



MARQUETTE UNIVERSITY

DEPARTMENT OF POLITICAL SCIENCE

April 4, 2016

Dr. Michael Lovell
President, Marquette University
1250 W. Wisconsin Ave.
Milwaukee, WI 53233

Via First Class Mail and Email
michael.lovell@marquette.edu

Re: Dr. John McAdams

Dear President Lovell:

On March 24, 2016 you sent me a letter announcing your intention to suspend me without pay through the Fall 2016 semester. In your letter, you add that you will not reinstate me unless I provide you with a letter in which I not only express regret for certain e-mails that third parties sent to Cheryl Abbate, but that I confess their abusive actions were my fault.

The University took almost seventeen months to make this decision. It failed to meet the deadlines required in the Faculty Statutes to hold a hearing before the Faculty Hearing Committee. The Faculty Hearing Committee failed to issue its report within the time required in the Faculty Statutes. You sat on their report for over two months.

Yet I was given ten days – over the Easter Holiday – to write a letter telling you what you want to hear. This is my response.

I am disappointed by your public misrepresentations regarding your March 24 letter. In your March 31 communication to the Marquette community, you describe that letter as asking me to “take responsibility for [my] actions and show some remorse for what [I] put our student through.” However, what I did was write a blog post about the way in which an experienced instructor – an employee the University placed in a position of authority – mistreated an undergraduate student. The harm she suffered consisted of e-mails sent to her by third parties unknown to me.

Your communiqué to the university community also said you were merely “asking for common human decency” and that you were “not asking for Professor McAdams to be responsible for all the vitriol from the lowest of the internet.”

But you are.

After posting some vitriolic e-mails sent by others to Ms. Abbate, you went on to tell the university that “a professor inflicting this type of personal attack on a student” is unacceptable as if I either had a hand in these e-mails or launched a comparable attack on Ms. Abbate. Both implications are outrageous and you know it. By conflating my criticism of the way Ms. Abbate, as an instructor, treated an undergraduate student with the personal attacks launched by “the lowest of the internet,” you are asking me to be responsible for those attacks. You know I had nothing to do with them and that I have expressed regret that Ms. Abbate was subjected to them. That you would attack one of your

tenured professors in this way is a strong statement that you are the one who lacks commitment to the University values you accuse me of violating.

I am also disappointed in your selective quotation from the report of the Faculty Hearing Committee and incomplete description of its conclusions. You fail to acknowledge that you are not simply implementing the recommendations of the Committee (as wrong as they were) but going beyond them.

Although I must generally state my position in order to explain why I must respond to the demands of your March 24 letter in the way that I do, it is not my purpose to fully respond to the report of the Faculty Hearing Committee. There will be another time and forum for that. I do, however, want to point out what you did not say about that report.

First, although no one would know it from what you have said and written, the Committee concluded that your summary suspension of me in December 2014 and “banishment” of me from campus violated the Faculty Statutes and denied me due process. The Committee found that your concern about the “safety” of students on campus was pretextual and was, in fact, done to mollify “public” demands (in this case, Philosophy websites like the Daily Nous) to take action against me.

I will not ask you to apologize for your misconduct. Again, there will be a different time and forum for that.

Second, although you asked the Faculty Hearing Committee to recommend I be fired, it did not do so. It said there was no just cause to dismiss me, only for suspension. For reasons I will briefly state below, I disagree with that. More importantly, I note the Committee did not recommend that I confess my guilt as a precondition to reinstatement. By demanding I engage in “compelled speech” – that I say what I do not believe – you are not only committing a new and independent violation of the Faculty Statutes, you are attempting to convert the suspension recommendation you must have found disappointing, into the termination you were denied by the Faculty Hearing Committee.

Your communication to the university community implies that all you want me to do is say I’m sorry that Ms. Abbate received the vitriolic e-mails she did because I criticized her treatment of an undergraduate in a way that was not vitriolic. That’s not what you have in fact demanded.

In your March 24 letter, you ask me to “acknowledge” and “accept” the judgment of the Faculty Hearing Committee. I certainly acknowledge it. If by “accept,” you mean I must agree with it, the fact is that I don’t agree with much of it. Whatever you think of the Committee’s conclusions, it certainly cannot be the case that no member of the faculty can disagree with them. Indeed, as noted above, the Committee did not support your desire to fire me and concluded that you violated the Faculty Statutes and denied me due process. Presumably you reserve, for yourself, the right to disagree with that.

You also ask that I affirm and commit to the University’s guiding values. I do. I always have. In fact, I believe that in standing up for an undergraduate who was bullied and ignored by an instructor and her department, I was abiding by them

Third, you ask not only that I express regret for the “harm done Ms. Abbate,” but also that I acknowledge I acted recklessly and in a way that is incompatible with the university’s values.

This paragraph of your letter actually makes two distinct and different requests. Let me deal with the second first. I do not regret that I criticized Ms. Abbate. I believe my criticism was fair and warranted.

I do regret that in response to this fair and responsible criticism, others behaved irresponsibly and sent her e-mails that were not tolerable. In your tweets and communication to the university, you seem to believe that my description of them as “nasty” was insufficiently indignant. Let me inform you of what you, perhaps, do not know.

I have publicly stated that the people who sent these e-mails – who are unknown to me – were “jerks.” In testimony before the Committee, I said the e-mails were “deplorable” and “awful.” If there is some other adjective you would prefer I use, I expect I’d be comfortable in using it.

I even said that, had I known she would receive them, I might have taken the extraordinary step of not identifying her. The Committee, apparently playing a game of you’re damned if you do and damned if you don’t, used that against me, saying it showed that I “should have known” she would receive such emails and that naming her was “reckless.”

Two things need to be said. First, I had no reason to know she would receive the e-mails she did. As far as I knew, no one that I blogged about ever had. The Committee stretched to say I should have known it might happen because, in response to an earlier blog post, two commenters to my blog said they might contact a subject of the blog and express their disagreement with her. I discouraged them from doing so and there is no indication they ever did, much less in the intemperate way that some people did here.

Of course, as the Committee noted, I know that when things go viral on the internet, some people will behave abominably. But that can’t possibly make someone who writes on a subject – even a heated and controversial subject – responsible for whatever irresponsible people might do. If we allowed such a reverse heckler’s veto, we’d be rendering academic freedom and freedom of expression illusory.

Second, I cannot agree that the mere knowledge that someone might receive deplorable and awful e-mails makes the act of writing about that person reckless. In this case, I might have chosen not to name Ms. Abbate had I known she would receive such e-mails not because I would not have been free to do so, but because I might have concluded it was better not to. That is not an “idiosyncratic” set of values. I think that free speech is not limited by the fact that others might abuse their own freedom of speech. That a person might choose not to speak does not mean he or she does not have a right to do so.

As indicated above, I do not agree with the cramped and restrictive approach to academic freedom and contractually guaranteed freedom of expression adopted by the Faculty Hearing Committee. While the Committee’s report says some things I do agree with, the Faculty Hearing Committee would make the ability of faculty to speak subject to an after the fact balancing test; the result of which will be indeterminate. This leaves faculty members with no clear guidance as to what they can say – particularly if what they wish to say is disfavored by the administration and unpopular among their colleagues.

It does not help to say, as the Committee does, that the faculty itself is a protection against abuse of such an amorphous and malleable standard governing faculty speech. The measure of academic freedom and freedom of expression cannot be the sufferance of the majority of the faculty. Popular views do not need protection.

The application of this balancing test by a hostile committee resulted in the following anomaly. I am to be suspended without pay for writing a blog post that contained no false statements about a matter of

public interest. I am to be suspended even though the Committee conceded there is no rule against criticizing how others conduct their classes, no rule against criticizing students, no rule against identifying students or linking to their own blogs, and the post that I wrote was not vituperative or rude. If that can cause a tenured professor of thirty-nine years to be suspended or fired, it is hard for me to imagine how any faculty member could know when he or she is free to speak.

You apparently do not agree with me. That the President of the University has such a truncated view of freedom of expression, even if it is shared by powerful segments of the faculty, is all the more reason for me to express an opposing view.

You began your March 24 letter by saying it was not my political views that prompted Marquette's action but my "ACTIONS" (capitals in the original). Nowhere in your letter or in your subsequent communications to the Marquette community do you say what those actions actually were. Let me remind you.

A student came to me with a complaint. He said a Philosophy instructor had told him that opposition to same sex marriage would be considered homophobic and would not be tolerated in her class. This instructor was someone who, while a graduate student, was a paid employee of the University given responsibility to educate its undergraduates and authority over them. While the classroom discussion that led to this exchange may have been about John Rawls' Equal Liberty principle, the exchange between the instructor and undergraduate was not. Her warning against the expression of opposition to same sex marriage was absolute and unqualified.

There is no dispute about this. The exchange was recorded. Although the Faculty Hearing Committee was upset that a student would record a conversation with an instructor, I had nothing to do with that. I simply listened to the recording to verify that what the student had told me was accurate. It was.

I would also note that Doctor South, in his official role at the University, recorded *his* conversation of the undergraduate student involved without informing the student, and neither the Committee nor you seem bothered by that. Also, the Committee reached out to obtain information regarding a conversation between me and a completely unrelated student group that a student recorded and again neither you nor the Committee seems bothered by that recording. You seem to have a rather subjective view as to the appropriateness of recording conversations based on the utility of the recording to the University.

Getting back to the student involved, the student tried to complain to the Philosophy Department, but was rebuffed. You needn't take my word for it. The Committee, almost as an aside, noted the student might have reasonably interpreted the instructor's comments as an admonition against any classroom opposition to same sex marriage. It noted that no one in the Department or Arts and Sciences ever investigated his complaint or bothered to listen to the recording. No one ever told Ms. Abbate that saying such a thing to a student – as she clearly did – would be wrong.

So I blogged about the matter. While you and the Faculty Hearing Committee seem to believe I did so from some personal agenda unrelated to a concern about open and civil discourse on campus, this is not so. It seemed to me – and still does – that this student was being told his views were unacceptable and beyond the pale of civil discourse. Ms Abbate was someone imbued with the authority of the University who told a student over whom she exercised the authority of a professor that his views – views that are, after all, consistent with the teaching of the Catholic Church whose imprimatur the University repeatedly invokes when seeking to attract students and support – were homophobic, offensive and would not be tolerated. This was not in an "unguarded" moment. Ms. Abbate was an

experienced instructor and had taught this very class several times in the past. Her own Department has stated that she was fully trained and an accomplished instructor.

That you – and the Committee – are unable to understand why I would regard her conduct as a matter of extreme importance to the University community and public at large says more about your – and their – ideological agenda than it does about me.

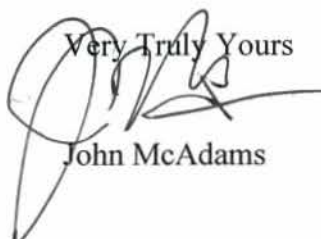
That you do not seem to be able to understand why media outlets across the country – including the Atlantic Magazine and writers in left of center outlets such as the Huffington Post and Slate – think the university's actions are indefensible suggests the same.

Of course, one can always find things to criticize about a blog post. The Committee did not like the fact that I described Ms. Abbate as “airily” making her remarks, although that seemed consistent with what the student told me. It said I could not know she said that “everyone agrees” with the position she set forth, even though that’s what the student told me and it is consistent with both Ms. Abbate’s testimony and the version provided to the university by another student. It said I implied – although I did not say – that the student dropped the course because of this incident. Based upon the timing of the student’s decision to drop the class (it was done only after his unsuccessful attempts to seek redress from the Department), that was and remains my view of why he really dropped the class, even though, as the Committee had to admit, I did not say as much.

One can argue I should have concluded that Ms. Abbate, who is described as a star graduate student and who testified at the hearing about her skill in handling students who want to turn discussion of a particular philosophical approach into a general discussion of the issue, was somehow “turned around” by this particular undergraduate and did not mean what she said. But, given her training by her Department and her prior experience in teaching this same course, that seems very unlikely. In addition, having asked her for comment, I think I reasonably concluded otherwise. Based on all the available evidence, I believe I was right.

One might argue I did not need to name her, although that would be an extraordinary thing to have done. When people criticize the conduct of someone acting in an official capacity, they normally identify them. As noted above, had I been able to foretell the future, I might have chosen not to do so, but naming her was not wrong.

In summary, I am committed to the values of the University and I do wish that Ms. Abbate had not received the e-mails she did. But I cannot agree that I behaved recklessly or endorse the Faculty Hearing Committee’s cramped view of academic freedom and the Faculty Statutes. If you fire me for failing to make the statements you demand, you will be committing yet another violation of the Due Process and the academic freedom provisions of the Faculty Statutes. Unless you rescind your demand that I do so by April 14, 2016, I will assume that you mean what you say and that is precisely what you intend to do.

Very Truly Yours

John McAdams