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March 18, 2017

University of Wisconsin
Office of the Board of Regents
1860 Van Hise Hall
1220 Linden Dr.
Madison, WI 53706

Via Email: board@uwsa.edu

Re: Political Speech at the University of Wisconsin La Crosse

Dear Board of Regents:

On Monday, March 13, 2017, the University of Wisconsin La Crosse fired Kim Dearman for her political speech in response to a campus wide email sent out by Chancellor Gow. On Wednesday, she was offered reinstatement. Kimberly Dearman would like to return to work. However, it appears that an employee would need a doctorate degree in order to understand "the workplace expectations and disciplinary guidelines policy" as implemented by the University of Wisconsin La Crosse. The University's implementation of the guidelines appears to breach the protections of the Constitution of the United States as to due process and freedom of speech. The implementation defies fairness and any common sense as the terms would be understood by an average lay person.

My client requests a substantive analysis of the work place expectations guidelines as to their meaning and implementation with regard to her conduct on February 1 for which she was terminated. She would like the same standards applied to the conduct of Chancellor Joe Gow since January 29, 2017. She may be able to return to her employment if the issues can be addressed. She looks forward to that day.

The Guidelines in Question:

16. Threatening or Abusive Language. The use of language which is threatening or abusive, whether directed towards a supervisor, fellow employee or any other person. It includes but is not limited to offensive language, whether or not directed towards anyone in particular, regardless of the intent.

17. Conduct Unbecoming a University Employee. Conduct, whether on or off the job, which adversely affects the employee's ability to continue to perform their assigned duties, the University's ability to carry out its assigned mission, or which tends to promote mistrust or embarrassment of the University.

Basic Employment Background of Ms Dearman and Chancellor Gow

Ms. Dearman is a low level employee making a modest salary.

Dr. Gow is the Chancellor making roughly \$220,000 per year. He is highly educated. His job requires above average decision making skills and judgment.

Kim Dearman's Alleged Conduct in the words of the complaining person for which Ms.

Dearman was terminated

Witness statements, interviews or other steps of an investigation are on a confidential basis.

Have the employee explain the events that occurred that resulted in this investigation.

Witness #1: [REDACTED] (complainant)

Date: 02/2/2017

Dear Jordan,

The incident that occurred on Wednesday, February 1st, happened like this...

It was my first day at work and Kim was training me. Everything was going fine, and things were relatively slow. I was scheduled to work from 8am to 12:30pm, but since I have class at 1:10pm, I ended up staying in the office until 1pm. At 12:46pm, both Kim and I received an email from Joe Gow. In the email, Joe Gow stated that he was sorry about the email he had sent on Monday, January 30th, and apologized for making it seem like UW La Crosse was taking a political stance. Kim proceeded to laugh and say that he deserved the backlash he got from students. I proceeded to say "Since you disagree with what he said originally, I assume you take the opposite stance in the political argument." She said yes and then continued on to say how we should respect our president and trust that he knows best. She continued to say that people who "don't belong here" should leave and that Trump is trying to make the best of a bad situation and we as a country should support what he does. Not knowing what to say, I mentioned that most people were upset with the policy passed because Trump was saying that it was to keep terrorists out when in reality the countries that were banned weren't places that terrorists were known to come from and the places where terrorists did come from weren't banned. After I said that, Kim seemed to agree, but then she went on for about 5 minutes about how immigrants don't belong and then turned to look at me and said "but no offence to you." She then went on to say how she believe she wasn't a racist, but she believed that all immigrants deserved to go back to where they were from. After she said that, I didn't know what to say, so I just sat there quietly until 1pm. At 1, I got up and said goodbye and that I would see her Friday (because I was scheduled to work again from 8am to 2pm). I then went through the rest of my day debating what to do, and decided that I would email Jordan Schaller instead of going to human resources because I believe that Kim didn't mean it as horribly as it sounded. I didn't want to cause a big problem, but I am glad that the incident is being handled and I hope that instead of being a punishment, it becomes more of a learning moment for Kim.

S.

On the Mark Belling show earlier this week, Dr. Gow appeared to argue that Ms. Dearman's speech was not protected. It was implied that she would have been terminated because of her speech if UWL would have properly conducted due process procedures. Did she merit termination for her political statement in response to his political statement? Many taxpayers agree with the last line of the complaint and hope "it becomes more of a learning moment for Kim" and for all taxpayers, including one or more University of La Crosse Officials .

Conduct of Dr Gow Chancellor And UWL leadership team

A. Offensive January 30, 2017 Email of Chancellor Gow and the leadership of UWL

Dear students and colleagues:

Like so many of you, the UWL leadership team and I are shocked and saddened by President Donald Trump's order prohibiting refugees and people from certain predominantly Muslim countries from entering the United States. Here at UWL we do not discriminate based on a person's religion or country of origin, and it is very troubling to see the leader of our country doing exactly that.

At such an unsettling time, we are writing to reaffirm our University's commitment to support our international students, faculty, and staff, and our commitment to the values of international collaboration and engagement. Our students, faculty, and staff from around the world are an integral part of our campus community, and play a crucial role in our educational mission.

Likewise, we want to reaffirm our commitment to ensuring a safe and inclusive campus environment for all individuals, regardless of their national origin, citizenship/immigration status, ethnicity, race, religion, sexual orientation, ability and other significant aspects of individual and cultural identity.

And we also want to let you know that our university will maintain the privacy of information about the citizenship/immigration status of all individuals, except where required by law or authorized by the individual. Please know that, except where required by law, UWL Police do not assist in immigration enforcement or deportation of any individual, and do not inquire about or record immigration status when performing their duties.

We will continue to monitor developments and do our best to provide guidance and support to affected individuals and the university offices providing relevant services to them. Our Offices of International Education and Engagement, Human Resources, and Counseling Services are available for those needing various kinds of support.

Sincerely,

Joe Gow, Chancellor
Nizam Arain, Director of Affirmative Action
Bob Hetzel, Vice Chancellor for Administration and Finance
Paula Knudson, Vice Chancellor for Student Affairs
Betsy Morgan, Interim Vice Chancellor for Academic Affairs
Greg Reichert, Vice Chancellor for University Advancement

B. Embarrassing Feb 2, 2017 Retraction by Dr. Gow and UWL leadership team

Gow sent off another email Wednesday saying the response was the most he'd seen in his 10 years at University of Wisconsin-La Crosse.

Gow's statement can be read below, followed by an updated statement from UW-L.

Dear students and colleagues:

On Monday, I sent all of you an e-mail message which has generated a response unlike anything I've seen during the 10 years I've been privileged to serve as our university's chancellor. And through the responses I've received I've come to realize that I erred in not writing the original message more thoughtfully. In particular, I wrote an opening paragraph that appears to have stifled discussion, rather than promoted it. That opening paragraph also should not have given the appearance that our university is taking a particular side in a political debate. Of course, all of you are free to do that; but as chancellor I am bound to represent our institution in a politically-neutral fashion. I hope you'll please forgive me for not being more careful about this.

With the exception of the initial paragraph, I stand by the remainder of the original message and am proud to say UWL remains firmly committed to the principles it outlines. Non-discrimination and internationalization remain at the core of our mission.

I know there are no "do-overs" in public life, a realm in which the diplomat Charles Maurice de Talleyrand once observed, "A blunder is worse than a crime," but if you can forgive my mistake I hope you'll accept the updated statement included below.

Thanks to so many of you for taking the time to write to me about this very important issue. I regret that I'm not able to respond personally to you all. But, as I hope you'll realize, your messages have a great impact on my thoughts and actions. Even though I've been in my UWL chancellor role for ten years, I'm still learning, and I'm deeply grateful for your assistance in this process.

Best wishes,
Joe Gow, Chancellor
University of Wisconsin-La Crosse

UW-L UPDATED STATEMENT

C. The Number of people offended (guideline 16) by Dr. Gow and UWL leadership team.

The number of offended people is unknown. Interpreting Dr. Gow's retraction, "A response unlike anything I have seen," I am guessing that the number of offended people was somewhat larger than one.

D. Conduct unbecoming o a university employee (guideline 17)

In determining whether Chancellor Gow violated guideline 17 for conduct unbecoming a university employee, Chancellor Gow's evaluation of his own conduct is instructive:

“I know there are no “do-overs” in public life, a realm in which the diplomat Charles de Talleyrand once observed, “A blunder is worse than a crime,” but I hope you can forgive my mistake...”

E. The Chancellor failed to respond to the March 13, letter requesting “reinstatement”

In the afternoon of March 13, Chancellor Gow and the Human Resources Department were sent a letter requesting Kim Dearman's immediate reinstatement. Attached you will find the letter. It was important to my client to reach out privately to UWL's administration to resolve this wrong. No response of any kind was received from Chancellor Gow or anyone in the administration. Was the Chancellor's decision not to respond a violation of guideline 16 or 17?

On March 14, 2017, after receiving no response from Chancellor Gow, my client was forced to reach out to the Board of Regents of the University of Wisconsin System. The media was also contacted.

On March 15, 2017, the La Crosse Tribune wrote a story regarding Ms. Dearman. Attached you will find that story. Chancellor Gow's statements to the Tribune were greatly “offensive” in light of guideline 16. The Tribune quotes as follows: “Fehr's actions seem designed to garner

publicity and attention.” The Tribune continues: “I don’t know this employee, and he (Fehr) is trying to put this on me,” Gow said, “That’s a claim without any real foundation.”

The real foundation of the “publicity and attention” is that Chancellor Gow initiated a political fire storm on his campus. One result was Ms. Dearman’s wrongful termination. Although unable to respond to Ms. Dearman’s request for reinstatement, Chancellor Gow made misstatements to the La Crosse Tribune: “I want to be very clear,” Gow said. “We would never let someone go based on their political beliefs. We always follow due process and policy if anyone is let go.” Another reason for the “publicity and attention” is Chancellor Gow spoke before reviewing any facts. This caused additional “publicity and attention.”

One day later, the Tribune reports Chancellor Gow’s retraction:

“Dearman was terminated on Monday after an investigation by UW-L, which Gow said did not follow all of the due process requirements.... “We should have investigated more fully,” he said. “We should have had a hearing. We were wrong on that.” The article is attached.

This misstatement and embarrassing retraction, together with the prior offensive email and its embarrassing retraction appears to be a pattern. Does guideline 17 apply to his conduct?

17. Conduct Unbecoming a University Employee. Conduct, whether on or off the job, which adversely affects the employee's ability to continue to perform their assigned duties, the University's ability to carry out its assigned mission, or which tends to promote mistrust or embarrassment of the University.

Resolution of Ms. Dearman's Matter

From the beginning, the news organizations have correctly reported that Kim Dearman has not filed a lawsuit. She did not and does not desire to be litigious. She requested reinstatement. She has been dragged through the mud. She has suffered dearly. From the beginning of this matter, Ms. Dearman has desired to understand the policies and practices of the University of Wisconsin System.

Ms. Dearman is very apprehensive about returning after being fired for her response to your Chancellor's politically charged and retracted email. Rather than return, I suggested to the University of Wisconsin System that it fix the problem it created by proposing a fair and equitable settlement. The concept was rejected. I then offered the University a specific number to resolve the issues. The University of Wisconsin System's legal counsel responded to Ms. Dearman's request for fairness as follows:

"I have discussed your settlement proposal with my clients and they have instructed me to reject the offer and not to make a counter offer."

She has no money in a client trust fund to fight the taxpayer funded University. She proposes an alternate solution. Ms. Dearman proposes that the University of Wisconsin investigate this matter. She would like a finding by the Board of Regents as to whether the Board of Regents believes that Ms. Dearman violated guidelines 16 or 17. If so, she desires to understand what makes her speech so offensive as to warrant termination.

She would also request findings as to whether Chancellor Gow's conduct violated guidelines 16 and 17 with regard to the following:

1. The offensive January 30 campus wide email.

2. The embarrassing campus wide retraction of February 1.
3. The failure to use due process with regard to the termination of March 13.
4. The failure to respond to the letter requesting reinstatement of March 13.
5. The failure to determine whether UWL properly followed its own procedures before speaking to the press on March 14/15.
6. The misstatement on March 15 to the press regarding UWL always using due process.
7. The embarrassing retraction regarding the inaccurate due process comment later on March 15.

If the Chancellor's conduct is found to be in violation of the guidelines, Ms. Dearman would request a finding as to whether his violations warrant termination as her alleged violation did.

If it is found by the Board of Regents that she committed a more serious violation than that of the Chancellor, she will provide a written apology to the University. If not, she would request a fair and equitable process to resolve her claims outside of the court system.

We truly hope that an investigation by the Board of Regents will create an atmosphere at our Universities where ideas can be freely exchanged and where the same standards apply to all.

Sincerely,



Lee J. Fein
Attorney for Kimberly Dearman

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March 13, 2017

Chancellor Joseph Gow
1725 State Street
La Crosse, WI 54601

Via email: jgow@uwlaw.edu

Re: Wrongful Termination of Kimberly Dearman based on protected speech

Dear Chancellor Joseph Gow:

I represent Kimberly Dearman. This morning Kimberly Dearman was terminated from her position as a Law Enforcement Dispatcher based on her discussion of your political emails of January 30, 2017 and February 1, 2017 with a co-worker. She demands immediate reinstatement.

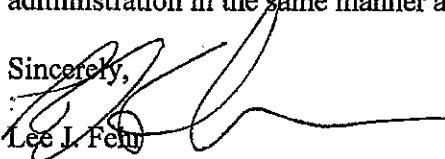
In response to your political emails, she told a co-worker that she supported President Trump's position on immigration. She was terminated because of her support of President Trump. Your Human Resources Department determined that the discussion was a violation of University of La Crosse policy as follows: #16 Threatening or abusive language and #17 Conduct unbecoming of a University Employee.

Ms. Dearman stated to a co-worker that she felt Trump was put in bad situation. She felt Trump was doing the correct thing by keeping terrorists out of the United States. She felt that immigrants should go back where they came from.

Unfortunately under your leadership, there appears to be a pattern squashing political opinion which is not lockstep with your own. I note that you have not been compelled to resign because of your political speech. You have not been terminated because of your political speech.

Again, my client demands full and immediate reinstatement of her employment position. Your Human Resource Office generously gave my client until end of business today for her to determine her employment status. I assume that amount of time is sufficient for her reinstatement. Please advise as to whether her political speech will be protected by UWL's administration in the same manner as you have protected your own political speech.

Sincerely,


Lee J. Fehr

Attorney at Law

CC: Madeline S. Holzem, Chief Human Resources Officer 608-785-8012
Kathy Accola kaccola@uwlaw.edu 8325

One last time for Thomas

Iowa State senior excited for final tournament with Cyclones **SPORTS, PAGE D1**



Study abroad

Students from Japan visit Aquinas **HOMETOWN, PAGE B1**



PETER THOMSON, LA CROSSE TRIBUNE

At 96, June Kjome, a retired nurse and progressive advocate, is sharing her wisdom and lessons on life and aging with writer Susan T. Hessel.

A role model for all ages

June Kjome, missionary, nurse and activist, reflects on growing old

CHRIS HUBBUCH
chubbuch@lacrossetribune.com

June Kjome doesn't want to be a bossy old lady.

Despite her 96 years of experience, Kjome thinks people need less advice and more role models.

"It's a great temptation when you're older to tell everyone how to do it," she said. "I don't think people need advice as much as

they need examples."

To her friends, the missionary, nurse and social justice activist is the embodiment of living — and aging — with grace, and they have put her thoughts into a new book, "June Kjome: Reflections on Aging."

"She's a role model to me," said author Susan T. Hessel. "We talk about people having a courageous fight about cancer, but we don't talk about them having a courageous fight about aging. She is the Eveready bunny. She keeps on going."

Born in Decorah, Iowa, and raised in Austin, Minn., Kjome

"All of us want to be like her when we grow up."

Susan Hessel

said she was enthralled by missionaries who spoke at her church about their experiences abroad. When she graduated from nursing school at the University of Minnesota Kjome volunteered.

When the mission board called



and asked if she would go to Zululand, Kjome recalls her response: "Yes. Where is it?"

In 1945, Kjome sailed aboard a cargo ship to the South African province, where she spent the next 17 years treating patients in back country clinics. She said she was appalled by the institutionalized racism but didn't dare to speak out for fear her visa would be revoked and the mission shut down.

After returning to the United States, Kjome got a job at Lutheran Hospital in La Crosse and

Please see **ROLE MODEL**, Page A2

Fired over political speech?

UW-L police dispatcher says she lost job because of support for Trump

NATHAN HANSEN
nhansen@lacrossetribune.com

A University of Wisconsin-La Crosse police dispatcher claims she was fired for supporting Donald Trump.

In a letter sent Tuesday to the UW System Board of Regents, Kimberly Dearman's lawyer, Lee Fehr of Onalaska, said his client had been fired for political speech in support of President Donald Trump's travel ban. Fehr's

letter said the comments were spurred by an email UW-L Chancellor Joe Gow sent to faculty, students and staff rebuking the move by the president. Gow denied Dearman was fired for her politics.

"I want to be very clear," Gow said. "We would never let someone go based on their political beliefs. We always follow due process and policy if anyone is let go."

According to a letter sent to Dearman from UW-L Human Resources Director Madeline



Dearman



Gow

Please see **SPEECH**, Page A3

AND POLIT WORKERS NEED TO BE better educated about voting laws.

Commission Chairman Mark Thomsen responded by telling her that Sanders' national campaign "blurred the differences" in states' laws in its messaging and "the candidate has to have responsibility for those errors."

Asked during a break how Sanders could be held responsible for internet users misinterpreting his messages, Thomsen said

"To say the campaign itself promulgated it may be the case, or it may not be the case," she said.

Commissioner Julie Glancey said she didn't want to point fingers at any campaigns. The panel ultimately voted unanimously to remove the phrase "some political campaigns" from the report and simply say false information spread through social media.

Thomsen added that it's troubling Wisconsin terrorists from entering the country. She also said those immigrants should go back where they came from.

Speech

From AI

Holzem on Monday, Dearman was given the option to resign or be terminated. According to the letter, Dearman was investigated after a complaint from a coworker and found to have violated university employee policies against unbecoming conduct and threatening or abusive language.

According to the university's definitions, unbecoming conduct is conduct, on or off the job, that adversely affects an employee's ability to continue to perform assigned duties or the university's ability to carry out its assigned mission, or that tends to promote mistrust or embarrassment of the university. Threatening or abusive language directed toward a supervisor, fellow employee or any other persons is not allowed, and that includes offensive language, and that it would prevent

Reached by phone on Tuesday afternoon, Fehr said no legal action had been taken by his law firm but he had asked the university to reinstate Dearman to her position. He has not heard from university officials, he said, and he assumes he will proceed with litigation.

"It is a very tragic situation," Fehr said, "that an employee in casual conversation would end up losing her job because another employee is somewhat offended."

Fehr said he was upset the chancellor didn't face any repercussions for his own political speech and said his actions were intended to alert the Board of Regents to the issue of political speech on campus. He said speech on campus should be diverse but felt university administrators were stifling

certain points of view.

Gow said he took exception to those comments and said Fehr's actions seem designed to garner publicity and attention. After concerns were raised about Gow's email about the travel ban, the chancellor sent a second, apologizing for his comments and to make sure they didn't stifle discussion on campus, which he said is of utmost importance at a university.


"I don't know this employee, and he (Fehr) is trying to put this on me," Gow said. "That's a claim without any real foundation."

The 17-year-olds who voted were referred to local prosecutors. District attorneys in counties with the most underage voters told the Associated Press they chose not to charge them because they genuinely believed they could vote and didn't intend to commit fraud.

La Crosse County District Attorney Tim Gruenke said he decided not to charge a 17-year-old boy who voted in La Crosse, noting he

that Dane County District Attorney Ismael Ozanne reached deferred prosecution agreements in four of the seven cases that were referred to his office. He voted illegally in the November general election. The commission report charged the remaining three teens. Ozanne didn't immediately reply to messages from The AP.

Gov. Scott Walker told



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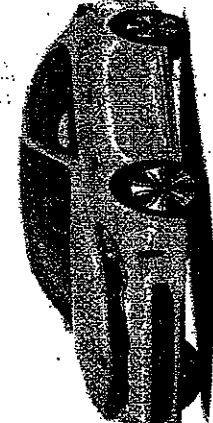


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BRIEF

in the Republican-con-

Somali pirates demand ransom for oil

http://lacrossetribune.com/news/local/chancellor-joe-gow-uw-la-crosse-erred-in-firing-police/article_b06f4be8-12d1-58fb-8791-989ad112f33d.html

Chancellor Joe Gow: UW-La Crosse erred in firing police dispatcher

Nathan Hansen nhansen@lacrossetribune.com 7 hrs ago

Kimberly Dearman

Dearman

Joe Gow

Gow

The University of Wisconsin-La Crosse is reversing course on its decision to terminate one of its employees.

Chancellor Joe Gow said late Wednesday that UW System legal counsel recommended the campus offer Kimberly Dearman her position back as a dispatcher at the UW-L Police Department. Dearman was terminated on Monday after an investigation by UW-L, which Gow said did not follow all of the due process requirements.

Gow said the offer of reinstatement had been sent to Dearman and her lawyer, who he said were still mulling it over. Neither Dearman nor her lawyer was available for comment Wednesday night.

"We should have investigated more fully," he said. "We should have had a hearing. We were wrong on that."

In a letter sent Tuesday to the UW System Board of Regents, Kimberly Dearman's lawyer, Lee Fehr of Onalaska, said his client had been fired for speech she made in support of President Donald Trump's travel ban. Fehr's letter said the comments were spurred by a Jan. 30 email Gow sent to faculty, students and staff rebuking the move by the president.

Gow denied Dearman was fired for her politics, and shared more details of the incident. According to Gow, officials received a complaint that Dearman had told a student of Asian descent that the student's people should go back to where they came from.

According to a letter sent to Dearman from UW-L Human Resources Director Madeline Holzem on Monday, Dearman was given the option to resign or be terminated. According to the letter, Dearman was investigated after a complaint from a coworker and found to have violated university employee policies against unbecoming conduct and threatening or abusive language.

Gow said any future decision to terminate any university employee would have to be reviewed by his office.

"As we've seen with this incident, people will ask questions," Gow said. "I need to be fully informed we are doing the right thing."



UW-L police dispatcher says she was fired over political speech