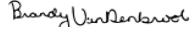


Date: September 30, 2020

To: Mr. Dennis Armistead, Executive Director, Faculty Personnel Services

From: Timothy Boudreau, Grievant

Brandy VanDenbrook (MEA) 

Robert Noggle (CMUFA) 

Re: Grievance over the Employment Termination of Dr. Timothy Boudreau

Inasmuch as this Grievance concerns a termination of employment, in accordance with Article 8, paragraph 19.a, of the *Agreement*, the Grievant and CMUFA elect to invoke the expedited grievance process.

Relevant *Agreement* Provisions:

We allege a violation, misinterpretation, or improper application of Article 15 of the *Agreement*.

**Article 15
DISCIPLINE AND/OR TERMINATION**

1. No bargaining unit member will be disciplined without just cause.
2. Termination of a tenured bargaining unit member shall be only on the following grounds:
 - a. Extraordinary circumstances because of financial exigencies (see Article 18, Position Reduction/Layoff);
 - b. Bona fide discontinuance of a program or department, which does not include merging one department, program or college into another, or transferring courses or programs elsewhere within the University (see Article 18);
 - c. Medical reasons (nothing in this provision shall abridge a bargaining unit member's rights under Article 28, Leaves and Article 34, Long Term Disability Insurance);
 - d. Just cause.
3. A written notice specifying the reasons for the discipline and/or termination shall be given to the affected bargaining unit member. Such bargaining unit member shall be provided due process through the grievance and arbitration provisions of this Agreement and through the expedited procedure where termination is based on just cause (See Article 8, Grievance Procedure; and Article 9, Arbitration).

Events Giving Rise to this Grievance:

The Grievant, Dr. Tim Boudreau, has been teaching JRN 404—Media Law since about 2006. The class includes a section on the First Amendment, and a section on trademark law. For most if not all of the time that Grievant has been teaching JRN 404, he has discussed *Dambrot v. Central Michigan University* in the section on First Amendment law, and in recent years his discussion of trademark law has included reference to a recent Supreme Court case involving obscene trademarks (*Matal v. Tam*). When teaching *Dambrot*, Grievant vocalizes a word, commonly referred to as "the n-word" that plays a key role in that case. In his discussions of *Matal v. Tam*, he briefly displays on the overhead screen several words which were at issue in that case and which are commonly regarded as offensive.

The student complainant, Ms. Skylar Mills ("Student Complainant") took the course in Spring 2018 and made social media posts about it in or about June 2020.

Mr. Armistead and Mr. Hoffman, from Faculty Personnel Services (FPS) interviewed the Grievant via video conferencing, with his Union representatives (Brandy VanDenbrook, MEA, and Robert Noggle, CMUFA) virtually present. During that interview, the Grievant explained that his use of the n-word and similarly offensive words reflects his journalistic values of presenting the facts in their unvarnished—and often ugly—reality, and to help students understand just how radical the First Amendment is.

On August 17, 2020, CMU issued a notice of intended discipline to the Grievant; at this time, CMU provided Grievant and his Union representatives with a copy of CMU's report ("Final Investigatory Report Investigation I-1914," hereafter "Report.")

CMU presented no evidence of any student complaints about Grievant's use in class of the "n-word" or similarly offensive words other than the Student Complainant's social media post and her subsequent statements to CMU officials.

Analysis

The *Agreement* requires that bargaining unit that members be disciplined or terminated only for just cause, and that they be given due process.

In the instant case, CMU's decision to terminate Grievant's employment is without just cause. The punishment was excessive and disproportionate to the facts of the case. As Grievant has no prior discipline, a termination is not progressive discipline. Further, no discipline is warranted as Grievant has been teaching his course the same way for many years without any incident, without any intervention by CMU. Moreover, CMU was well aware of Grievant's views about free expression and could easily have engaged with him if it had concerns about how his frank discussions in the classroom might affect his students.

This was the first complaint made by any student in any form that we are aware of or that CMU

has provided any evidence for. Even if there were shortcomings in the Grievant's approach to his class, or if something went wrong in this particular class, it is precipitous for CMU to terminate Grievant's employment after a single complaint about a classroom technique that has been employed without complaint for so many years.

Remedies Sought:

1. CMU will reinstate Grievant to his employment, with full back pay and benefits effective at the date of his termination. CMU will expunge the discipline from Grievant's personnel file and any other files of the Employer.
2. Any other remedy required to make the Grievant whole for any of his losses.