

# **Report of the Boulder Faculty Assembly (BFA) Ad Hoc Committee to Investigate the Patricia Adler Case**

**(Submitted to the Boulder Faculty Assembly on May 1, 2014)**

## **Executive Summary**

This report presents the findings of the Ad Hoc Committee (the Committee) commissioned on January 13, 2014, by the Boulder Faculty Assembly (BFA) Executive Committee to investigate and assess the extraordinary circumstances that led to and followed the decision to sanction Professor Patricia (Patti) Adler and the subsequent reversal of that decision. The sanction consisted of disallowing her to continue to teach Sociology 1004, Deviance in US Society (Deviance course), that she had taught successfully for approximately 25 years. The faculty raised numerous concerns about these decisions; included among them is the role the Office of Discrimination and Harassment (ODH) played in the case and whether ODH policies potentially infringe academic freedom. The faculty also voiced questions about the transparency of the Administration's decision-making process, and whether administrators followed established policies and procedures.

The BFA charged the Committee with reviewing the facts of the case, summarizing relevant policies and procedures, determining whether the Administration and faculty followed established University policies and procedures, and judging whether academic freedom and responsibility were violated. Most importantly, the BFA charged the Committee with taking a forward-looking stance and with making recommendations of ways to avoid similar problems in the future.

### **I. Primary Findings about University Policy and Procedures:**

1. The Chair of Sociology followed procedures as established by ODH to report her concerns to ODH, including concerns about the prostitution skit in the Deviance course, pursuant to the ODH's existing policy of broad mandatory reporting of potential harassment and discrimination.
2. ODH followed their own practices in response to the report; however, the Committee believes that the initial stage of ODH investigations, referred to as a "preliminary inquiry," is too open-ended. There are no written regulations governing the preliminary inquiry, and ODH may develop practices on an ad hoc basis. For example, ODH observed Professor Adler's classroom without her knowledge. This raised serious concerns over academic freedom and underscores the risks of an unregulated and ad hoc preliminary inquiry process.
3. The Chair of Sociology's decision to sanction Professor Adler was within the purview of the Chair's responsibilities, but the Chair did not follow University policy to provide written notification and justification of the sanction to Professor Adler. In addition, the Chair failed to inform Professor Adler of her right to appeal the sanction.

4. The Dean of Arts and Sciences and Associate Dean of Social Sciences (the Deans) deviated from written policy in two principal ways: (1) Prior to an appeal, and without further investigating the case, the Deans decided to uphold the Chair's decision to sanction Professor Adler. In doing so, the Deans compromised their position as impartial reviewers of a potential appeal by Professor Adler. (2) Afterwards, during a meeting requested by Professor Adler, the Deans, in seeking to resolve matters "informally", failed to advise Adler of her rights and did not make it clear that the decision to sanction was not yet final.

The Committee finds that the failure of the Administrators (the Chair of Sociology and the Deans) to follow established policy and procedures proved costly to Professor Adler, the University's reputation, and academic freedom. These failures culminated in Professor Adler's reasonable belief, several weeks before the end of the Fall Semester, that she was being forced out of her course and even from the University. It was in this frame of mind that Professor Adler announced to her class that she would no longer be teaching the Deviance course, which led to public outcry, criticism of the Administration's handling of the case, and the consequent harm to the University's reputation.

## **II. Primary Findings about Academic Freedom:**

Academic freedom is the fundamental right of faculty, as University policy recognizes. Therefore, faculty hold academic freedom dear, and even implied threats to it must be taken seriously. It is the Committee's judgment that members of ODH and the Administration did not fully appreciate the impact of their actions on academic freedom. By observing the Deviance course without notifying Professor Adler and imposing a significant sanction on her shortly thereafter, ODH and the Administration created the impression that ODH's powers extend into the classroom and course content. These actions not only affected Professor Adler, they also created a fear among faculty that academic speech was being challenged at the University of Colorado, a view that resonated nationally. In addition, the Committee believes that members of the Administration may have inappropriately conflated Professor Adler's prostitution skit with sexual harassment. Teaching a course involving sexual subject matter and even having students participate in an in-class exercise that involves sexual subject matter is not sexual harassment. The Committee cannot be entirely sure of the precise grounds for the sanction because there was no written report. However, if administrators based the sanction, even in part, on the misimpression that Professor Adler's skit constituted sexual harassment or discrimination, then in the Committee's judgment Professor Adler's academic freedom was violated.

## **III. Recommendations:**

With the benefit of hindsight, the Committee presents a set of recommendations for the University's consideration. We call special attention to four recommendations:

First, University administrators should periodically review and follow University policy and procedures, particularly as they relate to the sanctioning of University faculty. In particular, sanctions must be documented in writing, and administrators must apprise sanctioned faculty members of their right to

appeal and the nature of the appeal process.

Second, there are no written policies governing the preliminary inquiry phase of an ODH investigation, in particular, its duration, the methods that may be employed (e.g., classroom observation), and whether the subject of investigation must be, or even can be notified. The Committee requests that the Chancellor appoint a task force to develop written policies to guide all the steps of the ODH investigation process, including the preliminary inquiry.

Third, given the issues of academic freedom in this case, and the nuanced relationship between faculty rights and responsibilities, the Committee recommends that the University hold a conference on academic freedom and anti-discrimination policy (Title IX) for all members of the University community.

Fourth, although the Dean eventually revoked the unjustified sanction against Professor Adler, Professor Adler's professional reputation has been tarnished. The Committee recommends that the Administration take affirmative steps to repair the damage done to her.