

January 19, 2021

Tosha Dupras, Ph.D.
Interim Dean, College of Sciences
Office of the Dean
College of Sciences
12716 Pegasus Dr.
Orlando, FL 32816

Dear Dr. Dupras:

This letter serves as my written response to your Notice of Intent to Terminate dated January 13, 2021.

In the response below, I will address each of the four major categories of allegation in the Notice of Termination. Before I do that, however, I want to clearly state the following:

This investigation was initiated – by a public message from top administrators openly soliciting complaints against me – in retaliation for my constitutionally protected speech on Twitter. Knowing that it could not fire me for those tweets, UCF has obviously gone to great lengths over the last seven months to try and find legitimate grounds for my termination. I challenge you to find any UCF employee, yourself included, whose entire life could withstand the type of scrutiny mine has been put through in UCF’s attempt to justify getting rid of me because I have become a political liability. And make no mistake, that is precisely what UCF has done: We have President Cartwright *on video* agreeing with a student protester that I should have been fired before I got tenure. We have *on video* the UCF Provost telling students through a megaphone that the way to avoid “this type of problem” is to let UCF know: “...you have to file a complaint about discriminatory behavior.” And we have *on video* the UCF Chief Diversity Officer telling students on UCF’s official Twitter account that “#UCFFireHim...I understand all of that, but the fact of the matter is it’s not going to happen overnight.”

The goal from the day #UCFFireHim began trending was to terminate my employment with UCF because of my unpopular views conveyed in my constitutionally protected speech. The investigation/inquisition that followed was nothing less than “show me the man, and I’ll show you the crime.” If this unlawful effort to terminate me stands, not only will it severely chill the speech of faculty and students at UCF who might wish to express controversial views, but I will have no choice but to pursue legal action.

With that said, I would like to address each of the four major issues raised in your Notice and explain why they do not constitute legitimate grounds for my termination. I would also like to state that I am more than happy to discuss in greater detail any of the individual findings in the OIE report that comprise these broader findings: while you stated in your Notice that they are “too numerous to fully document here,” I am prepared to defend against each and every one of those findings in detail and, to the extent your ultimate decision relies on one or more specific findings not covered in my response here, I would appreciate the opportunity to address those specific findings.

(1) That I “provid[ed] false information during OIE’s investigation”

It is simply stunning that UCF would make this finding based on my failure to perfectly recollect things said over the course of 15 years – after I begged, in writing, for notice of the allegations against me so that I could adequately prepare for my investigative interviews. I have all of my efforts to learn more about the allegations – and all of Nancy Myers’ denials of those requests – in writing, and I believe this constitutes an egregious violation of my constitutional due process rights.

But not only did UCF violate my due process rights by denying me adequate notice, it then used my resultant unpreparedness to attack my integrity and make findings of untruthfulness. If anything reveals the utter bad faith of this investigation, it is this. I am 60 years of age. I do not recall every single comment I’ve made in my classes over the 2005-2020 period encompassed by UCF’s investigation. To the extent I forgot things that were captured on recording – recordings that UCF could have provided me with, to refresh my memory and ask me about the incidents in question – this was because I was unable to prepare adequately for my investigative interview due to UCF’s lack of notice, not because I was trying to deliberately mislead the investigator.

OIE then used this finding of supposed “untruthfulness” to judge me less credible in many of the instances in which I denied allegations – some of them utterly obscene and beyond the pale – about things I allegedly said in the classroom. **In other words, the entire outcome of UCF’s investigation turned on a credibility assessment that was made based on my inability to prepare for my investigative interview due to an unconstitutional lack of notice.**

(2) That I created “a hostile learning environment for [my] students through discriminatory harassment,” and violated “UCF’s Employee Code of Conduct.”

While OIE’s investigation has confirmed what my Chair, Provost Johnson, and you have known for years – that I am a controversial instructor who has ruffled more than a few feathers over the years – none of OIE’s findings against me rise even remotely to the level of hostile environment harassment. Pursuant to UCF’s policy, hostile environment harassment is conduct “so severe or pervasive that it unreasonably interferes with, limits, deprives, or alters the terms or conditions of education... when viewed from both a subjective and objective perspective.” This is a narrowly drawn definition because, as UCF knows, speech cannot be prohibited simply because someone finds it offensive, even deeply so.

A handful of constitutionally protected but arguably provocative comments, cherry-picked from over the course of 15 years spent teaching tens of thousands of students, do not even remotely rise to this level. (Although the high volume of allegations were clearly intended to create a “where there’s smoke, there’s fire” sense of inevitability in my case, even OIE had to conclude that a large number of them were wholly unsupported by the evidence).

A number of the comments cited by OIE as alleged evidence of a hostile environment were, contrary to OIE’s analysis, clearly protected by academic freedom – for example, my comment

in a psychology lecture that some women are attracted/seek marriage to individuals with money, or my comment in cross-cultural psychology that human-animal sex happens all over the world.

Others were examples of incidental remarks that I made in an effort to inject humor into my lectures, which is something that has always been a part of my teaching style. It is clear that, over my many years of teaching, I have occasionally made jokes that landed poorly and offended some students. I take these criticisms to heart. But this is far cry from creating a hostile environment, and UCF's finding to the contrary is simply untenable.

Yet other comments cited by OIE simply reflect some students' discomfort with my pedagogical style. As you know, I do not withhold controversial or sensitive information or topics from students because of my pedagogical philosophy that all topics can be addressed at a university and that with a tiny exception, most students are adults. Also consistent with my pedagogical philosophy is that withholding information or avoiding "sensitive" topics is a form of paternalism and is educationally a disservice to students. My students know from the outset that I will not shy away from these topics and that I believe challenging students to back up their beliefs with evidence is a critical part of the educational process. I understand that this is not always palatable to some students, particularly those who are deeply religious, but I am clear with them about my beliefs from day one and also about the fact that they are free to believe whatever they like and will never be punished in any way for their beliefs. And indeed, my handling of religion in the classroom has, in the past, been fully supported by Dean Johnson as well as my chair and provost at the time. It was only after #UCFFireHim began trending on Twitter, and UCF came under tremendous pressure to get rid of me, that this suddenly re-emerged as an issue.

As for the one exam item that was cited in the OIE report as evidence that I penalized religious students for their beliefs, I take issue with the way that was characterized. The exam item does not mention any specific religion, and does not even mention the word "religion." I was trying to get my students to consider how an idea that seems entirely ordinary in our culture – the idea that we are being watched and judged 24/7 on our thoughts and actions and will be punished for any transgressions – would be viewed through the lens of someone to whom that was an unfamiliar concept. As I've stated before, part of my goal as an educator is to get students to see and consider things from other perspectives, and although this can be an uncomfortable process, I believe it is an essential part not only of learning but also of being able to defend one's own beliefs. I recognize that some students do not like my pedagogical style, but this is far cry from being subjected to an unlawful "hostile environment" in the classroom.

I do acknowledge that the question's wording does not fully capture the aims I described above, and I wish that I had phrased it differently. But again, I submit that no one's 20+ year career has been devoid of mistakes, and an inartfully phrased exam question is cause for conversation, not termination.

As for UCF's Employee Code of Conduct, the language of that policy under which you are attempting to punish me is simply unconstitutional. A public university like UCF, bound as it is by the First Amendment, cannot punish people for speech that someone subjectively deems "disrespectful" or insufficiently celebratory of diversity or inclusion. Policies like this have been

struck down on First Amendment grounds at colleges around the country, and I do not believe UCF's policy would survive a constitutional challenge.

(3) *That I “deter[ed] students from filing complaints about [my] classroom conduct”*

This is a gross mischaracterization of a brief discussion I have – typically on the first day of class – about the purpose of a university, the importance of free speech, and the concept of tenure. That “orientation” lasts perhaps 5 minutes at most. If the issue of tenure or free speech were to come up at any other point during the semester, it would be incidental and likely directly relevant to something brought up by a student. It *rarely* is addressed other than on the first day of class. And my right to discuss the importance of free speech in the classroom – and the importance of tenure to professors' right to free speech – is *wholly* protected by the First Amendment and by academic freedom. The effort to transform this protected expression into some kind of impermissible attempt to suppress student complaints is both preposterous and unconstitutional.

It took UCF six months during their investigation of me to try and solve this mystery: Why do the hundreds of egregious complaints about me lodged starting on June 4, 2020, not appear on any of my student evaluations? The mystery was solved when someone from UCF's legal or investigative team concocted the idea that it's because I “repeatedly deterred” students from filing complaints about me, telling them “over and over” that I have tenure and I'm “untouchable.”

But there are three problems with that concocted explanation: First, students *do* complain about me on student evaluations. There are ample complaints to be found—*just not the egregious types* that were lodged after President Cartwright *actively solicited complaints* on June 4. If I had “repeatedly deterred” students from complaining about me, why do so many still complain on my student evaluations? Second, UCF has provided 15-second snippets of class recordings, strung together, to support the narrative that I deliberately used the concept of tenure to deter students from complaining about my speech. Providing recordings of entire class lectures would demonstrate that the claim that I “repeatedly deterred” students from lodging complaints against me is baseless. These brief discussions of academic freedom and tenure, even when I expressed myself in a way that some might have found arrogant, were an incredibly minor part of my interaction with students, and full recordings – rather than cherry-picked sound bites – would conclusively confirm this. Finally, I have reviewed the preponderance of actual reports OIE collected from those who participated in their solicited interviews. OIE asked specifically leading questions about whether students felt I had communicated to them that there was no point in lodging complaints about me because I was tenured. Essentially, UCF is cherry-picking responses from students to support this baseless concoction that they believe explains the disconnect between the egregious complaints about my alleged racial and gender “harassment” that came in starting on June 4 vis-à-vis the absence of those complaints on 1,000s of anonymous student evaluations.

(4) *That I “failed to report” a sexual assault allegedly disclosed to me in February 2014*

This simply is not accurate. I am going to tell you exactly what I was informed of by my students back in 2014, and I assure you that if the information I received then was something I was required to report, then I had not been properly trained on this by the university. Moreover, the

university raised this with me at the time, and – when I explained what I had been told and that I was not aware that I was expected to report it – the issue was dropped and never raised again until now, strongly suggesting that this is yet another pretextual effort to get rid of me for expressing views the university finds repugnant.

In 2014, two female students entered my office and told me that they didn't feel comfortable being in close proximity to my volunteer undergraduate teacher-assistant (note: they were about to have an exam in my class). I asked what had happened, and they told me they were at a gathering (a party, I believe) and that my T.A. went and sat right next to them and made them feel very uncomfortable. Naturally, I inquired about what he had said or done to upset them. They both told me that he was speaking to them in a way as if he wanted them to be interested in him romantically. **I then inquired more specifically if he had touched them inappropriately and they both denied it.** I proceeded to tell them that they could seek help—perhaps counseling—on campus if they were distressed about that experience, and that at my end, what I could do (and did do) was tell my T.A. to monitor the very back of the auditorium (VAB 132) and they should sit up close to the stage by me, so that he would be far away from them. I recall asking them a second time if he had touched them and they denied it again.

A few days later, I received call from a UCF employee who I believe, but am not certain, represented herself as an “advocate” and asked me if I knew that my two students had been touched inappropriately by my T.A. and that I, as a professor, had an obligation to report the situation to UCF. I told her: (a) I did not know I was obligated to report that situation to anyone at UCF, and (b) the two students told me twice that my T.A. had not touched them physically. The woman on the phone said, “That’s because they were afraid to tell you.” I distinctly recall responding to her with “Afraid to tell me? I had put on my ‘clinical hat,’ so to speak, with them and was quite gentle with them. I’m surprised they were afraid to tell me.” We quickly terminated our phone conversation and *I never heard anything more about this situation.* **No UCF office ever re-contacted me about my alleged obligation to have reported that situation. No UCF person to the best of my knowledge ever contacted my Chair to address my failure to report the situation. My Chair never mentioned the situation to me. And no mention of my mishandling of this situation was reported in my Annual Review for that year.** Today, seven years later, I was taken aback to learn that the woman who had called me (according to Ms. Myers) did not record in her paperwork that the female students were afraid to report to me there was physical contact by my T.A. I was even more shocked that, according to Ms. Myers, those students—either at that time, or now, seven years later, attributed statements by me that I deny having made (e.g., “you need to be more conscientious when choosing friends”).

In summary, I want to highlight that this incident was known to multiple parties at the time and that beyond that initial phone call, no one from UCF ever raised the issue of my failing to report the alleged sexual assault until now. And I will restate: In 2014 when this incident occurred, I had never been trained or mandated to obtain training about my reporting obligations. If I was indeed obligated to report what my students told me – that my T.A. sat down next to them at a party and spoke to them in a way that made them uncomfortable – then the university failed to appropriately train me in this.

Finally, I would also like to address one specific allegation against me that you cite in your Notice of Intent to Terminate, regarding my alleged bribery of a health care worker in Peru.

What is reported in my book, *White Shaming*, is a 9-year-old anecdotal recollection of an experience that I framed in a particular way to make a point about the pervasiveness of corruption in Latin America. The facts are, I was told by an airline employee that I could not fly from Lima to San Salvador – a trip I was taking for personal, not job-related, reasons – without having a yellow fever vaccination, and that I needed two doses of it. He referred me to the Lima Airport Health Clinic to see if they could “help” me. I walked in and told an attendant that I was flying to San Salvador and was told I needed a yellow fever vaccination. I shared with her that according to the airline employee, two doses were needed. I asked her how could I resolve this problem. She told me only one shot was necessary and it would cost me 60 soles. When I reminded her that the airport attendant told me two doses were needed, she shook her head and disagreed. I received a vaccination and she informed me that she had recorded that two doses had been administered. When I returned to the Lima check-in counter, the man who had told me I needed the vaccine was no longer present and the attending clerk never asked me about proof of a yellow-fever vaccination. Moreover, upon arrival in San Salvador, I was ready to show the Immigration person my certificate and he said “We don’t need that.” I then realized at that moment that the whole demand of me needing a yellow fever vaccination, including two doses, appeared to have been a scam in Lima to generate income from international travelers. That airline employee likely wanted me to pay him some money just to ignore the whole thing. I did not “bribe” anyone as I had implied in my book, and I actually received one dose of a yellow fever vaccination (assuming it wasn’t a bogus vaccination).

The fact that, years later, UCF would use this anecdote in an effort to terminate me for allegedly violating university policy demonstrates that – far from being a good-faith investigation into alleged discrimination and harassment – this was a wide-ranging fishing expedition designed to find any conceivable pretext to justify firing me. OIE admits that – even if I had actually bribed someone at the airport in Peru – the “Anti-corruption and Bribery” policy now in force did not exist at the time of the incident. So instead, OIE cites regulations in force at the time that bear absolutely no relationship to the conduct alleged – regulations on the “pursuit and communication of scientific and scholarly knowledge” – to transform that conduct into something punishable.

The investigation and proposed termination of me sends a powerful message to anyone at UCF who holds unpopular or unorthodox views: speak your mind, and the university will devote all of its resources, for as long as it takes, to justify destroying your career. I urge you to please consider whether this is truly the path that UCF, as an institution that is bound by the First Amendment and that purports to be committed to the free exchange of ideas, wishes to take.

Thank you for this opportunity to express my positions on these charges. If you have questions that you’d like to ask me directly about any of these matters, please communicate with me or my primary attorney.

Cordially,

Charles Negy