



Office of General Counsel

1852 Van Hise Hall
1220 Linden Drive
Madison, WI 53706
(608) 262-2995
(608) 263-3487 Fax
email: counsel@uwsa.edu
website: <http://www.uwsa.edu>

Tomas L. Stafford
Christopher L. Ashley
Anne E. Bilder
Erin E. Kastberg
Jennifer Sloan Lattis
Matthew J. Lind
Paige Reed

To: Shane Drefcinski
Chair, Complaints and Grievances Committee

From: Jennifer Sloan Lattis
Senior System Legal Counsel

Re: Grievance of Dr. Sabina Burton against Dr. Thomas Caywood
Attorney-Client privileged communication

You and Chancellor Shields have requested that I review the March 25, 2013 grievance filed by Dr. Sabina Burton against the chair of her department, Dr. Thomas Caywood in order to help frame the issues. I do so following Chancellor Shields's June 4, 2013 remand of the matter to the Committee.

Discussion of the Grievance Process

The UW-Platteville Faculty Bylaws define a "grievance" as follows:

Grievance: An allegation brought by a faculty member, which is

1. an allegation against those in authority to make decisions or policies, and is
2. an allegation concerning any university decision or practice, except decisions concerning rank, salary, tenure, or renewal

The grievant must be the person directly affected by the decision or practice about which the grievance is being made.

The remedy sought is a change in university decision or practice that results in personal satisfaction to the grievant.

Faculty Bylaws Part II, Article III, Section 7(a).

While there is no time limit specified as to when a faculty member must bring a grievance, we can assume that if a matter occurred in the past such that there is no longer any meaningful ability to remedy the matter through

change in university decision or practice, the grievance should be dismissed. For purposes of discussion, the rule of thumb for a deadline where there is no specified time limit would be six months (also called "laches") from the date the individual was "aggrieved" by the decision or practice at issue.

Dr. Burton's main complaint appears to be that Dr. Caywood is, allegedly, sexist. This is not a valid grievance because it does not given the committee a specific university decision or practice to review.

Specific complaints in the Burton grievance that appear on their face to meet the definition.

With the above items in mind, I have reviewed the Burton grievance and the initial response provided by Dr. Caywood. I believe that the grievance should be narrowed to the following issues:

- 1) Whether Dr. Caywood withdrew support for Burton's AT&T grant by a letter dated 1/24/13, and whether, if he did so, his action was unreasonable or because of Dr. Burton's sex.
- 2) Whether Dr. Caywood improperly maintains a policy requiring that Dr. Burton's "cyber-crime efforts" receive department approval, but does not follow such a policy for similar efforts by male faculty members in their areas of academic interests.
- 3) Whether Dr. Caywood maintains a practice of assigning Dr. Burton to teach lower level courses while giving higher level courses to less qualified instructors, and whether he has done so unreasonably or because of Dr. Burton's sex.

The Committee may be able to make findings and recommendations to the Chancellor on these narrowed issues with the material already obtained including the transcript of the hearing. If not, the Committee could request specific answers to questions in writing, or could choose to hold a second hearing. As regards the AT&T grant and the cyber-crime program that Dr. Burton seeks to develop, consistent with the Chancellor's remand, the Committee should interview Dean Throop because she has had significant involvement in both matters.

Specific complaints in the Burton grievance do not appear to satisfy the requirements for a valid grievance.

There are a number of Burton's complaints which, for a variety of reasons, do not appear to be valid grievances under the faculty Bylaws, and which she appears to have asserted more to support her generalized allegation of sex discrimination, rather than as grievances meant to be remedied. I have grouped them here for your review.

1) Concerns regarding salary and tenure are not properly pursued as a grievance under the faculty Bylaws as written. Similarly, the alleged failure of the Department to post required notices is a matter to be taken to the Human Resources Director.

2) Some matters are either too old to take up or, in any event, could not be remedied by a change in university decision or practice including: the January 2011 student evaluation rankings, the scarcity of homecoming banquet pictures of Burton and her students, Burton's office assignment, Caywood's initial denial (and subsequent approval) of travel funding for a conference in the District of Columbia, Caywood's giving Burton an assignment and advisees during her spring 2012 sabbatical, Caywood's alleged failure to support or advertise a June 2013 study abroad program, and the Department's past failure to follow through on a recommended communications workshop.

3) Certain matters do not directly affect Burton, the grievant, including: Caywood's alleged antipathy towards Dr. Amy Nemmetz, an alleged past sexual harassment complaint against Caywood, the student breach experiment complaint, the Department's failure to hire enough persons holding the Ph.D. degree, the fact that Professor Dutelle was given release time and the ability to use a limited term employee for some typing, and the fact that Dr. Caywood may have occasionally spoken unflatteringly about other women at UW-Platteville.

Most of the items described above were not included in the committee's initial recommendation, and, as noted, appear to have been submitted more as evidence than as grievances per se.

Shane Drefcinski
June 27, 2013
Page 4

Other issues.

The committee has already made its concerns regarding the climate in Dr. Burton's department known to the Chancellor and he has directed the Provost to investigate the matter. I do not believe that the committee need take further action on climate issues.

I also do not believe that the Committee need further take up the matters regarding Dr. Burton's participation on search and screen committees. It appears that issue may have been added after the complaint was filed as it does not specifically appear in the original summary documents. Regardless, nothing about past search committees can reasonably be remedied by a change in university decision or practice.

Summary

Thank you for the opportunity to review this matter. I would be happy to offer up any additional assistance that the Committee would request as it develops its response to the Chancellor's communication on this matter.

cc: Chancellor Dennis Shields
Provost Mittie Nimocks Den Herder