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April 20, 2018

To: Academic Senate Executive Committee

From: Mary A. Papazian, Ph.D.

Re: Policy Rescinding and Replacing F97-7 Policy on Privacy of Electronic Information (S17-8).

On April 3, 2017, the Academic Senate approved a draft policy to rescind and replace the existing F97-7 Policy on Privacy of Electronic Information. I am declining to approve the draft policy as written, primarily because the CSU has an approved "Responsible Use Policy" for Information Technology that in my view provides much of the appropriate framework for addressing questions related to the privacy of electronic information and our various employee groups are covered by collective bargaining agreements that provide protections on due process and disciplinary action.

The policy approved by the Academic Senate divides into four sections:

- Purpose
- Principles governing involuntary disclosure
- Implementation
- Privacy Advisory

The section on Purpose reads more like a section of Principles. I am comfortable with this section with the edits below:

1. acceptable as written
2. acceptable as written
3. replace "a condition for" with "part of" to read: "SJSU recognizes the value of privacy as *part of* academic freedom and the benefits that privacy and autonomy bring to the individual, to groups, and to the culture of SJSU.
4. replace "have a reasonable expectation of privacy" (which has legal connotations) with language similar to the CSU policy to read: "SJSU respects the privacy of person-to-person communications in all forms including telephone, electronic mail and file transfers, graphics and videos.
5. replace "under" with "in accordance with CSU policy" to read "San Jose State University supports privacy in the use of electronic communications and information storage to the maximum extent possible *in accordance with CSU policy*, state and federal laws, and consistent with computer system maintenance demands.

I am not inclined to approve a policy with the language in section 2. The statements are directives and address specific implementation areas. The statements made in Section 1 set forth the principles upon which implementation will take place.

Regarding Section 3, I am happy to discuss further the implementation of the campus policy statement via Presidential Directive.

I also am comfortable with the language in section 4, "Privacy Advisory" with the following addition in the last sentence "...may require disclosure, including but not limited to, disclosure under the Public records Act..."

Please let me know if you have any questions regarding my response. I would be glad to discuss further.