

Engel, Thomas G.

From: George S. Smith [gssmith@socket.net]
Sent: Monday, November 15, 2010 3:19 PM
To: Engel, Thomas G.; Loyalka, Sudarshan K.; Rubin, Leona J.; Johnson, Victoria; Montgomery-Smith, Stephen; Glaser, Rainer E.; Adelstein, Edward H.; Christensen, Gordon
Subject: Suspension of teaching duties of T. Engel
Attachments: Letter to Foster and Chancellor 7-22-10.doc

Dear Colleagues,

I have been a party to the recent emails concerning the removal of teaching duties of Professor Engel by Department Chairman Manring. I believe it is appropriate for me to respond. It is my hope that each of you will find a time to meet to discuss this matter and reach a consensus on how Professor Engel should best proceed toward protecting not only his interests but the interests of all faculty at the University of Missouri. I am most amenable to participating in such a meeting if my presence is requested. You should all be aware that Department Chairman Manring's Charge of Faculty Irresponsibility against Professor Engel contained express language that he was seeking revocation of Professor Engel's tenure and termination of his employment from the University. I have also attached a letter that was sent to Provost Foster and Chancellor Deaton asking that there be a reconsideration of Ken Dean's determination of the procedural adequacy of the FI Charge against Professor Engel. A response was never forthcoming. It is my understanding that this process is "stayed" for an indefinite period of time.

There is a reasonable potential that these actions by DC Manring could be seen as further retaliation/harassment against Professor Engel. In addition, Professor Engel will shortly file Charges of Research Misconduct against DC Manring and others. This will likely be portrayed as a retaliatory matter on his part due to the recent events. The evidence will show, however, that at a minimum, several days before he was notified of his removal from the classroom, Professor Engel had begun drafting the charge of Research Misconduct and was planning to file it this week.

I have provided below a list of issues that are pertinent to the matter at hand. Each represents my knowledge of the facts and my opinions and interpretations of the relevant rules and policies. I trust they will be useful to you in your deliberations.

1. Does Noah Manring have authority to take this action? Yes, pursuant to CRR 20.110 AND assuming he is the Department Chair.
2. Was the action taken consistent with the Department of Electrical Engineering Bylaws? No. Professor Manring wrote, to wit: "The results of our meeting with you on November 10th were discussed at a special meeting of the full professors in the department on Thursday morning, November 11th. It was the unanimous view of the faculty that to protect all the students in the class from possible retaliation, you should be relieved of your teaching duties and that an investigation of the charges should be conducted immediately." The ECE Bylaws provide that a special meeting can be called by the Department Chair only due to a petition signed by 30% of the regular members and only with 2 working days notice. Neither occurred in this situation.
3. Did Department Chair Manring accurately portray the November 10th meeting with Professor Engel and myself when he stated, to wit: "This has resulted because you have not provided us with the conditions under which you will meet with the students, and all informal processes for resolution have failed." No. At this meeting, Professor Engel was asked whether he would meet with the students. He responded, maybe if the conditions for such a meeting were established. He was asked who should be present at such a meeting? Through me, he responded, "Noel English." Professor Manring seemed unaware of this person and asked who was he/she? We responded, "She is the MU Equity Officer who deals with these types of matters. She is very capable and competent." He appeared to write down her name. DC Manring asked what could be done to head off the filing of a formal student grievance? We discussed and agreed to the following three actions: 1. The department hires a tutor for the three female Chinese students (Manring indicated this was an excellent idea); 2. Meet with the

students with Noel English present; and 3. Greg would consider giving written warnings to students if he observed any acts deemed to be academic dishonesty prior to filing a formal complaint of such. These three ideas were ostensibly received by Department Chair Manring enthusiastically.

4. Do the allegations of retaliation by Professor Engel against the 3 students have any merit? Not likely. This issue was not one of any significance to DC Manring at the meeting with Professor Engel and myself. In fact, there was no discussion at the meeting about Professor Engel retaliating against the 3 female Chinese students because they filed complaints of gender and race discrimination against him. Yet, this issue figured prominently in his email informing Professor Engel of his removal from teaching duties. Under the Missouri Human Rights Act, it is a violation of law to retaliate against a person who files a charge of illegal discrimination. The argument presented by DC Manring appears to be that because Professor Engel did not file formal charges of academic dishonesty against the 3 female Chinese students until 11 days later and soon after he was informed by DC Manring of the students' complaints, then this appears to be retaliation by Professor Engel. At the Nov. 10 meeting, DC Manring presented the retaliation charge in writing as: "Complaint 4: Engel is 'retaliating' against the entire class." He made the following statement in response to an inquiry about what does it mean to retaliate against an entire class. He stated, "I may be wrong about this, but Engel is now holding full-length classes and he is retaliating by giving pop quizzes in the last 10 minutes of class." On the issue of Professor Engel retaliating against the 3 female Chinese students, I asked Professor Engel whether DC Manring told him that the student complaints were based on race and gender discrimination. He informs me there was no such discussion; just a generic statement that student complaints had been filed against him. If that, in fact, is the case, then it is highly unlikely the University or the students could meet an evidentiary burden that Professor Engel retaliated against them because they filed charges of race and gender discrimination.
5. Can Professor Engel file a faculty grievance concerning this action? He should be able to, but the GRP may dismiss it. If you read Section 370.015's preamble, it states in part, "This grievance procedure should not be used in connection with a matter relating to any administrative title or function which the faculty member currently holds or may also have had." It is my interpretation of this wording that faculty grievances are not to be filed by grievants where the matter related to any administrative title this faculty member holds or did hold, but it does not preclude the filing of a grievance by a faculty member against an administrator (i.e. respondent). It has been communicated to me (on multiple occasions) that a grievance is filed against the University and the appropriate administrator is named the respondent. In every case I am aware of, the administrator whose actions are being grieved is named as a respondent.
6. Can Professor Engel file a charge of Faculty Irresponsibility against Noah Manring? Yes. If you read Section 300.010.L.4 "**Initiation and Transmission of a Charge** -- A charge of unethical or irresponsible action may be brought against a Faculty member or teacher by a person or group of persons associated with the University, such as a student, Faculty member, teacher, administrator, or Board member." And 300.010.L.2 "**Definition of Faculty Member and Teacher:** The term "Faculty member" as used in this article means a person holding a regular or non-regular academic staff position at the rank of instructor or above." It does not prohibit the filing of a charge of FI against a Faculty Member who holds an administrative title (e.g. Department Chair). Yet, Deputy Provost Ken Dean told Professor Engel that he could not file a charge of Faculty Irresponsibility against DC Manring.
7. Can Professor Engel file a lawsuit against DC Manring for Tortious Interference with Contract/Business Expectancy? Yes, but as all of you know that action is costly and time-consuming (2 years). But it does allow Professor Engel to uncover "behind-the-scenes" communications regarding him and these and other actions.