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The Burden of Confidentiality

By Gary A. Olson

Over the years, I've observed countless department heads struggle with faculty members over administrative decisions that appeared, at first glance, to be arbitrary or self-serving. But often, those decisions arose out of personnel actions that compelled the department heads to observe strict confidentiality. The chairs were powerless in defending against criticism because to do so would reveal that a personnel action was at the root of the decision. That very revelation would likely signal who was involved, thereby violating confidentiality even without divulging details.

That scenario presents a conundrum for any administrator, but especially one committed to transparency and openness: How do you justify your silence or lack of a detailed explanation about a decision, especially when you have been espousing respect for "process" and shared governance?

One department head I know suffered incalculable damage to her administration when she removed a popular faculty member from the post of graduate-studies director and replaced him with a less-influential junior colleague. A sizable faction in the department accused the chair of cronyism because the outgoing director did not have as clear a political allegiance to the department head as did his replacement.

Absent the facts, the chair seemed to be acting in a purely self-interested fashion and without concern for the department's collective will.

The behind-the-scenes story revealed a much-different reality. The graduate director had, for a half decade, engaged in a pattern of serious misconduct. He had used his power and influence to alter the official grades of students he favored, overriding the legitimate grades their professors had given them. He further violated university regulations by arbitrarily and unilaterally waiving required courses for certain students, and he manipulated the composition of dissertation committees to benefit certain students.

The chair learned about those abuses of power from a confidential complaint filed by a politically disinterested but nonetheless concerned doctoral student. A discreet investigation confirmed the extent of the misconduct. The department head had no recourse but to remove the director, immediately. Of course, the ousted director suffered other repercussions as well: The dean issued a stern, confidential letter of reprimand stipulating that any further incidents of misconduct could potentially result in permanent dismissal.

All of those personnel actions —the initial complaint, the investigation, the finding of misconduct, the official penalties (including the formal reprimand and removal from office) —were conducted in private so as to protect the reputations of all concerned, both the innocent and the perpetrator. Those facts did not need to circulate; the situation had been properly investigated and remedied.

When the department head first announced that the graduate director would be replaced, a large number of faculty members in the department complained vociferously that they had not been consulted. They accused the chair of acting unilaterally, with some (unstated) personal agenda. The irony was that university policy stipulated, as is the case at most institutions, that the graduate director served "at the pleasure of the department head." Technically, the department head did not even need an "acceptable" reason to replace the director, although, politically, it's always good practice to consult all of the affected parties.

But because the department head was ethically prohibited from revealing confidential personnel information, she was powerless to explain her actions, and, as a consequence, she remained vulnerable to unfair and misguided criticism. She told me that maintaining her silence was one of the most difficult and painful things she had ever done.

"I could have shut them all up by telling them the truth," she said. "But that would have been deeply unethical."

A dean in a college of applied technology experienced a similar incident. He "nonreappointed" a tenure-track faculty member who was halfway through his third year as a new assistant professor. The young faculty member was suddenly and mysteriously removed midsemester from all teaching and student-advising duties. By semester's end, he had quietly vanished from the university.

Some faculty members complained that the dean "had it in for" the faculty member and accused him of "heavy handedness." Some even went so far as to suggest that, because the released faculty member was Hispanic, the dean was motivated by racism.

In fact, the young assistant professor had proven to be a sexual predator and had coerced several undergraduates into sexual liaisons. One of the students eventually reported the professor to the department head, who immediately consulted with the dean. The department head and dean were able to establish conclusively that the professor was using grades as a weapon to have his way with several students.

Clearly, those were facts that no administrator could ethically reveal to colleagues, even "in confidence." The dean in this case respected confidentiality, even though a majority of his faculty members assumed that he had acted with less-than-noble motives. The dean's reputation in the college was severely damaged because he appeared to be a bully, yet the truth was that he had taken decisive measures to protect students from the true bully.

Confidentiality over personnel issues is a burden that most administrators must bear every day. Academic culture is one of fair play and ethical treatment of personnel. Were that not so, administrators could willy-nilly reveal information that could potentially damage the reputations of those faculty and staff members involved in personnel conflicts. Thankfully, however, higher education in the United States enjoys a well-developed system of protection for those accused of ethical and legal violations, even after they have been found to be culpable.

Of course, an institution will feel no compunction to publicize wrongdoing once a case rises to a certain level of seriousness and criminality. It is not uncommon for an institution's media-relations department to issue a news release announcing that a certain professor or administrator has been suspended for alleged embezzlement and that the local police have assumed responsibility for the case. But the typical case that most administrators deal with is more minor yet nonetheless consequential. And in such cases, the processes of investigation and adjudication occur in private and with respect for the privacy of all parties.

Obviously, an unscrupulous administrator could abuse the system by invoking the excuse of a "personnel decision" in order to conceal arbitrary or self-serving decisions, but I suspect such cases are rare.

(And, besides, how often can you make that invocation before losing credibility?) More frequent is the daily torrent of legitimate personnel disputes that we all must sort through and attempt to adjudicate.

Perhaps what is needed here, more than anything, is to balance a healthy skepticism with a faith in the good intentions of those charged with leading our departments and colleges. I have great admiration for the innumerable academic leaders who, at great cost to their own careers and relationships, protected the confidentiality of others because it was the right thing to do. They fell on their swords for the very principles we hold so dear in academe: fairness, due process, and respect for privacy. Confidentiality in some of those cases was nearly an unbearable burden.

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