

EXHIBIT C



Cornell University
College of Arts and Sciences

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February 16, 2016

Reconsideration of the Tenure Case of Mukund Vengalattore

To Dr. Vengalattore, Dr. Parpia and Members of the Appeals Review Committee

I write to report on my reconsideration of the tenure case of Dr. Mukund Vengalattore (MV) from the Department of Physics. In a report filed on December 16, 2015, the Appeals Committee for MV rejected two of his appeal claims and found in favor of the third claim in his initial appeal, which stated that:

"The evaluation of my tenure dossier was substantially influenced by improper and unprofessional consideration of factors. Careful assessment of these factors was only performed after the departmental vote and the Dean's decision. Again, this improper and incomplete consideration has seriously affected the outcome of the tenure case."

In finding in support of this claim, the appeals committee states: "We believe there were flaws in the tenure process that resulted in improper consideration of factors." More specifically, the appeals committee focused on negative claims made by one of MV's graduate students, referred to in the file as GS. They state, "The charges made by GS clearly established a conflict of interest with MV that should have precluded writing a letter for the tenure file" and go on to suggest that "the tenure review included improper information" that "affected the outcome of the tenure review." Reiterating this point further on, the committee states "We believe that the personal conflict between GS and MV were the primary basis for the damning letter in the tenure file and affected the outcome of the tenure review. Specifically we believe that this constituted consideration of factors outside of MV's professional responsibilities, and that it affected the votes of the Physics faculty and the ad hoc Committee."

In specifying what the remedy should be for this finding, the committee acknowledges that the "the circumstances of this case are highly unusual and involve matters that were not anticipated by the guidelines" and goes on to recommend that "the tenure decision should be reevaluated based upon a careful assessment of the merits of the case." In doing so, they ask that the reevaluation include consideration of more recent evidence regarding MV's publications and his performance as a graduate supervisor and suggest that the "conflict of interest between GS and MV should be resolved" and suggest that the GS letter should not be included in consideration of the tenure case.

As the appeals committee anticipated, it was difficult to determine the proper response to their finding in support of ground three of the appeal. In reviewing the tenure appeal guidelines, it states that for findings on the third ground, "The dean should promptly take appropriate action to correct the deficiencies that the Committee has found, and shall provide a written report of the reconsidered decision to the Committee, the department, and the appellant." Although I do not share the committee's views regarding the inappropriate inclusion of material from GS, I am obligated under your finding to correct the deficiencies noted and reconsider the case. In doing so, I decided to separate out the request to include new materials in the file from the request to remove inappropriate materials from the file.

On the first issue, I conclude that under the appeals guidelines there are no grounds for me to include new materials in the file. Had the appeals committee found in favor of MV's appeals complaint under IV. B. 1, then the committee might have recommended that MV's tenure clock be extended followed by an entirely new tenure review. In that case, there would have been new materials to include for the review. But given that there was no finding that MV was unfairly hindered during his probationary period there is no ground for a reconsideration with the inclusion of additional materials from the period following the closing date of the file (what amounts to evidence from an extension of the probationary period) as called for in G. 2. Rather, under the terms called for in G. 3., the dean is called upon to correct the deficiencies found by the appeals committee and provide a report of my reconsidered opinion. Since the deficiency that the committee identifies in the file concerns material related the purported conflict of interest with GS, that deficiency was corrected prior to reconsideration. Remedies specified under G.3. of the tenure appeal guidelines are intended to address errors in the process of the tenure review only. Absent a remedy specified under section G.2 of the guidelines, the college is expected to follow the requirements set out by the provost's office to close the tenure review file on a specified date.

In response to the committee's request that the file be corrected to address the conflict of interest with GS, I asked one of my staff members to create a redacted tenure file and sent it to a new special ad hoc committee for their assessment and recommendation. The redacted file deleted all material from GS, as well as all discussion of GS (direct or implicit) in other materials in the tenure file, included the dispute over authorship. Finally, we redacted the original ad hoc committee report, as well as all discussions of the MV-GS issue in the DGS investigation reports and the MV response to those reports.

After reviewing the redacted file, the special ad hoc committee (drawn from the dean's advisory committee on appointments) recommended in favor of awarding tenure to MV. In their assessment of the redacted file, they offer the following observations and assessments:

1. They note that the chair's letter "carefully and evenhandedly lays out the positive and negative aspects of the case."

2. They note the praise offered by MV's external evaluators and department faculty for the three experiments he set up, as well as his success in securing external funding.

3. They note, however, that MV's thin publication record is a significant issue in the assessments of his case, stating that "several external referees felt it inadequate for promotion." Nonetheless, they noted that many believed MV would be more productive in the near term, with two suggesting that he ought to have another year on his tenure clock to prove himself.

4. At various points in the letter, attention is given to MV's lab management and to his decision to move forward with setting up a third experiment rather than focusing on achieving publishable results from the first two experiments. They note that this decision "may not have been the wisest course for a junior faculty member" and acknowledge that "several faculty members and external evaluators suggest that Vengalattore would have been better served if he paused after constructing the first two experimental set-ups and started producing and publishing results."

5. The special ad hoc reviewers note MV's excellent record of undergraduate teaching and advising. Turning to the issue of graduate mentoring, from the three graduate letters that remained in the file, they noted MV's "tendency to be extremely critical," and instances (reported by an otherwise supportive student) where MV "expressed displeasure in unconstructive ways." The impact of this on MV's students was negative including one student "who lost considerable self-confidence" and one who spoke of MV's efforts to "obstruct his/her ability to find another graduate program." Summarizing, while they express concern with MV's "unfortunate episodes of aggression or derision" the special ad hoc committee also expresses a hope or belief that with the security of tenure and proper mentoring, MV would become a better graduate advisor.

6. The special ad hoc committee also notes MV's claim that the department was not helpful to him in selecting and recruiting graduate students, as well as MV's belief (contrary to department policy) that students should already be trained in the experimental techniques necessary for AMO research. They suggest that recruiting some undergraduate students from Cornell might address this concern.

7. The special ad hoc committee notes MV's relatively slim service record in the department or the profession, and observes his low level of participation in departmental seminars, but suggests that his record of conference participation is a good indication of his growing stature in his field.

In their conclusion, while the special ad hoc reviewers recommend promotion, they observe that "is not an easy decision for all the reasons articulated in the Chair's letter, the faculty explanations of their votes, the student letters and the external evaluations." Nonetheless, given MV's promise and with a commitment to good mentoring, they believe that he would be successful as a tenured faculty member.

I find the special ad hoc review fair, thorough, and thoughtful. I respect the opinions expressed there and have given them careful consideration. While I agree that this is a difficult case to determine, I disagree with the committee's ultimate recommendation that MV be awarded tenure. My reasons, in brief, are as follows:

1. The extremely split vote from the department is extraordinary and indicates a lack of confidence in MV's future trajectory as a scientist and career at Cornell. In my own judgment, as well as the judgment of the special ad hoc committee, those assessments were arrived at after careful and extensive consideration of the case. In my review of the department's deliberations, I find that no one relied predominantly or exclusively on evidence related to GS in their judgments about MV's behavior as a graduate advisor. Overall, the judgments express concern about research productivity, about bad judgment in lab management (e.g., setting up the third experiment, failure to recruit post-docs), about his unwillingness to be mentored, and about his treatment of graduate students (over and above his treatment of GS). As the current special ad hoc report indicates, even having expunged the file of references to the MV/GS conflict, MS's record on graduate advising remains a concern.

2. Several of the external review letters explicitly fail to recommend tenure. The primary reasoning behind these negative recommendations was his thin publication record. My own view is that when there are several external reviewers who fail to recommend tenure, then the presumption should be that tenure not be awarded unless there is extraordinary case for doing otherwise.

3. In addition to the evidence that the special ad hoc committee discerned and was troubled by regarding MV's record as a graduate advisor, it has also been established that MV attempted to deny authorship credit to GS, which is a further indication of inappropriate and unethical behavior in his role as a graduate advisor.

4. In my assessment the suggestion that good mentoring will correct the deficiencies found in the tenure file is unpersuasive. There are many indications that MV is resistant to advice and mentoring, and tends to isolate himself from his colleagues in the department. Many of his colleagues note efforts to help him over the years that he resisted. MV chose not to hire post-docs. He chose to set up a third experiment even when he was advised not to. He chose not to engage in established departmental practices for recruiting talented graduate students and training students who lacked prior exposure to his research field. These repeated examples suggest that going forward, MV will remain resistant to further mentoring, to working within the established practices and procedures of the department, and to engaging collaboratively with colleagues.

5. The special ad hoc committee seems to accept MV's complaint that he was unfairly disadvantaged by the department's graduate admissions policy, particularly with regard to the admissions of Cornell undergraduates. Yet they also note MV's strong attachment to the MIT model of graduate recruitment and admission and his unwillingness to accommodate himself to the policies and practices at Cornell. After

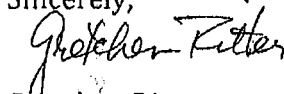
carefully reviewing this issue, the appeals committee found that MV was not unfairly disadvantaged by the policies and practices followed in graduate admission at Cornell.

6. Finally, there is the matter of MV's personal relationship (or, as the appeals committee has characterized it, conflict of interest) with GS. Leaving the GS issue entirely aside, I would not support tenure for MV based upon the reasons given above. My reading of the considered opinions of his colleagues and the external reviewers is that apart from this matter they are deeply divided on whether to recommend tenure. Yet the GS issue is also pertinent here. The appeals committee recommends that the "conflict of interest between GS and MV should be resolved," and under university policies and procedures it has been. After an investigation that went on for months, involved numerous interviews and consideration of hundreds of pages of evidence, along with opportunities for response and rebuttal by both the complainant and the respondent, investigators from the Office of Workforce Policy and Labor Relations found that MV violated the university's romantic and sexual relationship policy by engaging in an undisclosed romantic relationship with a student under his supervision. After carefully reviewing their report, I affirmed the finding that MV had an established conflict of interest when he failed to disclose (and later denied) having a romantic relationship with a student under his supervision. In light of this resolution to the conflict between MV and GS, I am further disinclined to award him tenure given his unethical violation of university policy and his unwillingness to accept responsibility for his actions. Again, to be clear, without any consideration of material related to the MV-GS relationship, I would not be recommending awarding tenure to MV. The resolution of this matter and MV's response to it further reinforces my decision not to award tenure.

This has been a long and difficult tenure case for Dr. Vengalattore, the physics department, the college, and the university. A great deal of thoughtful consideration has gone into this case, including the many months spent on the issue by the appeals committee. In all of this, it has been evident that people of good faith and thoughtful judgment are divided in their views about whether the tenure review proceeded properly and whether tenure should be awarded. I have appreciated the committee's thoughtful engagement with this important decision. I appreciate as well their determination regarding my role that "there is no evidence that she was improper or unprofessional in her evaluation of the case." In the current instance, I have endeavored to fairly and faithfully respond to the findings of the appeals committee within the rules and procedures laid out in the university's appeals process.

After correcting for the deficiencies identified by the appeals committee and reconsidering the case, I affirm my earlier decision to deny tenure to Professor Vengalattore.

Sincerely,



Gretchen Ritter
The Harold Tanner Dean of Arts & Sciences

EXHIBIT D



Cornell University
The University Faculty

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March 29, 2016

Professor Mukund Vengalattore
Department of Physics
536 Clark Hall
Campus

Dear Professor Vengalattore,

I would like to update you on the status of your tenure appeal.

The appeals committee found no further issues with Dean Ritter's determination based on the redacted file. The committee is, however, concerned that your case be given a second independent review by the Provost, as suggested in the appointments policy.

I have therefore requested that Provost Kotlikoff, who has not seen the earlier file, review the redacted file, and only the redacted file, independently. He will then make a final determination about your tenure. Dean Ritter has agreed to this request. The Provost's decision will be final under the university system and not subject to further appeal.

Michael Fontaine

A handwritten signature in cursive script that reads "Michael Fontaine".

Acting & Associate Dean of the University Faculty
Associate Professor of Classics
Paideia Professor in Rome 2014, 2016, The Paideia Institute

EXHIBIT E

----- Forwarded message -----

From: **YSS Patil** <y.s.s.patil@gmail.com>
Date: Thu, May 5, 2016 at 10:09 AM
Subject: Fwd: Clarification
To: Mukund Vengalattore <mvengalattore@gmail.com>

The Appeals committee asked the Administration to institute a panel of experts.
The Administration slapped them in the face and discarded their instruction.
Prof. Guckenheimer had some backbone after all!

----- Forwarded message -----

From: **Linda K Nicholson** <linda.lkn@gmail.com>
Date: Thu, May 5, 2016 at 9:53 AM
Subject: Clarification
To: Patil Yss <y.s.s.patil@gmail.com>

Hi Yogesh,

To clarify our finding and our lack of participation in the subsequent process, our Appeals Committee indeed upheld the appeal, and noted that the Dean of Faculty would be tasked with launching an independent panel, as per the cited policy. It was our assumption that he would do so. He declined, and sent it directly to the Provost. You are judging the wrong people, Yogesh. Our committee was WITH the kid at the blackboard.

All the best,

Linda

Sent from my iPhone

EXHIBIT F

2.3 TENURE

University Criteria

In 1983, the Faculty Council of Representatives (the forerunner of the current Faculty Senate) adopted a resolution expressing its concern for affirmative action in tenure appointments. Subsequently, the resolution was incorporated into the University Criteria for Tenure Appointments as follows:

It is not possible to establish, at the university level, detailed criteria for tenure appointments for the many academic units in the university. The basic criteria are clear: excellence in carrying out the responsibilities of the position, and unusual promise for continued achievement. Since the requirements and criteria of a department may change, each decision is a separate action and independent of any other current or previous decisions within or outside the department.

The responsibilities of a faculty member include teaching, research and other scholarly achievement, public service, advising students, and contributing to the department, the college, and the university. Not all faculty members are assigned all these responsibilities. The emphasis given to each responsibility, as determined by existing circumstances, varies among the colleges and departments of the university and may change within a department.

The department, the chairperson, and the dean have the responsibility of weighing the different roles of each faculty member and evaluating the strengths and weaknesses of the candidates for tenure, taking into account the mission and needs of the department and the college. These include the interests of the unit and the university to promote racial, ethnic and gender diversity among the faculty. But regardless of how the department weighs the relevant factors in any particular case, no candidate may be granted tenure who does not meet the requirements for overall excellence.

Failure to meet any of the diversity factors may not be used as a negative element in the evaluation of any candidate.

Given the rigorous standards for tenure at Cornell, individuals whose performance has been acceptable, or even of high quality, may not receive promotion. Many candidates for tenure, in evaluating their own progress, often develop unrealistically positive attitudes relative to their chances for promotion. On the other hand, across the university, only about one-half of the candidates for tenure are promoted.

Since a tenure appointment is not a right, and since it could result in a collegial relationship within the department for a period of decades, the department faculty has considerable latitude in reasons for making a negative recommendation. However, such factors as race, color, creed, religion, national or ethnic origin, sex, sexual orientation, age, or disability must not be a basis for such decisions.

Time Period Prior to Review for Tenure

The initial appointment to the Cornell faculty of a highly qualified person who is already credited with significant achievements may be at the rank of associate or even full professor, but without indefinite tenure. Such appointments are for a limited term of not more than five years, typically in a probationary tenure status. That is, the award of tenure is deferred until the faculty member and the university become well-acquainted and a review leading to the long-term tenure decision is possible.

More commonly, however, tenure is awarded, along with promotion to the rank of associate professor, after a person has spent a period in probationary tenure status as an assistant professor. The length of that period depends on the amount of professional experience the individual has acquired between earning the terminal degree in his or her field and the initial appointment as assistant professor. If that period is no more than a year or so, the candidate is usually reviewed for promotion and tenure in his or her sixth year at Cornell, typically the third year of the second term of appointment as assistant professor. Then, if the outcome is negative, a one-year terminal appointment is provided in the seventh year.

According to university bylaws, a faculty member may not hold the position of assistant professor for more than the equivalent of six years of full-time service, unless, in the judgment of the provost, a temporary extension is warranted.

A department is not bound to undertake a tenure review for all those on the tenure track. The appointment of a faculty member for a definite term may be terminated for reasons involving staffing patterns, the decline in relevance of a research area to the mission of the department, or lack of funds. In such a case, the faculty member should receive written notice as early as possible that there will be no review and should be given a one-year terminal appointment. He or she should be informed of other suitable open faculty positions in the university. The faculty member may appeal the decision not to conduct a tenure review. The procedures for such an appeal are attached as appendix four or may be located on the University Faculty website <http://theuniversityfaculty.cornell.edu/pdfs/NOTCONDUCTTENREVIEW.pdf>.

Review Process for Tenure

Permission to initiate a review for tenure must be obtained from the dean, because it commits the college or school to long-term support of the position. When a review for promotion to tenure is conducted, it is required to be thorough and well-documented, since the decision that is made is of far-reaching importance both to the individual and to the university. The first step in the process is a review of the candidate by the faculty of the department. For this purpose, and with the assistance of the candidate, a complete vita and list of publications are assembled, together with copies of the most relevant of the publications. Typically the candidate is asked to submit statements of goals and achievements in research, teaching, advising and extension/service. Documentation of success in teaching is collected, in the form of course-evaluation questionnaires and letters from both selected and randomly chosen graduate and undergraduate students. Evidence of service to the community, the department, the college, and the university is compiled. Letters are solicited from colleagues in the university and from outside experts to provide an evaluation of the quality of the candidate's creative work and its impact on the scholarship of the field.

The aim of the review is to assess the achievements of the individual during his or her probationary period, as well as the promise shown for growth and further achievement. The detailed procedures by which the department conducts its assessment vary, but they must include the basic elements mentioned above as well as: (1) making the documentation gathered during the review available to the tenured faculty members of the department, (2) holding a meeting of the tenured faculty members for the announced purpose of discussing and voting on the promotion in question, and (3) taking the vote. There is no general prescription for interpreting the vote; some departments do not consider such a vote positive unless the margin of positive over negative votes is quite large. In any case, the department chairperson is not bound by the vote, though he or she must report it to the dean. The chairperson represents the department in making and explaining to the dean the department's recommendation for or against the promotion.

If, after a tenure review is carried out, the department's tentative tenure decision is negative, it is communicated to the candidate before being given to the dean, and the candidate has an opportunity to request a reconsideration by the department. The procedures for this are attached as appendix five or can be accessed at <http://theuniversityfaculty.cornell.edu/pdfs/NEGTENUREDECISION.pdf> on the University Faculty website.

After the department's initial review and any reconsideration are completed, the decision is reviewed at the college level by the dean. If the department's recommendation is positive, the dean must appoint an *ad hoc* committee of faculty members outside the department to study the evidence and advise him or her in

reaching a decision. Even if the department's recommendation is negative, the candidate may still request that the dean appoint the *ad hoc* committee.

EXHIBIT G

FACULTY ADVISORY COMMITTEE ON TENURE APPOINTMENTS

The Faculty Advisory Committee on Tenure Appointments (FACTA) is established to advise the Provost on proposed promotions to tenure, as well as proposed denials of tenure by a dean after a positive recommendation from the department. Review of tenure recommendations for those who have achieved tenure at another institution will be at the discretion of the Provost.

Composition of the Committee

The committee will be composed of fifteen tenured faculty members, one elected by the professorial faculty in each college and five nominated by the University Faculty Nominations and Elections Committee and appointed by the Faculty Senate. The five faculty nominated will be selected in such a way as to achieve appropriate balance among the various schools, colleges, tenure-granting centers, disciplines, and job functions (including extension) to make the committee of fifteen representative of the diversity of the faculty of the University with due regard to race, gender and ethnicity. Members will serve for two years. Terms will be staggered so as to replace half of the members each year. In addition, the appointments within a given year shall also be staggered among the review cycles to minimize the transitional impact upon the committee¹. Vacancies caused by the resignation of a college representative will be filled by a vote of the college faculty or by an elected college committee, or by the Nominations and Elections Committee for a non-college representative. No member of the committee will serve for more than 3 consecutive years. The Dean of the Faculty will be a non-voting, administrative chair of the committee. The chair will strictly refrain from taking part in the committee's decision making. The role of the chair will be limited to facilitating timely decision making and ensuring that the committee adheres to its charge and mandated procedures.

Procedures

The committee will determine whether the documentation and the evidence in the tenure file are sufficient to show that the candidate has demonstrated excellence in carrying out the responsibilities of the position, and unusual promise for continued achievement. More detailed information on tenure criteria can be found in Section 2.3 of the Faculty Handbook.

In particular, the committee will consider the evaluations made by the candidate's peers and students, as well as those of outside reviewers and the ad hoc committee. The committee will also take into consideration the academic standing of the candidate's outside reviewers, as well as any special considerations that might pertain in the case of those candidates with appointments in professional schools, performing arts or extension programs. In coming to its conclusions, the committee will limit itself to assessing the strength of the candidate as summarized by prior substantive reviews. The committee will not solicit additional reviews; its judgment will be based on the information in the candidate's file. University financial and other non-academic considerations will play no role in the committee's deliberations. The committee should ensure that tenure appointments are consistent with Cornell's high standards, but that no faculty member is

¹ The Nominations and Elections Committee will provide a procedure to accomplish this additional staggering within the year.

turned down for tenure wrongfully, capriciously, or without reference to the responsibilities of the position or the mission of the college.

If, in the course of reviewing an individual case, the committee becomes concerned that the tenure requirements and criteria of a department, or a school or college, are inconsistent with Cornell's high standards or otherwise not in the best interests of the university, it shall report this separately to the Provost. FACTA will not use these concerns in reaching a tenure recommendation for the individual involved.

A. Positive Recommendations by the Dean

Four members of the committee chosen at random will read each file. Each member will independently prepare a written evaluation of the case not to exceed one page in length. If all four members are positive with no concerns or reservations, a positive recommendation will be sent to the Provost with copies of the four reviews.

If any one of the four has reservations, each member of the full committee will then write a brief, preliminary evaluation which in no case can exceed one page in length. After these have been circulated, the full committee will meet for discussion and a vote. Each committee member will vote yes or no on the issue of whether the tenure file presents convincing evidence (based on an assessment of the strength of the candidate as summarized by prior substantive reviews) that the candidate has satisfied the requirements for tenure contained in the legislation or by-laws of the candidate's school or college.² The committee's decision, including the individual evaluations, revised on the basis of the discussion as each committee member sees fit, will be sent to the Provost. Committee members must be present in order to cast a vote on a candidate. The committee will make its recommendations within four to six weeks of receiving a file.

All members of the full committee shall have access to all recommendations sent to the Provost.

If the Provost rejects the Committee's recommendation, the faculty requests the Provost meet with FACTA to discuss the disposition of the case. This meeting should occur, if possible, prior to Trustee action.

B. Negative Recommendations by the Dean

If a dean reaches a preliminary decision to deny tenure to a non-tenured faculty member whose promotion to tenure has been recommended by his or her department, the dean will forward the file, together with an explanation for the preliminary decision to the Provost. If the Provost does not have any concern or reservation about the dean's proposed action, she or he will so inform the college dean. If the Provost does have any concern or reservation, she or he will forward the file to the committee, who will consider it at a meeting of the full committee, following the procedures used by the committee in cases following positive recommendations by the dean. After receiving the committee's recommendation, the Provost will consult with the dean. Until the dean has received a response from the Provost, the dean's decision will be considered provisional. The

² For various reasons, the file of a candidate deserving of tenure may not demonstrate that fact. Thus a vote of No on the issue as stated may not mean that the candidate does not deserve tenure.

university level Appeal Procedure shall not commence until the dean's decision is final, and is not supplanted in any way by FACTA consideration. (See note below.)

Previous Involvement or Conflict of Interest

If any member of the committee has voted or otherwise participated in the tenure decision at an earlier stage he/she will recuse him or herself from the case. If any member of the committee has any relationship with the candidate that might significantly affect his or her opinion, the nature of this potential source of bias must be described in the member's written evaluation of the candidate. A member who has a relationship that falls under the nepotism policy (Faculty Handbook, p. 86), will recuse him or herself from the case.

Report to the Faculty Senate

The committee will report the number of cases considered and the number of positive and negative recommendations annually to the Faculty Senate. This report shall not divulge case-specific information.

The original was adopted by the Faculty Senate, November 12, 1997; amended May 12, 1999; amended October 11, 2000; amended April 14, 2004.

Note: September 2006 – Section 2.3, 2002 Faculty Handbook was rewritten to clarify how the FACTA legislation interacts with the “Procedure for Appealing a Negative Tenure Decision.” (Provost John Siliciano/Dean of Faculty Charles Walcott.)

EXHIBIT H

PROCEDURES FOR APPEALING A NEGATIVE TENURE DECISION

I. RIGHTS OF FACULTY MEMBERS WHO ARE DENIED TENURE

A. Right to Appeal

Any faculty member who is reviewed for and denied tenure may appeal that decision at the departmental, college, and University levels. The candidate shall be informed of this right, and the procedures for exercising it, when he or she is first notified in writing of a negative tenure decision.

B. Extension of Appointments

For the purpose of determining the start of the terminal appointment of a faculty member who is denied tenure, the date of notification shall be considered to be the date of written notification of the first negative decision, and shall be unaffected by subsequent appeals. Notice of a terminal appointment must be given in writing to an individual, which allows that individual to serve two full academic terms following receipt of the first written notice of the negative decision. An academic term [i.e. semester] is the period of time beginning two working days before registration and ending on the last day of final exams. For those notified of nonrenewal before the start of the final year of appointment, the final year fulfills the requirement of two terms of notice. However, if appeal within the University is in progress at the end of the terminal appointment, the appointment shall be extended until the appeal is complete.

Should any party involved in an appeal find that he or she is unable to comply with one or more of the deadlines specified in this document, that party may, prior to the lapsing of the deadline, apply to the Dean of the Faculty for an extension. If the Dean finds the reasons given for an extension sufficient to justify it, the extension shall be granted and all involved parties notified. All extensions shall be for a specified period of time. In cases where an extension is granted at the request of the appellant, the appellant's appointment shall not be extended under I.B. beyond the duration of the normal term of an appeal without the consent of the Provost.

C. Role of the Ombudsman

Faculty members shall retain full access to the office of the Ombudsman prior to and in the course of the appeals process.

D. Waiver or Loss of Appeal Rights

The candidate may waive the right to written explanations from the department chair and the dean, or may decline to pursue the appeals procedure at any stage. However, the appeal procedures herein described must be followed sequentially. Waiver of any stage of the appeals procedure shall cause the candidate's right to proceed further to be forfeited. Thus, failure to request reconsideration of a negative departmental decision (see Section II), or failure to respond to a negative proposed decision at the college level (see Section III), will constitute waiver of further appeal rights.

II. APPEAL AT THE DEPARTMENTAL LEVEL

A. Reconsideration by the Department

Any faculty member has a right to receive a timely reconsideration of a negative departmental tenure decision before that decision is forwarded to the dean.

1. Within three weeks after being notified that the departmental decision is negative, the candidate will receive a written statement of the reasons for the decision and the nature of the evidence unless the candidate expressly relinquishes his or her right to receive the statement within one week of said notice. The statement shall respect the limits set by the need to preserve confidentiality.
2. If the candidate wishes to have the departmental decision reconsidered, he or she shall respond to the chair in writing within three weeks of receipt of the chair's statement of reasons. The candidate may address any issue that he or she deems appropriate, and may present new evidence.
3. The eligible voting faculty shall consider the chair's statement and the candidate's response, and a second vote shall be taken. The final departmental decision and the reasons for it shall be provided in writing to the candidate within three weeks of receipt of the candidate's response.

[Note: In the Law School, in II.A. "departmental" shall refer to the appointments committee. In the Hotel School, "departmental" shall refer to the ad hoc committee, and "chair" shall refer to the assistant dean for academic affairs. In the Graduate School of Management, "departmental" shall refer to the ad hoc committee, and "chair" shall refer to its chairperson.]

III. APPEAL AT THE COLLEGE LEVEL

A. Review by an Ad Hoc Committee

If the department's (or the college faculty's in the case of the Johnson Graduate School of Management, the Hotel School, and the Law School) final decision is negative, the dean shall, at the request of the candidate, appoint an ad hoc committee of Cornell tenured faculty members or tenured faculty members from an appropriate academic institution outside of Cornell to review that decision, if the dean has not already done so on his or her own initiative. No one who has participated in the decision or has taken a position on the review may serve on the committee. The candidate shall make his or her request for appointment of the committee within one week of notification of the department's final negative decision, and the dean shall appoint the committee within three weeks of the candidate's request.

B. Reconsideration by the Dean

1. If a dean's negative decision follows a positive departmental recommendation (or the college faculty's in the case of the Johnson Graduate School of Management, the Hotel School and the

Law School), the dean shall, prior to making that decision, appoint an ad hoc committee of Cornell tenured faculty members or tenured faculty members from an appropriate academic institution outside of Cornell. Within three weeks of receipt of the report of the ad hoc committee, the dean shall furnish the candidate and the department with a preliminary written statement of the reasons for that decision and the nature of the evidence within the limits set by the need to preserve confidentiality. For a two-week period following receipt of the statement, the candidate and/or department shall have the opportunity to respond to the dean, prior to the dean's final decision.

2. If the dean's negative decision follows a negative departmental faculty or college/school faculty recommendation, the dean shall within three weeks of receipt of the report of the ad hoc committee furnish the candidate with a written statement of the reasons for that decision, within the limits set by the need to preserve confidentiality, and a copy shall be furnished the department.

IV. APPEAL AT THE UNIVERSITY LEVEL

A. Filing an Appeal

If the dean's final decision is negative, the candidate or the department or the candidate and the department in concert may appeal that decision. The appeal must be filed in writing with the dean of the college and the Dean of the Faculty within two weeks of notification of the dean's decision and must state the specific reasons for the appeal. The reasons must be based on one or more of the grounds listed in the following Section (IV.B.). Failure to raise a particular reason may be treated as a waiver of such a claim in this or any subsequent procedure.

B. Grounds for an Appeal

The grounds for an appeal shall be limited to one or more of the following:

1. During the appellant's probationary period, he or she was unfairly and seriously hindered in meeting the department's standards
 - a. by having been put under obligation to accept unusual and unreasonably heavy duties for the department, college, or University or having been denied departmental support, contrary to the normal departmental practices, or
 - b. by having been given misleading information or information so inadequate as to be fully the equivalent of misleading information by the department chair or dean concerning the departmental or college expectations of candidates.
2. In the conduct of the tenure review, there were violations of the established procedures and practices of the department, the college, or the University. These violations were so serious that the appeals committee believes they affected the outcome of the tenure review.

3. The evaluation of the appellant was influenced by unlawful discrimination.

4. The evaluation of the appellant was substantially influenced by consideration of factors unrelated to the performance of the appellant in carrying out the professional and collegial responsibilities of his or her position, or by improper and unprofessional consideration of factors which, if properly considered, would be material and relevant. The violations were so serious that the appeals committee believes that they affected the outcome of the tenure review.

5. The decision was so inconsistent with the evidence in the record that it must be judged arbitrary or capricious. [The term arbitrary and capricious fundamentally describes actions which have no sound basis in law, fact or reason or are grounded solely in bad faith or personal desires. A determination is arbitrary and capricious only if it is one no reasonable mind could reach.]

C. The University Appeals Panel

An appeal shall be heard by an Appeals Committee composed of five tenured University faculty members. At least four members of the Appeals Committee shall be members of the University Appeals Panel. The Dean of the Faculty shall be responsible for establishing the University Appeals Panel, and maintaining a list of members. Each college shall elect five tenured faculty members, or five percent of its tenured faculty, whichever is greater, to the Panel. In addition, the President of the University shall appoint ten tenured faculty members to the Panel. The term of office shall be five years, with a rotation system developed at the time of the initial election.

D. Selection of an Appeals Committee

Within two weeks after the appeal of a college dean's negative decision, the Dean of the Faculty shall be responsible for forming and charging an Appeals Committee to hear the appeal. Members of the Appeals Committee shall be selected in the following manner:

1. The appellant and the dean of the college shall each nominate four members of the University Appeals Panel. [Note: In cases where the appeal follows a negative departmental recommendation, the dean of the college shall consult with the department before making his or her nominations.] The appellant's nominees shall choose two of the dean's nominees, and the dean's nominees shall choose two of the appellant's nominees. The four so chosen shall then choose a fifth tenured University Faculty member, who shall chair the committee. The chair shall be from the college of the appellant, except in those colleges where all tenured faculty members participate in each tenure decision.

2. Any person nominated who has previously participated in the review of the appellant or feels unable to render an unbiased judgment or perceives a conflict of interest shall disqualify him or herself. However, in those colleges where all tenured faculty participate in each tenure decision, the automatic disqualification of that college's Appeals Committee members shall be waived if that is agreeable to both parties.

E. Principles and Restrictions to be Observed by the Appeals Committee

In its deliberations and findings, the Appeals Committee shall respect the following principles and restrictions:

1. The Committee's review shall be limited to determining whether any one of the five possible grounds for appeal (listed in Section IV.B.) has been established. The Committee may, if circumstances warrant, investigate and return findings concerning possible violations of the grounds for appeal (listed in Section IV.B.) not raised by the appellant.
2. The Committee shall recognize the central role of peer judgment in tenure decisions. Hence, the Committee shall avoid substituting its assessment of the appellant's professional qualifications for those of the department and the experts outside the department who have been asked to submit evaluations. The Committee's role in judging professional merit shall be limited to determining whether the recommendations of the department and the dean were arbitrary and capricious as defined in IV.B.5. or based on the inappropriate considerations listed in IV.B.3. and IV.B.4.
3. The dean of the college has a major responsibility in setting the priorities and maintaining the standards of the college. Therefore, the Committee shall avoid substituting its judgment in those matters for that of the dean.
4. It is impossible to make precise and universally agreed-upon evaluations of candidates. Therefore, the possibility that a different group of reasonable people might have come to a different conclusion concerning the merits of the appellant is insufficient grounds to sustain the appeal.
5. Comparisons with other tenure review cases may be used by the Committee in certain cases (See Section IV.F.1.). However, the Committee shall recognize the right and duty of departments to improve their quality or take into account different departmental needs, so long as this is not done as a pretext. A weak previous tenure appointment shall not by itself be taken to define the departmental standard.

F. Appeals Committee Procedures

The following procedures shall govern the activity of the Appeals Committee:

1. The Committee shall have access to the tenure file of the appellant. If the appellant charges that the decision was arbitrary or capricious as defined in Section IV.B.5. or based on the inappropriate considerations listed in Sections IV.B.3. and IV.B.4., and if the Committee finds it essential to read the files of recent comparable cases within the college of the appellant to examine that charge, it shall have access to those files as well. However, the Committee shall not as a matter of course request access to the files of recent cases within a department or college. The Committee shall scrupulously protect the confidentiality of all documents and testimony.

2. In addition to examining written material, the Committee may hear the views of the principal parties and others it deems appropriate.
3. The Committee shall not be required to keep a transcript of its proceedings. The Committee shall maintain a record of the names of the persons interviewed and the titles of the documents considered.
4. The Committee shall report in writing within eight weeks after being formed. The report shall be furnished to the appellant and the department and the college dean. It shall give the Committee's findings, and the reasons for those findings. These findings should be directly responsive to the grounds for appeal listed in Section IV.B. Before issuing the report, the Committee shall circulate a draft to the appellant and the department and/or college dean and invite responses.

G. Findings by the Appeals Committee

The Appeals Committee shall make one or more of the following findings. The ensuing action shall be as stated:

1. If the Committee finds that none of the five possible appeal grounds (see Section IV.B.) has been established, it shall reject the appeal. This decision shall not be subject to further appeal within the University.
2. If the Committee finds that the ground for appeal in Section IV.B.1. has been established, it may recommend that the appellant's appointment be extended for a fixed period, after which a new tenure review shall be undertaken. It is expected that the dean will follow the Committee's recommendation. If the dean chooses not to grant the recommended extensions, the Committee's report and the written response of the dean shall be forwarded to the Provost. Within four weeks, the decision of the Provost and the reasons for it shall be given in writing to both principal parties, and a copy shall be sent to the Committee. The decision of the Provost shall not be subject to further appeal within the University.
3. If the Committee finds that any other ground for appeal in Section IV.B. has been established, it may return the case to the dean of the college for reconsideration. The dean shall promptly take appropriate action to correct the deficiencies that the Committee has found, and shall provide a written report of the reconsidered decision to the Committee, the department, and the appellant. If the reconsideration results in an affirmation of the original decision, this judgment shall be reviewed by the original Appeals Committee, which shall take the following action:
 - a. If the Appeals Committee finds that the tenure review process no longer has serious deficiencies, it shall reject the appeal. This action shall not be subject to further appeal within the University.
 - b. If the Committee finds that the tenure review process continues to have serious deficiencies and that an independent academic evaluation is appropriate, a panel of professionally qualified and not previously involved expert scholars from inside or outside Cornell shall be appointed to

review the case and make a recommendation as to the granting of tenure. The panel's review shall not constitute an additional appeal from the department's or dean's decision, but shall constitute a new independent judgment concerning the candidate's academic qualifications for tenure. The panel shall be appointed jointly by the chair of the Appeals Committee, the Dean of the Faculty, and the President of the University. The panel shall be entitled to all of the evidence on which the original substantive decision was based and shall be entitled to collect such further evidence deemed necessary to reach a new substantive judgment. The recommendation of the panel of expert scholars and the response of the Appeals Committee, the dean, the department, and the appellant shall be forwarded to the Provost. Within four weeks, the decision of the Provost and the reasons for it shall be given in writing to both principal parties, and a copy shall be sent to the Committee. The decision of the Provost shall not be subject to further appeal within the University.

[Note: Nothing in this document shall be construed to prevent an appeals committee from attempting to arrange an informal settlement of the complaints if it believes that fairness can, thereby, be served and that such an arrangement best serves the interests of the appellant, the department, the dean and the University. No action may be taken under this provision unless it is agreed to by the dean, the department, and the appellant.]

V. DISPOSITION OF RECORDS AND FILES

A. The Dean of the Faculty shall maintain copies of all reports of Appeals Committees and shall maintain records of all subsequent actions within the University that occur in these cases. At the completion of an appeal, all case files shall be returned to the dean of the college.

B. On completion of the appeal, the chairperson of the Appeals Committee shall provide to the Dean of the Faculty a letter describing any difficulties encountered in applying or interpreting these procedures. The Dean of the Faculty shall maintain a file of these letters, a digest of their central points, and other documents useful to subsequent appeals committees or to anybody authorized by the FCR to evaluate these procedures.

Adopted by the Faculty Council of Representatives, May 13, 1981, Records, pp. 5342-54C; Executive Committee, Board of Trustees, May 30, 1981, Records, p. 10,808, Appendix D, Records, pp. 10,831-38; Board of Trustees, May 30, 1981, Records, p. 10,856; Faculty Council of Representatives, October 10, 1984, Records, pp. 5923-39C (with editorial and stylistic changes incorporated by the Dean of Faculty and University Counsel); Board of Trustees, January 25, 1985, Records, p. 357, Appendix A, Records, pp. 372-78. Amended by the Faculty Senate, March 13, 2002, Records, pp. 9393-9394S, Appendix 2; Board of Trustees, June 20, 2002.

EXHIBIT I

Romantic and Sexual Relationships Between Students and Staff

The following resolution was adopted by the Faculty Council of Representatives on November 8, 1995, and approved by the president and provost as Cornell University policy on September 18, 1996:

The relationships between students and their teachers, advisors, coaches, and others holding positions of authority over them should be conducted in a manner that avoids potential conflicts of interest, exploitation, or personal bias. Given the inherent power differential, the possibility of intentional or unintentional abuse of that power should always be borne in mind. For example, a conflict of interest arises when an individual evaluates the work or performance of a person with whom he or she is engaged in a romantic or sexual relationship.

Romantic or sexual relationships between students and persons in positions of authority compromise the relationship between students and the university. No member of the university community should simultaneously be romantically or sexually involved with a student whom he or she teaches, advises, coaches, or supervises in any way. Individuals in such positions of authority must not allow these relationships to develop or continue.

In unusual circumstances the supervising dean* of the person in a position of authority may grant an exemption from this policy when full severance of the university relationship would create undue academic or financial hardship for the student.

*The supervising dean shall mean the dean of the school or college of the staff member's primary appointment, the dean of the Graduate School in the case of graduate students, the vice provost for research for staff members holding appointments in centers, and the vice president for student and academic services for staff members holding appointments in that division.

EXHIBIT J

Article XVI, Section 10, of the Cornell University Bylaws states:

"The Board shall have the right to dismiss and terminate the appointment of any member of the staff of instruction and research for failure to perform the duties required of the position which he holds or for such personal misfeasance or nonfeasance as shall make him unfit to participate in the relationship of teacher and student. Such dismissal shall be effected through such procedures as the Board may adopt. Such procedures shall provide for reasonable notice and an opportunity to be heard."

The following dismissal/suspension procedure for faculty members was adopted by the University Faculty and Board of Trustees in 2007. This is a revision of a dismissal policy that was adopted in 1951. (Note: non-substantive changes have been made to phrase the policy in gender-neutral terms):

Dismissal /Suspension Policy for Faculty Members

The university reserves the right to dismiss and discontinue, or to suspend, the appointment of any member of its faculties, on reasonable notice and after giving such member an opportunity to be heard, for misconduct or failure to perform the duties required of the position he or she holds.

In the case of a university professor, professor, associate professor, or assistant professor the following procedure shall be adopted to govern dismissal or suspension for the period of one semester or more:

A. When complaint from any source is made against a university professor, a professor, an associate professor, or an assistant professor which might lead to his or her dismissal or to suspension for the period of one semester or more, the dean of his or her college, or in the case of a university professor the dean of the University Faculty, shall inform the faculty member of the complaint against him or her, investigate the case, and if the faculty member is willing, consult with him or her regarding it. The dean shall thereafter report to the provost the results of the investigation together with his or her recommendations. The provost shall cause the faculty member to be furnished with a written and detailed statement of the charges against him or her and the suggested disciplinary action if, after receiving the dean's report and making such independent investigation as may seem appropriate to the provost, it is the opinion of the provost that further proceedings are warranted.

B. If the faculty member desires a hearing, he or she shall so request in writing to the provost within thirty days of the receipt of the written charges against him or her, and he or she shall then be entitled to a hearing before a board appointed by the provost and consisting of five members of the University Faculty, of whom two shall be selected by the faculty member, two by the provost and the fifth by the other four.

C. At such hearing the faculty member shall be entitled to be accompanied by an advisor or counsel of his or her own choice, to present witnesses in his or her own behalf and to confront and question the witnesses against him or her. If the faculty member so requests before or at the opening of the hearing, he or she shall after its conclusion, be furnished, without cost to him or her, a full report of the proceedings before the board, including the testimony taken, the evidence

received, and the board's findings and recommendations. The board shall submit to the president a report of its findings and recommendations. If suspension is recommended, the president's decision shall be final; and if dismissal is recommended, this report shall be appended by the president to any recommendations he or she may make to the Board of Trustees in regard to the case.

D. If dismissal is recommended, the faculty member shall be free to resign at any time within thirty days of receipt of the written charges against him or her; but if he or she has neither requested a hearing nor resigned within such thirty days, the Board of Trustees shall be free to dismiss him or her without further notice or hearing. If suspension is recommended and the faculty member fails to request a hearing within the thirty day period described in paragraph B above, the suspension shall be implemented as recommended.

E. In the case of suspension of less than one semester, or suspensions of any length of time of faculty other than university professor, professor, associate professor or assistant professor, a dean's determination to suspend a faculty member shall be subject to existing grievance procedures. In cases where the Faculty Committee on Academic Freedom and the Professional Status of the Faculty is the final step in the grievance procedure, the Faculty Committee will submit a report of its findings and recommendations to the president. If suspension is recommended, the president's decision shall be final.

For purposes of this dismissal and suspension procedure, the following definitions shall pertain:

"Provost" refers to the provost or the provost for medical affairs, as appropriate. However, in the event the provost for medical affairs serves simultaneously as the dean of the college in which the case arises, the president shall receive and review the dean's report and make the appropriate judgment about further proceedings.

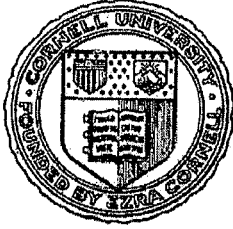
"Suspend" or "suspension" means a temporary abrogation of the faculty member's rights or responsibilities that effectively prevents the faculty member from carrying out the responsibilities of his or her position or a temporary partial or temporary full reduction of a faculty member's salary, whether or not it is named as a suspension. A non-disciplinary reduction of salary such as a non-temporary reduction of salary that may be implemented at the time of an annual salary review, or a non-disciplinary reassignment of duties at an appropriate time in the academic calendar shall not be considered a suspension. The period of a suspension shall be no less than two weeks and no more than two semesters. Except for an emergency suspension, the imposition of any suspension shall be deferred pending the conclusion of the internal review process.

"Emergency suspension" refers to the suspension by the president or his designee with full salary pending the ultimate determination of the faculty member's case where the faculty member is charged with misconduct and his or her continuance threatens imminent, serious harm to the member, to others, or to property. The scope and duration of the emergency suspension shall be tailored as narrowly as possible to the nature of the harm posed, so that the faculty member's rights and privileges are not summarily abrogated more broadly than is reasonably necessary to protect persons or property pending completion of the

suspension procedures.

"Faculty" refers to full-time faculty members as described in the University Bylaws.

EXHIBIT K



CORNELL UNIVERSITY
POLICY LIBRARY

POLICY 1.2

Volume 1, Academic/Research
Chapter 2, Academic Misconduct
Responsible Executive: Provost
Responsible Office: Dean of the
Faculty/Vice Provost for
Research
Issued: December 1998

Academic Misconduct

POLICY STATEMENT

Members of the Cornell University community are expected to perform their scholarly and scientific activities with honesty, to meet the highest ethical standards, and to respect the facts, the appropriate standards of evidence, and the contributions and scholarship of others. The university will vigorously investigate allegations of academic misconduct, taking all reasonable steps to protect the rights and interests of individuals whose work or performance is questioned.

REASON FOR POLICY

The search for truth underlies our academic values as an educational institution. Academic misconduct on the part of any members of the Cornell University community threatens and subverts the fundamental values of the institution as a whole. Each member is expected to promote such standards of integrity in interactions with other scholars, and to participate in review procedures and disciplinary actions as may be appropriate in the case of reported violations of these standards.

ENTITIES AFFECTED BY THIS POLICY

- All units of the university, excluding the Weill Cornell Medical College. This policy covers undergraduate, graduate, or extramural students only insofar as their actions are not already covered by the *Code of Academic Integrity*.

WHO SHOULD READ THIS POLICY

- Faculty and staff members, and students involved in scholarly or academic research

WEB SITE ADDRESS FOR THIS POLICY*

www.dfa.cornell.edu/treasurer/policyoffice/policies/volumes/academic/misconduct.cfm

*The University Policy Office Website houses the most current versions of all standardized university policies at www.policy.cornell.edu.

Policy 1.2
Academic Misconduct

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Policy 1.2 Academic Misconduct

RELATED DOCUMENTS

<u>University Policies</u>	<u>Other Documents</u>
<u>University Policy 3.6. Financial Irregularities</u>	<u>Appropriate Sponsor Regulations</u>
<u>University Policy 4.6. Standards of Ethical Conduct</u>	<u>Campus Code of Conduct</u>
<u>University Policy 6.2.10. Establishment of College-Level Academic Employee Grievance Procedures</u>	<u>Code of Academic Integrity</u>
	<u>Cornell University Academic Integrity Handbook</u>
	<u>Faculty Dismissal Procedure</u>
	<u>Faculty Handbook</u>

CONTACTS

Direct any general questions about University Policy 1.2, Academic Misconduct, to your department's administrative office. If you have questions about specific issues, contact the following offices:

<u>Subject</u>	<u>Contact</u>	<u>Telephone</u>
<u>Campus Code of Conduct</u>	<u>Judicial Administrator</u>	<u>(607) 255-4680</u>
<u>Complaints Concerning Suspected Academic Misconduct</u>	<u>Dean of the Faculty</u>	<u>(607) 255-4843</u>
<u>Policy Clarification</u>	<u>Dean of the Faculty</u>	<u>(607) 255-4843</u>

DEFINITIONS

These definitions apply to these terms as they are used in this policy.

Academic Misconduct	Any act that violates the standards of integrity in the conduct of scholarly and scientific research and communication.
Inquirer	The person who conducts the Inquiry, determines if an Investigation is necessary, and, if necessary, assigns the appropriate disciplinary action after the Investigation is complete.
Inquiry	A preliminary review of allegations of academic misconduct following the process described in these procedures. The Inquiry is designed to gather sufficient information and facts to enable the Inquirer to determine whether or not a full Investigation is warranted.
Investigator	The person who conducts the Investigation.
Investigation	A systematic examination into allegations of academic misconduct through the process described in these procedures.

Policy 1.2 Academic Misconduct

PROCEDURES

What Is Academic Misconduct?

Academic misconduct includes any act that violates the standards of integrity in the conduct of scholarly and scientific research and communication. This includes, but is not limited to, plagiarizing the work of others, i.e., intentionally or knowingly representing other people's words or ideas as one's own; deliberately falsifying or fabricating data, citations, or information; forging academic documents; abusing the confidentiality of information obtained from colleagues or other persons; intentionally or knowingly helping another to commit an act of academic misconduct, or otherwise facilitating such acts; or other practices that seriously deviate from ethical standards that are commonly accepted within the scientific and scholarly communities for proposing, conducting, or reporting research. Academic misconduct also includes any form of retaliation against a person who, while acting in good faith, provides information about suspected or alleged misconduct.

Note: Academic misconduct does not include unintentional error or honest differences in interpretations or judgments of data.

Disclosure of Academic Misconduct

All members of the Cornell University community are obligated to report suspected acts of academic misconduct. The initial report of such an allegation, whether on the part of a faculty member, a member of the staff, a student (including those with university appointments), or any other person with a university appointment, should be made to the Dean of the Faculty.

Inquiry

Upon receiving such a report, the Dean of the Faculty will conduct a preliminary Inquiry into the allegation or other evidence of possible academic misconduct. Should the Dean of the Faculty have a real or apparent conflict of interest with the case, the Secretary/Associate Dean of the Faculty will serve as the Inquirer. Should the Secretary/Associate Dean of the Faculty have a real or apparent conflict of interest with the case, the Provost will appoint a member of the professorial faculty to serve as the Inquirer. The purpose of the Inquiry is to gather sufficient information and facts to enable the Inquirer to determine whether an Investigation is warranted. If the Inquirer does not have the necessary and appropriate expertise for this task, s/he will appoint other personnel to assist in the conduct of the Inquiry.

Policy 1.2 Academic Misconduct

PROCEDURES, CONTINUED

Such an Inquiry should normally be concluded within 60 days of receipt of the initial report of alleged academic misconduct. In the course of the Inquiry, the Inquirer:

- will take all reasonable precautions to protect the interests and the reputation of the individual against whom the allegation was made and the person who made the disclosure;
- will conduct interviews with complainant, subject or subjects of the Inquiry, and others as necessary or appropriate for purposes of the Inquiry;
- will prepare a written report that summarizes the evidence reviewed and interviews conducted; documents the reasons for exceeding the 60 day inquiry period (if applicable); and includes the conclusion of the Inquirer as to whether an Investigation is warranted;
- will provide a copy of the report to the subjects of the Inquiry and the complainant for written comment; which comments, if any, together with the report, will become a part of the record of the Inquiry.

If the allegations involve sponsored research, the Inquirer will discreetly notify the Vice Provost for Research at the start of the Inquiry. At this time, the Vice Provost for Research will advise the Inquirer of applicable government regulations regarding the Inquiry of Academic Misconduct (see the "Government Procedures" segment of this document). The Vice Provost for Research will also take interim administrative actions he or she deems appropriate to protect funds and ensure that the purposes of the financial assistance are being carried out. Should the Inquirer be informed that the alleged incident will probably be publicly reported, s/he will notify the Vice Provost for Research. During the course of the Inquiry, the Vice Provost for Research will notify and submit reports to sponsors as required by sponsor regulations.

Whether or not the allegations involve sponsored research, should the Inquirer become aware of immediate health hazards or the need to protect any individuals, funds, or equipment affected by the Inquiry, s/he shall notify the Vice Provost for Research who shall undertake the appropriate interim actions. Should reasonable indications of irregularities in university finances be found during the Inquiry, the Inquirer will notify University Audit. Should reasonable indications of possible criminal violations be found during the Inquiry, the Inquirer will notify the Vice Provost for Research and University Counsel within 24 hours. The Vice Provost for Research will notify sponsors of these actions or violations as required by sponsor regulations.

Policy 1.2 Academic Misconduct

PROCEDURES, CONTINUED

Note: A conclusion that an Investigation is not warranted requires a determination either that (1) the facts alleged, if true, do not constitute an act of academic misconduct, or (2) the Inquiry established that there is no reasonable cause to believe that academic misconduct has occurred.

In the event the Inquirer concludes that further investigation is not warranted, s/he will terminate the Inquiry. In such case, the report of the Inquiry will be maintained in the confidential file of the Dean of the Faculty for a period of three years, after which the file will be destroyed.

Should the Inquirer decide to terminate an Inquiry involving sponsored research for any reason before its completion, a report of the planned termination, including a description of the reasons for the termination, will be submitted to the Vice Provost for Research. The Vice Provost for Research will notify sponsors of this decision as required by sponsor regulations.

Investigation

Should the allegations, in the judgment of the Inquirer, warrant further investigation, s/he will refer the matter to the Dean of the college or the head of the appropriate administrative unit in which the subject is appointed, within thirty days of the completion of the Inquiry. Upon receiving such a report, the Dean or unit head will conduct an Investigation into the allegation. If the Dean or unit head has a real or apparent conflict of interest with the case, the Provost will appoint a member of the professorial faculty to serve as the Investigator. An Investigation must be undertaken if the Inquiry finds that the allegation has substance.

The Inquirer will also notify the Vice Provost for Research and University Counsel of the upcoming Investigation. Before the Investigation begins but after the Inquiry ends, the Vice Provost for Research will **notify sponsors of the affected research** as required by sponsor regulations. The Vice Provost for Research may choose, in his or her discretion, to notify all sponsors of the individual(s) under investigation. The Vice Provost for Research will seek assurances that information regarding the Investigation will be kept confidential by the sponsors. At this time, the Vice Provost for Research will also advise the Investigator of applicable government regulations regarding the investigation of Academic Misconduct (see the "Government Procedures" segment of this document).

The Investigator will conduct a thorough examination and evaluation of all relevant information to determine if academic misconduct has occurred. The Investigator may designate an ad hoc committee, a standing committee, or other personnel to assist in the Investigation. The Investigator will ensure that personnel with the necessary and appropriate expertise are included in

Policy 1.2 Academic Misconduct

PROCEDURES, CONTINUED

the Investigation, and that no person with a real or apparent conflict of interest is appointed to the Investigation.

The Investigation will include but need not be limited to:

- examining all pertinent documentation, including relevant research data and proposals, publications, correspondence, etc.;
- interviewing all principals and witnesses, whenever possible;
- preparing written summaries of interviews to be provided to the interviewed party for comment and/or revision and to be made available to sponsors as required by sponsor policy;
- maintaining documentation and summaries of interviews as part of the investigative file;
- consulting experts from within or without the University, as deemed appropriate;
- preparing a written report that includes: (a) a description of the policies and procedures under which the investigation was conducted, (b) a summary of the evidence reviewed and interviews conducted, (c) the actual text or an accurate summary of the views of any individual(s) found to have engaged in academic misconduct, (d) the findings regarding academic misconduct and the basis for these findings, (e) recommended administrative actions to repair any damage the misconduct may have caused, and (f) recommended disciplinary actions ranging from reprimand to termination, and submission of the investigative report to the subject(s) and the complainant for written comments; which comments, if any, together with the report, will become part of the record of the Investigation.

Should the Investigator be informed that the alleged incident will probably be publicly reported, s/he will notify the Vice Provost for Research if the allegations involve sponsored funds. During the course of the Investigation, the Vice Provost for Research will notify sponsors and submit reports as required by sponsor regulations.

Whether or not the allegations involve sponsored research, should the Investigator become aware of immediate health hazards or the need to protect any individuals, funds, or equipment affected by the Investigation, s/he shall notify the Vice Provost for Research who shall undertake the appropriate interim actions. Should reasonable indications of irregularities in university or sponsor finances be found during the Investigation, the Investigator will notify University Audit. Should reasonable indications of possible criminal violations be found during the Investigation, the Investigator will notify the Vice Provost for Research and University

Policy 1.2 Academic Misconduct

PROCEDURES, CONTINUED

Counsel within 24 hours. The Vice Provost for Research will notify sponsors of these actions or violations as required by sponsor regulations.

Should the Investigator uncover facts that (1) may affect current or potential sponsored funding for the individuals under investigation, or that (2) the research sponsors may need to know to ensure appropriate use of funds or to otherwise protect the public interest, the Investigator will promptly notify the Vice Provost for Research, who will notify sponsors of these facts as required by sponsor regulations.

A final written report, including the comments, if any, of the subject, will be submitted by the Investigator to the Inquirer. The final report will be made available to sponsors as required by sponsor regulations. The Investigation should normally be completed within 120 days after referral by the Inquirer. If, based upon the report, the Inquirer concludes that academic misconduct has not occurred, the Investigation is terminated. In such case, the report of the Investigation will be maintained in the confidential file of the Dean of the Faculty for a period of three years, after which, the report will be destroyed.

Should the nature of the Investigation make it impossible to meet the 120 day time limit, the Investigator will prepare an interim report. This report will include an explanation for the delay, a report on progress to date, an outline of what remains to be done, and an estimated date of completion. The Investigator will supply this report to the Vice Provost for Research, who will submit the report to the sponsors, as required by sponsor regulations.

If the Investigator decides to terminate an Investigation involving sponsored research for any reason, a report of the planned termination, including a description of the reasons for the termination, will be submitted to the Vice Provost for Research. The Vice Provost for Research will notify sponsors of this decision as required by sponsor regulations.

Disciplinary Action

The Inquirer may, at his or her discretion, either accept or modify the findings and recommendations and prepare findings or recommendations of his/her own. Before reaching a final decision concerning any modifications, however, s/he will explain the rationale for the decision in a written communication to the Investigator and will consider the Investigator's response to those modifications.

Should the Inquirer, based upon the report, conclude that academic misconduct has occurred, s/he will assign such administrative action as may be appropriate to repair any damage the misconduct has caused (notice to

Policy 1.2 Academic Misconduct

PROCEDURES, CONTINUED

publishers, etc.) and assign such disciplinary penalty as deemed appropriate. Possible penalties range from reprimand to dismissal.

Should the Inquirer conclude that disciplinary action is appropriate, applicable university procedures appropriate to the class of researchers to which the accused belongs will be invoked. For this purpose, s/he will forward a copy of the report and his/her assignment to the appropriate university administrator for imposition of discipline.

Note: The subject may appeal any disciplinary action using applicable grievance procedures.

Confidentiality

All individuals who are involved in the complaint reporting and/or investigation process are obliged to maintain confidentiality of the proceedings. Throughout the Inquiry and Investigation of alleged academic misconduct, those conducting the reviews shall take all reasonable precautions, consistent with the need for a complete and comprehensive review, to maintain confidentiality and to protect the rights and legitimate interests of both the person making the disclosure and the subject(s) of the review.

After the Investigation (or Inquiry, in the case where the Inquirer determines that no Investigation is warranted) has concluded, the Inquirer in concurrence with the Vice Provost for Research may publicly release information regarding the findings of the Investigation if warranted by the circumstances.

The Dean or unit head will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations of scientific misconduct. When the allegations are not confirmed by the Investigation, or when the Inquirer determines that an Investigation is not warranted, the Dean or unit head will also undertake diligent efforts to restore the reputations of persons alleged to have engaged in misconduct.

Reporting

The Vice Provost for Research will notify and submit reports to sponsors upon completion of the Investigation when:

- it is concluded that academic misconduct has occurred, or
- the sponsor was previously informed of the Inquiry or Investigation and it is concluded that academic misconduct has not occurred, or
- it is required by sponsor regulations.

Policy 1.2
Academic Misconduct

PROCEDURES, CONTINUED

This report will describe the policies and procedures under which the Investigation was conducted, the findings of the Investigation, a description of the disciplinary actions, and any other information or documentation that may be required by the sponsor, including the full written report of the Investigation.

Government Procedures

In cases where academic misconduct is alleged to have occurred in the course of research subject to applicable government regulations (e.g., violations which may occur in the course of research sponsored by the National Science Foundation and/or the National Institutes for Health), the requirements of such government regulations will apply and supplement and/or, to the extent inconsistent herewith, supersede the provisions of this policy. In that event, applicable governmental time periods for conducting the review process, reporting procedures, and other substantive and procedural requirements will be followed.

Policy 1.2 Academic Misconduct

RESPONSIBILITIES

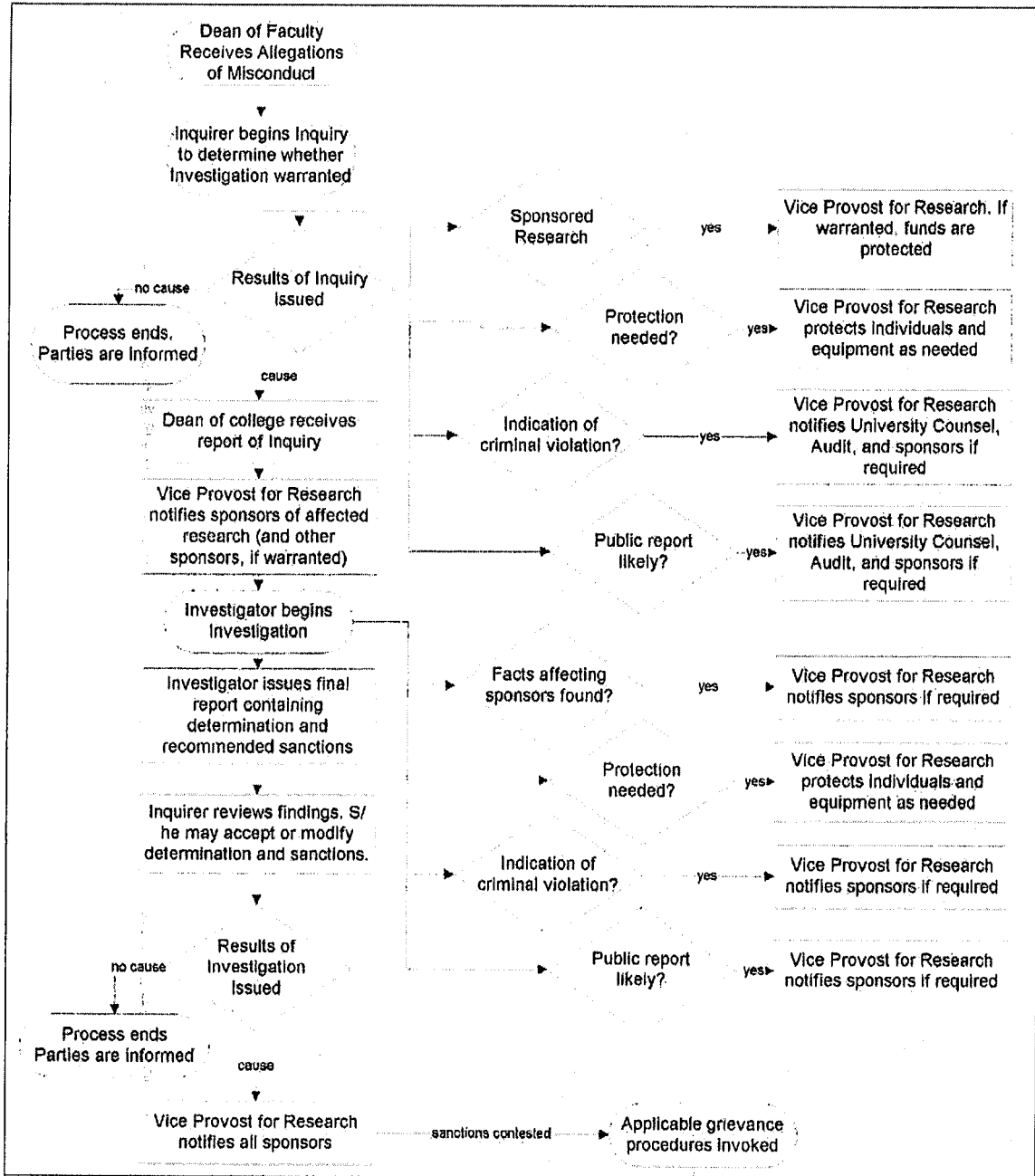
The following are the major responsibilities each party has in connection with University Policy 1.2, Academic Misconduct:

All Faculty and Staff Members and Students Involved In Academic Research	Read and understand these procedures.
Deans, Department Heads, and Supervisors	Inform employees under their direction or supervision of these procedures. Notify Dean of the Faculty when they receive reports or complaints of academic misconduct.
Dean of the Faculty	Receive complaints of academic misconduct and initiate inquiry process.
Inquirer	Gather sufficient information to determine whether or not an investigation is warranted. Review and accept or modify the findings and sanctions recommended by the Investigator.
Investigator	Conduct a thorough investigation to determine whether or not academic misconduct has occurred. Recommend administrative and disciplinary actions in cases where academic misconduct has occurred.
Provost	Appoint alternate Inquirer or Investigator if the Dean of the Faculty or the Dean of the college or unit head has a real or apparent conflict of interest.
University Counsel	Provide counsel, as necessary, to the Inquirer and Investigator during the investigation process.
Vice Provost for Research	Protect individuals, funds and equipment during inquiry and investigation, if necessary. Submit reports to sponsors.

Policy 1.2
 Academic Misconduct

APPENDIX

Flow Chart
 Complaint Investigation Process

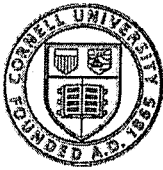


Policy 1.2
Academic Misconduct

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EXHIBIT L



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October 29, 2014

Professor Jeevak Parpia, Chair
Department of Physics
Cornell University

Dear Jeevak,

After careful consideration, I report my preliminary decision against recommending tenure and promotion to Dr. Mukund Vengalattore. This is a difficult case, as illustrated in your letter of September 15 that conveyed the departmental vote and recommendation. My preliminary decision contradicts the recommendation of the physics department, which voted narrowly in favor of awarding tenure. I understand the physics faculty met four times to discuss this case in late August and early September. At the fourth meeting the faculty voted narrowly in favor of tenure: 17-15 (22-15 including 5-0 advisory votes from those who did not attend the meetings). A second vote to send the case forward to the College was 16-11 (some individuals left before the second vote; no advisory votes were taken). This closely divided vote stands in sharp contrast with other promotion cases that have come to us from Physics in recent years, when the vote has always been unanimously in favor or nearly so.

The ad hoc committee appointed by the College considered the departmental review process with extraordinary care and diligence, and their letter is both thoughtful and lucid. They found the case for Dr. Vengalattore put forward by the department as equivocal and divergent, and they unanimously recommended against tenure. My own assessment draws from the department and ad hoc committee letters as well as my own reading of the dossier. I agree with the conclusion of the ad hoc committee that, despite Dr. Vengalattore's clear scientific talent and his excellence as a lecturer, he has failed to demonstrate sound judgment and management skills necessary for an effective scientist and mentor of the first rank. A consequence of this failure is his sparse productivity at this stage, which is due in part to a dysfunctional research group.

Dr. Vengalattore earned B.S. degrees in both Physics and Electrical Engineering & Computer Science (1999) and his Ph.D. degree in Physics (2005) from the Massachusetts Institute of Technology. He was a postdoctoral associate at the University of California, Berkeley (2005-2009) before becoming an assistant professor of physics at Cornell in January 2009. Dr. Vengalattore is an experimental physicist in the field of Atomic, Molecular and Optical (AMO) physics, an area that the physics department has been trying to build with limited success. This is his 12th semester at Cornell, and currently he is the only experimentalist in AMO physics. Dr. Vengalattore's third year review went well, with the commendation that he had already built two world-class cold atom laboratories. His teaching and group building also seemed to be going well. However, by the time that his tenure review should have been initiated in the spring of 2014, problems in his research group and program had come to the surface. One manifestation was the department's successful petition to the College and Provost to allow Dr. Vengalattore an additional semester to prepare his

dossier, as Physics wanted to ensure that he could submit last-minute papers for review “which took advantage of his apparatus which had just attained functioning status” (see Parpia letter). During the course of the tenure review, other issues came to the fore, as I discuss further below.

Although Dr. Vengalattore has published high quality papers originating from work done at Cornell, it is clear that his record is thin. He has published two experimental papers: One is on his new imaging technique for real time observation of cold atoms, and the other is on his optomechanical experiments. Both papers demonstrate the high standard Dr. Vengalattore pursues in his research. He also published theory and review papers (total four) in strong journals. None of the theory papers include his students as co-authors. Dr. Vengalattore’s record on invited department seminars also appears weak. He lists only seven department seminars since 2009 including only two since 2012.

External letters were solicited from 21 highly qualified experts. Three of the 17 who responded recommended against tenure, with the rest (14) recommending for tenure. Dr. Vengalattore’s thin publication record was universally mentioned in the letters with most of them agreeing with the judgment of a limited scientific impact of Dr. Vengalattore’s research to date. Thus, many of the positive letters (approximately half) were not enthusiastic. On the other hand, Dr. Vengalattore’s technical prowess for building the state-of-the-art apparatus and long-term potential for his approach was praised and cited as a strength. The peer comparison group used for the external letters included seven scientists. Out of them, two might not be suitable because of their current institution and not enough time since hiring. Out of the remaining five, external letters put Dr. Vengalattore consistently over only one but below three. In terms of productivity, he ranks below everyone in the comparison group.

Letters were solicited from Dr. Vengalattore’s former and current graduate students (total: five), included in the dossier. Their letters, while generally agreeing with the high quality of science Dr. Vengalattore pursues, reveal serious problems in his graduate advising. These include a lack of organization (e.g. frequent switching of projects, lack of direct technical training, miscommunication of student project), a demoralizing group environment (e.g. harsh treatment with demeaning comments, group meeting as scolding session, very high standard even for new graduate students), and charges of unprofessional conduct. Out of five who worked in Dr. Vengalattore’s lab, only two are still in his group (and none have graduated).

On the positive side, Dr. Vengalattore’s classroom teaching performance, both at the undergraduate and graduate levels, is excellent. The teaching evaluations by the students taught by Dr. Vengalattore and faculty peer observations paint a consistent picture: He is an excellent teacher who can explain even the most complex ideas in a clear fashion. Dr. Vengalattore’s record on undergraduate research advising is also exemplary. He worked with 17 undergraduate students in his lab involving them in meaningful, semi-independent projects. He received glowing reviews on this aspect from his undergraduate group members, many of whom elected to enroll in top graduate programs. Dr. Vengalattore’s fundraising record is also impressive. He has attracted more than 4 million dollars of outside funding (his portion) from six different sources. His research group is extremely well funded now and for the future, considering the small size of the group (two PhD students with no postdoc).

I agree with both the department and the ad hoc committee in identifying teaching, external funding, undergraduate research, and development of instrumentations as strengths of Dr. Vengalattore’s dossier, whereas his research productivity and graduate advising are significant areas of concern.

The split faculty vote (17-15, not counting advisory votes) can be explained by different weights

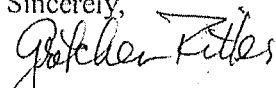
each faculty member puts on the positive and negative aspects of the Dr. Vengalattore's dossier. The explanations of individual votes included in the dossier (anonymously) provide useful insights into their collective reasoning. Those voting affirmatively for tenure generally focus on the positive aspects (teaching, undergraduate advising, impressive apparatus building) while predicting (or hoping for) improvements on the negative aspects after tenure. Dr. Vengalattore is seen as an excellent experimentalist with great potential for future productivity. This group also notes that Dr. Vengalattore has overcome extreme challenges to build an AMO laboratory successfully from the ground up without a pre-existing infrastructure. Many are concerned about Dr. Vengalattore's demonstrated deficiency in graduate advising and resulting group dysfunction but expect that he will improve with the help of department. In fact, the department recently initiated new efforts to mentor Dr. Vengalattore, and he is receptive to this outreach.

Those voting against tenure generally focus on the clear negative factors. Regarding productivity, they note that the first instrument was completed three years ago but has not resulted in any significant new science. Instead, Dr. Vengalattore embarked on building additional setups. The two experimental papers are considered to have weak impact as they are either on a technique development or on a topic that is on the periphery of Dr. Vengalattore's main research field of AMO physics. While agreeing on Dr. Vengalattore's skill in the laboratory, several point out that a clear research vision for the future is missing in his dossier. Accordingly, some argue that there is no evidence that he will be much more productive after tenure as some might hope. On his graduate advising problems, several members provide scathing comments regarding the disturbing student treatment the department review uncovered. Some doubt that Dr. Vengalattore will change significantly if tenure is granted, even with department help and his own efforts. Supporting this view, some commented on his past reluctance against taking advice from colleagues (not hiring a postdoc despite his available funds and a shrinking group), his lack of efforts after the departures of three graduate students, and a highly defensive letter he initially wrote after he was asked to comment on this issue for the dossier. Overall, the reasoning for the negative votes appears to be better supported by the established evidence.

I agree with both the physics department and the ad hoc committee that this is a difficult case because Dr. Vengalattore's dossier has both strong aspects and extremely problematic ones. However, I agree with the ad hoc committee assessment (echoed by some of the external reviewers and many members of the department) that his demonstrated deficiencies outweigh his strengths and promise. First, it is clear from the dossier that despite technical brilliance, Dr. Vengalattore has not adequately demonstrated his scientific productivity in key areas. Second, he has failed in his role as an effective mentor for his PhD students. These problems are interconnected, and they paint an ominous picture for the future.

A decision to award tenure is a long term commitment that ought to be based on a strong collective judgment of a scholar's achievements and promise. I conclude that the collective evidence in this dossier points strongly to unjustifiable risk. Regretfully, my preliminary decision is to recommend against tenure and promotion for Mukund Vengalattore.

Sincerely,



Gretchen Ritter

The Harold Tanner Dean of Arts and Sciences

EXHIBIT M

Appeals Committee Report
Mukund Vengalattore Promotion to Associate Professor with Tenure

Mukund Vengalattore's (MV) appeal of the negative tenure decision by Dean Gretchen Ritter states three grounds for his appeal:

1. During my probationary period, I was seriously hindered in meeting the department's standards due to a denial of departmental support, contrary to the normal practice.
2. In the conduct of the tenure review, there were violations of established procedures and practices of the University. As shown by multiple points of evidence, these violations seriously affected perceptions of my tenure case, and influenced the departmental vote and the Dean's decision.
3. The evaluation of my tenure dossier was substantially influenced by improper and unprofessional consideration of factors. Careful assessment of these factors was only performed after the departmental vote and the Dean's decision. Again, this improper and incomplete consideration has seriously affected the outcome of the tenure review.

We, the Appeals Committee, review key aspects of MV's tenure case and address each of these grounds for appeal in this report. In previous consideration of the case, opinions about whether MV should be awarded tenure were sharply divided. The negative opinions were based upon (1) a thin publication record and (2) scathing opinions of graduate students about how MV supervised them. The first ground for the appeal relates to the publication record, and the second and third grounds for the appeal relate primarily to MV's supervision of graduate students. However, this separation of the appeal grounds and the reasons for denial of tenure is not complete.

MV's field of research is AMO physics. AMO experiments require custom built, high precision equipment and are labor intensive. MV made the risky decision to build three independent experiments while an assistant professor instead of one, so he needed a substantial number of laboratory assistants to bring experiments to completion. MV relied upon both graduate students and undergraduates to carry out this work. Everyone agrees that he has been extraordinarily successful in supervising and inspiring undergraduates. His early efforts to recruit graduate students to his laboratory were less successful. His appeal asserts that the Physics Department was biased against admitting students who expressed an interest in his field of experimental AMO physics, with the result that he was unable to recruit a sufficient number of capable graduate students to work in his lab. We find that MV's claims are credible. We have not assessed the amount of bias nor its impact on the research progress of MV's laboratory. Evaluation of these matters requires subjective judgment and speculation about what would have happened if the Physics Department had acted differently.

To understand how bias might have occurred, we briefly summarize the graduate admissions process of the Graduate Field of Physics. Unlike other Fields with which we are familiar, Physics faculty do not have access to graduate applications. There is an admissions committee, and each application is

assigned by the DGS and Department Chair to two members of the committee to read and score. To set a calibration standard, a few files from previous years are distributed to admissions committee members. (Applications that are scored significantly differently by the two readers are discussed by the committee as a whole to reach a consensus score.) Decisions about admission and financial support are then made by the Physics DGS and the Department Chair using the scored applications. The decision process is closed: even members of the admissions committee only see the applications they score.

The Field ideal is to make admission decisions based upon quality and promise of the applicant rather than their expressed field of interest. However, this is not entirely possible. Research in the Physics Department is managed by two research centers, LASSP and LEPP. Each faculty member is associated with one of these two centers. Graduate applications are divided into four groups based upon whether the applicant is interested primarily in theoretical or experimental research and whether they are interested in areas that fall within the domain of LASSP or LEPP. Apart from this division, the Field seeks applicants with broad interests and makes strong efforts to develop a common core of expertise among its students. Applications that identify a specific research interest clearly associated with a single faculty member are discouraged, based upon the view that if such a student later decides that they have not made a good choice of advisor, they will have few opportunities to switch. This policy seems to work to the disadvantage of areas with few departmental faculty and/or areas that are seen as lying outside "core" physics.

MV is the only faculty member doing experimental research in AMO physics. He claims that applicants who expressed an interest in this field were subjected to higher standards than students in other fields. We met with the current and previous DGS (now Department Chair). They dispute MV's claim, but left our committee with the impression that that they regarded applications expressing interest in experimental AMO physics as targeted toward MV and therefore lacking the breadth sought by the Department.

MV actively tried to recruit students interested in AMO physics to Cornell. He identified highly talented undergraduates already doing research in AMO physics and encouraged them to apply to Cornell. He called the DGS' attention to these applications and advocated that they be admitted. The Field did not encourage his efforts or provide significant feedback to MV about these applicants. Instead, they characterized MV as stuck in the departmental culture of MIT where he had been a student and postdoc. During the middle of MV's term as an assistant professor, he served on the admissions committee and saw files of students who were admitted with undergraduate records that seemed markedly inferior to those of students he was recommending for admission. In a separate, but related, matter, undergraduates doing research in his laboratory who expressed a strong interest in continuing as graduate students working in MV's laboratory were strongly discouraged from doing so. The Department generally advises students not to remain at Cornell for graduate study, but their stated policy is to evaluate such applications equally with applications from students at other institutions. However, some of the most talented, prize winning undergraduates doing research in MV's laboratory were told by the Physics DGS that their graduate applications would not be considered. These events form the basis for the first ground of MV's appeal.

Given the restrictions on access to applications, our committee requested that MV be allowed to review graduate Physics applications for the years in question. The Graduate School enabled him to do so on their computers. He reviewed applications from students he had recommended and the distribution of scores given by the admissions committee to students who had been admitted. He presented our committee with data from his investigation that support his claims of bias. If his claims are correct, the bias could have been willful or an unintentional side effect of viewing applicants expressing interest in AMO physics as "specialists" rather than "generalists." Most relevant to MV's tenure case is that Physics admitted few graduate students with interests in experimental AMO physics during the critical early years of his appointment, thereby hindering MV's ability to grow his research program in a timely manner. When this issue surfaced during MV's tenure review and was called to the attention of the Department, there was a marked change in admissions decisions. In 2015, seven applicants in the category we are discussing were admitted, including a Cornell undergraduate who has already been doing research in MV's laboratory. This action lends supports to MV's claim that there was a strong pool of applicants in AMO Physics in earlier years, but that the Physics Department used higher standards in evaluating them.

We turn now to the second and third grounds of MV's appeal. Since there were few graduate students with exposure to AMO physics, MV had difficulty in recruiting graduate students to work in his laboratory. Thus far, there have been five graduate students who have done research in MV's laboratory. Two of these students left the laboratory in late 2012, after MV's third year review but well before his tenure review. This was a critical time for the laboratory. It was approaching a significant milestone, establishing a Bose-Einstein condensate (BEC) for its first time, but progress had slowed after the graduation of three talented undergraduate researchers. (At least one of these undergraduates had expressed strong interest in continuing to work in the laboratory as a graduate student, linking the admissions issues described above with the events described below.) The slow progress contributed to a tense atmosphere and may have been a factor in the departure of the two students (however, see the discussion of one of these students below). The third student among the five who worked with MV was doing a master's project while applying (successfully) to enter the AEP Field to pursue a PhD. The fourth student completed his degree and is now a postdoc continuing physics research elsewhere. The fifth student continues to do research in MV's laboratory and is highly enthusiastic about the work that he is doing.

The two students who left MV's laboratory wrote very critical letters about MV that are part of the tenure file. The Physics Department discussed these letters extensively when considering MV's tenure case. Many of the negative votes for MV's tenure cite deficiencies in MV's capabilities as a graduate student supervisor. (Note that the Physics Department makes the faculty statements about their tenure votes anonymous, so the tenure file does not identify the individuals writing each opinion.) Despite the large number of negative votes, the Physics Department recommended tenure and reaffirmed that recommendation in response to a preliminary denial of tenure by Dean Ritter. Dean Ritter then gave a final denial, and it is this action that is being appealed by MV. Dean Ritter's decision is based upon the mixed tenure vote by the Department and the two points stated above of a thin research record and MV's capability as a graduate supervisor. Although MV did not have access to the tenure file, his

appeal asserts that the critical student letters were improper and should not have been included in the file. They were a major factor in all of the decisions about the case thus far. If MV's assertion that the letters were improper is correct, they are clear grounds for our committee to uphold his appeal.

The letter from one graduate student (hereafter called GS) is a key document in the tenure file. It is strikingly different from the letter that GS wrote for MV's third year review in 2011. The earlier letter ends with the opinion that GS' choice of MV as an advisor and mentor was the best decision GS made. When MV learned in May 2014 that GS claimed that MV threw a power supply at GS, MV emphatically denied GS' allegations and requested that the Physics Department conduct an investigation of GS' claims. They did not do so: their efforts to investigate GS allegations were perfunctory. That is the basis for the second ground in MV's appeal.

University Standards of Ethical Conduct mandate that violations of these standards are to be reported to an individual's immediate supervisor and that failure of a supervisor to "report actual or possible violations may be subject to appropriate university discipline." Neither Jeevak Parpia (Physics Chair) nor Lawrence Gibbons (Physics DGS) did this when they learned about GS's allegations. Gibbons talked with remaining students in MV's laboratory and decided that the situation there was satisfactory, obviating the need for further investigation. Both Parpia and Gibbons led MV to believe that they would conduct the investigation he requested.

After the negative letters for the tenure review were received, Gibbons conducted another set of interviews with students in MV's laboratory and wrote a summary report for the Physics Department of his findings. MV was asked to write a response. MV's lengthy response pointed to inaccuracies and deficiencies in Gibbons' summary report. Parpia characterized MV's response as defensive and asked him to write one that was more conciliatory. Despite this back and forth, the Physics Department still did not investigate the validity of GS' allegations, claiming at that point that they did not have the resources to do so. The third ground for MV's appeal is that the negative tenure letters and Gibbon's summary report were improperly considered during the tenure review. Of course, he did not have access to the letters and could not directly rebut their allegations.

During the period of the tenure review, GS made additional charges of misconduct against MV based upon their personal relationship. These charges have been investigated extensively by the university. The confidential report from this investigation did not produce agreement between MV and GS, and both maintain that the other is lying about their past relationship. The investigative committee concluded that the evidence indicated that MV was lying. The misconduct charges were not part of the tenure deliberations, but we could not ignore them since GS' letter in the tenure file clearly had a strong negative influence on votes by the Physics department, ad hoc committee, FACTA and the tenure denial decisions by Dean Ritter. University policy states unequivocally that the charges made by GS establish a conflict of interest. Therefore, the letter from GS should have been removed from the tenure file when GS lodged additional charges against MV. We find that it was improper for the tenure review to be conducted with this letter, and therefore uphold the third claim in MV's appeal.

Based upon the issues described above, our committee finds that there are sufficient grounds for further consideration of MV's tenure case. We agree that the Physics Department and Graduate Field were

remiss in not conducting a more thorough investigation of GS's allegations about the power supply incident. When these became a central issue in MV's tenure case, the Physics Department still did not conduct a proper investigation. Failure to do so while leaving the letter in the tenure file infringed MV's rights as a faculty member. In further consideration of the tenure case, we raise the issue of whether Parpia and Gibbons now also have a conflict of interest. Note that MV and graduate student Yogesh Patil assert explicitly that Parpia and Gibbons violated university policies. These allegations could affect the judgment of Parpia and Gibbons about MV's tenure case.

In addition to finding that grounds two and three of MV's appeal has been established, we also support ground one of the appeal but have remaining questions about whether it has been conclusively established. With regard to ground one, we agree with MV that his progress in establishing a robust research program was seriously slowed by admissions decisions of the Graduate Field of Physics. However, the language giving Grounds for Appeal (Appendix 5, Section IV.B.1) do not fit this case completely. The guidelines for appeal state that the appellant was "unfairly and seriously hindered in meeting the departmental standards" by "having been denied departmental support, contrary to the normal departmental practices." In this case, the decisions in question were Field rather than Department decisions. Moreover, it is a subjective judgment as to whether these decisions were contrary to departmental (or Field) practices. The actions may have been taken to be consistent with Field policy but still have been in conflict with actual departmental practices. The closed nature of the graduate admissions procedures used by the Physics Graduate Field preclude determining this matter without a thorough analysis of their admissions decisions over several years, perhaps decades. Since no faculty members other than the current DGS and Chair have had access to all the applications, allegations of unfairness in the process cannot be judged from first hand experience of the faculty. Beyond this appeal, we urge the Physics Graduate Field to consider more openness in their evaluation of graduate applications.

With regard to Dean Ritter's final tenure recommendation for MV, we urge her to take into consideration the combined impact of (1) admissions decisions that disfavored students with an expressed interest in AMO physics and (2) the rigid time line for when research had to be published to be considered in the tenure review. MV's publication record in the months following assembly of the tenure file improved dramatically. Were his tenure review conducted in 2015 rather than 2014, criticism of the "thin" publication record by outside referees and Physics faculty would surely be muted. This fact was noted by the Physics Department in their response to the Dean Ritter's tentative denial of tenure, and there are even more publications in prestigious journals by MV since that time.

Tenure guidelines do not discuss when material submitted for a tenure review should be judged inadmissible or how misconduct on the part of a tenure candidate should enter into the tenure decision. In this case, where GS and MV dispute facts about their relationship, we think that the principle of "innocent until proved guilty" established "beyond a reasonable doubt" should apply: a more stringent legal standard than that used by the investigative committee when reaching their conclusion that MV was lying. Denying MV tenure on the basis of charges about his personal conduct that have not been resolved to the level of this legal standard would be unfair. The juxtaposition of the letters that GS

wrote for MV's third year and tenure reviews is prima facie evidence that GS' relationship with MV influenced the letters so strongly that they should not be regarded as an objective assessment of MV in his capacity as a supervisor of graduate students. Moreover, GS had a clear conflict of interest with MV and the tenure evaluation letter from GS should not have been included in the tenure package. Our committee was advised to treat the tenure appeal as independent of the other charges made by GS, and we are doing so. We find that inclusion of GS' letter in the tenure file was improper. Physics faculty explanations of their votes on tenure state clearly that this disputed information was a significant factor in their votes against awarding tenure. Dean Ritter's explanation for her final decision expresses skepticism about the veracity of input from MV and his current students based upon their stake in the outcome. After our extensive investigation of the case, our committee is far more skeptical of the veracity of the critical GS letter. There is little doubt that GS is angry and upset with MV. We were told by several individuals that GS engaged in a campaign to sabotage the tenure decision for MV. Moreover, multiple individuals described GS as untrustworthy. We note that the negative decisions reached by the ad hoc committee and FACTA were based upon their reviews of the tenure file. However, the tenure file does not give an account of the disputed, central issues discussed above. Our committee was also dubious at the outset about the issues raised by MV in his appeal. We became increasingly convinced of the validity of his appeal claims as our investigation proceeded and therefore uphold his appeal. Specifically, we note that the tenure file documents that MV is an outstanding teacher and that, apart from the opinions expressed by graduate students who left his laboratory in 2012, his record as a laboratory supervisor is very good.

Our decision to uphold MV's appeal is independent of the misconduct claims by GS. We recognize the seriousness of GS' charges, the effort the university has made to investigate them, and the conclusions they have reached. We think the university can and should deal with these misconduct charges directly, but agree with the advice we were given to treat them independently from MV's tenure decision.

In conclusion, we do not make a recommendation about whether MV should or should not be awarded tenure. The charge to our committee is to judge whether the deficiencies in the tenure review stated in MV's appeal are valid. We find that all three of his claims have merit and warrant further consideration of his tenure case. Sections IV.G.2 and IV.G.3 of Appendix V describe procedures to be followed when an appeals committee finds that grounds for an appeal have been established. Based on a finding that ground one of MV's appeal has been established, these procedures call for an extension of his appointment as an assistant professor followed by another tenure review. Based on a finding that ground two or three of MV's appeal has been established, the case is returned to the College Dean for reconsideration. We think that reconsideration is the appropriate action in this case.

EXHIBIT N



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CONFIDENTIAL MEMORANDUM

May 3, 2016

To: Gretchen Ritter, Harold Tanner Dean of Arts and Sciences
Mukund Vengalattore, Assistant Professor of Physics

From: Michael I. Kotlikoff, V.M.D., Ph.D.
Provost and Professor of Molecular Physiology

Subject: Tenure Appeal Decision

A handwritten signature in black ink, appearing to be "M. Kotlikoff", written over the "From:" line of the memorandum.

I am writing regarding my decision in the tenure appeal of Assistant Professor Mukund Vengalattore. Although my review is an extra step beyond what is called for in the appeals procedures, I agreed to do so given some language in a draft policy suggesting the need for a second review. In conducting my review, I have considered only the information contained in the redacted file. I have not seen, discussed or considered any information that was redacted or any material relating to the appeal other than the request to conduct this review.

After careful review, I support the negative tenure determination reached by Dean Ritter. Dean Ritter's decision primarily focused on a concern that appears throughout the dossier as to whether Professor Vengalattore demonstrated the kind of scholarly productivity necessary to justify the award of tenure. Under our procedures, this question must be asked in light of work completed by the time of the file submission, rather than including more recent output. Dean Ritter's decision that Professor Vengalattore has not met the standard is well reasoned, supported by the dossier, and fully within her prerogative as Dean of the College of Arts and Sciences. I therefore accept that recommendation.

This determination is final and not subject to further review within the University.

cc: Michael Fontaine, Acting Dean of the Faculty
Wendy Tarlow, Associate University Counsel