

Subject: Re: Update on Arthur Gilbert

Date: Saturday, July 30, 2011 9:29:57 AM MT

From: Dean Saitta

To: Miriam Bornstein, Lynn Clark, Corrada, Roberto, Michael Cortes, Claude d'Estree, George DeMartino, Sandra Dixon, Tracy Ehlers, Ehrenreich, Nancy, Arthur Gilbert, Sarah Gjertson, Ilene Grabel, Sylvia Hall-Ellis, Steven Iona, Scott Leutenegger, Mario Lopez, Don McCubbrey, Salvador Mercado, David Montano, Vijaya Narapareddy, Rob Prince, Naomi Reshotko, Robert L. Sanford, Oscar Somoza, Paul C. Sutton, Matthew J. Taylor, Paul Viotti, Diane Waldman, Yavuz Yasar

Hi all—

I hope everyone is having a nice summer. I'm writing to update you on the Arthur Gilbert situation. Arthur has heard from Dean Hill. Arthur has been reinstated to his teaching duties. However, in contrast to my interpretation of the ODEO's "Letter of Determination" (below), Dean Hill interprets the Letter as finding Arthur guilty of violating the university's sexual harassment policy and "creating a sexual harassment hostile environment in his class." Dean Hill has thus ordered Arthur to attend "sensitivity training" and to avoid any further violations of the university's policy or inappropriate behavior in the future.

It's important to note that the ODEO Letter says very explicitly that *academic* context matters here, and that analysis of whether there was "academic justification" or "course relevance" for the classroom speech that two complaining students found offensive was "beyond the scope of the investigation." Dean Hill does not note these qualifiers in his sentencing document. This is a pretty significant omission but it also comes as no surprise. Accordingly, Arthur is going to appeal the Dean's decision. We're at the point in the process where Arthur can make an appeal to either the Faculty Review Committee or Dean Hill's supervisor, the Provost. Because faculty are best positioned to evaluate academic relevance and justification Arthur and I agree that it would be wise for him to appeal to the FRC. After its investigation the FRC will report its findings and recommendations to the Provost.

As always, I'll keep you posted.

Dean

Dean J. Saitta
Professor and Chair, Department of Anthropology
President, DU Chapter AAUP
Co-President, Colorado Conference AAUP
University of Denver
Sturm Hall 146-S
2000 East Asbury Street
Denver, CO 80208
Phone: 303-871-2680
Fax: 303-871-2437
Web: <http://portfolio.du.edu/dsaitta>
Blog: <http://www.interculturalurbanism.com/>
CUA: <http://contemporaryurbananthropology.com>
AAUP at DU: <http://portfolio.du.edu/aaup>

From: Dean Saitta <Dean.Saitta@du.edu>

Date: Fri, 17 Jun 2011 17:45:19 -0600

To: Anneliese Andrews <aandrew7@du.edu>, Miriam Bornstein <Miriam.Bornstein@du.edu>, Lynn Clark <Lynn.Clark@du.edu>, Roberto Corrada <rcorrada@law.du.edu>, Michael Cortes <Michael.Cortes@du.edu>, Claude d'Estree <Claude.dEstree@du.edu>, George DeMartino <george.demartino@du.edu>, Sandra Dixon <Sandra.Dixon@du.edu>, Tracy Ehlers <Tracy.Ehlers@du.edu>, Nancy Ehrenreich <nehrenre@law.du.edu>, Arthur Gilbert <Arthur.Gilbert@du.edu>, Sarah Gjertson <Sarah.Gjertson@du.edu>, Ilene Grabel <Ilene.Grabel@du.edu>, Sylvia Hall-Ellis <Sylvia.Hall-Ellis@du.edu>, Steven Iona <steven.iona@du.edu>, Ginette Ishimatsu <Ginette.Ishimatsu@du.edu>, Scott Leutenegger <leut@du.edu>, Mario Lopez <mlopez@du.edu>, Don McCubbrey <dmccubbr@du.edu>, Salvador Mercado <Salvador.Mercado@du.edu>, David Montano <David.Montano@du.edu>, Vijaya Narapareddy <vnarapar@du.edu>, Rebecca Powell <Rebecca.L.Powell@du.edu>, Rob Prince <Robert.Prince@du.edu>, Naomi Reshotko <Naomi.Reshotko@du.edu>, Robert Sanford <robert.sanford@du.edu>, Oscar Somoza <Oscar.Somoza@du.edu>, "Paul C. Sutton" <paul.sutton@du.edu>, Matthew Taylor <M.J.Taylor@du.edu>, Paul Viotti <Paul.Viotti@du.edu>, Diane Waldman <Diane.Waldman@du.edu>, Yavuz Yasar <Yavuz.Yasar@du.edu>

Subject: Update on Arthur Gilbert

Dear All,

Arthur has received his "Letter of Determination" from the HR/ODEO investigators who were involved in his case. The letter is based on the results of several hours of interviewing of Arthur and student witnesses to the classroom dynamic that produced the two original, anonymous complaints against him. I understand that the inquiry was also widened to include other courses that Arthur has taught over his long history here (which I think is questionable from a due process standpoint). Given what was shared with me as Arthur's AAUP advocate I think I can safely report that the Letter clears Arthur of any wrong-doing regarding the 4 most serious allegations against him, and that the other 5 charges are dismissible on any reasonable interpretation of academic freedom. That is, what Arthur does in his courses clearly relates to their advertised subject matter, draws on his record of published scholarship in legitimate areas of inquiry (easily located by a just a few minutes of Google searching), and thus is fully justifiable on academic grounds. Of course, whether the "discipliner" in this case (Dean Hill) shares that reasonable interpretation of academic freedom (given that he is not an academic by training and is likely unfamiliar with Arthur's area of scholarship) remains to be seen. We'll stay on top of this...

Cheers,
Dean

Dean J. Saitta
Professor and Chair, Department of Anthropology
President, DU Chapter AAUP
Co-President, Colorado Conference AAUP
University of Denver
Sturm Hall 146-S
2000 East Asbury Street
Denver, CO 80208
Phone: 303-871-2680
Fax: 303-871-2437
Web: <http://portfolio.du.edu/dsaitta>
Contemporary Urban Anthropology: <http://contemporaryurbananthropology.com>
EU-US Atlantis/FIPSE Project: <http://portfolio.du.edu/atlant>
AAUP at DU: <http://portfolio.du.edu/aaup>

From: Dean Saitta <Dean.Saitta@du.edu>

Date: Fri, 27 May 2011 08:16:57 -0600

To: Anneliese Andrews <aandrew7@du.edu>, Miriam Bornstein <Miriam.Bornstein@du.edu>, Lynn Clark <Lynn.Clark@du.edu>, Roberto Corrada <rcorrada@law.du.edu>, Michael Cortes <Michael.Cortes@du.edu>, Claude d'Estree <Claude.dEstree@du.edu>, George DeMartino <george.demartino@du.edu>, Sandra Dixon <Sandra.Dixon@du.edu>, Tracy Ehlers <Tracy.Ehlers@du.edu>, Nancy Ehrenreich <nehrenre@law.du.edu>, Arthur Gilbert <Arthur.Gilbert@du.edu>, Sarah Gjertson <Sarah.Gjertson@du.edu>, Ilene Grabel <Ilene.Grabel@du.edu>, Sylvia Hall-Ellis <Sylvia.Hall-Ellis@du.edu>, Steven Iona <steven.iona@du.edu>, Ginette Ishimatsu <Ginette.Ishimatsu@du.edu>, Scott Leutenegger <leut@du.edu>, Mario Lopez <mlopez@du.edu>, Don McCubbrey <dmccubbr@du.edu>, Salvador Mercado <Salvador.Mercado@du.edu>, David Montano <David.Montano@du.edu>, Vijaya Narapareddy <vnarapar@du.edu>, Rebecca Powell <Rebecca.L.Powell@du.edu>, Rob Prince <Robert.Prince@du.edu>, Naomi Reshotko <Naomi.Reshotko@du.edu>, Robert Sanford <robert.sanford@du.edu>, Oscar Somoza <Oscar.Somoza@du.edu>, "Paul C. Sutton" <paul.sutton@du.edu>, Matthew Taylor <M.J.Taylor@du.edu>, Paul Viotti <Paul.Viotti@du.edu>, Diane Waldman <Diane.Waldman@du.edu>, Yavuz Yasar <Yavuz.Yasar@du.edu>

Subject: HR Response to our Gilbert Memo

Hi all--

I received a 124 word message from HR that I'm prohibited from forwarding to you directly. However, the gist is that the University takes employee relation matters very seriously, particularly those that require the need for "leaves of absence." We're reminded that there's a grievance policy that can be followed should an employee feel they were adversely affected by a decision affecting their employment. We're reassured that the action taken in Professor Gilbert's situation was in response to circumstances that the supervisor believed was warranted under the circumstances. Although the last sentence of the message is not a model of good English I think we're also reassured that HR reviews each matter to ensure that the action taken is consistent with actions taken in other cases, appropriate given the nature of the complaint, "patterns of behavior", and other variables, and sensitive to the "adverse effect" on both the complainant and the respondent.

Cheers,
Dean

Dean J. Saitta
Professor and Chair, Department of Anthropology
President, DU Chapter AAUP
Co-President, Colorado Conference AAUP
University of Denver
Sturm Hall 146-S
2000 East Asbury Street
Denver, CO 80208
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Web: <http://portfolio.du.edu/dsaitta>
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