

# **Duquesne University**

## **University Grievance Committee for Faculty**

### **Report:**

### **Shank Case**

1/14/2021

Consistent with Section 10.7 of the Faculty Handbook, this report describes the investigation of Dr. Shank's grievance. The University Grievance Committee reviewed the grievance and other related documents submitted by Dr. Shank and the respondents. In addition, the Committee conducted interviews and a hearing. This report presents the Committee's findings and recommends that Dr. Shank be restored as a faculty member of Duquesne University.

### **Facts:**

#### ***The Incident:***

Dr. Shank, an expert in educational psychology, is a full Professor in the School of Education. On Wednesday, September 9, 2020, Dr. Shank was teaching Educational Psychology LTFL 206. One of the topics of the lecture was "Major Cultural Differentiators" with a focus on class, race and ethnicity. During class Dr. Shank called on students to answer questions about various aspects of the topic. When the discussion turned to race, Dr. Shank asked whether "there was a powerful interaction between Whites and African Americans". Dr. Shank went on to state that there had been "interesting progress" in race relations since he was a young man and that he was giving the class permission to "use the word" in a pedagogical sense. "What is the one word about race that we are not allowed to use?" None of the students responded to the question. Then Dr. Shank said, "I'll give you a hint, it starts with N". Dr.

Shank then said he would use the word only to "illustrate a point" and then stated that the word was N\_\_\_\_. Dr. Shank then gave three examples of racist speech that were inherently offensive and degrading to African Americans that included the N-word. His point was that the use of those and other racist epithets had been common and accepted when he was young, but were now socially unacceptable; therefore, there had been progress in race relations. Dr. Shank then went on to discuss key cultural characteristics of ethnicity until the class ended.

***The Response:***

Following class, a student complained to their undergraduate advisor about Dr. Shank's use of the n-word, and another student complained directly via email to Dr. Shank. Additionally, a student filed a University EthicsPoint complaint. Wednesday afternoon, Dr. Shank had a Zoom meeting with the acting Dean of the School of Education, Dr. Generett and the Department Chair, Dr. Gibbs Kanyongo to discuss the complaints that had been received. During the meeting Dr. Shank wrote an apology to the class for "crossing the line" which he sent via email. On September 10th, Dean Generett sent an email to the class where she expressed her view "that there was never a time, pedagogically or otherwise, for a professor to use language that creates a hostile learning environment.", and that using the "N word" or encouraging students to use the word was not in keeping with the mission of the University, the School of Education, or the Pennsylvania Department of Education. By Friday September 11th, video clips from the class were circulating on social media.

On Friday, September 11, Dr. Shank devoted the entire class to the concerns that were raised by his use of the N-word. He first apologized and took full responsibility for what happened in the prior class and for not "meeting the needs" of the class. He then invited the class to comment and enter into a discussion.

Dr. Shank stated that it was legitimate for the class to still be upset and he wanted to "help repair the situation". Towards the end of the class, Dr. Shank engaged in dialog with a black student who ultimately stated that the relationship between Dr. Shank and himself could be repaired.

Later that day, Dean Generett after consulting with Provost Dausey and Mr. Ryan Dawson from Human Resources determined that Dr. Shank should be placed on paid leave pending further investigation of the incident. Dr. Shank was formally notified of the suspension that evening. On September 12th, President Gormley sent an email to the Duquesne University community apologizing for the incident and anticipating that the professor would face "very strong disciplinary action pursuant to the procedures set forth in our Faculty Handbook". On September 14th, the Faculty Senate Executive Committee issued a statement of concern over the incident and affirming the commitment of the faculty to "ensuring that racial disparities and injustices are eliminated from our campus community".

Dean Generett, without success, made several efforts to contact Dr. Shank on September 14 to obtain a formal statement from him. Dean Generett was successful in reaching Dr. Shank on the 15th and a Zoom meeting was scheduled for later that morning. However, prior to the meeting Dr. Shank sent a text message stating that he would be unwilling to meet without legal representation. On September 15th, Provost Dausey sent Dr. Shank a letter notifying him that the University intended to proceed with removing his tenure and offered Dr. Shank the opportunity to resign. Subsequently, Dr. Shank received a letter from Dean Generett dated October 5th claiming "serious misconduct" on his part and that she was recommending to the Provost that he be terminated. The grounds for termination were:





**Findings:**

*Did Dr. Shank engage in serious academic misconduct during his lecture on September 9, 2020? Yes.* During a 50-minute lecture on cultural diversity, Dr. Shank spent six and a half minutes discussing how there had been progress in the language of race relations between Whites



teaching assignments, curricula, syllabi, grading, the evaluation of teachers and students, academic integrity, committee service, harassment, discrimination, and professional behavior. Disagreements about the balance between academic freedom and University rules and policies shall be subject to the processes in this Handbook regarding grievances.

To the extent that Dr. Shank violated TAP 55 with respect to his teaching on September 9, 2020, the University did not violate Dr. Shank's academic freedom by suspending him from teaching or by his termination.

***Did the University fail to provide due process to Dr. Shank prior to his suspension and termination?***

**No.** The section of the 2020 revision of the Faculty Handbook dealing with a faculty member's termination of tenure and dismissal states:

**9.2** In the event of the proposed dismissal of a tenured faculty member, the faculty member is entitled to a hearing by the University Grievance Committee for Faculty. That hearing, the conducted in accordance with the provisions of this Handbook.

**9.3** A faculty member may appeal any disciplinary action to the University Grievance Committee for Faculty. During the pendency of any appeal, no sanction may be enforced unless entail the creation or continuation of a risk of danger to the faculty member concerned or other



members of the University community, or (c) might result in egregious harm to the reputation of the University.

Prior to Dr. Shank's termination, Interim Dean Generett sought to meet with Dr. Shank to formally discuss the incident and provide an opportunity for Dr. Shank to explain his actions. Dr. Shank refused to meet without the presence of his attorney. Applying clause (c) of 9.3, the University enforced the sanctions against Dr. Shank prior to completion of the appeal process.

Dr. Shank was provided the opportunity to appeal the disciplinary actions by the University to the University Grievance Committee for Faculty (UGCF). In addition, it is our understanding that Dr. Shank continues to receive compensation. The investigative subcommittee of the UGCF conducted an investigation, including a hearing with the respondents, consistent with Faculty Handbook section 10.

***Should President Gormley recuse himself as the final arbiter of the case?***

**No.** As the P

While the statement appears to prejudge the President's role in the case as an arbiter, it is consistent with statements that Dr. Shank himself made to the class in his apology:

"I used the term that I now realize was deeply troubling to the class. It was not my intent to do so, but I must take responsibility for my words and teaching. As a consequence, I am offering each and every one of you my most sincere apology and my guarantee that I will never cross this line again in our class."

And the apology Dr. Shank made to one of the students in the class:

"I agree that this term is very offensive and I accept your suggestion to never use it again in any context. I am also sorry that this made you and others uncomfortable. I take responsibility for using it."

While President Gormley's letter did state that Dr. Shank "will face very strong disciplinary action pursuant to the procedures set forth in our Faculty Handbook" which suggests bias, he was not involved in the investigation of the case, nor the decision to terminate Dr. Shank. Moreover, President Gormley assured the investigative subcommittee that he had an open mind regarding the disposition of the case and that the UGCF should be forthright in making its recommendations.

Finally, regarding the report of the UGCF investigation, section 10.7 of the Faculty Handbook states, "the President shall decide to accept, reject, or modify its recommendations, notifying in

writing the chair of the committee and all parties to the grievance." The Faculty Handbook does not provide for an alternative to the President as the arbiter of the case.

***Was the termination of Dr. Shank's tenure and dismissal warranted?***

**No.** Dr. Shank exercised extremely poor judgment in his decision to use the N-word rather than an abstraction as an example of progress made in race relations. This was especially true given the current racial climate in the country brought about by the high-profile killings of African Americans. In addition, Dr. Shank was negligent by failing to provide adequate preparation and context for his use of that word and for delaying two days to debrief the class and mitigate the visceral negative responses that he had deliberately provoked in the class. Aside from the distress he caused the students, his actions negatively affected the reputations of the School of Education and the University.

Section 9.2 of the Faculty Handbook states, " Faculty members **may** be dismissed and, where relevant, their tenure forfeited for reasons of serious misconduct or professional incompetence." (emphasis added). While Dr. Shank's performance during the six- and one-half minutes of the class was inappropriate and unprofessional, it should be kept in mind that this was a single brief episode rather than a continuing pattern of disrespect toward students. While from time-to-time students have complained about Dr. Shank over the course of his more than twenty years of employment at Duquesne, the complaints had nothing to do with race.

This is the first time Dr. Shank has been formally disciplined. While Dr. Shank's use of the N-word was misguided, it was not malicious. Therefore, while sanction of Dr. Shank's behavior is warranted, it does not reach the level requiring dismissal.

**Recommendation:**

The University Grievance Committee for Faculty recommends that Dr. Shank be restored as a faculty member of Duquesne University.