

From: Lawrence Krauss <[REDACTED]>
To: Patrick Kenney <[REDACTED]>
Cc: Mark Searle <[REDACTED]>, Lawrence Krauss <[REDACTED]>
Subject: Re: request to use some of my research funds for travel during this academic year.
Date: Fri, 16 Nov 2018 16:19:35 +0000

Pat:

Just so there is no further ambiguity, let me make it clear that I do not give you, or anyone else, permission to touch and go through my personal possessions without my consent or my being present during the process as long as I remain a tenured faculty member.

Your statements regarding my leave and settlement letter are not accurate. What you describe may be what you or the University had intended, but it was not a negotiated part of the settlement agreement, nor does the agreement specify this. There are many different types of 'leave with pay'. I have checked with the lawyer who negotiated the settlement agreement with the University lawyer, and he has sent me the relevant correspondence regarding that phrase, and he has also specifically stated that nowhere in any communication was a limitation on my going to campus to consult my research materials, organize my office, or attend public events discussed, nor, as you can see, is it in the agreement. The term 'leave with pay' is itself innocuous. It does not specify any ban on my being on campus. As my lawyer described it to the University attorney, we agreed that I would not teach or take on administrative duties during this period—a leave with pay, that is all. . Had you intended such a ban your lawyer should have put it in explicitly, as she did the provision that I would not claim to represent ASU during my period on leave. And had it been there, I wouldn't have agreed to it. As my lawyer made clear in his correspondence to the University lawyer during the negotiation, ABOR section J (3) makes it quite clear that that administrative leave, referred in your March email to me, ends when the review process ends. Nowhere in the settlement agreement does it even suggest that the leave with pay would resemble the administrative leave I was on, and if that was your intent, the University lawyer should have explicitly described the terms of the leave. What you describe is not what is written in the settlement agreement, nor in the email documentation between lawyers that led to the settlement agreement. Without any such specifics, you have no justification for restricting my access to campus or my office. I should also note that even when I was on administrative leave you specifically allowed me to come on campus to get research materials, move some things, talk to colleagues, on numerous occasions, as well as to meet with OEI and the Conciliation committee. So even then a wholesale ban on my being on campus did not exist. And, since you felt it necessary to clarify my experience with Nancy Gonzales, I point out that your description is the same as my description, just with different words. Nancy said she could understand how I could have come to the conclusion I came to: i.e. the conclusion I came to regarding your lack of response was not unreasonable. I never suggested she adopted it.

As you may be aware, I have filed a grievance complaint with the Senate Grievance Committee, and I have also filed a formal complaint against with to the Office of Equity and Inclusion regarding actions taken since Oct 26th. I will consider any further unilateral action by you without having this issue resolved by the appropriate authorities at the University, or before we come to some agreement on this issue, to be further cause for University action regarding harassment and discrimination against me. I am forwarding a copy of this email correspondence to both groups.

Having said this, I am hoping we can come to some reasonable and non-adversarial agreement. I do not plan to be on campus regularly. As I indicated, I plan to come in perhaps 3-4 times between now and May to get some of my research materials, to go through the materials in my office in preparation for vacating it, and also to talk to some colleagues about some physics projects I am working on. If, as happened last week, there is a lecture of relevance to my work, I may schedule a special trip to attend it. Otherwise I will be working away from campus. Although I am not required to do this, as a courtesy, I am willing to inform you in advance when I am coming down, not for permission, but just for your information. I am also happy to let you know when the materials in my office have been packed and ready for shipping. It is quite possible that this may happen well before my May 16th retirement. I hope this proposal is satisfactory. If it is not, I am willing to discuss reasonable alternatives. If no such alternatives are suggested, then we will await the conclusion of the grievance and OEI processes.

Lawrence

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Lawrence M. Krauss

Professor

School of Earth & Space Exploration and Physics Department
Arizona State University, ██████████, Tempe, AZ 85287-1404
Research Office: ██████████ | Assistant (Jessica): ██████████
| ██████████ | ██████████

On Nov 15, 2018, at 2:51 PM, Patrick Kenney ██████████ wrote:

Lawrence,

While ABOR Policy 6-201(J)(3)(a) generally provides that leave with pay is used while an investigation is pending, you expressly agreed that you would remain on leave with pay through your retirement date in May 2019, even though the investigation and review procedures were otherwise concluded. So while the ABOR Policy defines the term "leave with pay," it is your settlement agreement that requires that you remain in that status through your retirement date, regardless of whether an investigation or review process remains ongoing. You were on leave with pay when that agreement was negotiated, and when you asked to defer your retirement date to the end of this academic year, we specified that you would remain in that leave status for the remainder of the year. A copy of the agreement is attached; the relevant language is in paragraph 1.

Also attached for your reference is the March 2018 letter putting you on "leave with pay" and stating in its first paragraph that, while on that status, "you are not to return to campus until further notice." Because you remain on leave with pay, that prohibition remains in effect. Therefore, you should not come to campus without obtaining my express written permission in advance.

In addition, there is one point of clarification. I have checked with Nancy, and her recollection of your interaction last week differs from yours. You have stated that she agreed with your position that it was reasonable for you to come to campus because I had not yet responded to your emails, while she recalls acknowledging your position without adopting it. Regardless, there should be no further ambiguity on this issue given our more recent correspondence.

We will proceed to have your personal items packed and sent to you. We will use the address we have on file unless you give us an alternative one, so if there is another address the items should be sent to, please let me know as soon as possible.

Pat

Patrick J. Kenney
Dean, College of Liberal Arts and Sciences
Foundation Professor, School of Politics and Global Studies
Arizona State University

From: Lawrence Krauss <██████████>
Sent: Thursday, November 08, 2018 5:21 PM
To: Patrick Kenney ██████████
Cc: Lawrence Krauss <██████████>; Nancy Gonzales ██████████
Subject: Re: request to use some of my research funds for travel during this academic year.

Dear Pat:

I have gone to the ABOR regulations you referred to. I think you mean ABOR 6-201J (3) (a). This does not appear to apply to me as it involves an ongoing investigation, of which there is none, related to Dismissal or Suspension, and the administrative leave that was implemented during the investigation ended when the final

resolution of my employee review process was completed, see (3) (d) below.. (ABOR regulations section J 3. is appended below in its entirety). Beyond that, I do not see, in the settlement agreement, any statement of a new review process, or a statement in that agreement that the President has now determined that my presence on campus is likely to constitute a substantial interference with the orderly functioning of the University, or any allegations to that effect. I have looked up other leave with pay criteria in the University regulations and I don't see any restrictions on visiting campus in those.

I will need guidance to relevant ABOR regulations here so we can assure that we are complying with the settlement agreement, which I certainly want to do.

Also, as far as I know, your email on Nov 1 was the first mention of not being on campus since the settlement agreement was signed and the employee review process ended, which changed my situation at the University, so I don't believe it is correct to state that I was repeatedly reminded of this. If I am incorrect here and there were additional communications I am not aware of, please let me know. I apologize if I missed a message from you.

Once again, this email is intended to clarify my understanding of my situation at ASU for me. It is not meant to antagonize.

Thanks.

Lawrence

J. Dismissal or Suspension

3. Leave with Pay

2. a. A faculty member may be placed on leave with pay only if it is determined by the president that the faculty member's continued presence on the university campus is likely to constitute a substantial interference with the orderly functioning of the university or a department or unit thereof.

Rev. 11/2012

Policy Number: 6-201	<image001.png> Policy Name:Conditions of Faculty Service
Policy Revision Dates: 9/12, 8/11, 4/09, 6/06, 8/05, 8/04, 8/03, 1/03, 8/97, 5/97, 2/97, 10/91, 10/86	<image002.png> Page 17

2. Except as provided in ABOR Policy 6-201J.3.c (Conditions of Faculty Service, Dismissal or Suspension, Leave with Pay), the decision to place a faculty member on leave with pay:
 1. (1) May be made only after the faculty member has been provided an opportunity to respond to the allegations; and
 2. (2) Shall be promptly communicated in writing to the faculty member.
3. In exceptional cases, when the president makes a written finding that release of information relating to the substance or source of the allegations may compromise the investigation of such allegations, the university may limit or deny the faculty member's opportunity to respond to the allegations for a period of time not to exceed fifteen (15) working days while the investigation proceeds.
4. The period of leave may extend no longer than the duration of an investigation to determine if there is just cause for dismissal or suspension without pay, except that if the investigation leads to a recommendation for dismissal or suspension without pay, then the period of leave may extend through the final resolution of the hearing procedures discussed in ABOR Policy 6-201L., (Conditions of Faculty Service, Hearing Procedures for Faculty)
5. Placement on leave with pay status shall not be considered a disciplinary sanction.
6. A faculty member who is placed on leave with pay shall continue to receive full salary and benefits during the term of the leave.

Lawrence M. Krauss

Professor

School of Earth & Space Exploration and Physics Department
Arizona State University, [REDACTED] Tempe, AZ 85287-1404
[REDACTED]

Begin forwarded message:

From: Lawrence Krauss <[REDACTED]>

Subject: Re: request to use some of my research funds for travel during this academic year.

Date: November 8, 2018 at 4:52:35 PM MST

To: Patrick Kenney [REDACTED]

Cc: Lawrence Krauss <[REDACTED]>

I will digest this at length.. but let me be clear about today's visit. I received a request this week from a collaborator and friend of mine who was coming to campus to give a talk to meet and talk some physics. I decided I would fly down for the day to meet him as it would save meeting him in Boston later this fall. I did not know or plan this last week before our correspondence, and again, as I had written to you about possible visits and not received a response, I assumed coming down to see him and begin to look at the situation in my office and get a better first hand assessment of what was necessary vis a vis packing and moving in May was not unreasonable. Dean Gonzalez concurred with this assessment when we met today.

Lawrence

On Nov 8, 2018, at 4:03 PM, Patrick Kenney [REDACTED] wrote:

Dear Lawrence,

The settlement agreement unequivocally states that between now and your retirement date of May 16, 2019, you remain "on leave with pay" and "have no authority to act for or on behalf of ASU and shall make no statements, including in any online profiles or social media websites or in speaking engagements that misrepresent [your] status or authority." (Agreement at ¶ 1). Leave with pay, per ABOR6-201(3)(a), means that the faculty member is not to be on campus. You have been repeatedly reminded not to be on campus, most recently in my email of November 1, which was unequivocal.

Nor is your explanation that you assumed you could come to campus because I had not yet responded to your email of the same date a reasonable one. When we corresponded only last week about the plan for removing your personal property from your office, you indicated that you were not available to make an appointment to come to campus to pick up your property in the next two months and referenced a plan to attend a meeting on campus in February of next year and to clean out your office by May of next year.

If you had today's trip planned last week, you did not mention it, and if you planned it after our correspondence, you failed to advise me of your plans. Had you done so, I would have reiterated the direction I previously provided – you are not to be on campus for any reason, unless we schedule a specific appointment for you to be here. Because you had not advised me of your plans to be on campus today, I was in the process of preparing a response to your emails, which necessarily included making inquiries about alternative methods of clearing out your office, given your indication that you were not able to make an appointment to do so this calendar year.

Here is that plan, which is not subject to negotiation. You will not return to campus, for any reason, without my express written permission obtained in advance. If you request permission, and I do not respond, the absence of a response does not constitute permission. The personal property in your office will be packed and shipped to you by

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the University. This will include the data on the hard drive of the computer located in your office. Unless you designate another address, we will ship your personal property to your Oregon address.

You remain subject to the other provisions of the settlement agreement, including the requirement that you do not represent that you have any remaining authority to act for or on behalf of ASU.

Pat

Patrick J. Kenney
Dean, College of Liberal Arts and Sciences
Foundation Professor, School of Politics and Global Studies
Arizona State University

From: Lawrence Krauss <[REDACTED]>
Sent: Thursday, November 08, 2018 2:29 PM
To: Patrick Kenney [REDACTED] Nancy Gonzales [REDACTED]
Cc: Lawrence Krauss <[REDACTED]>
Subject: Re: request to use some of my research funds for travel during this academic year.

Dear Pat:

I am on campus today to begin to go through my office and to meet with an colleague and collaborator from BU who is giving the physics colloquium, as I informed you I would be doing my email to you on Nov 1. As you did not respond to that email, I naturally took that to be tacit agreement that your interpretation at the time of the terms of my contract with the University was incorrect. I came back to campus on my own funds, and because my friend had asked the Physics Dept to put me on his calendar, I worked with the Physics Dept personnel to find a time to meet him and I had intended to attend his talk, where he said he would be revealing new results of interest to me. All appropriately done.

Your email to me used different terminology compared to that in my settlement agreement, but in any case, as I am not under Administrative review, and the review process is completed, I understood, and still understand, my agreement with the University to imply that I am a tenured faculty member on leave, and have all the rights and obligations associated with that status, including continuing to function as a physicist, attend lectures of interest, and even give lectures around the world, as long as I do not represent myself as acting as having authority to represent the University at those events.

Nancy kindly and graciously explained to me your interpretation that I am not to be on campus. I explained to her that I had written to you about this explaining why that seemed to be an incorrect interpretation of my settlement agreement. She agreed with me that not having received a response it was reasonable for me to assume that you accepted my interpretation, and she also acknowledged that having worked with the physics department I had done what seemed appropriate to meet my colleague. She indicated she would relay my views to you as well, and I thank her for the kind and professional way in which she met with me.

She advised me that it was your view that I am not to attend the public colloquium by my colleague today. I agreed, for her sake, to not attend, even though I strenuously view your request as highly inappropriate. As far as I know, such lectures are open to the public, as well as students, staff, and faculty of the University, and the University campus is a public environment. Nowhere that I can see in the agreement is there any suggestion that I should not have the privileges of any member of the public, much less a faculty member of the University, to attend public events.

I am writing you now to report once again that I view your request to me as improper, and in violation of the nature of the separation agreement. I am hoping you will do me the courtesy of responding to my email so that we can discuss this as professional colleagues. I have no intent to harm the university or violate regulations. I just want to be able to function as a scientist, a physicist, and a human being who remains a

tenured professor at ASU until I retire in May, without interference, punishment or retribution, as, I believe, is the intent and the letter of the settlement agreement from October, which ended the administrative review of my status.

Thank you for your attention to this email.

best

Lawrence

Lawrence M. Krauss

Director, The Origins Project at ASU

Co-Director, Cosmology Initiative

Foundation Professor

School of Earth & Space Exploration and Physics Department
Arizona State University, ██████████ ██████████ Tempe, AZ 85287-1404

Research Office: ██████████, Assistant (Jessica): ██████████

Origins Office (Cynthia): ██████████

██████████
origins.asu.edu | ██████████ | krauss.faculty.asu.edu

<image001.png>

On Nov 1, 2018, at 10:24 AM, Lawrence Krauss <██████████> wrote:

Just to be clear, I will be on campus periodically over the next 6 months to work through material in my office etc. I was hoping the University would fund my travel there, but if not, I will fund it myself. While on leave, which is not administrative leave since there is no review process pending, I am still employed at ASU and have until May 16, 2019 to settle my affairs there, go to my office to get materials I need, and function as a physicist, although not one representing ASU, etc. I will not act for or on behalf of ASU, or represent that I am working on behalf of ASU at any events I will be attending. As far as I know, the meeting in Feb is for physicists around the country and I may attend it if I get funding from elsewhere to do so, as will many other colleagues from around the country who are not acting on or behalf of ASU. I expect all my personal material to be cleared out by me on or before May 16, 2019.

Thanks.

LMK

Lawrence M. Krauss

Professor

School of Earth & Space Exploration and Physics Department
Arizona State University, ██████████ ██████████ Tempe, AZ 85287-1404

Research Office: ██████████ | Assistant (Jessica): ██████████

██████████ | ██████████

On Nov 1, 2018, at 9:20 AM, Patrick Kenney <pkenney@asu.edu> wrote:

Dear Lawrence,

You are on paid leave for the remainder of this year pending your retirement on May 19, 2019. Pursuant to the agreement you signed with the Provost, between now and then you are not to be acting for or on behalf of ASU or representing that you are working on behalf of ASU. That means you should not be coming to campus, including to attend on-campus meetings you organized before you were put on leave. To the extent you intend to travel to professional meetings elsewhere, you will not be doing so on behalf of ASU, and you may not use University funds for that purpose.

With regard to retrieving your personal property, we will need to begin that process soon so that the University can begin to prepare that space for its future uses. If you would like to be involved in packing your personal items, we will schedule a specific date and time for you to come to campus for that purpose. Someone will meet with you to gather any University property and provide packing materials that you can use to pack your personal items and transport them from campus. Alternatively, we can have your personal items packed for you to pick up or to be shipped to a location you identify. Please let me know which option you would prefer so that I can make the necessary arrangements.

Patrick J. Kenney
Dean, College of Liberal Arts and Sciences
Foundation Professor, School of Politics and Global Studies
Arizona State University

From: Lawrence Krauss <[REDACTED]>
Sent: Tuesday, October 30, 2018 9:34 AM
To: Patrick Kenney [REDACTED]
Cc: Lawrence Krauss <[REDACTED]>
Subject: Re: request to use some of my research funds for travel during this academic year.

Thanks Pat.. I had just emailed the Provost to let him know I had asked you. Looking forward to hearing soon so I can try and make some plans.

LMK

On Oct 30, 2018, at 9:31 AM, Patrick Kenney [REDACTED] wrote:

I sent it to the provost for consideration. I'll check with him today or tomorrow.

Patrick J. Kenney
Dean, College of Liberal Arts and Sciences
Foundation Professor, School of Politics and Global Studies
Arizona State University

From: Lawrence Krauss <[REDACTED]>
Sent: Tuesday, October 30, 2018 9:31 AM
To: Patrick Kenney [REDACTED]

Cc: Lawrence Krauss <[REDACTED]>

Subject: Re: request to use some of my research funds for travel during this academic year.

Hi.. just checking to see if this got through.. Haven't gotten a response.

LMK

On Oct 26, 2018, at 11:34 PM, Lawrence Krauss <[REDACTED]> wrote:

Dear Patrick:

I would like to use some of my remaining University funds for this academic year, for travel

I anticipate the following

3-4 trips to ASU over the next 6 months to get my office contents ready to move, and to move them.

Travel to a Physics meeting at ASU in February that I helped organize early on.

Travel to a physics meeting in Jan organized by U. Florida that I have been invited to.

Travel in Dec to a meeting of the experimental collaboration I am a part of in Switzerland.

Can you confirm for me if I can use part of my remaining, unused, funds for these purposes?

Lawrence

Lawrence M. Krauss

Professor

School of Earth & Space Exploration and Physics Department

Arizona State University, [REDACTED] Tempe, AZ 85287-1404

Research Office: [REDACTED] | Assistant (Jessica): [REDACTED]

[REDACTED]

[REDACTED] | [REDACTED]

Lawrence M. Krauss

Professor

School of Earth & Space Exploration and Physics Department

Arizona State University, [REDACTED] Tempe, AZ 85287-1404

Research Office: [REDACTED] | Assistant (Jessica): [REDACTED]

[REDACTED]

[REDACTED] | [REDACTED]

Lawrence M. Krauss

Professor

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<March 2018 Leave with Pay Memo.pdf><Settlement Agreement.pdf>