INFORMATION REGARDING THE CATHOLIC UNIVERSITY OF AMERICA'S DISMISSAL OF DR. STEPHEN McKENNA

The public statement issued by Catholic University leaders regarding the December 2018 dismissal of Dr. Stephen McKenna is highly partial and misleading. The following facts and clarifications will be helpful to those attempting to make an accurate interpretation of the matter. Note that, according to the Faculty Handbook, confidentiality about the case is to be maintained "until the proceedings have been completed, including consideration by the Board of Trustees" (Faculty Handbook II-G-7.204). After that, there is no such requirement or expectation of confidentiality. The University's statement itself disclosed previously confidential facts about the matter.

(1) The University statement reports that a majority of the Hearing Committee in the University's case against Dr. McKenna held that dismissal was "an appropriate sanction" for such a policy violation. However, the University statement fails to report that the Committee did *not* favor dismissal in Dr. McKenna's case. On the contrary, the Hearing Committee was *unanimous* in supporting some sanction other than dismissal. A vote by the Committee favoring suspension rather than dismissal was 3-2, but in its minority report, the two dissenters in that vote affirmed that they "strongly believe that dismissal is *not* appropriate" [original emphasis]. Their negative votes were not votes for dismissal.

(2) The University statement reports that the Hearing Committee "encouraged the University to publicize the matter widely in the interests of accountability and deterrence." What the Hearing Committee recommended was that "the University make known to the university community at large that the policy…has been violated and that a sanction has been applied." It further held that this should be announced "in a dignified way" and that it was not necessary to identify Dr. McKenna to achieve the intended aim of deterrence. The University leaders unnecessarily and *on their own* elected to publicly shame Dr. McKenna, maximizing personal and professional harm to him and his family under the pretense of merely carrying out the Committee's precise recommendations. Furthermore, in naming Dr. McKenna, the University leaders have all but positively identified the female employee, who was known to many in the university community and beyond to have been, for more than four years, in the words of the Committee, in a "mutual and loving" relationship with Dr. McKenna. The University has thus harmed the female employee, as it exposed her identity and role in this case by implication; minimally, the resulting media coverage has made it impossible, she has said, for her to list her professional experience working in the Media Studies department on her resumé.

(3) The University statement claims that "Pursuant to Faculty Handbook procedures, in September the Board of Trustees considered the Committee's recommendation and the hearing record and returned the case to the Committee to consider several questions." The Faculty handbook requires the Board to return the case to the Committee *only* if it disagrees with the Committee's decision (Faculty Handbook, II-G-7.209). The Board thus did so because, again, the Committee supported a sanction other than dismissal. In presenting objections to the committee, the Board thereby acknowledged that the

Committee's decision was in favor of a sanction other than dismissal. The Board raised seven objections and queries to the Committee's final determination, but the Committee, in its reply, refuted or otherwise dispensed with each of these. The Committee's reply referred to its position on dismissal as "not the appropriate penalty" and wrote that suspension was a "more constructive" way of ensuring the aims of policy enforcement. The University statement continues: "The Committee replied to the Board's questions in November and stated its belief that dismissal was an appropriate sanction." The Committee replied affirming what it always had; its initial report held that dismissal was "an appropriate sanction" for such a violation, which is no more than to affirm what the Handbook allows. In dispensing with the Board's objections, the Committee upheld its previous decision. However, in an extraordinary and procedurally improper move, the chair of the Committee wrote a separate letter to the Board, partially undercutting the work of the Committee she chaired, offering tendentious personal opinions, and emphasizing the previous 4-1 vote that dismissal is "an appropriate" sanction.

(4) As reported in the university statement, the case began with an anonymous report about the relationship. The female employee did not come forward out of the blue or completely on her own to discuss the matter, however; she contacted the University in response to University officials repeatedly reaching out to her and bidding her to speak with them. In the hearing, Provost Abela acknowledged that the Title IX officer "had difficulty getting her to talk initially."

(5) The female employee has repeatedly affirmed that she was told by university officials that no action need be taken in the case unless she wished it. She is on record multiple times before and after the hearing proceedings stating that she did not wish the university to pursue any action against Dr. McKenna. She made this explicit in her communication with officials in Human Resources prior to the dismissal proceedings, and in an email communication with Provost Andrew Abela, where she writes that she wishes "zero harm for Steve and his family." All parties to the case were aware of her position. These pleas were ignored by university officials, who chose not only to disregard her wishes and dismiss Dr. McKenna but through publicity to maximize its harmful effect on him and his family. The employee refused to participate in the hearing proceedings.

(6) The university statement reports that Dr. McKenna hired the employee in question. He did so principally at the recommendation and urging of several senior faculty colleagues who knew her, both in the School of Arts and Sciences and the Columbus School of Law, where the employee had previously worked for two years and had been fired as part of a staff reduction in force. While she was working in the Media Studies department, she was actively seeking better employment elsewhere, which in several months' time she accomplished. She did not resign from her position at CUA as a result of the relationship with Dr. McKenna, as the university statement insinuates. On the contrary, by leaving for a better job, she was able to continue the relationship over the next four years without concern about a policy violation.

(7) As noted, the relationship in question continued for four years after the employee left CUA. Dr. McKenna sought and was granted an annulment of his prior marriage by his

diocese so that the two could be married in the Roman Catholic Church, as had been their intention. They broke off the relationship just prior to the university initiating dismissal proceedings against Dr. McKenna.

(8) During the hearing proceedings, the President and Provost made extreme and incendiary claims about Dr. McKenna. President Garvey compared the case against Dr. McKenna to those involving public figures such as "Harvey Weinstein, Alex Kozinski, John Conyers, Garrison Keillor, [and] Al Franken." He likened the University's need to prosecute the case against Dr. McKenna to the fullest extent possible to the Church's need to prosecute and punish Bishops who do not report sexual abuse. During the hearing, Provost Abela compared this case to #MeToo cases, which involve nonconsensual behavior.

(9) Starting with his initial dismissal letter to Dr. McKenna, President Garvey aggressively pursued a charge of "moral turpitude" against Dr. McKenna, which would not only besmirch his reputation in the most damaging way possible, but also prevent him from receiving any post-termination severance, pursuant to policy stated in the Faculty Handbook. The Hearing Committee roundly and repeatedly rejected Mr. Garvey's accusation, holding that the matter involved no such "behavior that would evoke condemnation by the academic community generally." Neither did the Board of Trustees support the President's extreme accusation.

(10) In 2017, Dr. McKenna was deposed as a witness by the DC Office of Human Rights in an age discrimination case against the University resulting from the involuntary 2015 staff reduction in force conducted at President Garvey's direction. The DC Office of Human Rights has found probable cause that the University discriminated on the basis of age. The University was aware of Dr. McKenna's involvement in the case, as it was aware of Dr. McKenna's serious written concerns related to the 2015 staff layoff. The discrimination case in question will go to trial later this year, and Dr. McKenna has made himself available as a witness. Dr. McKenna's involvement in the discrimination case was known to the Chair of the Board of Trustees and other Board members prior to the Board overruling the Hearing Committee.

(11) The university statement concludes with advice on how to report a sexual offense, insinuating by proximity that this case involved "sexual harassment, sexual assault, dating violence, domestic violence, [or] stalking." This case involved none of these offenses. The case did not even involve a complaint by the female employee.

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