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Board of Curators

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February 25, 2016

Dr. Melissa A. Click

Sent via mail and e-mail to clickm@missouri.edu

Dear Dr. Click,

As you were notified by letter dated January 29, 2016, the Board of Curators directed that an investigation be conducted to address your conduct in connection with last semester's protests. As you know, outside counsel was engaged to conduct that investigation.

The investigation involved review of relevant documents, materials, and video recordings, as well as interviews of over 20 witnesses. You were interviewed twice and were represented by counsel on both occasions. At the conclusion of your initial interview, you identified witnesses you thought should be interviewed as part of the investigation. Outside counsel interviewed or attempted to interview each of those witnesses and included their information in the report of the investigation.

On February 12, 2016, you were provided with a copy of the report of the investigation and you received revisions to the report on February 15, 2016. You were offered an opportunity to submit a written response concerning the report or comment on whether you believe additional discipline is appropriate. You provided a response, which the Board received on February 19, 2016 at the same time it received the report.

To date, you have received a December 18, 2015 letter of reprimand from the Provost concerning your conduct on November 9, 2015 on Carnahan Quadrangle. Following the filing of a criminal charge against you on January 25, 2016, the Board suspended you with pay effective January 27, 2016 pending further investigation. With the receipt of the

investigative report and your response, the Board now proceeds to consider what additional discipline, if any, it should impose.

Conduct Reviewed and Explanation of Evidence

Based on review of the investigative report and your response, the Board considers whether it should exercise its discretionary authority to impose additional discipline as a result of your conduct at the October 10, 2015 homecoming parade and on November 9, 2015 on Carnahan Quadrangle. To summarize, your conduct on those occasions included the following actions described in the report, the essential facts of which your February 19, 2016 submission did not dispute:

- On October 10, 2015, you and others blocked the homecoming parade by demonstrating in the street, impeding and interfering with the traffic flow of the parade on a public street (possibly in violation of municipal ordinance 24-1).
- On October 10, 2015, you attempted to physically block Columbia police officers while they were attempting to carry out their duties by clearing the street so the homecoming parade could proceed.
- On November 9, 2015, you attempted to exclude MU students Tim Tai, Mark Schierbecker and perhaps others from a public space of Carnahan Quadrangle, yelling at them that they needed to go or get out and encouraging others, including MU students, to exclude them.
- On November 9, 2015, you attempted to prohibit Mr. Tai and other members of the media from covering a news event on a public space of Carnahan Quadrangle and encouraged others, including MU students, to interfere with media attempts to cover the story.
- On November 9, 2015, you came into physical contact with an MU student, Mr. Schierbecker, when you reached toward him and physically knocked ajar the camera he was holding in his hands.
- On November 9, 2015, you encouraged others to physically intimidate Mr. Schierbecker and exclude him from a public space on Carnahan Quadrangle when you yelled "Hey who wants to help me get this reporter out of here?" and while pointing at Mr. Schierbecker said, "I need some muscle over here, help me get him out, who's gonna help me?"
- On November 9, 2015, when Mr. Schierbecker stated he had a right to be in a public place owned by the University, you invoked your faculty status by saying to him, "I know. That's a really good one, and I'm a Communication faculty and I really get that argument, but you need to go, you need to go."

- On November 9, 2015, you encouraged students to continue to exclude Mr. Sheierbecker from a public place on Carnahan Quadrangle, saying "You guys need to make room for this guy to come through, he shouldn't be here. And don't let him back in."
- On December 18, 2015, you received a letter of admonishment from the MU Provost regarding your conduct on November 9, 2015, but you disagree with the letter's statement that your behavior was "completely unacceptable for a Mizzou faculty member;" you disagree with the letter's statement that "you failed to exercise appropriate restraint;" you disagree with the letter's statement that you "failed to show respect for the opinion of others;" and you disagree with the letter's characterization of your mistake as a "serious" one.

Pursuant to its governing authority, the Board retains authority to impose additional discipline at its discretion. In determining whether to exercise that discretion, the Board considers the following in regard to your conduct:

- Whether your conduct was compatible with the following policies of the University:
 - "The University of Missouri will at all times defend the right of free expression of opinion, including the right of peaceful assembly. The University will, indeed, guard this right in behalf of all persons associated with the institution and will not tolerate actions by any individual or group that would seek to restrict the appropriate freedoms of any other individual or group." Section 330.030.A of the Collected Rules and Regulations of the University of Missouri (CRR) (emphasis added);
 - "College or university faculty members are citizens, members of an educational institution, and members of learned professions. When they speak or write as citizens, they are to be free from institutional censorship or discipline, but their special position in the community imposes special obligations. They should anticipate that the public may judge their profession and their institution by their utterances and actions. Hence, they should at all times be accurate, exercise appropriate restraint, show respect for the opinions of others, and make every effort to indicate that they do not speak for the institution." CRR Section 310.010.A.2.c. (emphasis added);
 - "As a teacher, the professor encourages the free pursuit of learning in his/her students. He/she holds before them the best scholarly standards of his/her discipline. He/she demonstrates respect for the student as an individual, and adheres to his/her proper role as intellectual guide and counselor.... He/she

protects their academic freedom." CRR Section 300.010.C.2.a. (emphasis added); and

- "As a member of his/her institution, the professor seeks above all to be an effective teacher and scholar.... He/she determines the amount and character of the work he/she does outside his/her institution with due regard to his/her paramount responsibilities within it..." CRR Section 300.010.C.2.c. (emphasis added);
- "The personal conduct at all times of any employees of the University shall be of such a nature as not to bring discredit upon the institution. Conduct contrary to this policy will result in the termination of such employees' connection with the University." CRR Section 330.010.A (emphasis added).
- Whether your conduct otherwise was wrongful or inconsistent with the expectations of a University faculty member;
- The extent to which this incident calls into question the University's tolerance for and response to your conduct and, accordingly, whether it is in the best interest of the University to impose additional discipline.

The evidence the Board considers concerning your conduct on October 10, 2015 and November 9, 2015 is the information contained in the investigative report and your February 19, 2016 submission. As noted, you were provided with a copy of that report through your attorney on February 12, 2016 and with minor revisions to it on February 15, 2016. Accordingly, the Board does not describe the evidence in more detail in this letter.

Additional Discipline

Based on consideration of the investigative report and your February 19, 2016 submission, the Board has determined that your employment with the University should be terminated, subject to your opportunity to submit additional explanation as discussed below. The Board summarizes its reasoning here.

The Board acknowledges the context and tense environments you described in your February 19, 2016 submission and your public apologies. It also has noted the points of disagreement with the report identified in your February 19, 2016 submission. The Board has not found it necessary to determine whether it agrees with each point you have identified but instead has assumed your characterizations are accurate for purposes of its review. However, in the Board's view the points and explanations you made in interviews and in your submission do not diminish the key facts or the significance of your conduct.

Although the Board does not dispute your right to express support for the students demonstrating at the University's homecoming parade or their views, it does not believe your action to impede the parade's progress on the public street was appropriate. Nor was it appropriate for you to attempt to block the Columbia police officers as they carried out their duties in clearing the street so the parade could proceed, or to shout vulgarities at one of the officers. The Board acknowledges your description of the environment as "tense," "challenging," and "precarious." But that does not excuse your conduct. Rather, the Board is concerned that the actions you chose to take threatened to make the situation more precarious.

The Board likewise does not dispute your right to be present on Carnahan Quadrangle on November 9, 2015 or to express support for the students demonstrating there or their views. However, Carnahan Quadrangle is a public space and neither you nor anyone else had exclusive use of it on that occasion. Nonetheless, you tried to exclude Mr. Tai and Mr. Scheirbecker from public space and also tried to prohibit Mr. Tai and other members of the media from covering a news event there. You actively encouraged others to join you in these efforts. The people targeted by your conduct were present appropriately in the public space of Carnahan Quadrangle in exercise of their own rights. Your conduct toward them was not consistent with University policies or the expectations of a University faculty member. In the Board's view, this further was underscored when you invoked your faculty status when you confronted Mr. Schierbecker.

Further, you reached toward Mr. Shierbecker and physically knocked ajar the camera he was holding. You then called for others to help you exclude him from a public space yelling, "I need some muscle over here, help me get him out, who's gonna help me?" Based on the criminal charge filed against you, the Board has reason to believe that your conduct constituted an assault on Mr. Schierbecker. But regardless of whether you ultimately might be convicted of a crime, the Board considers that your conduct was wrongful, unjustified, and not consistent with the expectations for a University faculty member. Your explanations of your conduct appear to have been inconsistent over time and the Board acknowledges that you dispute some characterizations of your explanations. But in any event, none of your explanations have persuaded the Board that you were justified in what you did. Nor have your explanations otherwise mitigated the Board's concerns about your conduct. In addition, in the Board's view your conduct toward Columbia police officers at the October 10, 2015 homecoming parade further undermines any impression that your conduct toward Mr. Schierbecker on November 9, 2015 was merely mistaken or a one-time event. Your words and actions themselves reasonably are understood to call for physical intimidation or violence to compel Mr. Schierbecker to comply with your demands that he leave a public place. None of your explanations have persuaded the Board to the contrary.

Increasing the Board's concern, it considers that your conduct in calling for "muscle" to remove Mr. Schierbecker was dangerous. It created a risk of violence to Mr. Schierbecker in particular. More generally, it risked instigating a violent turn in the events that were happening. The fact that no serious violence appeared to result is fortunate, but does not excuse your dangerous

conduct. Again, the Board acknowledges your characterization of the environment as "challenging and volatile." But that made it all the more important for you to conduct yourself more appropriately. Instead you chose to act in a way that threatened to make the environment much worse.

In considering whether to impose additional discipline, the Board also considers your responses concerning the letter of reprimand you received from the Provost. During the investigation, you stated that you disagreed with the Provost's statements that your behavior was "completely unacceptable for a Mizzou faculty member;" that "you failed to exercise appropriate restraint;" and that you "failed to show respect for the opinion of others." Further, you disagreed with the letter's characterization of your mistake as a "serious" one. Although the Board acknowledges apologies you have made, these responses concerning the Provost's letter suggest to the Board that you still do not appreciate the seriousness of your conduct.

Your conduct presents a serious public policy question concerning the University's tolerance of such behavior. It is important for the Board, as the University's governing authority, to assure the University community and the public more broadly that the conduct you have displayed is not compatible with the University's principles and will not be tolerated. It is not the place of a faculty member to invoke intimidation or violence against a student as you did in this instance. Allowing such behavior to go unaddressed undermines the University's educational environment, its commitment to fostering an environment in which people can exercise their rights, and the public's confidence in the University to carry out its mission. In view of these considerations, the Board considers that the best interest of the University is served by imposing additional discipline.

In sum, your conduct discussed above was not compatible with University policies and did not meet expectations for a University faculty member. Such conduct is not permitted and the best interest of the University calls for additional discipline to be imposed.

The Board considers that the conduct addressed above is sufficient to warrant additional discipline. As a result, the Board reaches no conclusion at this time on whether other conduct described in the report is inappropriate or also might warrant discipline. The Board does not base its determination on your presence at the October 10, 2015 homecoming parade or the November 9, 2015 events on Carnahan Quadrangle; your association with any students, faculty members, or others; your expression of views on matters addressed in the protests or in support of students engaged in protest; or any of your other expressions other than those that were part of your conduct discussed above.

Procedures

As discussed above, the Board has determined that there is reason for further action. Accordingly, the Board further has established the following procedures for determining whether it ultimately will exercise its governing authority to impose additional discipline.

1. In addition to notice and explanation provided to you through outside counsel's communication of February 12, 2016, you are receiving by this letter notice of the circumstances on which the Board is considering such discipline and an explanation of the evidence regarding those circumstances.
2. By this letter you also are receiving a conditional determination of the discipline the Board intends to impose and the proposed date such discipline will go into effect.
3. By March 4, 2016, 4 p.m., you may submit a written explanation of your views on whether the discipline identified above should be imposed. In your submission you may include and address any issues, discussion, evidence, or materials that you wish the Board to consider. You may be represented by an attorney, who may make this written submission on your behalf.
4. Based on consideration of any explanation you provide, or on its own consideration, the Board may reverse or modify its determination.
5. If you choose not to submit further explanation or the Board does not reverse or modify its determination on its own initiative, the Board's decision then will be final and the discipline identified above will go into effect on the date stated. If the Board modifies its determination to impose alternative discipline, it will state the effective date for such discipline at that time.

Further Review

Accordingly, if you wish to present a written explanation as noted above, submit it to Board Secretary Cindy Harmon by March 4, 2016 before 4 p.m. Your attorney may make the written submission on your behalf.

Sincerely,



Pamela Q. Henrickson
Chair, University of Missouri System
Board of Curators

Cc: Board of Curators
Interim President
Interim Chancellor
General Counsel
Board Secretary
Counsel for Dr. Click (sent via U.S. mail and e-mail to msedey@sedeyharper.com)