



DIVISION OF ACADEMIC AFFAIRS
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VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED and EMAIL

December 16, 2015

James Tracy, Associate Professor
300 NW 36th Court
Boca Raton, FL 33431-5819

RE: Notice of Proposed Discipline - Termination

Dear Dr. Tracy:

Dr. Heather Coltman, Dean, Dorothy F. Schmidt College of Arts and Letters, has recommended disciplinary action for cause in connection with your position as Associate Professor in the College of Arts and Letters. This proposed action, termination from employment, is being taken in accordance with Article 16 of the current FAU BOT/UFF Collective Bargaining Agreement ("CBA"), and this Notice of Intent is issued pursuant to Article 16.3 and 16.5.

In a letter from Heather Coltman dated November 10, 2015, you were advised that you had not submitted Report of Outside Employment or Professional Activity Forms ("Activity Forms") for 2013-14, 2014-15 and 2015-16, as required by the FAU/UFF Collective Bargaining Agreement ("CBA"), Article 19, and University policy. Dean Coltman required you to submit these Activity Forms within 48 hours of receipt of her letter, and indicated that failure to do so may result in further disciplinary action. Your reprimand made clear that "...if you continue to fail to meet your professional and administrative obligations and respond to directives from your supervisor, you will face additional disciplinary action."

You refused her directive and did not submit the Activity Forms when required. Instead, you sent the Dean a letter dated November 22, 2015, in which you presented arguments as to why you should not have to submit Activity Forms. Rather than impose further discipline as warned, the Dean gave you another opportunity to comply.

On December 11, 2015, the Dean sent you an email that she reviewed and considered your November 22 response, and concluded that you unequivocally must complete the Activity Forms. She set a new deadline of December 14, 2015 for you to submit the forms. The Dean put you on clear notice that you "will receive further disciplinary action up to and including termination" if you fail to meet the new deadline. By simply submitting the completed Activity Forms, you would have been compliant with no further discipline. However, you again refused the Dean's clear directive and did not submit the forms by the new deadline.

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It is the responsibility of the employee to report outside activity on Activity Forms so that the administration can address potential, actual, or perceived conflicts of commitment or interest. The Policy explains that the "purpose of this document is to provide guidance and resources for FAU employees and supervisors as they deal with the increasingly complex issues of today relating to conflicts of interest, conflicts of commitment, and outside activities." The administration may be liable for not managing conflicts, and this responsibility is shared by your Dean. Reporting is contemplated in CBA Article 19, and further clarified in the University Policy that states, "A "conflict of commitment" relates to an individual's distribution of effort between a University appointment, obligation, and commitment and external professionally-related or personal activities." And, a "conflict of commitment can arise when the external activities burden or interfere with the employee's primary obligations and commitments to the University."

On the evening of December 15, 2015, you sent the Dean an email that you did not see her prior email message with the missed deadline because you are on parental leave and did not check your email account. Later that night, on December 15, you submitted Activity Forms for your work on only two outside activities. For one of these you admit to using University resources since 2014. This contradicts your prior representations to the Dean that you should not have to file these Activity Reports because the University is not involved. To the contrary, you knew you were using these University resources, and acknowledged knowing the University Policy which requires disclosure when using University resources. Yet, you still refused to file the forms for three years in a row. Furthermore, you admitted your awareness that the policy and the FAIR acknowledgement required disclosure for both compensated and uncompensated activity.

In addition, you remain recalcitrant with your refusal to provide Activity Reports on other activities that may be in conflict with your employer. In your November 22 email to the Dean, you admitted that you were engaged in outside activity on [GlobalResearch.ca](#) and your personal blog. You again failed to submit any Activity Reports for the three years in question for your blog, which you clearly spend time and resources maintaining and contributing to. You have yet again deprived the University of the forms needed to assess if a conflict exists for the blog activity, or if University resources are being used.

You publicly engage in external personal activity that requires your time and effort. Disclosure and management of your outside activity is necessary and reasonable. It is for the administration to decide, with your input, if a conflict exists, and how to manage a conflict where necessary. You have repeatedly and willfully failed to provide the administration the information it needs to discharge its responsibilities.

The CBA provides a formal negotiated grievance process for employees to seek relief when they disagree with a supervisor's directive. Rather than comply with the Dean's clear instructions and then utilize that grievance process, you chose instead to be insubordinate over and over again. The November 10 reprimand you received put you on notice that additional discipline including termination will be imposed for continued noncompliance, and you were again warned and given a second chance by email sent on December 11. After missing both deadlines, you remained insubordinate and knowingly failed to provide all of the Activity Reports required. You were disciplined and given multiple warnings, progressively, but you chose to ignore these warnings and continue your misconduct. You have forced further disciplinary action rather than simply submit properly completed forms. The University will not tolerate continued direct insubordination and circumvention of policies.

You have engaged in continued misconduct in violation of the University Standards for Disciplinary Action, Regulation 5.012(4), Sections (b), (v), and (oo), and CBA Article 19. Therefore, pursuant to CBA Articles 16.3 and

16.5, this letter constitutes formal Notice of Proposed Discipline- Termination. You have 10 days in which to respond in writing. This proposed disciplinary action is subject to CBA Article 20, Grievance Procedure.

Sincerely,



Diane Alperin, Vice Provost

cc: Heather Coltman, Dean, Dorothy F. Schmidt College of Arts and Letters
David Williams, Director, School of Communication and Multimedia Studies
Personnel file