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Charles Walcott
Dean of the University Faculty
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Dear Charlie:

I am writing to inform you of my decisions regarding the suspension policy proposed by the Faculty Senate. As you know, the proposed policy has a complicated history. For a significant period of time, representatives from the Faculty Senate worked collaboratively with a representative group of deans to draft a suspension policy. These efforts were very fruitful, and succeeded in fleshing out the basic structure of a new, university-level suspension procedure. The proposed policy contained extensive process protections, minimum and maximum suspension periods and carefully delimited provisions for emergency suspensions.

This collective effort ended somewhat short of completion when, in May 2005, the Faculty Senate adopted a version of the draft suspension policy that the deans viewed as problematic in some respects. Following the passage of the Senate resolution, the deans continued to work on the policy and produced a modified draft that met their remaining concerns. I have thought carefully about these few areas of divergence between the approaches of the Senate and the deans. Several of them probably are not issues upon which there is any real disagreement; others are perhaps more significant. I have outlined these areas below, and have noted my resolution. I hope that whatever differences remain do not obscure the value and importance of what the Senate and the deans have achieved through their collective effort.

1. Exclusion of Weill faculty from scope of policy. The Senate version by its terms applies to all Cornell faculty members. It does not appear, however, that any faculty representatives from the Weill Cornell Medical College were involved in the drafting of the policy. Moreover, the proposed policy assigns the Provost a key role in the process, without accounting for the fact that there is a separate Provost for Medical Affairs at Weill. The policy would have to be significantly reworked to address this issue, which would further delay its implementation on the Ithaca campus. For these reasons, I have concluded that the faculty of the Weill Cornell Medical College should not be included at this time.

2. Exclusion of Suspension of Clinical Privileges in the Veterinary College. The deans also sought to remove the suspension of clinical privileges in the College of Veterinary Medicine from the scope of the new policy on the ground that the special circumstances surrounding the treatment of patients required a different suspension procedure. While I agree that there are special issues present in this context, I am also concerned that the rights and reputation of faculty members in such settings be adequately protected. Recent events within the College of Veterinary Medicine have raised questions about whether the existing privileges policy fully addresses these concerns. I have therefore decided to exclude the suspension of clinical privileges from the scope of the general suspension policy, but I am at the same

initiating a joint effort with the College of Veterinary Medicine to insure that the College's policies regarding the suspension of clinical privileges fairly and adequately account for the important faculty interests at stake in this context.

3. *Exclusion of faculty with short term, courtesy and adjunct appointments.* The Senate version of the suspension policy adopted a definition of faculty set forth in the University Bylaws. The deans were concerned that this definition was too broad and that the full process provisions of the proposed policy were excessive in relation to some academic appointments, including short-term, courtesy and adjunct appointments. The terms of such appointments are likely to be over before the suspension review process set forth in the proposed policy has run its course, and since the policy precludes the imposition of sanctions until the process is complete, the practical effect may be that short term employees are largely immune from suspension. Accordingly, the deans sought to exclude from the policy faculty with appointments of one year or less, as well as courtesy and adjunct appointments.

These concerns are valid, but there are opposing arguments that also have merit. A wrongful suspension can inflict significant damage to the reputation of a faculty member, even if that faculty member's appointment is of very limited duration. Moreover, if such faculty members are excluded from the policy, the exact inverse of the problem noted in the preceding paragraph can occur. Specifically, if the new policy does not apply, such faculty members would still be entitled to grieve the suspension, but only after the fact (i.e. the sanctions *would* apply during the grievance process), and hence a determination that the sanction was unjustified would typically come after the appointment had expired and there was nothing left to remedy.

There is no perfect solution to these competing concerns. I have concluded that an acceptable compromise is to exclude from the policy only those faculty members with courtesy appointments.

4. *Scope and complexity of the review process.* The deans expressed a strong concern that the resolution passed by the Faculty Senate embodied a level of formal process protections that was excessive and possibly counter productive. They proposed a significantly more streamlined process. I have concluded that the process set forth in the Senate's proposal is appropriate in most respects, but I have made the following modifications.

- the suspension review panel is not required to hold a full blown factual hearing in every case, but is instead given discretion to determine what scope of factual inquiry is warranted. For example, there may be cases in which the underlying facts are clear and only the appropriateness of the proposed penalty is in issue, and in such cases the suspension review panel should have the discretion to conduct a more focused inquiry.

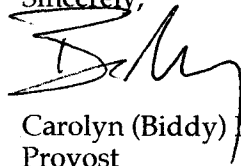
- in those cases where the recommendation for a suspension is a result of action taken under another established university disciplinary process (sexual harassment proceedings, academic integrity proceedings, etc.), the suspension review process is modified to require deference to the *factual findings* of such proceedings unless doing so would result in substantial unfairness.

- a full report from the suspension review panel is made available to the parties involved but verbatim transcripts of hearings are not made or provided.

5. Clarification of the role of the Provost. Finally, I have modified language found in both the Senate's and the dean's versions of the policy that defined the role of the Provost in the suspension review process. That language, which appeared in section III.A.3 (c) of the proposed policy, was confusing. It assigned the Provost a gatekeeper role in determining whether a suspension review proceeding could go forward but it did not either (a) specify the criteria that the Provost would consider in performing this gatekeeper role, or (b) specify what would happen if the Provost decided that suspension review proceedings were not warranted (i.e. would the suspension be imposed without further review, or would the effort to impose a suspension be terminated). I have redrafted the section to give the Provost a limited but meaningful role that is consistent with the surrounding text.

With these final amendments, I believe the policy is ready to be put into effect. I am attaching a final version of the policy to this letter. In closing, I want to extend my sincere appreciation to both the Senate and the deans for their effective collaboration on this important project.

Sincerely,



Carolyn (Biddy) Martin
Provost

Enclosure