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### **Provost Upholds U. of Denver's Handling of Professor Who Discussed Sex in Class**

*By Peter Schmidt*

The University of Denver's provost has upheld a dean's decision to discipline a professor for making sexual references in classroom lectures. In doing so, he rejected a faculty panel's conclusion that the dean had erred in failing to consider the academic relevance of the professor's statements and instead letting human-resources and diversity-office administrators decide they amounted to sexual harassment.

In a letter to Arthur N. Gilbert, the tenured associate professor of international studies who had delivered the lectures last March, Gregg Kvistad, the provost, said the actions taken by the dean were "substantially correct." The dean based his decisions on the findings of administrators who handled two anonymous graduate students' complaints about the professor's classroom statements.

"It is crucial that you understand your obligations to treat *all* students enrolled in your classes with dignity, decency, and respect," Mr. Kvistad wrote in the letter, which was dated Thursday.

Christopher R. Hill, dean of the university's Josef Korbel School of International Studies, had barred Mr. Gilbert, who is 75, from contact with undergraduates, placed him on paid leave, banned him from campus, and prohibited him from discussing his case with other faculty members while human-resource administrators processed the students' complaints.

In his letter, the provost said that Mr. Gilbert's removal from the classroom during the investigation was "entirely consistent with university practice." Mr. Kvistad upheld the dean's response to Mr. Gilbert with one modification. Instead of requiring sensitivity training for Mr. Gilbert, as the dean had ordered, the provost asked

the professor to meet with the director of the university's Office of Diversity and Equal Opportunity to "discuss what creating a sexual harassment hostile environment entails and how you must avoid that."

Mr. Gilbert, who was allowed to return to campus to teach graduate students in September, after 101 days on administrative leave, said in an e-mail on Monday that he believes his situation "illustrates the gap between academic values, including academic freedom, and administrators."

Dean J. Saitta, a professor of anthropology, president of the University of Denver chapter of the American Association of University Professors, and member of the faculty review committee that handled a grievance filed by Mr. Gilbert, agreed with Mr. Gilbert that "there's certainly an academic-freedom dimension to this case."

"The final decision sends a rather chilling message that if your classroom speech offends even a single student and that student complains, you are subject to removal from the classroom, suspension from campus, and an investigation that knows no limits," Mr. Saitta wrote in an e-mail. "Given how Professor Gilbert was treated, I'm not inclined to teach my course on human evolved psychology and sexuality—a course whose subject matter significantly overlaps with that taught by Gilbert and whose academic content inevitably creates student discomfort—until the institution establishes better policies respecting academic freedom and due process. The risk to professional career and reputation, in my opinion, is too great."

In his letter, Mr. Kvistad said that "the issue here is not academic freedom." Instead, the provost said, "it is the university taking seriously its commitment to 'create and maintain a community in which people are treated with dignity, decency, and respect' (University of Denver Equal Opportunity/Sexual Harassment Policy). That includes people with the least power in any university community—students enrolled in our classes."

#### **Procedural Concerns**

The provost's decision is at odds with the recommendations of a faculty review committee that considered the grievance filed by Mr. Gilbert to challenge the disciplinary steps taken against him.

In a report issued on October 4, and approved by its members by a 9-to-1 vote, the review committee concluded that administrators appeared to have violated Mr. Gilbert's academic freedom by passing judgment on his teaching methods without consulting other faculty members or referring to standards of teaching developed outside the university.

"To summarily remove a member of the faculty from the classroom and ban that person from campus and from contacting colleagues and students because of something that was said in the classroom and reported anonymously, without full consideration, is outrageous and in variance with time-honored tradition in academe." the faculty committee's report said. "This violates academic freedom and overall concepts of fairness."

The faculty review committee's report said broader concerns had been raised by the university's treatment of Mr. Gilbert, who has been on the university's faculty for 50 years and remains popular with students.

Among them, it said, the case showed how the university lacked clear rules and processes governing when and how faculty members can be placed on administrative leave and barred from contact with colleagues and students, an action that can result in irreparable damage to career and reputation. It faulted the university's grievance policy for allowing faculty members to challenge such disciplinary measures only after they have been taken, when "the damage may already be done."

The faculty review committee's report also said Mr. Gilbert's case had shed light on ambiguity surrounding the proper role of the university's human-resources office in handling student complaints about faculty members. "We believe concerns about teaching method and faculty classroom behavior, along with other matters related to teaching, should be addressed by the faculty, not an administrative unit," it said.

The report called a finding by the university's Office of Diversity and Equal Opportunity that Mr. Gilbert had committed sexual harassment "equivocal at best." It noted that the diversity office had qualified its finding by saying that the professor's statements are considered harassment, "absent an academic justification," and had

made no reference to applying accepted legal or academic standards in reaching its conclusion.

Among its recommendations, the report said that Mr. Hill, a former U.S. ambassador to Iraq and career member of the foreign service who had no experience in academe before he became the school's dean last year, would benefit from guidance on "the mores and values of higher education and the role of faculty" and from "consulting other deans and members of the faculty when questions related to teaching arise."

In his letter, the provost said that the dean did consult with human-resources officials and faculty members in deciding how to respond and "did so in accordance with best practices as an academic dean." Nothing in the faculty review, Mr. Kvistad added, "indicates anything about Dean Hill's professional record or his familiarity with academe."

The provost also wrote that it is not the role of the university's diversity office to determine the nature of academic appropriateness and that the office's phrasing was meant to acknowledge its limited role. The faculty committee, Mr. Kvistad added, "might have weighed in on the nature of an 'academic justification,' but it chose not to do so."

#### **Sex and Drugs**

The two students who had filed anonymous complaints about Mr. Gilbert had objected to statements about masturbation that he made in March, in teaching a class titled, "The Domestic and International Consequences of the Drug War."

The university has not released their complaint, but Mr. Gilbert says he makes reference to changing public attitudes toward masturbation in discussing connections between efforts in the early 1900s to restrict drug use and that period's taboos against various sexual behaviors widely regarded as sinful.

In early April, Mr. Hill sent Mr. Gilbert a letter telling him the university had been informed that Mr. Gilbert had made statements during class "that are not related to course content" and that appeared to violate university policies, "including but not limited to the policy prohibiting sexual harassment."

At that point, he placed Mr. Gilbert on administrative leave.

Mr. Gilbert's notes from his meetings with Mr. Hill and other administrators beginning in April said he was told his file contained other accusations of improper behavior from anonymous sources. Among them, he was accused of using obscenities in class, which he admitted, and of placing his hands on the shoulders and backs of female students, gestures which he explained as platonic displays of support.

His notes say he was told of a complaint that he brought a vibrator to class, and he explained that he brings in an old, art-deco vibrator in lecturing students on gender-related differences in attitudes toward masturbation and masculine self-control in the late 19th century.

He was also asked if he had tried to play the role of "matchmaker" with his students, which he admitted, and was accused of handing a freshman student two condoms and wishing her luck on a date, which he denied, saying he had not purchased a condom since he was 16. Mr. Gilbert's notes say he protested during such meetings that he had never been confronted with such allegations before.

In a July 14 letter to Mr. Gilbert, Mr. Hill said the university's Office of Diversity and Equal Opportunity had completed its investigation and determined that he had violated university policy "by creating a sexual-harassment hostile environment" in his class.

"Such actions are not tolerated at the Korbel School of International Studies or anywhere else at the university, and you must cease this behavior immediately," the letter said. It warned Mr. Gilbert that any further violation of the sexual-harassment policy "will result in severe disciplinary action"

The faculty review committee that handled Mr. Gilbert's grievance challenged the dean's decision to require the professor to undergo sensitivity training, but it did not let Mr. Gilbert completely off the hook for inappropriate behavior. Its report said Mr. Gilbert "would benefit from careful reflection and peer consultation concerning the concerns that were raised by some students about the sexualized content and personal disclosure in some of his classroom presentations."

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