

Statement

Listening to a recording of the department meeting held on Monday, December 12, 2016, it was very clear that the faculty of the Department remains in the dark about what is happening with my situation, and the significance and roles of others in that situation. The administration is being understandably guarded about releasing information that they believe may be protected by privacy considerations, and they have a legal interest in not disclosing their own wrongdoing. But because that privacy pertains to me, and because the others involved have also decried a lack of transparency, and because the more recent proceedings have all involved hearings in open session and are therefore public, I will summarize for you exactly what has been going on. It's a long summary.

Note: Everything reported in the following document is substantiated either in writing, on audio recording, or it occurred in the presence of witnesses. I will present any supporting documentation upon request. It should also be noted that my challenges to the decisions of the chairs and the Dean are not without context or experience. I served as Assistant Department Chair in 2007 and Department Chair from 2008 to 2011.

Scheduling of Art History Classes

Between August 2011 and December 2012 the Chair of the Art Department Susan Messer failed to schedule the appropriate range of courses that were necessary to meet the needs of students. Based on the requirements of the art history major, which include the requirement to complete nine upper-level courses in art history, each of the three instructors must offer a rotation of at least three courses in order to provide sufficient options. I made multiple requests to address this, or for an explanation for why it was occurring. No explanation has ever been given, and as a result, no alternate plans could be devised to serve the students properly.

In December 2012 I resorted to notifying Dean McPhail of the situation. There was no response whatsoever, not even an acknowledgement of receipt of my concerns. The Dean later stated that "the chair can do whatever they want as long as it's not illegal, immoral, or unethical." After that, Chair Messer excluded me from any discussions regarding the scheduling of art history courses, despite the fact that I was the senior art historian. The only person to benefit from these actions was Deborah Wilk, who offered only two different upper-level courses during that period, each of which experienced increasingly declining enrollments as a result of being offered too frequently. The students certainly did not benefit from any of this.

Rotations for Art History Classes

As a result of the abovementioned situation, since September 2011 I have made numerous requests of the art history faculty, the Chairs, the Assistant Chair and the Associate Dean to develop projections for which art history courses would be offered over the next several semesters, so that students could plan accordingly. On multiple occasions I provided projections for my own teaching, as did Jenny Liston. Deborah Wilk declined to do so. To my knowledge, to this day no projections have ever been created or published for the benefit of the students which would allow them to plan their academic careers. I have never been provided with any proposals by Dr. Wilk.

Throughout this period students repeatedly approached me expressing concerns that the courses they needed to finish the program in a timely manner were not being offered. This meant longer time to

degree, and because most students needed only one or two courses to graduate, and because financial aid requires them to be full-time students, they paid for additional courses that they did not need, simply because we could neither provide them with the courses they needed, nor with any indication of when those courses might be offered. One student's case is well documented in writing. Dr. Wilk trivialized that student's concerns by belittling that student's performance in her class. More recently, that same student came to me for advising believing that they needed just one course to graduate in Spring 2016. My review of that student's record revealed that they could in fact graduate in the Fall 2015, a fact overlooked by their adviser (Dr. Wilk), and it appears my intervention did in fact allow this student to graduate a semester earlier than expected and saved that student thousands in financial aid. These failures by the faculty to provide the necessary options and to provide competent advising are unacceptable, they were reported to Dean McPhail and Interim Dean Mertens, and to my knowledge nothing has been done to insure that it does not happen again.

Summer Offerings of Art History Classes

Since August 2011, I have on numerous occasions objected to Department Chair Messer to the offering of any of the art history survey courses during the summer sessions because it diluted the enrollments for the regular academic year. My warnings were ignored, and subsequently one of the Spring sections of one of the survey courses was cancelled due to lack of enrollment. The only reason for the offering of this course in the summer session was because it was easy for the instructor, Dr. Wilk, to offer it. There was no curricular need or benefit, and in fact it harmed students by resulting in fewer options for them during the regular semesters.

I have also on multiple occasions requested of the Department Chairs, the Dean and the former Provost to invite students to speak with them about their concerns about the availability of classes. The students have reported to me that they have never been contacted, while at the same time the administration has claimed that my reports of student concerns have been "unsubstantiated" and "unfounded".

A Clear Pattern of Behavior

Since her arrival, I have had a number of concerns about Associate Professor Deborah Wilk's behavior which are symptomatic of a disturbing pattern. Each of the following instances was witnessed by people other than myself, or can be documented in writing:

1. Although I am not certain of the recent circumstances, in the past, Dr. Wilk has not accompanied students on the buses during the art history field trip because it is "inconvenient" for her to do so. She has characterized it as "impossible". This then requires that someone else fill the void. I stopped participating in the field trip because if something were to happen on the bus that Dr. Wilk should have been on, the very first thing any reasonable attorney would ask is "where were the faculty members?" I believe this puts students at risk, and it puts me at risk of legal action as a faculty participant.
2. Dr. Wilk seems to believe that she can dictate what she will and will not teach. In an open faculty meeting she clearly expressed that she "will not teach Graphic Design History", the exact course which was responsible for the creation of her position. This then requires that someone else fills the void.

3. Dr. Wilk has refused to teach the rotation of courses necessary to sustain the art history program. As students require nine electives to graduate, and there are three art history positions, it is simple math and not opinion that each instructor must offer at least three different courses on a regular basis. When one instructor refuses to do so this then requires that someone else fills the void.
4. While it would help to mitigate the problems created by the previous behavior, Dr. Wilk consistently turns away students seeking Independent Study alternatives, citing that she is “too busy”. This then requires that someone else fills the void.
5. While it would help to mitigate the problems created by the previous behavior, Dr. Wilk has not once in her tenure at UWW proposed a special topics or travel study course. This then requires that someone else fills the void. My observation of this led to an accusation of “mischaracterization” at the Spring 2014 faculty meeting and in the official minutes for that meeting, because Dr. Wilk was apparently seeking funding to create a new course. Not surprisingly (to me), this has never materialized, and no mention whatsoever was made in a subsequent meeting or breakout group. My experience with Dr. Wilk has provided me with no reason to expect that this course will ever materialize.
6. When provided with the opportunity to step up and address the problem created by lack of available courses, instead of accepting the responsibility of doing so, and offering to take on these independent study students, Dr. Wilk’s “solution” was to send these students into other courses outside of the Department and personalize their ARs. This then requires that someone else fills the void. To my knowledge, Dr. Wilk has only taken on two independent study students in her tenure at UWW.
7. When I proposed the first undergraduate seminar in order to provide more alternatives to students, and to bring us into compliance with accreditation requirements, Dr. Wilk insisted that it could not be made a requirement of art history majors, because if it was, she “might have to teach it.” As a result, that void in our program and our accreditation remains unfilled.
8. In August 2014, when given the opportunity to propose and draft curricular changes that would change the program to one that was more viable, Dr. Wilk stated that she would welcome seeing that happen, but that she was “too busy” to do it herself. This then requires that someone else fills the void.
9. Dr. Wilk insisted on certain changes to the art history classroom CA 2 in order to suit her needs. No one else expressed similar concerns. After a meeting with Robert Mertens, Julia Ince and me, it was determined that Dr. Wilk’s main concerns could not be addressed through simple fixes, and that to resolve the situation to her satisfaction, a Lab Modernization proposal was in order. Dr. Wilk immediately stated that she was not experienced in such a process (who is?) and could not possibly do it. This then requires that someone else fills the void.
10. For several years students reported to me that they were concerned about what they called “no-class Fridays”. Despite being scheduled to teach a MWF schedule, Dr. Wilk routinely cancelled Friday classes. Rather than address the situation, the administration has instead changed the status of these classes from face-to-face to “hybrid”, and Dr. Wilk no longer teaches on Fridays. There is no evidence anyone ever reviewed whether there were any pedagogical benefits to this. The students who spoke to me did not believe so.

Dr. Wilk's pattern is unmistakable, and it affects everyone around her. My characterization that she appears unwilling to do what is necessary to insure the success of the program is not an "attack", it is an observation founded solidly on the experiences noted above. She has not acknowledged or taken any responsibility for this, and instead has defended her actions by accusing me of being "un-collegial" and "harassing" her. Can there be anyone less collegial than a colleague who fails repeatedly to pull her weight, leaving countless voids that have to be filled by others?

I submitted a document almost identical to the above section to Chair Renee Melton, who later claimed during her testimony at a hearing that she was "harassed" and "bullied" by me because she was being "forced" to "investigate" my claims of "the perceived shortcomings" of my colleagues. Melton has never once spoken to me about these claims, nor has she ever reported the findings of her alleged "investigations" to me or to anyone else.

First "Complaint" and the "Letter of Counseling"

In December 2012 I sent an email making it clear to Dr. Wilk that her conduct regarding course offerings was not serving the needs of students. This email was characterized by her and art historian Jenny Liston as an "attack". An informal complaint was filed with the Chair, and subsequently I appeared before Chair Messer and the Executive Personnel Committee of the Department to answer to this complaint. For four and a half months the Committee dragged their heels despite my occasional reminders until finally it was determined to ask Dean McPhail to file a formal complaint with the Chancellor, long after the 120-day limit for such complaints had passed. I informed the Dean of this limitation, and signaled it in the copy of the Faculty Personnel Rules provided to me by the Committee, but he stated in writing he would be filing the complaint anyway. Chancellor Telfer did not process the complaint because it fell outside of the 120-day limit, (he called it a "letter", presumably to avoid admitting that it was invalid) but in obvious circumvention of the rules regarding such complaints, he instead issued a "Letter of Counseling". I did not interpret this letter to be a directive, because it issued from an invalid complaint, and it was called "counseling". However, this "Letter of Counseling" has been cited as a directive in every subsequent charge levelled by the Chancellor as evidence of my alleged "insubordination" to the "counsel" contained in it. It is clear that the Chancellor considered the "Letter of Counseling" a directive, and if so, he explicitly violated my right to due process by issuing a disciplinary action based exclusively on an invalid complaint. I had no opportunity to appeal this. This is the only time that I was invited to speak with either the Chair or the Executive Personnel Committee regarding complaints against me. All subsequent complaints were processed without any discussion at the Department level.

On February 14, 2013, in response to the Dean's request to meet with him regarding the ongoing dispute between me and the Department, I arrived to find Director of Personnel Judith Trampf present. I was never informed of this, and perceived it to be effectively an ambush on the part of the Dean and Ms. Trampf. I had no choice but to submit myself to this inquisition without preparation.

Nonwestern Art Hire and Course Proposal

In 2013 Department Chair Susan Messer deliberately excluded me, the senior art historian, from the discussion about and decision to hire a nonwestern art history specialist, a position I only learned about when I saw a box of applications in the department office during the Summer of 2013. My first formal notification of the existence of this position came when I was invited by the search committee chair to participate in the interviews of candidates at the beginning of the Fall semester. Because I chose not to

participate in this interview process, and specifically for this reason, I was later charged with “failure to perform job obligations” and penalized with a three-day suspension without pay by Chancellor Telfer, despite the fact that there is no department, college or campus requirement that anyone participate in interviews other than the search committee members. The email presented in evidence against me was marked by Chair Messer as an “invitation to participate”, not a mandate. The disingenuousness of her offer of participation at the interview stage rather than the planning stage should be apparent.

During this search process I wondered to a colleague what course that new hire would teach, as there were no nonwestern courses on the books. Apparently, in the eleventh hour a proposal had been submitted by Dr. Wilk and Chair Messer without the consultation of the faculty. This was in direct contradiction to the policy that was in place since the Fall 2008 semester requiring that all proposals be reported to the faculty at large. This policy was recorded in the October 13, 2008 minutes, but Chair Messer repeatedly denied the existence of such a policy. Later I rediscovered the minutes in question, and because we had discussed the development of such a policy during each of the three previous department meetings I redistributed them to the faculty for their information. As a result, I was chastised in writing by new Department Chair Melton for circulating a public document, purportedly because of its “personnel” implications. What these were has never been explained to me, but it is worth noting that the original motion to adopt that policy was seconded by the same former Chair Messer who consistently denied its existence, and has continued to do so to this day in public meetings.

In August 2014 I made a motion that all proposals be reviewed by the faculty at large, despite the fact that I knew such a policy already existed. I cited the fact that I had never been shown the nonwestern course proposal. Former Chair Messer vehemently objected, stating twice to the rest of the faculty that I had been shown the proposal. This is recorded in the meeting minutes. After the meeting I asked Messer to resend her notification. She blushed and left the room. The following day I renewed my request to Messer in writing, but Chair Melton intervened, specifically instructing Messer in writing not to comply with my request. At the end of that previous day I had spoken with the new Chair Melton about the situation, and that evening she reported to the Executive Personnel Committee that she “perceived the nature of [my] body language to be aggressive, and the unfolding of events to be unstable,” but “I don’t feel any further action is needed.” She did not describe what exactly that “body language” was.

Note: This is one of two instances of alleged “physical intimidation and threats” on my part that have EVER been cited by Ms. Messer or Ms. Melton, despite their repeated claims of such to the faculty, in both public meetings and presumably in private. As you will see later, this event has been elaborated over time to suit the needs of the moment in question. The second alleged incident, which occurred on December 11, 2014, was described by Melton as “Dr. Henige turned the corner and was clearly surprised to see me. An unmistakable look of rage came over his face and was reflected in his body language. He acknowledged only my colleague.” That colleague, Denis Dale, who acknowledged me first while Melton did not, never testified to any “look of rage” or “body language”, but Melton went on to characterize her perceptions of my “look” and “body language”, which she never described further, as “an escalation of threatening behavior”.

On September 2, I filed grievances with Dean McPhail against the former and current Chairs (Messer and Melton) for lying to the faculty, and for attempting to cover up that lie. Three days later, after failing to properly investigate my grievances, (citing his belief in the nonexistence of the very policy cited above)

Dean McPhail filed a formal complaint against me with the Chancellor in which he specifically cited my grievances as “indirect aggression”. This was obviously retaliatory. In accordance with the Faculty Personnel Rules, I requested that my grievances be moved on to a campus-level grievance officer, the former Faculty Senate Chair David Munro, and there was no contact with me or any resolution on the matter for more than 18 months. Ms. Messer has reported that this campus-level grievance officer spoke to her about them, so no claim can be made that I never submitted them, or that the campus-level grievance officer never received them. Because it was apparent nothing would be done, and that these grievances were being quashed because they could not be refuted, I ultimately withdrew them, and there was no longer any personnel privacy attached to them, because no disciplinary action has ever been associated with them.

Second Complaint

In December 2013 a formal complaint was filed against me by Dean McPhail citing refusal to fulfill job obligations, insubordination, and creation of a hostile work environment. Chancellor Richard Telfer returned a charge citing my failure to participate in the nonwestern search interviews to support the first claim, and insubordination to his “Letter of Counseling” to support the second claim. The third claim centered on my persistence in requiring the Department Chairs to address issues surrounding the scheduling of art history classes mentioned above. Because the persons central to my criticisms happened to be women, the Dean made a specific and explicit allegation of “sexual harassment” in his complaint, despite the fact that there have never been any claims of sexual misconduct which, according to the campus policy, is the “common element” necessary for such an allegation. The Dean’s allegation was patently and knowingly false, and it was dismissed upon subsequent investigation. However, that allegation, and the investigation that it necessitated, had the effect of defaming me. How does one investigate a claim of sexual harassment without suggesting such to the persons being interviewed during that investigation? The lasting consequences of this are that there is a pervasive belief within the faculty that I had in fact been guilty of sexual harassment or at least gender bias, despite the fact that there have never been any complaints by any faculty or students, and there has been nothing in any of my communications or interactions that remotely hints at such. The only “evidence” that has ever been presented is that the recipients of my challenges to poor conduct and decision-making relative to the art history program have happened to be women. It is also the case that all of the other art historians and all of the chairs, the people responsible for making decisions relative to my program, also happened to be women. Except, of course, for the Dean, whom I also criticized for his lack of action, a fact ignored by Messer and Melton because it undermined their claims that my criticism of them was based on gender. They will later adjust their strategy.

Note: Throughout all of this, every claim of gender bias, discrimination or harassment based on gender against me has been dismissed. Every one. Yet Messer and Melton continue to make this claim. Why?

Conflict Resolution

In an effort to resolve the situation and deal directly with the conflict and the complainants, I entered into a conflict resolution process with Dean McPhail and a mediator, despite the fact that the Dean was not the actual complainant in the matter. The Dean was nothing more than an intermediary, filing the complaint on behalf of others who chose not to do so themselves, the Dean’s actions thereby violating one of the Faculty Personnel Rules that requires that complainants sign their own complaints. It

included only complaints and documentation provided by those individuals. During the mediation, the Dean presented “four points” he wanted to achieve in the process:

- Cessation of emails
- Rebuild Trust
- Contribute Positively
- Recognition of how behavior affects others

I said that if he wrote them up I would agree to them. The Dean subsequently presented a document that had only two of his original four points, plus several new ones that I had not agreed to. As it was evident the Dean would not act in good faith, and because I would not be provided with the opportunity to resolve the conflict directly with any of the actual complainants, I terminated the conflict resolution process. This was later cited by the Dean as “evidence” of my unwillingness to resolve the situation.

Proposal to Eliminate the Art History Major

Because neither my colleagues nor the administration appeared willing to address the needs of the students in the art history major, and because under the current staffing we could not reasonably meet their needs or the requirements of our accrediting body, I prepared a formal curricular proposal to eliminate the art history major, my own program. Historically, this major has had between 8 and 12 majors, graduating on average 1.25 students per year. On average, it has taken these students 147 credits to graduate, 27 more than we say it will, largely because we haven’t offered the range of courses necessary for them to complete the major in a timely manner, and because the scheduling of these courses often conflicts with other degree requirements, the foreign language requirement in particular. If approved, current students would of course be permitted to complete the major, but no new students would be admitted to the major.

Note: As of August 11, 2016, there were three declared art history majors and nine minors.

Following established procedure, I submitted my proposal to the Department’s Curriculum Committee and the Department Chair Sue Messer 59 days before it would be considered at the May 19, 2014 faculty meeting. Dr. Wilk was on that committee, and she received it from the committee chair 50 days before the meeting. At no time did she or anyone else request to discuss it with me. I requested of the committee chair Jared Janovec in writing to be allowed to speak to the committee about the proposal before it was considered by the faculty at large. Department Chair Messer specifically and explicitly directed Janovec in writing not to allow me to do so.

Note: This was a violation of Wis. Stat. 19.89, which states that “No duly elected or appointed member of a governmental body may be excluded from any meeting of such body. Unless the rules of a governmental body provide to the contrary, no member of the body may be excluded from any meeting of a subunit of that governmental body.” Yes, an academic department is a “government body”, and a department committee is a “subunit”.

The committee met without my knowledge, and determined not to recommend the proposal. In the department meeting on May 19, 2014, I read verbatim from prepared notes a reasoned and balanced accounting of the state of the major, what we could do to improve it, and what was beyond our ability to correct, concluding that it was in the interest of future students to eliminate it. In it I was critical of

the decisions that had been taken by the department chair regarding scheduling, and expressed my belief that neither my colleagues nor the chair had demonstrated a willingness to do what was necessary to make the program work for our students. The only statements I read from that document that were later shown to be inaccurate were that I stated that only UW-Madison and UW-Milwaukee had art history majors, but I learned later that UW-Eau Claire also has a major.

Despite sentiments to the contrary, I did not digress from a verbatim reading of that document. Following a motion to “disapprove” my proposal, the faculty voted unanimously to do so. There were concerns at that time that I too voted against my own proposal. During the discussion that followed my presentation, Chair Messer pointed out that there were plans to “have discussions” about the program. Chair Messer also pointed out that Dr. Wilk was working on a new course proposal. This gave me hope for a potential resolution, and I felt that opportunity should be provided. Neither ever materialized.

During the Summer 2014, our accrediting body validated my concerns about the program, citing the very same issues. I subsequently requested an external program review by the Provost’s Office, as it was clear that neither the Department nor the Dean would take action in the matter. I received a response that it had been delegated to the Interim Provost Mary Pinkerton by Interim Chancellor Kopper, but never heard anything further. A recent request made to new Provost Elrod resulted in a response stating the Audit and Review Report (written by those who were responsible for making the poor decisions in the first place and which was never reviewed by the faculty before its submittal) is the “proper” mechanism to address such issues and they should be addressed through the Dean, who has also done nothing.

Third Complaints

Several faculty members objected to my presentation on May 19 and complained in writing to Dean McPhail. The Dean demanded that I schedule a meeting with him and that I provide him with the comments I read at the meeting. I declined, stating that the contract period was over and therefore I was under no obligation to conduct University business, particularly any business that involved potential disciplinary action, and that he had no legal right to demand the personal notes I used in my presentation. After checking with UW System Legal, he learned I was correct on both counts.

Note: Another consistent theme throughout this document is that the administration will do whatever it wants to do, and make whatever demands it wants to, regardless of institutional policy or state law, unless you do your homework and assert your rights. Then they will either back down, go silent, or file a complaint against you for “insubordination and lack of respect for authority”, as did the Dean after I proved his position to be wrong.

The Dean then “invited” me to see him, and I met with him and Bob Mertens and provided them with a copy of the document I read at the meeting. During the same period Department Chair Messer demanded that I meet with her and Renee Melton who, although being incoming chair later that year, was not a member of the Executive Personnel Committee and had no standing to participate in any disciplinary meeting. I ultimately agreed, but only if that discussion did not involve addressing disciplinary action while off-contract, but instead focused on finding ways to move forward in a less adversarial fashion. The Dean responded by immediately expressing in writing his “disappointment” in my “failure” to comply with his “four points” (see above) through my unwillingness to discuss a personnel matter with persons who had no standing to do so, and off-contract. He threatened in writing

to file a formal complaint as a result. A meeting was scheduled for 10:00 am, May 29, 2014. I attended the meeting at the scheduled time, they did not. I reported this immediately to the Dean's Assistant, and to Academic Staff member Michael Flanagan, whom I saw in the hallway shortly afterward.

Despite their threats, neither the former Chair nor the Dean filed complaints during the summer.

On September 2, I filed formal complaints with Chancellor Telfer against former and current Department Chairs Messer and Melton, and Dean McPhail for their inappropriate actions following my presentation regarding off-contract demands, intentional failure to appear at the scheduled meeting, and attempted seizure of my personal documentation, and against Dr. Wilk for failure to perform job obligations. These complaints were dismissed summarily and without investigation by the Chancellor. That same day I filed grievances against former and current Department Chairs Messer and Melton for the aforementioned lying to the faculty and attempting to cover it up. As noted earlier, disposition of these grievances remained open for over 18 months, until I withdrew them. Three days after I filed these complaints and grievances, Dean McPhail filed his complaint, and ten days after that former Department Chair Messer filed hers, both months after the May 19 meeting, upon which their complaints centered. These were without question filed in retaliation for my complaints and grievances, and the Dean's complaint even cited my grievances in its text as "indirect aggression".

Chancellor Telfer later determined to file a charge on both complaints. This time Messer alleged that my actions had violated Title VII of the Civil Rights Act, and Wisconsin Statute 111.36 that prohibits employers from discriminating based on sex (I hadn't realized I was an employer). The Chancellor tried to deflect these ludicrous allegations by stating that "the complaints do not specifically allege that your behavior is gender-based" (!?) and said nothing further. He imposed a month-long suspension to be served at the "start of the spring 2016 term", which later without my consent became a "30-day suspension" to be served only on days that I had no teaching responsibilities, which later was moved without my consent to Winterim in order to make room for their next penalty. I appealed this charge according to the Faculty Personnel Rules, which have consistently been presented to me with any notifications of the filing of complaints, and have been always characterized as my "rights and protections". A hearing process was initiated.

The number and scope of the violations and failures to follow the Faculty Personnel Rules by the Chancellor, his representatives the Director of Human Resources Judith Trampf and Dean McPhail, and by a hearing panel chosen from the Faculty Appeals, Grievances, and Disciplinary Hearing Committee are too numerous to list here. I objected to every violation of my "rights and protections" directly to the hearing panel chair in writing and copied them to the Chancellor when I became aware of them, and every one of my objections was ignored or excused away, by both the panel and its counsel. It should be noted that according to the Faculty Personnel Rules, the panel was not entitled to legal counsel unless I was represented by legal counsel. I was not. The decision to violate my rights was willful and systematic and did not arise out of ignorance. This process left me with no reasonable expectation of due process at any subsequent hearings. I informed both the former Faculty Senate Chair David Munro, and the current Faculty Senate Chair James Hartwick, about the conduct of the committee members under their charge. There has been no response.

Note: Ms. Messer in the March 9, 2015 meeting claimed that all of the proceedings were held "according to policy", which by now you must realize was not true. In her defense, she would not have been aware of what had been occurring at other levels of the process. The fact remains that the rules

were not followed, and the proceedings were in no way conducted “according to policy”. She also claimed that following these policies was somehow a “full-time job.” These policies are neither complicated nor difficult to follow. It only gets complicated when you don’t read them in full, and you fail to follow them as a result.

The final charge presented by the Chancellor alleged that my reading of the rationale for eliminating the major “appeared intended to attack individuals in the department in an intimidating and abusive way.” There was no attempt of any kind at verifying or refuting the veracity of the contents of that document, read verbatim at the meeting and mysteriously and inexplicably NOT submitted by the Dean in evidence against me in his complaint. He had it in his possession, he knew there was nothing there, and hoped his allegations about people’s reactions to it, and his unsupportable claims that I digressed from it, would adequately substitute for its actual contents. The Chancellor noted that the Investigator’s Report “indicates the witnesses he interviewed agreed that you ‘consistently and directly harassed specific individuals’ at that meeting, without defining what constitutes “harassment” and without citing a single example.

“Regarding repeated acts of intimidation, [the investigator] indicates that he was told about multiple occasions where you allegedly attempted to intimidate your colleagues.” Again, no definition of what this means or any examples of it, except that “one specific incident in August 2014 involved a verbal confrontation with Chairperson Renee Melton.” (See her account, provided just hours afterward, noted above – she “perceived” my “body language”...)

The Chancellor then concluded that my conduct “has created tension, distress and apprehension that has interfered with the proper functioning of the department.” How, he does not say, nor does he suggest that had those in question simply provided accounting for their own actions, none of this would have occurred.

The Chancellor implemented a penalty of one month without pay.

Note: A common theme throughout this entire document is that none of the issues I have raised – not one – has been explained or accounted for, or addressed in any way. At no time did Ms. Messer or Ms. Melton ever say or write “I made that decision because...”. Legitimate concerns have been considered “harassment” from the start, and this has been simply accepted without substantive proof, both by the administration, and sadly, by many of my colleagues.

Quid Pro Quo

In September 2014, Dean McPhail contacted me in writing wishing to have a discussion about “resolving our disagreement”, which I noted seemed to be in violation of the proscription that we have no contact during the hearing process. He replied stating that he did not want to discuss ongoing matters, but instead wanted to discuss the possibility of a sabbatical, and the possibility of my assisting in the Higher Learning Commission accreditation process. This looked entirely like some kind of quid pro quo sabbatical-for-service conversation of which I wanted no part, and I declined to meet with him, stating I would not be interested in either.

The Meeting

On October 29, 2014, then-Provost Kopper and the Director of Human Resources Judith Trampf organized a meeting of all of the central players to discuss the situation within the Department. I objected, stating that while the complaint was still outstanding, it would be inappropriate to have any such discussion. I was assured by the Provost that the specifics of the complaints would not be addressed.

The Provost and HR Director presented a document called “Meeting Rules of Conduct” to the Department (not just me), which was clearly tailored to the current female chair through its use of the pronoun “she”, and which was entirely inconsistent with any legitimate guidelines for faculty shared governance. It gave unfettered veto power to the Chair regarding any and all discussion items at Department meetings – “Her decisions about items on the agenda are not debatable” – if the Chair doesn’t want it discussed, it doesn’t get discussed. Subsequent attempts by colleagues within the Department to discuss this document in open session and to either vote to accept it or to reject it have been quashed by the former Department Chair Melton, the Interim Chair Denis Dale, and Dean McPhail. This document finally had a hearing in the Department on May 9, 2016, at which both previous chairs Messer and Melton vehemently argued that the “Meeting Rules of Conduct” were “never policy”, yet despite the fact that Melton had earlier testified in a court petition that they were “expected to be followed”, and that I had “violated” its “terms”. The faculty voted unanimously to reject the “Meeting Rules of Conduct”.

At this same October 2014 meeting, Provost Kopper directed the department to create a “Policies and Procedures Handbook” so that all faculty in the department would better understand how things need to be done. For months no attempt at all was made to address this, and only after I requested that the Provost renew her directive was a committee formed. After over two years, there has been no product whatsoever from this committee.

Near the end of the meeting each of the complainants and other parties present were given the opportunity to air their grievances, despite assurances by the Provost that there would be no such discussion of pending matters.

Finally, at that same meeting I asked Director of Human Resources Trampf what recourse one has if no one at any level will address one’s concerns. She replied “hire an attorney”. I have taken that advice.

Note: Another common theme is that despite repeated use of words like “unsupported” and “unsubstantiated” to describe my concerns, no one has ever actually said they were “untrue”, nor has anyone ever provided any alternative explanations that might justify their own actions. Both Ms. Messer and Ms. Melton have claimed that my emails have disrupted their ability to perform their jobs. How? A reasonable person, when asked to explain their rationale for a particular decision, would say “I made this decision because...”, and then there would be a conversation, trust would be built, and we would move on. That never happened, not once. The response to concerns I have raised has either been silence, allegations of bullying and harassment, or temporary restraining orders. Ms. Melton has claimed she has “nothing to hide”, and yet how many of the twelve agenda items that I asked to be addressed have ever been addressed? (see below) How long did it take to finally have a 6-minute discussion of the Meeting Rules of Conduct, and why did it take that long?

Accreditation

In reading the documents that had been submitted by the Department and University to the accrediting body during the Spring 2015 semester, (without any review by the faculty,) in response to that body's concerns, I grew concerned that there were outright falsifications regarding the situation surrounding the art history major, and specifically the role of nonwestern art. Promises were made by Department Chair Melton regarding changes to the survey courses that had neither been discussed with all of the instructors of those courses, including me, nor voted on by the faculty, and to date (18 months later) none of the curricular actions necessary to effect such changes to courses or degrees has ever been submitted. I made my concerns immediately known to Dean McPhail and Associate Dean Mertens, and was told that I would receive a written response. To date I have received nothing from either of them. I then reported these falsifications directly to the accrediting body, the National Association of Schools of Art and Design (NASAD) who recommended I ask our administration to see the Committee's Final Report, noting that the Committee was "not easily misled". Unlike the other documentation for accreditation which was mounted on the shared department server, this document was conspicuously absent. I requested it from Interim Chair Denis Dale and Interim Dean Mertens and received nothing. I was forced to make an Open Records Request in order to see these documents, and as it turns out, the accrediting body did not grant immediate renewal of accreditation, but deferred that renewal until such time as they were convinced the institution could meet their mandate. To my knowledge, this was never reported to the faculty, and there have been no discussions and no curricular actions to support the Department's claims regarding nonwestern art.

Spring 2015 Meeting

Two days before the Spring 2015 Department Meeting, I submitted a request to Department Chair Melton that historical agendas and minutes for the Department be placed on the shared drive for the Department, rather than being removed when the next ones were put up. Melton responded, not with an explanation, but that I should refrain from "instructing her in her duties". The next day I responded by stating that I thought others in the Department might also see the benefit in this, and that it should be added to the agenda for discussion. I also requested that 12 additional items be added to the agenda, all items of concern to the Department and all having to do specifically with Department business, and all items which have been consistently avoided in earlier discussions among the faculty simply because they might prove embarrassing to those involved:

1. An update on the curricular procedure that the Curriculum Committee is supposed to be developing, in spite of the fact that one already exists;
2. A clarification to the entire faculty of the existing policy as voted upon and recorded in the minutes I distributed, and an explanation for why this duly approved process was not followed by the previous chair, who seconded the motion in the first place;
3. An update on the progress of the policy handbook mandated by the Provost and the Director of Human Resources and about which, to my knowledge, the faculty at large still knows nothing;
4. An update on the discussions about revisions to the art history major that are supposed to be happening but have not, at least I have not been involved in any. I said I would not stand in the way of proposed changes that Dr. Wilk wished to initiate, I did not say I wanted to be left out of the process;

5. An update on the curricular proposal that we were assured in the May 20, 2014 meeting was being developed by Dr. Wilk to help alleviate the pressures on the scheduling of courses;
6. An update on the response to NASAD regarding their questions about the nonwestern course, and for that matter, the distribution of both their request and our response, which not even the art historians have seen;
7. An update on future plans for the nonwestern course;
8. A clarification to the faculty at large regarding the art history major who declined to be part of the promotional video due to her concerns about structure of that program;
9. A definitive explanation for why it is in the interest of our students to change the post-foundations review policy without informing them, without changing the documentation that is given to them on the process, and without going through the appropriate curricular procedure to do so;
10. An explanation for why, despite my efforts, despite the previous chair's efforts, and despite the direct mandate from NASAD, there have yet to emerge any kind of art history course rotation projections that students can use to plan their futures;
11. An explanation from the Registrar and the Vice Chancellor of Academic Affairs regarding why it is acceptable to institutionalize the personalization of courses into the art history major that are not officially a part of it;
12. An update on the progress of the BFA-Graphics program revision."

Note: How many of these have ever been addressed? Why not? Is it because they don't need to be answered, or because the answers stand to embarrass those involved? Is the embarrassment of individuals who are not doing their jobs reason to ignore the issues caused by those failures?

The following day when I arrived for the meeting I asked why no agenda had been distributed, and was given one by Department Assistant John Boie that listed a single item: "Harassment/bullying in the workplace". Concerned that this was directed entirely at me, I immediately took the agenda to Dean McPhail who stated that he knew about it, and that he would be there at the meeting. I stated that I would not, and after consultation with a colleague, I left the building in fear of disciplinary ambush. On the way out of the building, I saw Department Chair Melton speaking to two campus police officers, whom I later learned retained a presence in the Department throughout the meeting. Their presence must have suggested to the faculty that I was somehow "dangerous", and as such defamed me. Remember, there have been no credible accounts by anyone of any conduct on my part that might be considered threatening – just "perceptions" of "body language". This Spring Meeting, which usually lasts two to three hours, lasted less than fifteen minutes and, according to a colleague present, consisted of little more than a statement by the Department Chair that focused largely on her personal life, and a reading of the "Meeting Rules of Conduct", without discussion. It is clear that the agenda was not planned and that it was the direct result of my request to discuss matters within the department which had been avoided for too long. I sent my apologies for the apparent disruption in the agenda to the faculty later that day, and with it I sent the list of requested agenda items that precipitated the change in agenda.

At 1:05 am two days later County Sheriffs served me at my home with a Temporary Restraining Order filed by Department Chair Melton citing "harassment." The petition included a false claim of physical harassment, which was presumably necessary in order to obtain the TRO in the first place, in which the earlier statements by Melton that "I perceived the nature of his body language to be aggressive...I don't feel any further action is needed" (see above) became "I believed [his] tone, combined with his body

language to be physically threatening”, (new language tailored specifically to the petition) and claimed that “he put his hands on the table and leaned in towards me, his face close to mine,” despite the fact that by her own admission we were both on the same side of the table. What Melton did not recognize is that, due to my mobility issues, I have to put my hands on the table to get up out of a chair, particularly one with wheels. Melton also used the word “stated” to describe my tone of voice, and never characterized this conversation as any kind of “verbal confrontation”. That particular language was later introduced by Chancellor Telfer.

Note: Later, both Melton and Messer would claim to two different colleagues that a Greg Porcaro’s abstention from certain votes at faculty meetings was making them physically ill.

The rest of Melton’s petition was a laundry list of communications that were characterized by Melton as “harassing” and “bullying”, including describing my distribution of the historical minutes without any further comment as “menacing”.

At a hearing 10 days later, we both presented virtually the same set of documents as evidence. At the hearing the current and former Chairs Messer and Melton pressed claims of gender bias because the alleged “targets” of my criticism happened to be women. It was just a coincidence that all of the other art historians and the chairs since I was chair, the only decision makers relative to the art history program, all happened to be women. Because they knew their argument was unsupported by any substantive facts and would not be compelling, they added a new claim of racism because of my criticisms of Dean McPhail’s failures to act, stating in open court that it was because “he’s Black”. They provided no evidence, written or oral, of any such bias.

At the beginning of his verdict, the Court Commissioner made it clear that there had been no claims whatsoever of physical contact or intimidation. He concluded that there was no basis for claims of gender or race bias. He also dismissed claims that my taking things to the next level constituted “threats”, because that’s what is expected when one does not get satisfaction at the initial level: “You should take advantage of the hierarchy system and send your complaints and file complaints and move them up through the system.” I did that. Finally, the court commissioner in the Circuit Court concluded that there was no legal basis for a claim of harassment because my communications all “served legitimate purpose”: “We expect our professors to criticize each other, to debate, to question authority...the actions themselves fall under the realm of educational employment in a university setting...the actions themselves, the actions of criticizing, debating, and questioning authority do serve a legitimate purpose...”.

The TRO was not upheld and no injunction was issued. It should be noted that because of the fundamental purpose of a Temporary Restraining Order, to protect people who are truly in any physical danger whatsoever, the threshold for the issuance of an injunction based on a TRO must necessarily be incredibly low, and yet the Court Commissioner clearly saw no merit at all in Melton’s petition.

Fourth Complaint

At the TRO hearing I learned that Chair Melton had filed a formal complaint to Chancellor Telfer the day before the hearing. Its contents are virtually identical to the contents of the TRO petition.

At the procedural review for that complaint I signaled several obvious and significant procedural errors that had already occurred in that process, which were presented to the hearing panel for its procedural

review. These included the failure of the Chancellor to provide me with the Investigator's Report, upon which his charge was entirely dependent, and which he was required to provide to me with the charge if it was going to be used in evidence against me. The Chancellor's entire charged referenced conclusions of the investigator whose report I did not see. I never saw this report until the Chancellor submitted their evidence a week before the hearing. Not surprisingly, the hearing panel also chose to ignore the rules and press onward. At that review, while UW-System Legal Counsel for the Hearing Panel Paige Reed sat across the table, UW-System Legal Counsel for the Chancellor Ann Bilder (two counsels from the same office serving different parties in the process is not a conflict of interest?) and the Chancellor's representative the Director of Human Resources Judith Trampf indicated that they did not have sufficient time to prepare because they had only just been notified of my retaining counsel, (I notified them within the time limits required by the rules, and by this time they had known that I had appealed the charge for over 120 days) and that "according to the rules" they could not have counsel if I didn't (see above for the obvious hypocrisy here, and below to demonstrate that their willingness to do things "according to the rules" is limited to when doing so helps them or hurts the accused). They also argued that they could not put on their case within the mandated time limits because neither of their key witnesses was available. This was followed by a letter from UW-System Legal to the Hearing Panel, making the same case. I objected, citing the rule that explicitly states that any extension of the deadlines must be agreed to by both parties. In her response, the Hearing Panel Chair Hephzibah Kumpaty stated "The Hearing Panel has reviewed UWW VI (A)(4)(b)(3) and agrees that there is no provision for the Chair of the Hearing Panel to unilaterally continue a hearing date beyond the 60 day period. However, in this case, the University has requested an extension of time for purposes of providing a witness at the hearing that is instrumental to their case in chief." Apparently it seemed to Kumpaty that accommodating the Chancellor and admittedly explicitly violating the rules (and therefore allowing them time to further develop their case and to produce witnesses against me that otherwise would not have been able to do so) would not "harm" me. This is one of those many rules that apparently doesn't have to be followed, or is open to "reasonable interpretation" (see below).

The hearing actually occurred weeks after the deadline and I declined to attend because there was no basis at all for having such a hearing under the rules, and my participating in it might be later construed as consenting to it. I was provided later with an audio recording of the proceedings.

The Hearing Panel determined that I was guilty, and recommended that the charge be upheld, based on the following:

- **Charge #1: Professor Henige engaged in a pattern of conduct, including harassment, aggression and intimidation that adversely affected the performance of Professor Melton's obligations to the University:** "...there was sufficient evidence to find that Professor Henige communicated in a tone and manner that could reasonably be perceived as harassing, intimidating and aggressive toward Professor Melton". The first example provided was "*Email dated 1/14/2015: Professor Henige sent a request to Professor Melton for reorganization of the department archives she recently developed, stating what was wrong with her methods. "You are continuing the previous chair's philosophy of keeping anything that might be constructed as "negative" or "embarrassing" secret from the faculty"; "no one in the department is more conversant with policies and procedures than I am, and "no one else has*

a better grasp of the “whole” than I do. Please refer to the e-mail for additional details; this was forwarded to the faculty at large on Friday, January 16th.” This is the “tone and manner” that is considered “aggressive, harassing and intimidating in nature”. The only other example was “Email dated 10/5/2014: long e-mail titled “I understand”: Professor Henige sent Professor Melton an e-mail which Melton refers as a diatribe making a long series of allegations against colleagues and administrators.” The entire substance of that “diatribe” was, and remains to this day, entirely factual and true, and of course, unaddressed by any level of the administration.

- **“Charge #2: Professor Henige’s conduct inhibited progress, obstructed policy enforcement and curricular developments, and prevented faculty and staff from working together to achieve common goals.”** No examples were provided.
- **“Charge #3: Professor Henige has knowingly pursued a course of conduct that resulted in a hostile work environment, and impeded Professor Melton’s ability to perform her obligations to the University.”** This was “supported” by the claim that “according to [the investigator], Professor Henige ‘refrained from being collegial...repeatedly...’. No definition of “collegial” has ever been presented, and no examples of this alleged conduct, whatever it is, was ever provided. The Investigator noted in his report that “Professor Henige knew – or should have known – that his emails made it difficult for Melton to focus on administrative tasks as Chair.” “Should have known”? How? Melton never conveyed this to me orally or in written form, nor is there any reason to suspect that asking her to account for decisions she was making should cause such inconvenience and hardship. It would have taken minutes to explain why policy was being disregarded, why it was her right to do so, and how doing so benefitted the students. One can only conclude that her failure to provide answers was based on the fact that she had none, and that her difficulty in focusing was consequently due to that same fact.
- **“Charge #4: Professor Henige’s sustained pattern of unprofessional conduct has a common thread of harassment and is in violation of UW-Whitewater rules and policies as well as Wisconsin Statutes and federal laws noted.”** The Investigator concluded, as had the Court Commissioner before him, that I had NOT violated State statutes regarding “harassment”, but introduced a new claim of his own, that my conduct instead violated the Campus Violence Policy because it was “uncivil”. No definition of that term was given, nor any examples of conduct to which it might have applied.

According to the Faculty Personnel Rules, the subsequent penalty hearing must occur 14 days after the “panel’s decision”, which was voted on by the Panel immediately after the hearing, and yet this hearing did not occur until weeks later.

With no other recourse, my attorney filed a motion in County Circuit Court under Chapter 227 of Wisconsin Statutes (227.57 (4)) which states that “The court shall remand the case to the agency for further action if it finds that either the fairness of the proceedings or the correctness of the action has been impaired by a material error in procedure or a failure to follow prescribed procedure.” The process

described above meets this requirement in every way. Ultimately, this action was dismissed because the decision it claimed was in error was not the “final” decision as required by the statutes. It was not dismissed because it lacked merit, but because it was untimely.

Despite the fact that this motion was still pending in the courts, Chancellor Kopper implemented a semester-long unpaid suspension. In order to do so, a previous penalty, which was, according to the charge by former Chancellor Telfer, to be implemented at the “start of the Spring 2016 term”, and therefore starting January 19, was pushed up to December 23 without my consent, and in direct conflict with the language of the original charge. As a result I had to cancel necessary hip replacement surgery, because I had planned to use the four weeks before the suspension and the four weeks of the suspension for rehabilitation.

Reassignment of Teaching Responsibilities

In her letter informing me of the rescheduling of the month-long suspension, Chancellor Kopper indicated that I was “expected to be prepared for teaching classes at the start of the Spring session”, and so I prepared all of my course materials in Desire2Learn (D2L), the course management system. Because of the acceleration of the suspensions, and the reassignment of my courses to other instructors at the eleventh hour by Interim Dean Mertens, Interim Chair Michael Flanagan, and World of the Arts Coordinator Mike Allsen, those course materials I had created in D2L were transferred to those new instructors without my permission, and I no longer had any access to them. The only alternatives presented to me were to voluntarily give them up to the new instructor, or to request “guest access” to the new instructor’s course in order to destroy them, or have D2L Support destroy them for me. As those course materials constituted my intellectual property under UW-System definitions, this seems like a pretty clear case of theft of my intellectual property by those involved.

Relocation and the March 9 Meeting

Turning the clock back a bit, immediately after receiving the TRO on January 17, I notified Chancellor Telfer, Provost Kopper, Dean McPhail and the Director of Human Resources Judith Trampf in writing, indicating that I could not teach my classes because until the hearing in Circuit Court, I could not enter the building without risking arrest. I requested that I be permitted to move my courses online temporarily, and received no response. I then requested in writing the relocation of both my office and my classrooms. The Dean arranged for this to occur, and asked in writing if I wanted him to say anything to the faculty about the circumstances of my relocation. I indicated to him in writing that he should simply “tell the truth”.

On March 9, 2015 Dean McPhail appeared before the faculty and explained that he had “worked with [me] to have [me] removed”, not of my own accord but for disciplinary reasons. This was obviously false. This open meeting was legally recorded by a colleague, who was also aware of the circumstances and who fully expected the Dean to be untruthful. At that same meeting Ms. Messer and Dr. Wilk spoke out making unsubstantiated allegations. When asked for proof, they declined stating that they believed that they could not do so due to ongoing personnel proceedings. Messer claimed “physical intimidation” and “threats” but provided no proof. The only specific acts of alleged “physical intimidation” that have ever been cited are the ones earlier characterized as “perceptions” of “body language”. Dr. Wilk indicated that I harassed her by email “daily”, despite the fact that my archived emails demonstrate that I had had almost no contact whatsoever with her, either by email or in person, from December 20, 2012

to this day. The only contact during that period was a single email on April 1, 2014 offering to assist her with some technical issues relating to her teaching materials. Her claim that I reported her conduct to my superiors is true, exactly as the Court Commissioner had confirmed was the appropriate method of resolving disputes in a hierarchical organization. This is not “harassment”. To my knowledge, no action whatsoever has been taken by anyone at any level to address Dr. Wilk’s conduct, as outlined above.

Later, Ms. Melton and Ms. Messer would claim that “Porcaro's aggressive efforts to present material directly related to Henige's grievances during this meeting effectively derailed time-sensitive department discussions”, making no mention of course that Melton quit her post as chair and left that meeting after being instructed by the Dean to add discussion of the Meeting Rules of Conduct to the agenda. Could it be that Ms. Melton’s actions were actually responsible for the “derailing” of “time-sensitive department discussions”? The department spent the remainder of that meeting fretting over what to do next, and failed to address any of the remaining agenda items. Not surprisingly, mention of the fact of Melton’s departure from the meeting is conspicuously absent from the minutes produced for that meeting. It should also be noted that when the Meeting Rules of Conduct were finally discussed, that conversation lasted six minutes.

Witch Hunt

The witch hunt which followed the entirely legal recording of a public meeting was both surprising and concerning. Dean McPhail actively solicited individuals to file formal complaints against the recorder, whom he could not identify, and those caught on tape lying to their colleagues and defaming me led the charge. No one took the bait, but remarkably a vast majority of the faculty considered it inappropriate. The fact remains that under Wis. Stat. 19.90, “Whenever a governmental body holds a meeting in open session, the body shall make a reasonable effort to accommodate any person desiring to record, film or photograph the meeting. This section does not permit recording, filming or photographing such a meeting in a manner that interferes with the conduct of the meeting or the rights of the participants.” Every professional business meeting I have attended has been recorded, and every UW-System Board of Regents meeting is webcast, live. Why is it that the faculty of the Department of Art and Design cannot seem to comport themselves in a manner that is immune to the recording of what they say? Numerous allegations were made that it was a “breach of trust”, and yet no one asked why it was that the individual recording the meetings only now felt compelled to do so. Was it perhaps that what they were hearing at these meetings breached their trust in those making decisions at the department and college level as well as those making unsubstantiated claims at these very same meetings? Could it be that the individual making the recordings knew fully that the Dean would lie to the faculty about the circumstances of my absence from the department? Does it even matter why, when the right to record open and public meetings is guaranteed by statute?

Note: Another consistent theme: The vast, vast majority of the uproar raised by individuals throughout this document was not caused because people raised questions about what was going on, it was caused by those being questioned having no legitimate answers. Rather than explaining their actions, or adjusting their conduct in response to those questions, these individuals filed formal complaints of harassment and temporary restraining orders, and lied to and defamed their colleagues. They have claimed that they “have nothing to hide”, and yet have not addressed any of the twelve agenda items I submitted to them, and have censored requested agenda items by others, (and then laughed when

those being silenced complained) and they make disingenuous calls for “transparency” – unless it doesn’t involve them. More on this below.

Complaints by Students

During the Spring 2015 semester, two different students came to me directly to express their concerns about the climate of the Department of Art and Design. One indicated that she had been a student in a studio class in which the instructor was repeatedly removed from the classroom by Chair Messer, only to return later, sometimes hours later, completely overwrought. This happened so frequently that the students called it “Suenapping”. Why this does not constitute “bullying and harassment” is beyond me. It has been reported to me that the instructor involved reported this to Dean McPhail, who did nothing. They then reported this and numerous other even more egregious instances of harassment and bullying against them to colleagues, one of whom in turn reported these to Interim Dean Mertens, twice. Nothing has been done. Because nothing has been done, this faculty member fears for her job, and in fact for her very life, because these people have been permitted to prey ruthlessly on her without any intervention whatsoever.

Another student reported that in one of her studio classes the instructor had entered into an ill-considered relationship with a student, and the failure of that relationship during the semester seriously compromised the classroom dynamic. Students have since reported a reluctance or complete unwillingness to register for this instructor’s classes.

“Current Employment Situation”

After listening to the recording of the March 9 meeting, I sent a copy of the TRO petition to the faculty so that they could weigh the evidence for themselves, and copies of the communications I had sent to the administration which clearly demonstrated that Dean McPhail had lied to them regarding the reasons for my absence. On March 12, three days after the March 9 meeting, I received an Outlook invitation to meet with Chancellor Telfer and the Director of Human Resources Judith Trampf. The subject line read “Current employment situation”. When I inquired what this meant, I was told “It is to discuss your employment here at UWW”.

When I arrived at the meeting, I expected to be served with Chapter IV paperwork for “Dismissal for Cause”. The Chancellor shuffled a few piles of papers around in the windowsill for about a minute, then showed me the emails I had sent after the March 9 meeting, and noted they had been addressed to persons involved in the complaints and therefore violated the proscription that I have no contact with them relative to the complaints. I immediately recognized this to be true, admitted to it, and told him I expected a letter of reprimand as a result. I also told the Chancellor I thought he was going to serve me with Chapter IV paperwork, to which he replied “that’s what I wanted you to think”. His charade was clearly intended to intimidate, but because I had already prepared myself for the worst, these tactics were ineffective.

I provided the Chancellor at that time with the recording of the meeting of March 9, citing the Dean’s deceptions and defamatory statements, and telling him that the recorder wished to remain anonymous. However, that individual contacted the Chancellor the next day, but was ignored. To my knowledge, nothing was done to address this, demonstrating that both the Chancellor and the Director of Human Resources had no desire to hold anyone accountable, particularly a college dean.

Fifth Complaints

My response following the March 9, 2015 meeting was countered with two more retaliatory complaints, one from Chair Melton parroting her previous complaint, and one from Dean McPhail, who had so obviously lied to the faculty, claiming “gross insubordination and lack of respect for authority.” Ultimately, Chancellor Telfer determined without investigation that I was guilty, and issued a charge that rolled these alleged offenses into the earlier letters of reprimand. I have never received any revised letters of reprimand relative to these complaints. Given the history of lack of due process in the previous hearings process, I saw no reason to call for appeals hearings.

Return to Normalcy

At the end of the Spring 2015 semester, Dean McPhail indicated in writing that the College would no longer support relocation and I was moved back into my original office, and a new computer was installed there for me. At the last faculty meeting of the year Department Chair Melton announced that I would be returning to the department. My courses for the Fall 2015 semester were scheduled in their original location as they had traditionally been before.

Summer “Negotiations”

Chancellor Telfer ultimately issued a charge in the complaint which parroted the TRO (Fourth Complaint above) on May 21, 2015, and included in that charge penalties that included a proscription against having any unmediated contact with anyone in the department, and a semester-long suspension without pay. As the hearing process for the earlier complaints had concluded by this time, a process which at no time conformed to the due process requirements set out in the Faculty Personnel Rules, it was clear to me that there was no chance that due process of any kind would be available to me in the current complaint either, and that if I did not do something to attempt to mitigate the situation, I would lose a semester’s salary and benefits. As such, I indicated these feelings about the lack of due process to the Chancellor in writing, and made a written proposal to him that **I would voluntarily remove myself from any and all contact with the Department for two years, and retire after that at age 55, if he would suspend the other penalties during that period.**

Note: Does this mean this could all have been over with already, a long time ago? Yes, it does.

But the Chancellor then turned the negotiations over to Dean McPhail, who was not satisfied with this proposal, and added to it the requirement for a letter of apology, counseling, and the requirement that I name the individual who had recorded him at the March 9 meeting, with whom the Dean accused me of “colluding”. He indicated that these demands were “non-negotiable”. Regarding the suggested “counseling”, when I requested that he clarify what exactly constituted the “behavior” and “conduct” that was constantly cited but never actually defined or substantiated, he said he had no time for this and appeared to back out of the negotiation. Having no other choice, I drafted a letter of apology and sent it to him, but I indicated that I was not willing to provide him with the name of the recorder.

The Dean did not feel that my letter was apologetic enough, and changed it substantially, adding phrases clearly intended to make me appear more culpable nearly doubling its original length, and then required that I sign it. When I asked if the only thing now standing in the way of an agreement was my divulging the name of the recorder, he stated in writing “that is correct”. It was clear that if I didn’t agree to each of his demands, I would lose a semester of pay and benefits. Because he was central to

the earlier complaint process and even improperly acted as the Chancellor's representative as well as the complainant in that process, both he and the Chancellor were well aware that I could expect no due process under the rules. Either I did what they said, including naming an individual who legally recorded a public meeting solely so that they could pursue disciplinary action against them and presumably me for allegedly "colluding", and thereby compel us to stop legally recording open meetings, or I would lose \$44000 in salary and benefits. This is exactly what it sounds like.

The Dean later sent "my" letter of apology along with a letter of his own to the faculty. Most are not aware that this letter is not my language, although two individuals have recognized that it didn't sound like me. In his own letter the Dean continued to argue that chairs and deans are above criticism and accountability, that legally recording open meetings was improper, as was the anonymous posting of posters decrying suppression of free expression (his comments in themselves an act of suppression of free expression).

All of these negotiations occurred while I was in France conducting research. I was told I needed to sign a copy of the "Deferred Discipline Agreement" upon my return to the US after my summer field work.

Relocation, Again

The final agreement – the "Deferred Discipline Agreement" – that was presented to me included provisions that "the determination of what constitutes a violation of this agreement will be solely at the discretion of the College or University," and "should the University or College deem that [he] is in violation of this agreement, he agrees to accept the charge and penalties without contestation or appeal". This agreement was signed by former Chancellor Telfer, and after returning to the US I was pressed by Chancellor Kopper in writing to sign the document by noon August 17. No reasonable person would accept such terms, and after consulting with an attorney upon my return to the US in August I declined to sign the agreement. On August 20, lamenting that I had "failed" to sign the agreement, Chancellor Kopper appropriately reinitiated the hearing process, which had been suspended by mutual agreement during the off-contract summer months. But in immediate retaliation for my not signing the documents by the deadline they had set, one day later on August 21 I received a note from Interim Dean Mertens indicating that I was to be relocated yet again, my office and my classroom. I was also to be incommunicado relative to the department, and them with me.

Note: If the administration alleges that I "harass" people by emailing them, why must they then prohibit those people from contacting *me*? You know why.

I was removed from the department mailing list, I lost access to the department shared drive. None of these actions were accompanied by any due process whatsoever. The classrooms to which I was relocated had never been vetted and were completely unsuitable for teaching art history, as their projection systems distorted the projected images, both in color and aspect ratio. I made this known to the Interim Dean but nothing meaningful was done until the seventh week of classes. I requested that they be returned to their original classroom which, according to the room scheduling system, was still available. There was no response. When I demanded of the Interim Dean and Interim Provost a written explanation for this relocation, I received nothing.

At the Fall Department Meeting on August 27, in open session, the new Interim Chair Denis Dale described my relocation and the proscriptions against having contact with me in detail. This open

meeting was also legally recorded. His comments were also recorded in the minutes, and are now a matter of public record. His language parroted that of Interim Dean Mertens, and it seems clear he was instructed to do this in open session and on the record. This appears to constitute a violation of Open Meetings and Open Records laws, as such discussion regarding ongoing disciplinary action of a personnel nature should only have been taken in closed session. At that same meeting more people stood up, apparently emboldened by “my” letter of apology, and two more faculty members made additional defamatory statements about me, despite my never having any direct contact whatsoever with either of them, all legally recorded on audio.

The consequences of the Interim Dean’s actions are numerous. During the entire Fall 2016 semester I had no access to my US Mail, which likely constitutes interfering with the delivery of US Mail, a federal offense. They have yet to be able to produce any of my US or campus mail from that period, and I have reported this to the Postal Inspectors Office of the United States Postal Service.

My removal from the Department’s mailing list resulted in the default implementation of course evaluations which I was not required by Department policy to undertake. As a result I was evaluated on courses that had been relocated to rooms inadequate for teaching the subject of art history, and as geographically remote from their original location as was possible on campus. One student specifically objected to this in their comments on the evaluation, and it likely affected their evaluation of the course, and the fair evaluations of others.

My removal from department activities also resulted in my exclusion from all internal personnel reviews, in direct and clear violation of the Faculty Personnel Rules Chapter III regarding tenure and promotion. When I reported this in writing to Interim Dean Mertens, he obviously recognized there was a problem, and as a “solution” provided me access in the offices of Human Resources to the promotion materials for tenure-track faculty long after the department’s review and vote had already occurred. I indicated that unless I was to be included properly in the process, in accordance with the rules, necessitating a repeat of the entire process, I would not participate in it. There was no repeat.

The violations of tenure and promotion rules also extend to me directly. I have not had a face-to-face review since December 6, 2013. After signing my “Statement of Performance Objectives” on that date, then Department Chair Messer added an entire page of additional objectives that were not discussed at the face-to-face meeting, signing those additions on January 4, 2014. Dean McPhail signed them without comment on January 14, 2014. Face-to-Face reviews are scheduled to occur during every Fall semester, as confirmed in a memo I obtained from the Provost’s Office. There were no face-to-face reviews for any tenured faculty in the Department in the Fall 2014 semester, and none were offered until the last week of classes in the Spring 2015 semester. I was not included in this, and only learned about it later. I have not had any kind of review and no one has visited my classroom since the Fall 2013 semester.

According to the Faculty Personnel Rules, tenured faculty are required to undergo a post-tenure review every four years. My last post-tenure review was Fall 2011, and I should have been reviewed again in Fall 2015. No post-tenure reviews occurred in the Department in the Fall, despite that being the convention within the department, and while at least one of my peers had their review in the Spring 2016 semester, I did not. I would not, under any circumstances, undergo a post-tenure review without having had any kind of interim review for two years prior, and without having classroom visitations along the way. I later learned that the Executive Personnel Committee of the Department had met to

discuss post-tenure review for both me and the other individual, and clearly they determined to intentionally and illegally exclude me from that process.

All of these actions directly affect my ability to seek promotion within the department.

Continuing Exile

On March 3, 2016, I reviewed the campus information system to preview my schedule for the Fall 2016 semester. Each class was scheduled in a building once again far removed, and not in the building which has been the typical location for all art history courses until the events outlined in this document, and is still the home for all art history courses except mine, in a room that has a projection system specifically design for the instruction of art history. Despite the fact that any and all complaints and grievances against me had been concluded and despite the fact that any and all penalties issued as a consequence of these complaints and grievances had been implemented, my exile would continue without any further due process.

Counsel for the administration have argued that “UW-Whitewater determined that Henige engaged in threatening, intimidating, and harassing behavior, thus creating a hostile work environment”, and yet there has never been, by the administration, the complainants, or the appeals hearing panels, any offer of proof for these allegations. No examples of threats, no examples of intimidation, no examples of harassment have ever been cited. Surely such conduct would warrant Dismissal for Cause, and yet that has never been entertained. Why? That would require proof. There has never been any identification of any job obligations I have failed to fulfill. No student, faculty or staff member has every made an allegation that my communications or my teaching were in any way gender or race biased. Despite my request for an explanation of this exile, none has ever been given. They have simply believed what they have been told, as have many of the faculty in the department.

Interim Dean Mertens made statements to a colleague during a conversation that was legally recorded that allege that certain faculty members “perceive” it to be true, and therefore, according to the administration, it is. These are the same persons who “perceive” body language, and “perceive” that a faculty member’s abstention from department votes is the root of their physical ailments. The same people that when faced with the prospect of accounting for their actions, file restraining orders, quit their posts and abandon their students – repeatedly. And while the administration has suggested by this that my presence in the Department would be somehow harmful to the faculty, there is nothing that precludes me from entering the building at any time, and nothing that precludes me from attending Department meetings, which are open meetings and therefore open to the public. In order to do so, the University would have to seek an injunction against me, something that has already been tried with a Temporary Restraining Order and has failed for lack of any substantive or credible evidence. They would have to offer substantive proof of any possible risk, which to date they have not. Do you really believe that if there were the slightest indication of any credible threat on my part that a court commissioner would have dismissed the TRO petition? Not a chance.

Note: I have been absent from the department for almost two years. Are things better now or worse? Could it be that the bad actors, having successfully worked for my removal, are now operating unchecked? Could it be that because, until now, the faculty have heard only the bad actors’ side of the story, that they have been able to convince them of my misconduct without actually providing them with any evidence to support it? Do allegations actually constitute proof? One of the faculty recently

suggested that the way to move the department forward is to “get rid of the five people involved.” Perhaps the faculty should consider this sage advice very carefully.

Note: Later the person who was recorded saying this on two separate occasions accused me of quoting her, “but wrong”. My quotes were verbatim.

Therefore, in the absence of any meaningful attempts to “protect” the faculty from my alleged “hostility”, my exile can only be construed as a message to others in the Department who might consider speaking out against poor decisions by administrators that harm students and faculty. It should be clear from the text above that each action on my part was followed swiftly by one on theirs. A number of faculty members have reported to a colleague that they will not stand up and object to what has happened because of fear of retaliation on the part of the administration. When asked to participate in a grievance against the real offenders, one faculty member wrote that “I feel sick, all of the time, because I am so afraid of losing my job.” They don’t want the same thing to happen to them as has happened to me. As such, my exile and the administration’s consistently swift and improper reactions to my actions, and the fact that those reactions are intended to instill fear in others, appears to be a textbook example of employer retaliation.

Jessica’s

On May 9, 2016, the last Department meeting of the year was held at a local restaurant, Jessica’s. It was at that meeting that the “Meeting Rules of Conduct” were finally discussed, after 18 months, and voted down unanimously after six minutes of discussion. Both Messer and Melton claimed that it was “never policy” and Melton wonder why time was “wasted” discussing it.

Note: After claiming that Mr. Porcaro’s earlier attempt to discuss this on March 9, 2015 had “derailed time-sensitive business”, the final discussion of the Meeting Rules of Conduct took six minutes. Perhaps it was Ms. Melton’s inexplicable quitting of her post and sudden departure during the March 9 meeting that actually “derailed” any “time-sensitive” department business. No mention of this is found anywhere in the minutes for that meeting.

Also at that May 9, 2016 meeting, documentation proving that both previous chairs had lied to the faculty was disseminated to the rest of the faculty. I did not instruct anyone to do this, and I did not know it occurred until after the fact. I did not ever distribute this documentation other than to the administrators who originally received it, to Mr. Porcaro who has been my advocate in campus disciplinary matters, to my wife and to my father, a long-time faculty member of the University of Wisconsin-Madison. This documentation included the grievances I filed against Melton and Messer. Because the administration never addressed them, and never ruled on them, they are not disciplinary in nature. Moreover, that documentation clearly constitutes evidence of a cover-up by state officials, tipping the balance in favor of disclosure because “the public has an interest in being informed about public officials who have been derelict in their duties”. (See the Department of Justice Open Records Compliance Guide). Interim Chair Flanagan was one of the individuals copied on the original email, knew the contents of the documentation, and yet still consented to its discussion at the May 9 meeting.

Reasonable Accommodations

As a result of certain mobility issues, including the reality that I had to cancel the hip replacement surgery mentioned earlier, it has become difficult for me to have a presence on campus. And, because

there was no chance I could be restored to normal status within the Department, regardless of any subsequent legal proceedings, I requested during the Spring 2016 that my courses be moved online for the 2016-2017 academic year. This seemed like it would be least disruptive to all concerned. The Provost granted that request, but included a provision that I continue to have no contact with the Department.

In her letter confirming this, sent July 13, 2016, Chancellor Kopper stated that “you will not attend department meetings, serve on committees or participate in personnel reviews.” She concluded that “failure to comply with this directive, the terms set forth in this letter, or the policies and rules of the university may lead to additional disciplinary action up to and including dismissal.”

On October 27, 2016, I asked Interim Dean Mertens, copied to Provost Elrod, whether this statement was “a release from the requirement or a mandate?” He responded that “in the context of the letter as a whole, we view this as both a release of your service duties overall, and a mandate that you not perform the services identified in the letter.” On November 11 I asked “how does your explicit mandate that I not attend department meetings...relate to Wis. Stat. 19.89?” This statute states that no member of a governmental body can be excluded from meetings of that body (see above).

Not surprisingly, there has been no response. Assuming the language of the statute can be taken at face value, and it is not legal to exclude me from meetings of a government body of which I am a member, then the threat to my income in order to prevent me from exercising my legal rights may constitute extortion under Wis. Stat. 943.30(1).

More Complaints

On September 4, 2016, Messer and Melton filed a joint formal complaint alleging that I was continuing to harass them, supposedly by instructing Mr. Porcaro to distribute the documentation of my grievances against them at the May 9, 2016 meeting, though they do not ever actually make that allegation directly. They provided no proof of my involvement, and on the date in question, I was in New York State. They also fail to recognize that Mr. Porcaro might be entirely capable of recognizing what is going on around him, and might also take issue with it. Unfortunately for them, Mr. Porcaro also seems to be impervious to allegations that are not accompanied by proof.

Messer and Melton also included in their complaint a claim of violation of Title VII regarding discrimination based on gender, which they never address elsewhere in the complaint and which was clearly intended only to force the administration to investigate. This does not serve “legitimate purpose”, and as such must surely constitute “harassment” under the statute with which Messer and Melton are already quite familiar. They cite the “letter of apology” that I did not author as proof of my breaking my promise not to interfere, and they claim that my grievances were dismissed, which they were not. I have made an Open Records Request for a copy of the final report of the grievance officer or anyone else dismissing those grievances, which I am confident never existed. So far I have received nothing.

They also include documentation from Mike Flanagan noting that I had contacted him against the orders of the administration. Mr. Flanagan failed to note that he had improperly initiated contact with me on two separate occasions, imploring me to keep it “off the record”. I reported this to the Interim Dean and the Provost. That’s right, to my knowledge, nothing has been done.

The core of their complaint is that the results of uninvestigated grievances had been, they allege, improperly released to their colleagues, and yet, at the end of this very same complaint, they demand that the “results of the investigation [of their complaints] be shared with members of the department.” Pure hypocrisy, and a hypocrisy that has pervaded their actions right from the start. Yet again, the claims of those individuals who filed complaints are rooted not in whether the actions were entirely legal, or whether the accounts of them were true and accurate, and they were, but whether they stood to be embarrassed by them. And once again “transparency” applies only to others, and not to them.

This complaint is currently under investigation. I did not speak to the investigators because the complaint does not actually “date and describe” any act on my part, a requirement for valid complaints under the rules. I made two requests of the Chancellor to provide me with the specific language in the complaints that meets this requirement and which would support her determination that it was in fact valid. I received nothing. 110 days later, the investigators concluded that the complaint against me was “untimely”, as did the Chancellor, finally, and the complaints were dismissed.

Note: One final thread that has been consistent through all of this is that when the upper administration believes they are right, and can do whatever they want, they will tell you, but when you point out that what they are doing might not be in accordance with institutional policy or State statutes, they suddenly go remarkably silent.

Board of Regents Review

On August 25, 2016, I filed an appeal with the Board of Regents in which I claimed that none of the due process accorded me during the proceedings against me complied with institutional policy or Board of Regents rules, and that as such, they should be overturned. In their “finding of facts”, issued November 10, 2016, it was clear that the committee reviewing the appeal never reviewed the documentation of alleged evidence, they cited none, but only the findings, which have no relationship to any evidence. More troubling was the ruling of the committee regarding compliance with the rules. Despite being presented these rules by the Chancellor with the promise that they constituted my “rights and protections”, and despite the multitude of failures to follow the rules that I documented to Board, the committee ruled that:

“Henige’s argument for system-wide significance is premised on his theory that rules must be followed to the letter and that it is incumbent on the Board to ensure institutional compliance with its rules. What Henige fails to understand, as discussed above, is that campuses are also and necessarily authorized to reasonably interpret their rules which UW-Whitewater did in this instance.”

No legitimate argument can be made that completely ignoring the rules constitutes “reasonable interpretation.” The Board’s response effectively confirms that the rules are subject to any interpretation by the Chancellor or other campus representatives, and are therefore irrelevant. Their ruling also demonstrates that despite the fact that all rules generated at the campus level must be approved by the Regents and function as “rules of the regents” under State statutes, they do not believe it is “incumbent” on them to enforce them, again rendering them irrelevant.

Note: I wonder what that means for the rules for Post-Tenure Review that everyone has been fretting over... Pointless and unenforceable. I have not had a post-tenure review since 2011, and I have had no review of any kind since 2013.

My appeal to the Regents was not reviewed and denied, and it was not reviewed and upheld. The Board declined to grant review at all.

Most Recent Complaint

Because the Chancellor's letter of July 13, 2016 included terms that were directly contrary to state statutes, and because the administration and certain members of the Department continued to lie to the faculty about the circumstances of my absence, and what my colleagues could find out about the circumstances of my absence, all caught on audio, I finally determined to ignore the Chancellor's illegal directive and contacted the Department directly. On February 10, 2017, I sent two emails to the faculty that included attachments intended to provide them with the facts of my case, and to rebut statements made by the administration and their colleagues in open session of department meetings, statements that were clearly false. Several persons implicated in those attachments complained, and the Interim Dean filed a formal complaint against me on February 21, 2017, alleging "insubordination" to the Chancellor's directives (contained in her July 13, 2016 letter) and "harassment and threatening conduct", presumably for providing the faculty with facts contrary to information provided by the administration, which the Interim Dean did not attempt to refute in his complaint. I am also accused of "disruption of Department and University business", presumably because those caught in their web of lies now find it difficult to concentrate.

On March 25 and 27 I sent further communications providing information about what was necessary to bring the art history program into compliance with internal policy and accreditation requirements, and to bring other programs and procedures into compliance with internal policy. I also sent an email with attachments implicating Mike Flanagan in deliberate lying to the administration at my expense. The documentation was irrefutable.

On April 4 I was informed by the Chancellor that she was going to instruct IT to block my emails to the department. This was not at the request of the vast majority of faculty in the department, and they were not asked for permission for the Chancellor to censor potential future communications. Her intent is obvious.

After yet another pointless and entirely flawed investigation report, the Chancellor issued a charge calling for my dismissal for cause on April 28, 2017. I responded on May 16, within the time limit required by statute, calling for a hearing of the charges. State statutes require such a hearing to occur within 20 days of my request, and notice of such hearings to occur 10 days earlier. This gave the "standing committee" (also required by statutes) ten days to organize the hearings. After ten days passed without any word, the chair of the Faculty Senate James Hartwick indicated that he was under the impression that different rules applied, and that he was working on forming a committee (the one that was supposed to be "standing", by statute.) On June 5, the last possible day for legal hearings under the law, I was informed that the new committee had met and had voted to "expand the timeline", which is permitted by law. I doubt intent of that provision is to cover for incompetence and failure to meet other requirements of the law.

I argued that the timeline must be suspended over the summer because I am not under contract, and that because the Chancellor had blocked my emails to the faculty, I had no access to my potential witness, another right under the law. UW-System Legal argued that a nine-month employee can be compelled to conduct university business while off contract (while citing no statutes that permit it), and declined to provide me with access to my witnesses. The panel decided not to formally entertain my objections, but nevertheless to propose hearings in September. UW-System Legal wants a date two days after classes start, while I prefer one a little later for obvious reasons. At the time of this writing, no formal date has been set.

Conclusions

Believe it or not, this has not been an exhaustive statement of every action that has occurred, it simply highlights some of the most egregious ones.

The history of my standing up for the rights and needs of students and their programs is clear and well documented. The history of the administration's refusal to provide any accountability for their decisions is clear and well documented. The history of the administration's retaliations for my expressing my concerns is clear and well documented. The history of the administration's attempting to cover up their failures by attempting to silence me by making false allegations against me and precluding me from having unmediated contact with my colleagues is clear and well documented. The history of the administration's failure to abide by the Faculty Personnel Rules, including rules regarding policies for tenure and promotion reviews, and for processing of complaints and grievances is clear and well documented. The history of defamatory statements by both the former Dean and several colleagues is clear and well documented. They are documented in both written and audio form. They cannot be refuted. That these actions by both colleagues and the administration have had a chilling effect on the willingness of other faculty members or students to speak out against them also cannot be refuted and has been attested directly to me and to others by numerous individuals. Throughout this document, nearly three dozen faculty and administrators across campus have been implicated in what can only be described as an entirely corrupt series of actions and proceedings, taken with complete and utter disregard for institutional policy and state law.