April 23, 2008

Dear colleagues,

I have received a copy of the suggested policy protocol on access of Faculty Electronic Data from Joe Warren and the Faculty Senate subcommittee. I have since reviewed the revised proposal and made changes to take into account comments made at the last meeting of the senate when the proposal was discussed. The changes include reordering and rephrasing the sentences in the opening paragraphs to reflect more fully the philosophy of the proposal, and a change of the word “appropriate” to “significant” in the third sub-item listed under the second bulleted paragraph. Together, these changes reflect our strong commitment to the value of privacy as applied to the faculty.

I am pleased by the outcome of this process and very much appreciate the work of the faculty senate committee, which initiated this idea and saw it through to completion. We will implement the policy protocol effective May 1, 2008, and will distribute the document to the appropriate administrators on campus. If you have questions regarding the document, please contact me.

Regards,

[Signature]

David W. Leebron
President

DWL/pmw
Policy Protocol on Access of Faculty Electronic Data

(Adopted May 1, 2008)

As a matter of principle, the University strives to maintain the privacy and confidentiality of electronic data for faculty, according to the general principles of academic freedom. Individual privacy is highly valued by the University community and the community balances that individual privacy with the obligations and needs of the larger community.

This policy addresses the occasional need, in certain circumstances as specified below, to access electronic data on a University-owned computer or network without the cooperation of the faculty member using the computer or network to generate or transmit that data. Although this policy does not give faculty members the right to privacy with respect to electronic data stored on University-owned computers or transmitted on University-owned networks, and faculty members should not have expectations of such privacy, the basic principle underlying this policy is that accessing data without the cooperation of the faculty member can occur only for certain specific needs and only after approval has been granted by the appropriate University official. The policy consists of two parts; a process for granting appropriate University entities approval for such access to electronic data and a list of causes for authorizing such access.

Process and causes for accessing electronic data

When a University entity determines that in certain situations (as specified below) there is a need to access electronic data on University-owned machines or networks without the cooperation of the faculty member using the computer or network to generate or transmit that data, the entity shall initiate an approval process consisting of the following steps:

- The entity solicits approval for access from the Provost (or the Vice Provost for Academic Affairs in the event that the Provost is unavailable).
- The Provost (or the Vice Provost for Academic Affairs in the event that the Provost is unavailable), in consultation with the General Counsel, approves the request in writing after verifying there is a need for access without the cooperation of the faculty member in order to address one of the situations given below:
  - To comply with a court order or other mandatory legal requirement,
  - To investigate an alleged or suspected violation of law or University policy,
  - To conduct, in the judgment of the Provost, necessary or significant University business,
  - To address risks to health, safety, or University property.
- With the help of the Division of Information Technology, the University entity accesses relevant electronic data and makes appropriate copies of the data.
- The faculty member is notified of access as soon as practical.
- The investigation restricts, to the extent reasonably possible, the scope of access to data relevant to the cause given for the investigation.
• If the investigation uncovers information regarding violations of law or University policy unrelated to the initial cause for accessing the data without the cooperation of the faculty member, this additional information will be forwarded to Provost for appropriate disposition.

• The General Counsel will keep track of all instances of access to electronic data under this policy.

Note: In the case of access due to a mandatory legal process, the relevant law or court order may prohibit notification of the Provost (or any other parties). The General Counsel will determine whether the relevant law or court order takes precedence over this policy.