Memorandum to Presidents

Date: September 20, 1978

From: Office of the University Counsel and Vice Chancellor for Legal Affairs

Subject: Academic Dismissals

Two recent decisions, one by the Supreme Court of the United States and the other by the New York Court of Appeals have settled questions of signal importance to the academic community. Both cases involved the contention that a student could not be dismissed on academic grounds without a prior hearing in which the adverse judgment of the faculty could be challenged. The decisions deny the claims, holding that due process of law does not require a hearing before a student may be dismissed on academic grounds.

In Board of Curators of the University of Missouri v. Horowitz, a medical student had been informed of faculty dissatisfaction with her clinical performance and warned that she would not be permitted to graduate unless her work was judged satisfactory by each of seven physicians. Thereafter, five of the physicians' reports were negative and she was disenrolled. The intermediate appellate court found that the student's procedural due process rights had been violated because she had not been accorded a hearing before her dismissal.

The Supreme Court held that, assuming the student had any procedural due process rights under the circumstances, the procedures utilized by the school satisfied the Due Process Clause of the Fourteenth Amendment. The Court concluded that: "The School fully informed respondent of the faculty's dissatisfaction with her clinical progress and the danger that this posed to timely graduation and continued enrollment. The ultimate decision to dismiss respondent was careful and deliberate."

The Court observed that notice and hearing would be required in a disciplinary dismissal but that an academic judgment "is by its nature more subjective and evaluative than the typical factual questions presented in the average disciplinary decision . . . and is not readily adapted to the procedural tools of judicial or administrative decisionmaking."
The New York Court of Appeals decision Sofair v. State University of New York, Upstate Medical Center College of Medicine, also involved an academic dismissal of a medical student. There, the intermediate appellate court ordered the school to conduct a new hearing because petitioner's procedural due process rights had been violated by the short period of time allowed between the notification of dismissal and the originally scheduled hearing.

The Court of Appeals denied the student's procedural due process claim because, as in Horowitz, "the student had previously been informed of the School's dissatisfaction with his progress, and the dismissal was for academic (as opposed to disciplinary) cause". The Court added, however, that if a student argued that the dismissal had been made in bad faith or that the determination of academic deficiency had been a mere pretext for a dismissal based upon other unstated grounds, a court might properly order a hearing on those limited issues.

Any dismissal for academic cause, of course, should be well documented and any serious deficiency should be brought to the students attention in timely fashion.

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This memorandum addressed to:

Presidents, State-operated campuses

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