

MEMORANDUM

**TO: Chancellor Dennis J. Shields
Dr. Dominic Barraclough**
FROM: Dr. Sabina Burton
RE: Complaint by Dean Elizabeth Throop, dated January 5, 2015
DATE: September 23, 2015

For the purpose of your investigation and the creation of a more complete record, please find here my written response to the complaint filed by Dean Throop on January 5, 2015. I request that the complaint be dismissed.

Dean Throop's letter of direction, dated October 28, 2014

Dean Throop has resorted to unseemly references, calling my actions "profoundly unprofessional," "disturbing," "erratic." Without providing the broader context for her allegations, some of which are either incomplete or are patently false, she has tried to portray me as unstable personally. However, all of my actions are based in my profound and sincere allegiance to the Criminal Justice Department and the University and my stewardship of the Department's students, which are my utmost concerns. Dean Throop's opinions of me personally and her efforts to silence my legitimate concerns about the actions of some members of the Department are improper reasons for her to threaten my employment by her complaint.

My detailed explanation, complete with documentation of the reasons that the letter of direction is factually flawed and retaliatory are contained in the grievance I filed against Dean Throop on November 12, 2014 and the CD that I delivered to Dr. Balachandran on November 13, 2014.

Criminal Justice Department chair search committee (direction #2)

In 2010 and 2011, Dr. Dalecki applied for a tenure track position in the Criminal Justice Department. On both occasions the department faculty rejected his application as he did not meet the minimum requirements for membership in the Department. I opposed Dr. Dalecki's candidacy. My opposition was legitimate, based on facts and it was certainly not personal.

The Department also opposed his choice by Dean Throop as interim chair of the Department in July 2013 for much the same reasons. I agreed with the Department's position. Dr. Dalecki had no qualifications to teach any Criminal Justice course. He has been employed as a professor in the Sociology Department and, prior to August 2013, he had never taught a course offered by the Criminal Justice Department. As of August 2013, he was not qualified to teach most courses offered by the Department.

In September 2013, the Criminal Justice Department elected Dr. Gibson as chair, but Dean Throop vetoed the Department's choice and continued Dr. Dalecki as interim chair. Although Dean Throop's method of choosing Dr. Dalecki to lead the Department was opposed by nearly all of the Department faculty, two grievance committees and an appeals committee, she persisted in controlling the leadership of the Department by changing the organization structure such that the Department chair was thereafter an administrative position, subordinate to the Dean and not accountable to the Department.

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Further, in August 2014, as Dr. Dalecki's term as interim chair was ending, the Dean argued that the Department continue Dr. Dalecki for another year and delay a national search for a permanent chair. She refused to solicit nominations for chair of the search committee from within the Department and installed a Chemistry professor, Dr. Timothy Zauche, to chair the search for the permanent Criminal Justice chair. Dr. Zauche had no affiliation with the Department and is a personal friend of Dr. Dalecki. In October 2014, Dean Throop unilaterally amended the Department's approved job description for the new chair from wording that would not allow Dr. Dalecki to qualify as a candidate to wording that would allow his candidacy. Dr. Zauche did a poor job of advertising the search and by December 2014, he announced that the applicant pool is very weak and he wanted to call it a failed search.

My refusal to voluntarily disassociate myself from discussions of Dr. Dalecki's candidacy had nothing to do with my desire to be insubordinate or anti-collegial. It most certainly had nothing to do with *bias* against Dr. Dalecki or my desire to "mistreat" him. On the contrary, my concerns derive from my profound concern that the Department be chaired by an appropriately-credentialed scholar and not by the Dean's emissary from an unrelated discipline, who had no qualifications for the chair's position or for a faculty position in the Department. My experience with Dr. Dalecki both before and after his term as interim chair formed my judgment about his unsuitability for the position. That is exactly the sort of informed judgment that members of a search and screen committee should have. Moreover, faculty have both a duty and a right to serve the institution by service on search and screen committees. The Dean's order that I recuse myself precluded valuable information bearing on the question of whether Dr. Dalecki was suitable to serve as the permanent chair of the Department. I am thrilled that the Department has a new chair, who is experienced and well regarded in the Criminal Justice field. She is worthy of the Department and its future and this University.

Within a week of the date that Dean Throop removed me from the search and screen committee, she falsely accused me of canceling my classes on the last day of the fall semester and threatened to discipline me. At the least, Dean Throop made this false allegation with reckless disregard for its falsity.

I contend that Dean Throop appointed Dr. Dalecki as interim chair and refused to consider my potential candidacy for chair of the Department, in part to pressure me to withdraw my EEOC charge and to dissuade me from filing a lawsuit to remedy violations of my rights under Title VII and Title IX.

Unprofessional and inappropriate communications (direction #2)

Subsumed in direction #2, Dean Throop alleges variously that I have communicated threats and accusations to faculty members in "unprofessional" messages. As an example, she points to her Exhibit G, my email to Dr. Balachandran, dated December 10, 2014. My written message to Dr. Balachandran expressed my legitimate concerns about his commission's unilateral changes to the University faculty grievance procedures. The commission had no authority under Wis. Admin. Code § UWS 6.02 to make changes to the University's faculty grievance rules and procedures. On the contrary, UWS 6.02 clearly charges the "faculty of the

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institution in conjunction with the chancellor” with the sole purview over such grievance rules and procedures. I wrote to Dr. Balachandran challenging the commission’s actions because they raised my legitimate concerns that it would not process my grievance (or other faculty grievances) fairly and in accordance with the rules and procedures set by the faculty.

Dr. Solar (direction #4)

One of my greatest concerns is that, in all situations, the Criminal Justice Department engages in fair processes that adhere to University policy for the benefit of all faculty, students, and applicants for faculty positions, and thereby enhance the reputation and standing of the department in the University community and outside. Dean Throop’s allegations regarding my communications with Dr. Solar are restricted to our final messages regarding a matter and are extracted from a much broader context. Dr. Solar and I did have numerous collegial email exchanges regarding this matter. I extended and he accepted offers to assist him in formulating interview questions by providing prior sets of questions. When he indicated that he was offended by my tone, I did apologize to him. However, the context, which I explain below, justifies my serious concerns about some decisions Dr. Solar and/or his committee made without full Department input, and in contravention of University policy regarding faculty recruitment.

In October 2014, Dr. Dalecki installed Dr. Solar, an inexperienced junior faculty member, to lead the searches for three new faculty members. Dr. Solar’s committee posted a job announcement for the three posts, without faculty approval of the announcements. University policy requires that a Department vote to approve job announcements. But Dr. Dalecki had not provided the policy to Dr. Solar and Dr. Solar had not discovered it in a cursory search of the University website. The announcement which was published was not well written and was misleading. As of a December 16, 2014 faculty meeting, Dr. Dalecki announced disappointingly that two of the three job offers were rejected and the third candidate was unsure. The misleading job announcement was probably a contributing cause of the three failed searches. This reflected badly on the Department. The committee could have corrected that announcement if University policy had been followed. I have a proven track record of attracting multiple qualified candidates, but I was excluded from the hiring process.

Please note the Dean’s exaggeration. She writes in her complaint that I threatened Dr. Solar’s progress toward tenure because I believed that he conducted himself “illegally” and that in my annual evaluation of him, I would have to note his “illegal” activity. The quotation of these words is in the complaint, obviously to emphasize them. The Dean then refers the reader to Exhibit H to substantiate. Review and you will find that I did not use the words “illegally” or “illegal.” This is a patently false embellishment reflecting a prosecutorial motive, not the required attention to factual accuracy.

My email message admonished Dr. Solar for “not following policy” and later for having “violated policy.” My communication to him of this fact is both factually correct and not a violation of university policy. It instead meets the obligation of a senior faculty member to a junior – a teachable moment. I also wrote that I would note this issue in my annual evaluation of Dr. Solar’s performance, which frankly is a better course of conduct than not communicating to

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him that I would be doing so, and then commenting negatively on the evaluation without his knowledge.

Dr. Dalecki's actions furthered his concerted efforts with Dean Throop to retaliate against me for my having filed a lawsuit on April 14, 2014, to remedy violations of my rights under Title VII. Dr. Solar's conduct of his committee furthered the efforts by Dr. Dalecki and Dean Throop to isolate me from critical Department matters and to minimize my involvement, despite my more senior status and my breadth of experience.

Solving problems at the most local level (direction #1)

Dean Throop complained about my having filed a complaint against Deb Rice, who was an academic staff member in the Criminal Justice Department. Ms. Rice had defamed me, owes me an apology and was ordered to apologize but has refused to do so. At a social event in November 2014, from which I was excluded, Ms. Rice told numerous people, including university employees and Criminal Justice students, including a student of mine, that I am "mentally ill" and "won't be around long." Ms. Rice also told them that I have negative sentiments towards people from the former East Germany and did not want to assist in a visit by a German delegation. Ms. Rice's lies about me amounted to baseless rumormongering and were defamatory clearly damaging my reputation among the students and other employees.

The Dean claimed that I should have engaged Ms. Rice in a face-to-face-conversation "to try to work out the problem." Ms. Rice's conduct was reprehensible, highly offensive to me personally, warranted an investigation and was worthy of sanction. It would be impossible for me to "resolve" her actions to my satisfaction by initiating a face-to-face conversation with her. Dean Throop should have been equally concerned that Ms. Rice, academic staff, had involved students with her lies and rumors about a senior faculty member. Nevertheless, her admonition to me to resolve matters at the local level belies her own refusal to do the very same. On April 23, 2015, Chancellor Shields wrote about this very concept, responding to Dean Throop's false allegation that I had cancelled classes on December 12, 2014, and admonishing Dean Throop to discuss allegations with a faculty member first to obtain all necessary facts, "prior to taking any type of action."

On July 26, 2013 Chancellor Shields urged Dean Throop to employ outside consultants to "work with the entire Criminal Justice Department to build a stronger team, work on communication and conflict resolution skills, and begin to resolve some of the conflict that has built up over time." Dean Throop's failure to follow the Chancellor's direction allowed the hostile environment in which I worked to grow worse. Had she followed the Chancellor's direction many of the problems that occurred in following months may have been averted.

I filed a complaint of illegal discrimination and retaliation against certain employees of UW-P and the Board of Regents with the EEOC on August 13, 2013. On October 17, 2013, Dr. Dalecki, told me that "You can't expect to file a law suit without consequences. You can't be chair after all the complaining you have done" or words of similar meaning. Then, on December 12, 2013, Dean Throop reported to a grievance hearing body that I wasn't eligible for

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consideration as Department chair because I “wasn’t solving problems at the local level.” The EEOC issued me a “Right to Sue” letter on February 26, 2014. Shortly thereafter, but prior to the 90 day deadline for filing a lawsuit, Dr. Dalecki asked me what my intentions were with regard to a lawsuit and I informed him that I would proceed to file. He became upset when I informed him that I did not drop my plan to sue. I explained to him that my damages had not been fairly addressed and that I hadn’t done anything wrong when I handled the student complaint. Dr. Dalecki became annoyed and again stated that I should “get over it” and that I was getting a “pay raise,” and nothing good would come from a legal action. Then, on October 28, 2014, after my lawsuit had been filed, Dean Throop directed me to “actively work to resolve [my] complaints and issues on the most local level possible: your department, before invoking assistance from the administration.”

This direction is a direct violation of my right to engage in activities protected by Title IX and Title VII. That she now uses it as a basis to threaten discipline compounds that retaliation.

Involving students (direction #5)

On December 16, 2014, Dean Throop wrote to me and falsely accused me of having been absent and having cancelled classes on Friday, December 12, 2014. She claimed that I “did not obtain permission” from the department chair (Dr. Dalecki) and had not informed Dr. Dalecki that I would be gone. Further, she alleged that by my alleged unexcused absence I was in violation of the UW Platteville employee handbook. She wrote that she “will be forced to pursue disciplinary measures as a result.”

I was not away from the University on December 12, 2014 and I conducted all of my classes on that day. The Dean’s allegation that I was absent was false so there was no need for me to notify the chair of my absence nor to seek his permission to be absent. In his investigation findings to Chancellor Shields, dated April 8, 2015, Dr. Barraclough concluded, after having interviewed Dean Throop, that I had not been absent and that I had not cancelled my classes as Dean Throop had alleged.

In the January 5 complaint, Dean Throop stated that a member of the Department had given her and had confirmed the false information that lead to her threat of discipline against me. That Department member must have been Dr. Dalecki, because, according to her message, I had not notified the chair that I would be gone and I had not sought the chair’s (interim chair Dr. Dalecki’s) permission to be absent from my classes on that date. Who else but the interim chair himself would have known whether I had consulted with him or had asked his permission to be absent? Also, Chancellor Shields’ findings of April 23, 2015 state that Dean Throop did not publish her accusation that I had cancelled class “to an uninvolved third party.” Since Dean Throop cc’d Dr. Dalecki in the accusation the Chancellor confirms that Dr. Dalecki was “involved.”

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In a glaring exercise of her abject power, Dean Throop did not seek first to inquire of me whether I had attended my classes on the day in question. This is the very complaint she lodged against me: that I had not talked face-to-face with a colleague to try to work out our differences. Instead, Dean Throop sent me a sharply crafted admonition, with a clear threat of discipline. As a result, I was greatly disturbed because the Dean's information was all false and those falsehoods had obviously been created and promoted by a member of my own department, if not the acting chair, Dr. Dalecki. I interpreted this effort by Dr. Dalecki and Dean Throop as one more act of retaliation for my having filed a lawsuit and complaints at the EEOC to remedy discriminatory and retaliatory acts in violation of my federal employment rights under Title VII and Title IX.

Further, Dean Throop had obviously not sought confirmation of my presence from the very people who had attended my classes: the students who were enrolled in them. Because the students themselves were first-hand witnesses to my classes, I sought and received their input. I acknowledge that my message to the students may not have been judiciously worded; however, I stand firmly in my decision to seek the facts of my presence in my classes from the very people who could (and did) confirm it. Dean Throop could easily have done that herself before she threatened disciplinary action against me based on lies. Given the threat of discipline, I needed to impress upon the students the need to respond to my request. Logically, that impression was most effectively accomplished by a statement of the consequence that the Dean herself had threatened, the truth of the matter, to the students.

Summary

Upon returning to class this semester I find that my departmental colleagues interact with me freely and without difficulty. My relationship with the new chair is collegial and friendly. My colleagues are certainly not spending "hours upon hours" attempting to "manage their interactions" with me. I enjoy support among my colleagues, certainly more support among some than others, but that is not unusual in any academic department. Senior administrative leadership may be spending hours in defense of the lawsuit, but to rely on that as a basis of discipline would be the clearest violation of Title VII and Title IX. They may be spending time to prosecute this retaliatory threat of discipline, but that is a consequence of the Dean's decision to file the Chapter 6 complaint. The claim that I am disrupting the normal course of business is patently untrue. The current climate in the Criminal Justice Department is the best that it has been since I commenced my employment at UW-Platteville. It best be allowed to continue.

I request that all charges be dismissed.