
<https://www.directiq.com/terms-of-use/>

- b. With these incoming freshmen not having shared any classes or student organizations with the Inspire campaign as these individuals are not official IU students, we want to make it known again that **there is no mutually accepted relationship between these individuals and the Inspire campaign**. This lack of a relationship between recipient and sender violates University Policy IT-21: Use of Electronic Mail.
- 2. **Sending unsolicited emails to recipients who did not voluntarily consent to receive them is against DirectIQ's Terms of Use and calls for immediate termination of their account, as DirectIQ has a ZERO TOLERANCE policy for SPAM.**
 - a. For the purpose of this investigation, we will state the following three terms of use important to this appeal. 1) DirectIQ forbids SPAM (the sending of **unsolicited** e-mail to parties unknown to the sender). Several people contacted by Inspire reported not knowing the senders of these emails or any Inspire affiliate. DirectIQ has a zero tolerance SPAM policy. Any user found engaging in this behavior will have their account terminated. As explained above, Inspire has no mutually accepted relationship between themselves and these individuals. Therefore these emails constitute as unsolicited and unknown to the sender. 2) DirectIQ states all individuals must have voluntarily registered their email and consented to receiving an email. Inspire did not receive these individuals emails voluntarily and did not get their consent, and therefore violated yet another term of us under DirectIQ. 3) DirectIQ states the user may not import any email addresses that have not willingly signed up to receive their mailings.
 - i. Inspire went directly against DirectIQ's Terms of Use and collected individual's emails without their consent or voluntary register and sent emails to these people in which they have no mutually accepted relationship between them.
- 3. **Violated DM-01- Management of Institutional Data in sending data to a third party without authorization and outside their job description or role at IU.**
 - a. The Inspire campaign used and disclosed institutional information, albeit public directory information, to a third party entity in a way that fell outside their job description as being a student at Indiana University. It is critical to note that there was no authorized collection or transmission of this data to the third party, something that is required under DM-01 and DM-02 for any type of data transmission, even public directory information, to be sent to a third party.
 - b. In outlining this policy, it is important to focus on the lines that speak about abiding by the laws, regulations, standards, and policies with the use of this information. As stated above and below, Inspire has violated several policies as shown above and as shown in our Complaint #4, 5, and 6.

4. By transmitting a bulk list of public directory data without first clearing this through the Office of the VP and General Counsel, Inspire has violated DM-02-Disclosing Institutional Information to Third Parties.

- a. Public data must be screened by the Office of the VP and General Counsel for potential FERPA violations and to ensure other security measures are in place to protect the integrity of IU data security. We acknowledge that student names and emails are public records if they appear in the Directory. However, we do not have confirmation that the Office of the VP and General Counsel was contacted, nor were
 - i. *“If the request is made pursuant to the Indiana open records statute, or for other situations, contact the Office of the VP and General Counsel.”*
- b. A very important clarification: these emails of the individuals who are high school students are NOT public information, and we are unsure of at this time how this information was collected. Acknowledging the State of Indiana Access to Public Records Act, there must be a rule-based or legal reason the directory data of these incoming students was not yet released or viewable on the IU Directory. We are unsure how this information was even collected since it is not public, but we can reason that because these emails and names were not public in the directory, they may be classified as another level of protection, such as University Internal, and would require further provisions for the secure handling and transmission of this information.
 - i. IF the name and email addresses of the incoming students (who are not publicly viewable on the Directory) are found to be University Internal or another level of classification, the disclosure and transmission of this data to the third-party DirectIQ would also **violate the Acceptable Use Agreement’s Ethical Usage clause** reading: *“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.”*

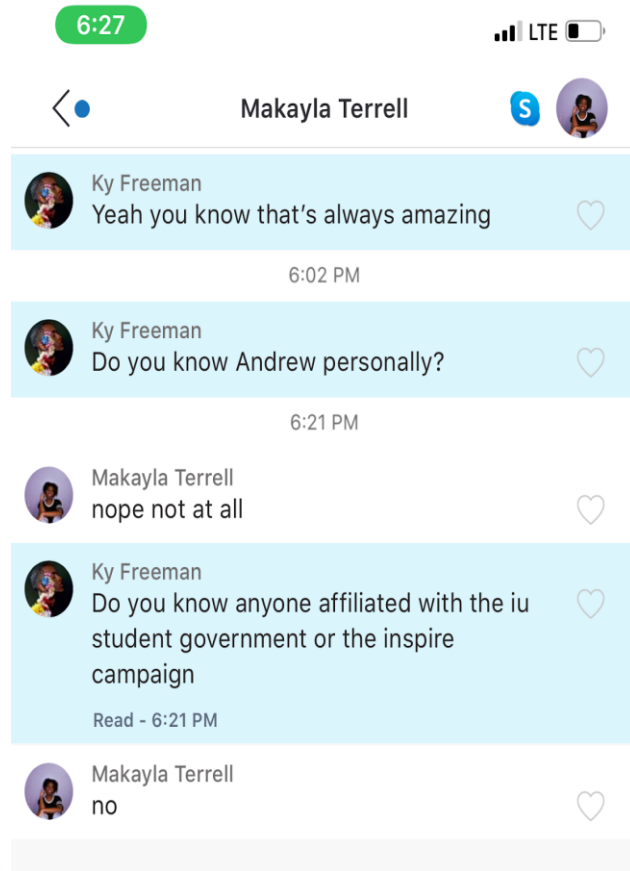
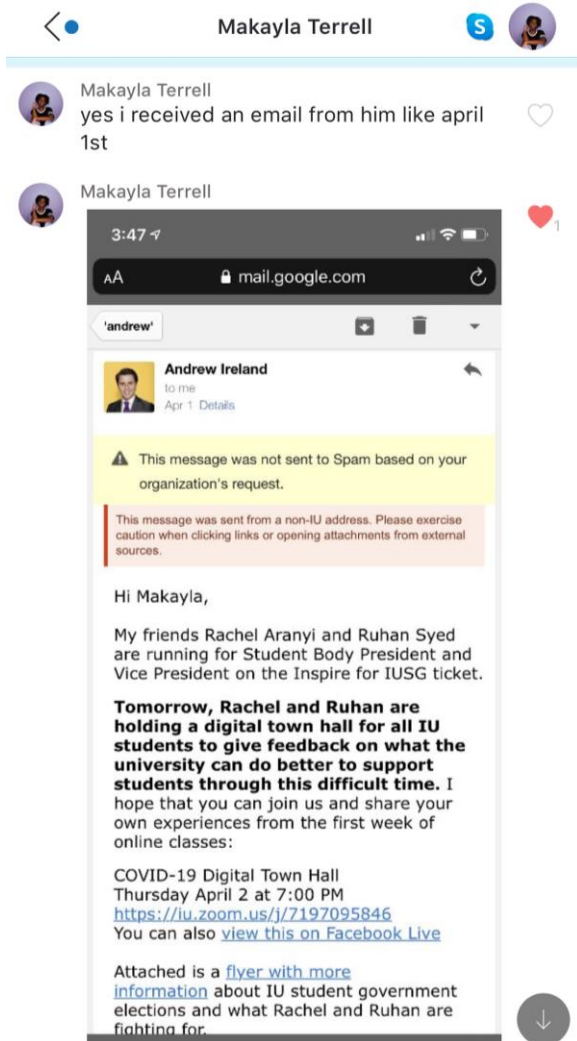
5. Potential violation of FERPA directory information disclosure regulation.

- a. “FERPA authorizes the university to disclose education records or identifiable information to third parties (i.e., anyone not a “school official”) without the student's consent under the following circumstances:”
 - i. “Information that the university has designated as “directory information,” so long as the student has not filed a FERPA restriction. Indiana University limits "Directory information" to: (*Student’s name and University e-mail address included for reference, FERPA states other exceptions to lack of consent for disclosing information)

1. Student's name;
 2. University e-mail address;
- b. As shown by the IU policy, FERPA allows for the disclosing of identifiable information without consent as long as it falls under "Directory information," and as long as the student or their legal guardian has not opted-out of this disclosure. **However, these individuals are not yet IU students, and some of their emails are not located in the public directory. Therefore, their emails are NOT able to be disclosed to third party services and REQUIRE consent from those individuals before their information, such as their email, is disclosed.**
- c. Additionally, being that they are not students of IU, they are unable to sign the campus-specific FERPA restriction form that allows their information not to be disclosed to the public. If the student is yet under age 18, this would be the responsibility of the parent to sign this. Since the students have not matriculated at IU yet, they have not yet been given a chance to opt-out. **This inability to withdraw consent from having their email sent to DirectIQ, a third-party service, and Inspire's clear disregard for their data privacy is IRRESPONSIBLE, NEGLIGENT, and an extreme MISUSE of power.**

Photos 1 and 2: Makayla is a high school senior and received this email from Andrew Ireland about the COVID-19 Town Hall as well as supporting Rachel and Ruhan. This was received by Ky Freeman via GroupMe. These messages show the email she received, as well as the fact that Makayla did not know anyone from the Inspire campaign or IU Student Government. (She does show up in the directory, but has no ties to Inspire and didn't know the sender, still resulting in a violation of IT-21).

<https://policies.iu.edu/policies/usss-05-release-student-information/index.html>
<https://www.directiq.com/terms-of-use/>



Photos 3 and 4: Marsha Koda is a high school senior and received this email from Andrew Ireland about the COVID-19 Town Hall as well as supporting Rachel and Ruhan. This was received by Ky Freeman via GroupMe.

<https://policies.iu.edu/policies/usss-05-release-student-information/index.html>
<https://www.directiq.com/terms-of-use/>

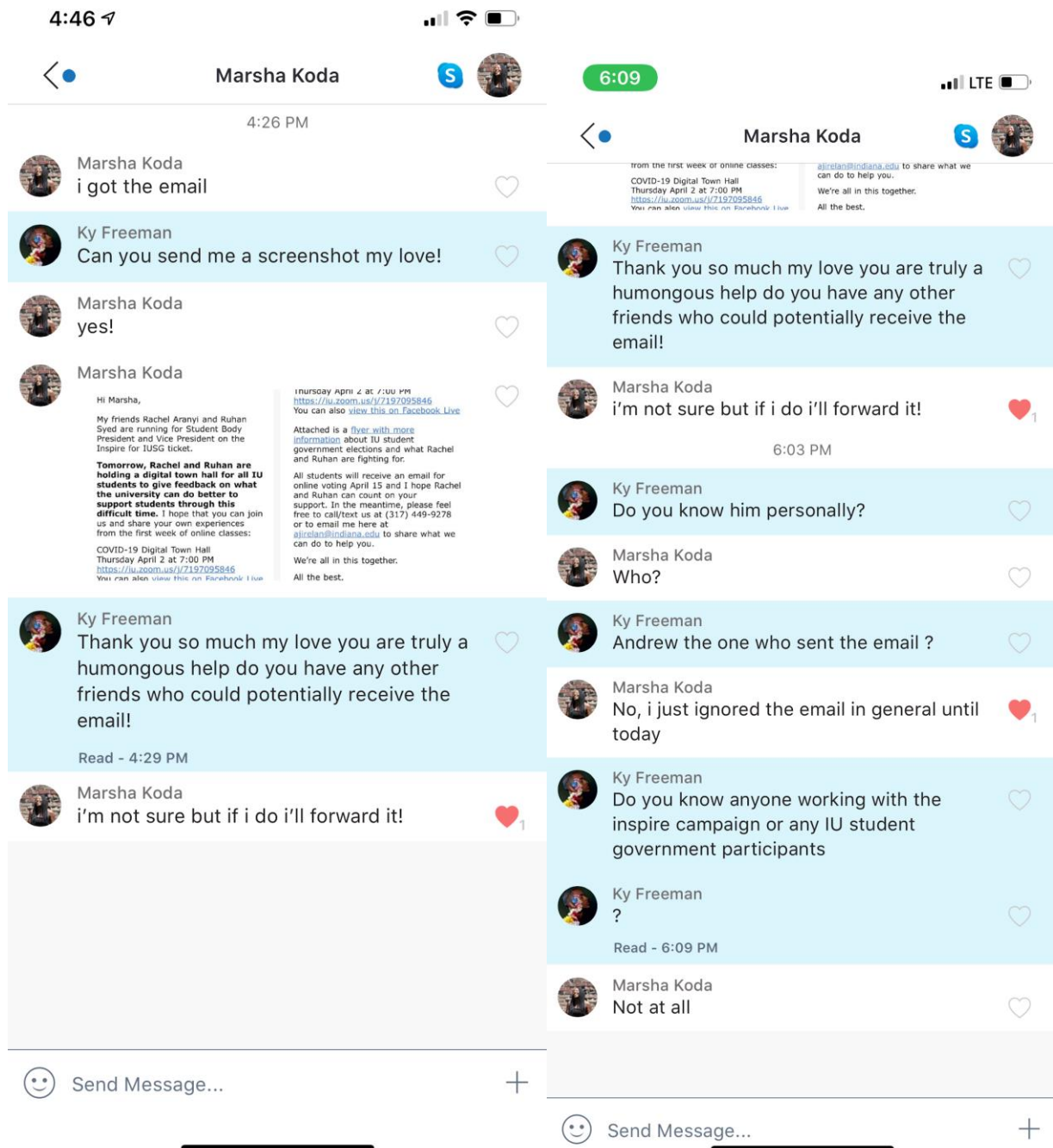



Photo 5: As you can see from the picture, when you search Marsha Koda, these are the only two that appear, and neither are Marsha Koda. Her information is not available on the IU Directory, and as shown in photo 3 and 4, she has no ties to Inspire or IUSG.

**IU Directory**

New searchUpdate informationHelpContact


[Home](#)
SEARCH RESULTS


▲ Filtered Results (2 / 2)

All Results 2Individual Listings 2Departmental Listings 0

Start typing to filter results:

☒ Contains ☐ Starts with

 [Dallas, Konrad Luke \(SB\)](#)

 [Koda, Maxine W \(IN\)](#)

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Photo 6 and 7: Photos pertaining to Zoom client contacts that show that at least two of these contacted high school students do not show up on this list.

<https://policies.iu.edu/policies/usss-05-release-student-information/index.html>
<https://www.directiq.com/terms-of-use/>

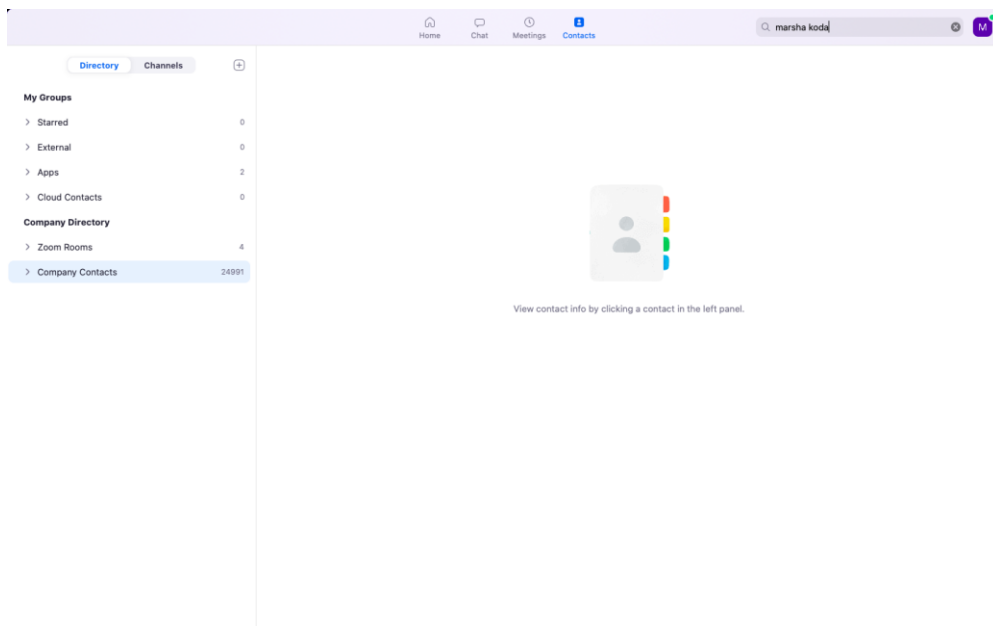
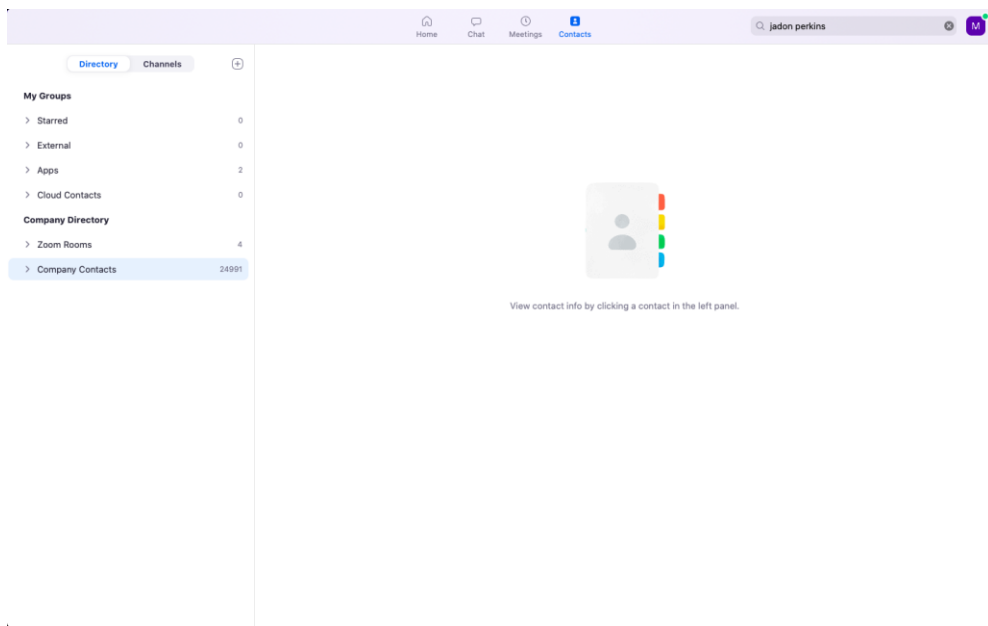




Photo 8 and 9: Although Aaric's email address is not visible in this screenshot, when searching 'Aaric Hoyer' in the IU Directory, the search result DOES NOT return his name or email address.

<https://policies.iu.edu/policies/usss-05-release-student-information/index.html>
<https://www.directiq.com/terms-of-use/>

 [Hoye, Arianna Michelle \(BL\)](#)

 [Hoye, George P. \(SE, BL\)](#)

 [Hoye, Wayne Edgar \(IN\)](#)

 [Hoyer, Mark H. \(IN\)](#)

 [Hoyer, Reed William \(BL\)](#)

 [Hoyert, Mark S. \(NW\)](#)

 [Hoyes, Zachary Tyler \(IN\)](#)

 [Oyefiade, Haleemah Adetola \(BL\)](#)

 [ARTS AND SCIENCES, COLLEGE OF \(NW\)](#)

 [PSYCHOLOGY, DEPARTMENT OF \(NW\)](#)

iu.edu/person/details/rwhoyer

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