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## Memorandum

To: Andrew Hippisley  
Chair of Senate Council

From: Eli Capilouto  
President

A handwritten signature in black ink, appearing to read "Eli Capilouto".

Date: September 19, 2014

Re: Development of a Faculty Discipline Policy

Consistent with the University's Value of Shared Governance and my commitment to seeking input from the faculty regarding significant decisions, I invite input from the faculty regarding the development of a policy that allows the University to enforce disciplinary action short of invoking the tenure revocation process when a member of the faculty has been found to have violated state or federal law or University policy.

As you know, faculty members are required to adhere to a wide variety of laws and policies in the performance of their roles of teaching, research, and service. These include, but are not limited to, sexual and racial harassment, conflict of interest, research integrity, university financial regulations, academic policies, etc. While the special constitutional concern of academic freedom certainly gives faculty members a significant degree of autonomy in performing their roles, it does not exempt faculty members from evaluation, accountability, or conformance to law and regulations. Nor does academic freedom preclude the University from disciplining those faculty members who violate the law or university policy.

The University needs to sanction such behavior, both as a means of punishment and a means of deterrence. Indeed, in some instances, the law requires the University to take effective action against the faculty members.

Unfortunately, as presently written, our regulations mention only two explicit punishments: a letter of reprimand and tenure revocation. There is no formal mechanism for intermediate sanctions such a suspension, a reduction in salary or academic rank, removal from supervisory role, completion of some sort of training, repayment of funds, or the loss of privileges such as a pro card or travel funds. Nor is there any formal mechanism for imposing a harsher punishment on individuals who have engaged in repeated violations.

It is imperative that the University establish a system for imposing sanctions that are more severe than the wrist slap of a formal reprimand but less severe than the academic equivalent of the death penalty. The Board has inquired about our current policies and expressed concern that there are no intermediate sanctions. I ask the faculty leadership to develop a proposal. Shared governance requires the faculty to make hard choices and police themselves.

In developing the proposal, I would ask that the faculty be aware of several considerations. First, in initiating a disciplinary proceeding, a Chair or Dean (or the Provost, in the case of a Dean) ought to be able to rely exclusively on the independent investigation of the Internal Auditor, Equal Opportunity Office, Human Resources Department, and/or Office of Legal Counsel. There is no reason for another investigation by the Senate Advisory Committee on Promotion and Tenure or similar body. Second, while a faculty member should be confronted with the results of the investigation and given a brief opportunity to respond, a Chair or Dean ought to be able to make a decision based on the investigation and the faculty member's response. There is no need for further proceedings before the responsible supervisor acts. Third, while a faculty member should be able to appeal both the finding of guilt and the sanction, there is no need for multiple levels of appellate review within the academic structure. Appellate review by a single panel of faculty (no more than seven) with a corresponding recommendation to the Provost (or the President, in the case of a Dean) should be sufficient. Finally, the entire adjudicative process from completion of investigation to the appellate panel's recommendation to the Provost should take no more than 60 days. As you know, the federal government is requiring the University to *investigate and adjudicate* sexual assault allegations within 60 days. Certainly, we can adjudicate faculty misconduct within sixty days.

While I do not want haste to lead to a flawed policy, I believe that time is of the essence. This cannot be an unreasonably long conversation. I would like to have something by December 15, 2014. This would allow me to present something to the Board in early January.

In order to facilitate your efforts, I have directed the General Counsel to provide whatever assistance the faculty may need. Please contact him.

Thank you for your attention to this request. I look forward to receiving your proposal.