



# Washington

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Office of the Provost

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September 14, 1995

, Chair  
Washington University Senate Council  
Campus Box 8046

Re: Jeffrey Kurtzman

Dear :

Professor Jeffrey Kurtzman has provided me with a copy of his letter requesting, under Article XII-B-4 of the Washington University Policy on Academic Freedom, Responsibility, and Tenure, an Advisory Committee review of sanctions issued against him. Because the review of allegations against Prof. Kurtzman was not conducted by an Administrative Hearing Committee, as defined by Article XII-B of the Policy, the review provisions are not technically applicable. I nonetheless welcome faculty review of this necessary administrative action and look forward to cooperating with you to assist the Committee in its efforts.

As you know, the Policy specifically acknowledges (at footnote 8) the administration's "concurrent . . . responsibility for dealing with the failure of the faculty member to carry out his duties and responsibilities." These responsibilities, addressed in Article II of the Policy, include compliance with University policies opposing discrimination and sexual harassment. The sanctions of which Prof. Kurtzman complains resulted from two administration-led, faculty-assisted reviews of charges against Prof. Kurtzman. The sanctions are based more specifically on the careful and well-reasoned reports and recommendations of two faculty committees, who undertook with extraordinary diligence and care the task of advising me about how to respond to these charges. Those reports are attachments 1 and 2 to this letter. Please note that these reports -- which I requested and used to assist my own deliberations -- have not been disclosed to either Prof. Kurtzman or any of his accusers.

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The procedures used for these reviews were developed in response to a unique and difficult situation: several women had come forward with extremely serious allegations, including allegations of sexual harassment, against Prof. Kurtzman. They had not, for reasons discussed below, elected to seek a formal hearing before the Faculty and Administrative Affirmative Action Committee ("FAAAC"). But a clear federal mandate -- applicable to all employers -- required that the University promptly investigate and respond to the allegations. It was in this uncharted territory that we found ourselves in February and March of this year. With the help of two advisory faculty committees and attorneys inside and outside the university, we conducted an inquiry which was, to my knowledge, unprecedented in scope and, in my judgment, painstakingly fair in both design and result. Contrary to Prof. Kurtzman's suggestion that he "had no opportunity to demonstrate whether the statements made by [his] accusers or by other witnesses were false," the process provided extensive opportunities to respond. I describe each of the reviews:

1. Review of Allegations of Sexual Harassment and Discrimination.

On March 2, 1995, I advised Prof. Kurtzman and his accusers that I would convene and charge a team of faculty members to assist me in inquiring into the charges against him with the assistance of the Office of General Counsel and, if the committee elected, outside counsel. The committee was chaired by \_\_\_\_\_ and also included \_\_\_\_\_

A copy of \_\_\_\_\_ memorandum, confirming her committee's mandate, is attachment 3 to this letter. At no time prior to his receipt of my July 19, 1995 letter setting out my findings and sanctions did Prof. Kurtzman object to my decision to review the allegations with the aid of this special committee rather than to require a formal FAAAC proceeding.

As I indicated, the \_\_\_\_\_ committee was convened pursuant to footnote 8 of the tenure document because the University, in its capacity as employer, had an obligation under federal and state law to investigate and respond rapidly to these charges notwithstanding the failure of particular accusers to take advantage of formal avenues for complaint. The women who came forward with accusations against Prof. Kurtzman were reluctant to file formal charges with the FAAAC, citing a variety of factors, including (i) their desire to avoid a proceeding in which they would have to be present in the same room with Dr. Kurtzman; (ii) their view that the FAAAC process did not permit them -- ultimately nine faculty, staff and graduate students -- to present their complaints in a consolidated fashion and thus provide essential context; (iii) their perception that one of the targets of their complaints on prior non-responsiveness, Vice Chancellor \_\_\_\_\_ exercises substantial control or influence over FAAAC proceedings; and (iv) their strong preference for the \_\_\_\_\_ Council

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University's senior administration to take the lead in investigating their charges. I convened a faculty committee to advise me in discharging the University's duty, as employer, to investigate and respond. Our response was designed to respond not only to these concerns, but also to ensure fairness and as much confidentiality as possible to the accused, accusers and other witnesses.

The University retained the law firm of Bryan, Cave to advise the Committee, me and the Office of the General Counsel with regard to this review. The decision to retain outside counsel was based not only on the complex nature of this inquiry and the prospect of litigation (from either or both sides of the dispute), but also the sheer volume of work that faced the Committee. Bryan, Cave attorneys spent hundreds of hours interviewing more than thirty current and former members of the University faculty, administration, and staff and current and former graduate students, all at the direction of the Committee. The University's General Counsel and a member of his staff similarly spent hundreds of hours assisting the Committee and me to ensure that the inquiry was scrupulously fair and thorough. The Committee held at least ten lengthy meetings and its members spent countless hours reviewing memoranda and documents as well as interviewing the key witnesses in this matter. If you wish to inquire about the bases for the Committee's report, I suggest that you ask [redacted] to meet with you and answer your questions.

Before any response was sought from Prof. Kurtzman, he was advised in considerable detail of all of the pertinent allegations against him, whether written or oral. Ms. Atwood and her associate met with Prof. Kurtzman and his attorney on four separate occasions for a total of 19 hours. The Committee met separately with Prof. Kurtzman after it had reviewed all of the memoranda of interviews and documents. Prof. Kurtzman's own May 23 letter to the Committee begins: After spending some 30 hours hearing and responding to the allegations presented to me by Hollye Atwood as well as a little more than two hours with your committee, I would like to submit the following summary which I request you forward to Provost Macias together with your report. I did receive and review Prof. Kurtzman's eight-page letter. You may wish to ask him for a copy of it. In my view, it refutes his claim that he was not given an opportunity to respond. The letter touches on all the allegations addressed in the Committee's report.

## 2. Review of Allegations of Conflict of Interest and Nepotism.

As the Committee's review of allegations of sexual harassment and discrimination continued, it became clear that it was also necessary to consider allegations of conflict of interest and nepotism which had emerged in greater detail. Rather than burden that committee with even more work, I asked the Faculty Council

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to review these separate allegations. Attachment 4 to this letter is a copy of my June 9 letter to Prof. Kurtzman, setting forth in detail the allegations against him and inviting him to respond. He did provide a written response, supplemented with writings from several witnesses. The Faculty Council, assisted by the Office of the General Counsel, reviewed these submissions and interviewed critical witnesses. Again, I believe that Prof. Kurtzman had ample opportunity to respond to the accusations against him. If you wish to inquire about the bases for the Faculty Council's report, I suggest that you ask Prof. [redacted], then chair of the Council, to meet with you and answer your questions.

\* \* \*

The substantiated charges against Dr. Kurtzman were not only extremely serious, but far-reaching in their effects on other members of the University community. I am deeply troubled by them and by the need to issue sanctions. Sadly, the sanctions were necessary to punish misconduct, prevent further violations, and give the Department of Music at least a chance of returning to normal and productive functioning in the coming years.

I will cooperate to the fullest extent possible with the Advisory Committee and look forward to meeting with you to discuss how its work should best proceed.

Regards,

Edward S. Macias  
Executive Vice Chancellor and  
Dean of Arts and Sciences

Attachments 4

cc: Jeffrey Kurtzman (wo/ attachments) ✓