

MEMORANDUM

TO: Dr. Ruth Watkins

FROM: Larry S. Perlman, Esq.
Julie Lee, Esq.

DATE: March 8, 2018

RE: University of Utah Department of Physics and Astronomy Review

A Ph.D. candidate in the University of Utah's Department of Physics and Astronomy (the "Department"),¹ died by suicide on or around October 1, 2017.

As directed by the University of Utah (the "University"), Foley & Lardner LLP ("Foley & Lardner") has conducted an independent review of concerns, issues, and allegations related to the student's experience at the University, with a particular focus on the last few years in the Department's graduate program.

The University requested that Foley & Lardner independently evaluate the credibility and weight of evidence and information and determine whether any laws, University policies, or rules relating to the rights of students at the University have been violated. The University also directed Foley & Lardner to provide findings and recommendations, including any recommendations regarding how the University could help international graduate students successfully adjust to special challenges they may face in adapting to and meeting the requirements of the Department's graduate program.

The review is now complete. This memorandum provides a concise overview of the reviewers' findings and recommendations.

REVIEW PROCESS

Among other actions, Ms. Zhu (Julie) Lee and Dr. Larry S. Perlman interviewed more than 40 individuals, either in person or by telephone. Interviewees included faculty, members of University administration, University staff, current and former students, and the student's friends and family.

Additionally, Ms. Lee, Dr. Perlman, and other Foley & Lardner team members reviewed a variety of documents relating to the student,² the student's experiences at the University, the Department and its policies and procedures, as well as other students' experiences in the Department and the lab in which the bulk of the student's research occurred. The review also included messages sent to a publicly-available

¹ The University awarded a posthumous Master of Science in Physics to the student.

² We have not been able to access all potentially relevant emails from personal email accounts, which may have further informed our findings and conclusions.

email address set up by Foley & Lardner, which sought information related to the student's experiences at the University.

KEY FINDINGS/CONCLUSIONS

As part of the review, we identified and explored the following as key areas of potential concern with respect to the student's experience at the University:

1. No Findings of Sexual Misconduct or Other Unlawful Action

We were not able to corroborate vague claims of "sexual harassment" relating to the student's experiences at the University. These claims were included in several anonymous emails from a person (or persons) who failed to respond to requests to provide additional information. No interviewee identified concerns or observations of sexual harassment, discrimination, sexual assault, or any sexual relationship involving the student or individuals in the lab in which the student conducted research. Further, our review of documents and other information did not reveal evidence or concerns of such misconduct. Accordingly, we found no evidence to support a finding of sexual misconduct, as broadly defined by University policies. We also found no evidence of any other type of unlawful actions.

2. The Student's Progress Was Delayed and Uncertain

The student's course of study was delayed and the student did not appear to have a clear path to graduation. Specifically:

- The student did not take the Qualifying Exam until well into the seventh year of graduate study, contrary to Department policy, which provides that the Qualifying Exam is to be completed by the end of the third year of study.
- By October 2017, the student was in the eighth year of study, and had no definitive plans to defend a thesis, inconsistent with Department policy which provides that students shall generally complete the Ph.D. program in 7 years.
- The student's visa status expired in December, 2015, and was not reinstated until December 12, 2016, leading to a hiatus of at least 6 months in the research.
- After the December 2016 visa reinstatement, the student only reported to the lab on two consecutive days in January 2017. For over a year, the student was nominally affiliated with the University, but the student's day-to-day whereabouts and activities were largely unknown. Minimal efforts were made by the Department to understand the student's situation.

3. Lab Environment and Personnel Issues

The student's lab conditions at times went beyond the expected workload and experience of a rigorous Ph.D. program. The student frequently worked late at night and on weekends, and conducted research in a generally tense lab environment. Temper flares and shouting matches among lab personnel occurred with relative frequency, and the lab members experienced a number of intense disputes over access to materials and resources. These disputes became disruptive to such an extent that certain

personnel were assigned to conduct their work with their own equipment in a different physical location from other lab members.

4. Inconsistent Access, Implementation, and Enforcement of Department Policies and Procedures

The Department has not consistently enforced or provided guidance regarding its student-related policies and procedures, and there has been insufficient access to policies and procedures. Specifically:

- The student's delayed course of study was not unique. A number of other graduate students at the Department took the Qualifying Exam after 4-5 years and did not graduate until after 8-9 years.
- According to Department policy, the Director of Graduate Studies (DOGS) has oversight duties that include monitoring "Supervisory Committee decisions about students' programs of study, qualifying exams, etc." However, such oversight does not appear to have occurred to a significant degree with respect to the progress of the student and other graduate students.
- Policies are not uniformly enforced. For example, shortly before the Qualifying Exam, a unilateral substitution was made to the composition of the student's advisory committee, contrary to University policy. As another example, the student and another graduate student were asked by a faculty member to write a letter of support of a tenure application, which is contrary to the University's Faculty Code.
- Although many University and Department policies are available online, certain policies and procedures are not readily available to students. Students have incomplete knowledge of their rights and options with respect to raising concerns.

5. Discord in the Department

The Department suffers from a lack of cohesiveness and disharmony amongst many faculty members. This issue came to the surface in 2015, when a dispute arose over a graduate student's progress. During that time, many faculty members found themselves in disagreement with one another. That particular dispute highlighted the lack of clear expectations or practice as to the role of the student's supervisory committee and advisor, and how decision-making should proceed in the event of conflict among individuals who are responsible for a student's progression.

Currently, a number of faculty members refuse to speak with each other, pointing to issues with loyalty and trust. The lack of communication amongst faculty members has had a negative impact on Department morale. To the extent that follow-up items need to be discussed and approved by the faculty body, such discord serves as a significant barrier to doing so.

6. Department Leadership

Faculty members remain factionalized, with groups of individuals barely communicating with each other, requiring outside intervention by administration at times. Additionally, as described above, Department enforcement of policies has been inconsistent and its implementation of new policies has

been delayed. Department leadership has consistently made efforts to improve but has not been able to effectively navigate the many barriers and roadblocks that have arisen over time among the faculty.

7. Lack of Redundancy/Fail-Safes in Visa Process

The student's loss of visa status stemmed from a lapsed submission deadline. While faculty members have a duty to timely provide required information, some faculty members found the process confusing, and guidance to faculty is often unclear. Primary responsibility for keeping abreast of deadlines falls on students for whom English may not be a first language.

8. Issues Particularly Relevant to International Students

Issues particularly relevant to the Department's international students include:

- Relatively low participation in student/faculty groups, including poor representation on the Department's Graduate Student Advisory Committee.
- International students may hesitate to raise concerns regarding their experiences and progression. Because they are from other countries, they may tend to perceive negative experiences as "normal" for the United States.
- The power (and potential for abuse of power) of an advisor, who oversees progression, controls research and recommendations, and certifies visa-related documentation, is thus magnified for international students.
- International students may not be aware of the full spectrum of health and counseling services made available by the University and may not be comfortable accessing such services. Although the University's international students are generally English proficient, they may face challenges effectively describing personal issues in English, particularly with a counselor who is not familiar with the student's cultural background.

RECOMMENDATIONS

The following is a summary of the significant measures that we recommend in order to address the review's findings:

1. Address Concerns Regarding the Physics & Astronomy Department

The Department suffers from significant disharmony and no efforts to date have effectively addressed these issues. Potential (non-mutually exclusive) methods of addressing these inadequacies include:

- Consider temporary outside assistance with leading the Department as deemed appropriate to implement changes and address long-standing concerns.
- Consider providing additional, mandatory management training for any individuals who serve in Department leadership roles.

- The University, through the office of the Dean of Graduate School, should ensure that the Director of Graduate Studies receives proper training, is aware of his or her responsibilities and receives appropriate Department and University support.
- The University should also require training and exercises aimed at improving the professional relationships and professional environment within the Department.
- University administration should consider setting benchmarks in order to review whether the Department is succeeding with respect to implementation and enforcement of policies, including mechanisms for its leadership to regularly report progress in this area.

2. Policies/Procedures to Ensure Progression and Monitoring of Students

The Department should implement mechanisms to ensure that students' progress is appropriately monitored and that there are regular, required points at which the student must interact with faculty and administration.

In March 2017, the Department approved a policy, Formation and Operation of Graduate Student Supervisory Committees, which is intended to ensure that graduate students are reaching benchmarks and to provide students greater opportunities to express concerns. The new policy, which the Department began implementing in the fall of 2017, also diffuses supervision of graduate students from their advisor to the supervisory committee. This policy facially addresses a number of the concerns illuminated by this review. However, care must be taken to ensure that these policies are implemented in practice, that methods are put in place to track compliance and progress, and that there are tangible consequences for faculty members who do not follow this policy.

Additionally, student progress must be monitored to ensure that the new policy has the effect of improving student progress, and to determine whether further measures need to be considered.

3. Corrective Action as Appropriate

To the extent that individual faculty members have violated University or Department policy, the University should take corrective action as it deems appropriate under the University's applicable procedures.

4. Adjustments to Handling of Visa-Related Issues

International Student and Scholar Services should implement systems to ensure that students and faculty are provided with clear notice of deadlines, and the University is aware of "at-risk" visa status well before expiration, including working with information technology in order to develop algorithms that provide faculty and students with more clear and frequent notice of upcoming key deadlines and implementing (and enforcing) strict internal deadlines in advance of government deadlines. Additionally, we recommend that the Department designate a staff member to be responsible for coordinating with International Student and Scholar Services on student immigration issues. That designee should be copied on all communications regarding deadlines, and he or she should also report concerns regarding pending lapses to Department leadership. Finally, to the extent that doing so would be in compliance with applicable law and University agreements with the United States immigration authority, consider assigning responsibility for signing certain student paperwork more broadly, for example to other members of the student's committee or to the Director of Graduate Studies.

5. Outreach to Students

Although many University policies (such as the Graduate Student Handbook) are available online, students do not generally have full knowledge of or ready access to these policies or their rights and avenues to raise concerns.

The Department should be required to: (a) make all relevant policies readily available to students and faculty; and (b) promptly inform students and faculty of significant new policy changes. In addition to announcing new policies, the Department and Graduate School must also ensure that students are aware of existing policies. Information as to students' rights and avenues for relief should be highlighted at orientation and given to students rather than just being made "available." "Reminders" should also be provided at various points during a student's progression.

6. Address Issues Particularly Relevant to International Students

During the new student orientation or through other means, as well as at regular intervals throughout students' progression, the Department should emphasize the role of the ombudsman as an avenue for students to voice their concerns.

In order to adequately serve the international student population at the University, the University's Counseling Center should continue hiring counselors who have international backgrounds and/or who speak foreign languages that are common among the student body.

International Student and Scholar Services should consider instituting a program for international students so that each incoming international student is mentored by a student who has been in the same department or at the University for more than a year. The new international student should also have a peer who can help answer questions about their academic life and the University in general.