

The City University of New York

Office of the General Counsel and Vice Chancellor for Legal Affairs

535 East 80 Street, New York, N.Y. 10021

Phone: (212) 794-5382

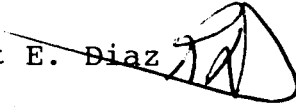
Fax: (212) 794-5426

Robert E. Diaz
General Counsel
Roy P. Moskowitz
Deputy General Counsel

Daphna H. Mitchell •
Linda Myles
Lisa Okubo
Nicholas R. Santangelo
Michael D. Solomon •
Jane Sovern
Esdras Tulier
• Associate General Counsel

Personnel Advisory # 6
November 18, 1993

To: College Presidents

From: Vice Chancellor Robert E. Diaz 

Re: Reassignment of Instructional Staff Members
Who Have Been Suspended During the Pendency of
Disciplinary Charges

This memorandum sets forth the procedure colleges should follow in reassigning instructional staff members who have been suspended during the pendency of disciplinary charges.

Pursuant to Article 21 of the collective bargaining agreement between the University and the Professional Staff Congress, instructional staff members who have been brought up on disciplinary charges, "may, at any time during the pendency of the charges, be suspended by the president of the college" without loss of pay. (Section 21.11) While such a suspension does result in the prompt removal of instructional staff members from their duties, it does not remove them from the payroll. In the case of tenured staff, this situation can go on for years while the university hearing and the disciplinary arbitration provided for in Article 21 are exhausted. Thus, the college should, whenever possible, reassign staff members to other appropriate duties.

Accordingly, in virtually all cases where the college believes it is necessary and appropriate to remove an instructional staff member from his/her regular position during the pendency of disciplinary charges, the appropriate action is to reassign him or her to perform other duties within the college. Section 6.8 of the Bylaws specifically provides that the Board has the right to assign any person having tenure to any appropriate position on the staff, so long as there is no reduction in rank or salary.

Because the purpose of a reassignment is to ensure that the conduct that resulted in the filing of the disciplinary charges cannot recur, it is critical that the new job duties be carefully selected, taking into account the nature of the charges against the particular individual. For example, in a case where a faculty member is accused of sexual harassment of students, it would almost certainly be necessary to remove the individual from regular contact with students and to place him/her in a position subject to close supervision. Because an inappropriate reassignment could subject the college and the university to legal liability in certain kinds of cases, any questions regarding an appropriate reassignment should be directed to the Office of Legal Affairs.

The University recognizes that there may be a rare case in which there is no appropriate reassignment on campus and the proper course is to remove the instructional staff member from the campus entirely. If any college believes that such action is necessary, the college president should so notify the Chancellor.

c: Cabinet
Legal Affairs Designees
Labor Designees
Office of Counsel Attorneys
Anthony Hladek
Louis Chiacchere
Genevieve Mullin