

REVOCATION OF TENURE OF DR. YUSUF KALYANGO

RESOLUTION 2021 -- _____

WHEREAS, in two separate investigations arising from complaints by students the Office of Equity and Civil Rights Compliance (“ECRC”) found it more likely than not that Dr. Yusuf Kalyango violated University Policy 40.001 and University Policy 3.004 in one matter and University Policy 3.004 in the other matter; and

WHEREAS, based upon the findings of the ECRC, the Provost convened two separate faculty composed University Professional Ethics Committees (“UPEC”) to review the allegations against Dr. Kalyango and each UPEC unanimously determined that there was adequate cause to initiate loss of tenure proceedings against Dr. Kalyango; and

WHEREAS, pursuant to the provisions of Section II.D.5. of the Faculty Handbook (“Handbook”), the Director of Dr. Kalyango’s School, the Dean of Dr. Kalyango’s College, and the Provost all recommended that Dr. Kalyango be de-tenured; and

WHEREAS, the President concurred with the recommendations and notified Dr. Kalyango of the grounds for loss of tenure and dismissal proceedings and advised Dr. Kalyango of his right to seek a hearing before a Committee of the Faculty Senate (“Committee”) in accordance with the Handbook; and

WHEREAS, the Committee conducted a hearing December 10-11, 2020; and

WHEREAS, the Committee issued its initial Report on the matter on December 29, 2020 for the automatic review of the Board of Trustees; and

WHEREAS, the Board of Trustees met on March 1, 2021 to consider the Committee’s initial Report and the record of the matter before the Committee and, through Resolution 2021-3896, issued objections to the initial Report in accordance with the Handbook; and

WHEREAS, the Committee issued “The Faculty Senate Hearing Committee’s Reconsideration” (“Reconsideration”) on April 2, 2021, affirming its recommendation that Dr. Kalyango be reinstated as a tenured faculty member of Ohio University, and the Board of Trustees has carefully reviewed the Reconsideration.

NOW THEREFORE, BE IT RESOLVED that the Board of Trustees, after careful consideration of the initial Report, the Reconsideration and the entire record before it, makes the following findings:

- That, upon a thorough review of the entire record, this Board determines that there was full or substantial compliance with the processes set forth in the Handbook at all stages of the proceeding prior to the hearing of the Committee; and,
- The Board finds that the role of the Committee is set forth in Section II.D.5. of the Handbook and entails a review and hearing, where requested by the charged faculty member, to consider the grounds of dismissal presented by the President and the faculty member’s statement in response.

The Handbook requires the Committee to “consider the case on the basis of the statement of persons possessing relevant information and other data concerning the matters set forth in the President’s letter”; and,

- The Board finds that the President’s letter, dated September 3, 2020, provided: “The grounds for dismissal are that you have been found to have engaged in sexual harassment by hostile environment, sexual harassment by quid pro quo, and harassment on the basis of sex. The incidents that formed the basis for my decision are set forth in detail in the two Memoranda of findings from ECRC. Your actions violated Ohio University Policies 03.004 and 40.001, as well as Faculty Handbook Section II.Q.”; and,
- The Board finds that the Committee was then required to “make explicit findings with respect to each of the grounds of removal as presented”; and,
- The Board has reviewed the Committee’s Report dated December 29, 2020, as well as the Committee’s Reconsideration dated April 2, 2021; and
- With respect to Complainant 1, the Board notes that the Committee did not make explicit findings inconsistent with the relevant facts found by the University’s ECRC concerning Dr. Kalyango’s conduct toward Complainant 1 and advanced at the hearing; and,
- With respect to Complainant 2, the Board notes that the Committee concluded that Complainant 2 should not be believed but did not make explicit findings inconsistent with her testimony and the documentary evidence she provided; and,
- The Board has conducted its own review of the record before the Committee, which includes the transcript and video recording of the hearing; and this Board in its review finds that the substantial record provides adequate detail to allow the Board to weigh the credibility and weight of the evidence presented to the Committee, and finds each Complainant’s testimony to be credible and supported by corroborating evidence; and,
- Based on this review, the Board finds with regard to the complaint filed by Complainant 1:
 - Dr. Kalyango treated Complainant 1 in an overly familiar manner by sending her communications with inappropriate requests and/or content, contacting her at inappropriate hours, offering to drive her from Ohio to the East Coast to see her family, and hiring her as a program assistant without following the normal hiring process;
 - Dr. Kalyango arranged for Complainant 1 to accompany him on a week-long work trip to Rwanda after completing a program in South Africa. Dr. Kalyango informed Complainant 1 that for two nights of the trip to Rwanda, Complainant 1 would have to share a hotel room with Dr. Kalyango;
 - Complainant 1 objected to the suggestion that she and Dr. Kalyango share a hotel room;
 - Prior to travelling overseas, Complainant 1 expressed concerns to her neighbor about the shared hotel arrangements;

- Complainant 1 and Dr. Kalyango did not share a room during the trip to Rwanda;
- After rebuffing Dr. Kalyango's suggestion of sharing a hotel room, Dr. Kalyango treated Complainant 1 in a critical and retaliatory manner, ultimately leading to Complainant's resignation from her program assistant position, stating that she felt unsafe working with Dr. Kalyango; and
- Dr. Kalyango provided contradictory explanations to ECRC regarding the shared hotel room in Rwanda. Despite documentary evidence to the contrary, Dr. Kalyango claimed that he did not book the shared hotel room in Rwanda and that a colleague had booked the room. During the hearing, this colleague stated that Dr. Kalyango booked the hotel room.
- Further, with regard to the complaint filed by Complainant 2, the Board finds:
 - During an education abroad program, Dr. Kalyango invited Complainant 2 to his hotel room to dance and invited Complainant 2 to a bar in a neighboring hotel where Dr. Kalyango purchased drinks with Complainant 2, then kissed Complainant 2;
 - Dr. Kalyango invited Complainant 2 to accompany him to a professional journalism conference in Chile. Dr. Kalyango informed Complainant 2 that the only way the University would pay for the cost of Complainant's hotel room was if she shared a room with Dr. Kalyango. Complainant 2 did not travel to Chile with Dr. Kalyango;
 - Dr. Kalyango requested that Complainant 2 drive him to Washington D.C. to attend a meeting. Upon arrival in Washington D.C., Complainant 2 learned that only a single suite had been reserved and that she would have to share the suite with Dr. Kalyango. At bedtime, Dr. Kalyango sat on Complainant 2's bed and put his arm around her;
 - Complainant 2 initially denied allegations of the events that occurred during the education abroad program. At the hearing, Complainant 2 explained that she had denied the allegations out of concern that she would be prohibited from working as a student assistant for Dr. Kalyango. She was able to work several hours a term at a much better rate of pay than most student jobs and needed the money to attend school. Complainant 2 explained that she had come forward to correct the record; and
 - Dr. Kalyango denied Complainant 2's allegations despite documentary evidence in support of Complainant 2's allegations.
- This Board finds that the appropriate standard of proof that should have been applied by the Committee is preponderance of the evidence. The preponderance of the evidence standard is the University standard for matters involving sexual harassment, while a clear and convincing standard was putatively applied by the Committee. Nevertheless, based upon the entire record properly before it, the Board finds that its determination that Dr. Kalyango did violate University Policy 40.001 and University Policy 3.004 in regard to Complainant 1 and University Policy 3.004 in regard to Complainant 2, would be made by the Board under either standard; and
- That termination and revocation of the tenure of Dr. Kalyango is warranted as a result of the

violations found relative to Complainant 1 and Complainant 2. The Board determines that each violation relative to Complainant 1 and Complainant 2 on its own, or taken together, would warrant termination and revocation of tenure; and,

- The Board notes that both UPECs commented on the power differential between Dr. Kalyango and the Complainants. The first UPEC further commented on the discrepancies between the documented evidence and the answers provided by Dr. Kalyango, his lack of acknowledgement of the power dynamic inherent in his position of authority, and his delay in providing certain documentation requested during ECRC's investigation; and
- That the underlying policy violations justifying dismissal did involve moral turpitude sufficient to invoke loss of terminal contract salary pursuant to Handbook § II.D.5.g. Sexual misconduct of any sort cannot be tolerated. Sexual misconduct of the type evidenced in this matter that exploits the power differential between a faculty member and a student is behavior that is particularly blameworthy and is condemned by and offends the moral sensibilities of the academic community generally.

BE IT FURTHER RESOLVED that the Board of Trustees hereby overrules the recommendation of the Committee and finds, based upon the entirety of the record before it, that Dr. Yusuf Kalyango violated the University policies set forth above, and that said violations warrant loss of tenure and termination involving moral turpitude.

BE IT FURTHER RESOLVED that the tenure of Dr. Yusuf Kalyango is hereby revoked and the President is hereby authorized and directed to take all necessary and proper actions to effectuate immediately the termination of Dr. Yusuf Kalyango's employment with the Ohio University.