

INVESTIGATION FINAL REPORT
COMPLAINT #2006113
COMPLAINANT: DAN RYDER
DECEMBER 1, 2006

Complaint Summary and Allegations

Dan Ryder (Complainant), a Washington State University (WSU) undergraduate, filed a written complaint with the Center for Human Rights (CHR) on Tuesday, November 14, 2006. Complainant alleged that John Streamas (Respondent), an assistant professor in the Comparative Ethnic Studies (CES) department, called Complainant a racial expletive, specifically "a white shitbag," at an open forum on the Glenn Terrell Mall (the Mall). The alleged incident occurred on Thursday, November 2, 2006. The written complaint stated that the phrase was uttered with the intention to demean, intimidate, and/or discriminatorily harass Complainant on the basis of race, color, ethnicity and/or creed.

University Policy at Issue

Washington State University Discrimination and Sexual Harassment Policy

Other University Policies and Documents Considered and Referenced Herein

WSU Strategic Plan and Core Values¹
Faculty Code of Professional Ethics²

¹ Of special relevance:

Strategic Goals:

- 3) *Create an environment of trust and respect in all we do.*
- 4) *Develop a culture of shared commitment to quality in all of our activities.*

Core Values:

Leadership

We are guided by an ethic of leadership and service that recognizes the importance of identifying, articulating, and responding to the interests and needs of Washington State University's diverse constituencies.

Investigation

CHR proceeded with an investigation pursuant to the complaint. The inquiry included:

- Interviews with Complainant, Respondent, and multiple witnesses, including students, faculty members, staff members, administrators, officers and advisors of the Washington State University College Republicans (WSUCRs), and officers of the Associated Students of Washington State University (ASWSU) (the undergraduate student government of WSU).
- Review of written statements of Complainant.

Diversity

We are committed to a culture of learning that challenges, inspires, liberates, and ultimately transforms the hearts, minds, and actions of individuals, eliminating prejudice. Our differences are expressed in many ways, including race, sex, age, physical and mental ability, sexual orientation, religion, class, philosophy, and culture. Respect for all persons and their contributions is essential to achieving our mission.

Character

Washington State University aims to create, through our work and our relationships, an environment that cultivates individual virtues and institutional integrity. To serve our diverse communities, we must first be a community that extends mutual respect and regard for all individuals and protects their right to free expression.

Stewardship

Careful shepherding of our financial, human, capital, and intellectual resources is necessary for us to realize our values. In addition, the mission of the institution is most likely to be achieved when faculty, staff, and students at Washington State University take responsibility for upholding the full scope of these values.

² Of special relevance:

Faculty Code of Professional Ethics

Faculty members have obligations that derive from membership in the University community. The following Faculty Code of Professional Ethics states the expected standard of performance:

Faculty members, guided by deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end, they devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although they may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry. Those who have instructional responsibilities are responsible to the University, their departments, and their students to perform in a conscientious and ethical manner all instructional tasks assigned to them.

Duties

As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly standards of their disciplines. They demonstrate respect for the student as an individual and adhere to their proper role as intellectual guides and counselors. They make every reasonable effort to foster honest academic conduct and to ensure that their evaluations of students reflect their true merit. They respect the confidential nature of the relationship between professor and student. They avoid exploitation of students for their private advantage and acknowledge significant assistance from them. They protect students' academic freedom.

- Review of a demonstration video provided by the WSUCRs, of which some clips also were viewed on online video-sharing websites.
- Reviews of various organizational and news websites.
- Consideration of recorded voicemail message the Respondent left for investigator addressing the matter.

Background

On or about October 26, 2006, the President of the WSUCRs applied for the appropriate permit to hold a demonstration on the Mall. The permit was initially approved for October 31 through November 2, 2006, but was changed for the dates of November 1 through November 3, 2006. Included in the permit was permission for the temporary installation of a 24-foot, chain-link, cyclone fence, later established as a representation of a "Wall of Immigration" (the Wall). The event was to be held during the hours of 8:30 a.m. – 2:00 p.m. The Wall was, in fact, only installed on November 2, 2006, and was up almost the entire event time allowed.

Complainant is a member and a former president of the WSUCRs, a registered student organization that supports the national Republican Party. He also is East Vice Chairman of the Washington College Republicans Federation (WCRF), a federation of similar organizations in eastern Washington. The Complainant was acting in his capacity as a member of the WSUCRs at the time that Respondent engaged in the conduct at issue here. Whether Complainant also was acting in his capacity as an official of the WCRF is unclear; however, he readily identified himself as East Vice Chairman to CHR investigators. The WSUCRs and the WCRF are partisan organizations affiliated with the College Republicans National Committee, as well as the Republican National Committee of the Republican Party.

Respondent is an Assistant Professor in the CES department. His academic focus concerns issues related to race and ethnicity. During his time at WSU, articles in the campus student newspaper have identified him as a faculty member who is outspoken and extremely critical of circumstances both nationally and on campus that he believes are ethnically or racially biased or discriminatory. Respondent's publications, research interests, and teaching interests are shown on his department's website.

Respondent's alleged conduct occurred during a daylong political demonstration carried out by the WSUCRs on the Mall, a central walkway/plaza through the middle of campus that is a public forum. The demonstration centered on the Wall, a 24-foot long chain-link fence that was donated by a Colfax merchant. The Wall was intended to represent the border fence recently approved by the United States (U.S.) Congress. The border fence is to be constructed on the shared border between the U.S. and the United Mexican States (Mexico) to keep out undocumented aliens who try to enter the U.S. without inspection. The Progressive Student Union set up a table providing flyers and pamphlets which sought to challenge the WSUCRs demonstration and present alternative perspectives.

According to the WSUCR President, the purpose of the demonstration was to call attention to important public policy issues and "get out the vote" a week before a national election. WSUCR demonstrators displayed posters and slogans, and they distributed a seven-page document. Individual members also made public statements, answered questions, and generally engaged in debate with members of the public, including the counter-demonstrators, which were primarily WSU students. Over the course of the day, only a few hundred people, including demonstrators and counter-demonstrators, were at the site of the Wall. In terms of attendance, this was not a large Mall event.

Individual members of the WSUCRs have expressed surprise to investigators at the many negative reactions that their demonstration drew – before it took place, during the demonstration, and afterward. They have expressed astonishment at being labeled as racist, especially to their faces by counter-demonstrators. They stated that such critics are challenging their views in an unfair manner and seeking to intimidate, harass, and silence them.

In fact, the WSUCRs were warned by members of the Executive Board of ASWSU and other individuals, on or about October 30, 2006, that the Wall display and demonstration would trigger passionate and angry feelings. The WSUCRs were told that the ill feelings would include accusations of racism. In addition, the President of the WSUCRs admitted she was aware of other similar events concerning immigration issues, sponsored by College Republican groups in other parts of the country, which were controversial, were labeled as racist, and received considerable press attention. Other such events have occurred recently at San Francisco State University, Columbia University, and Michigan State University. The President of the WSUCRs indicated to investigators that she had obtained the idea for the Wall from Chapman University.

Encounter Between Complainant and Respondent

Between 10:00 and 10:30 a.m., Respondent approached Complainant, and challenged him and the WSUCRs regarding the demonstration, the Wall on the Mall, and their views on immigration. While engaged in debate with Complainant, Complainant alleges that Respondent pointed at him, looked at him, made eye contact, and said "you are just a white shitbag." Complainant told Respondent that "you have no right to call me a shitbag. That is uncalled for" Respondent replied with "OK, I'm sorry I did that." Respondent's initial statement was not captured on video, but his apology was. After the statement, and subsequent apology, Complainant and Respondent immediately resumed their debate for some time, and neither made further reference to Respondent's use of this insult.

The precise definition of the word "shitbag" is unclear, but Complainant and Respondent agree that it is a derogatory term. Further, Respondent stated to CHR investigators that he intended it as a derogatory term. Respondent was unable to provide investigators a precise meaning of his own. He claims to have added the adjective "white" because he strongly believed the WSUCRs' demonstration to be racist against people of color. Respondent insists that he did not utter the phrase as an

expression of racism, in part, because he argues that a person of color cannot be racist, by definition, because racism also defines a power differential that is not usually present when a person of color is speaking. In this instance, Complainant disputes this argument because Respondent is an assistant professor at WSU, albeit not Complainant's professor, which is why, in part, he says he felt intimidated and harassed by Respondent.

Respondent disputes that he directed the expression at Complainant. Instead, he claims that he stated, more generally: "Whoever supports this fence [the Wall] is a white shitbag." Nevertheless, he admitted to investigators that he really did not remember exactly what he had said. His claim that he did not direct the comment specifically at Complainant is inconsistent with the video evidence and the testimony of several eyewitnesses, including that of an ASWSU officer who was present.

Respondent emphasized that the erection of the fence was a racist act that has wounded hundreds of WSU students, in particular, ethnic/racial minority students and Hispanic/Latino/Latina students. Hispanic students have publicly expressed and have told CHR investigators that the Wall demonstration and attitudes of the WSUCRs have made them feel unsafe and unwelcome at WSU. Respondent says that by referring to those responsible for the fence and those in support of the fence as "white shitbags," he was merely stating a truth, albeit in coarse, insulting language.

In reply to a CHR request for a meeting, Respondent left an unsolicited voicemail message, which stated, in relevant part:

The fence was a racist attack upon us. And . . . I think that we need to talk about that. . . . Whatever I said to one person is not equal to whatever that fence did to hundreds of people, attacking us personally and communally. And that's the issue – the fence, what people said is not nearly as important as how racist an attack that fence is. . . . know some Republicans who themselves think that the fence was a racist insult and are ashamed of the College Republicans. . . .

This is a racist university. Many of our students say that WSU stands for White Supremacist University. . . . Many, many people have been hurt. I don't care about the hurt feelings of one white person; I care about the hurt feelings of many, many people of color and immigrants who were offended by that fence . . . That is what I care about. The feelings of one little hurt white boy whose got all his white skinned privilege are nothing compared to the hundreds of people he offended with his racist fence. That's the issue here . . . [Emphasis in original voice message]

Respondent told investigators that he regretted using the phrase "white shitbag," and admitted that his use of the phrase was unprofessional. He further stated that he had no way of knowing the appropriate professional standards for the specific context on the Mall.

A review of a video recording of the episode between Complainant and Respondent made by the WSUCRs shows little consideration of the phrase on either party's part. Respondent made the offending statement and extended a quick apology when Complainant demanded it, then both returned to their debate. Complainant was sufficiently offended to request an apology, but appeared to accept it to an extent that he remained willing to engage Respondent in argument. Neither person appeared intimidated or frightened during the exchange.

Finally, numerous University offices have had to respond to dozens of letters, email messages, and phone calls from alumni, the media, parents, and interested members of the public concerned about the demonstration and counter-demonstration. Many of the communications have sought to convey outrage at the behavior of Respondent and one other WSU professor on the Mall during the demonstration. CHR has learned of at least one outside grant to WSU that may be threatened by donor concern over the faculty conduct, including Respondent's.

Findings

CHR finds that:

- 1) The purpose and goals of the WSUCRs (and those of Complainant, as a member) are political and their actions are those of a political organization affiliated with other similar organizations across the state of Washington and the U.S., as well as the national Republican Party.
- 2) Complainant and officers of the WSUCRs were warned to expect the Wall would provoke controversy and debate, as well as divisiveness and accusations of racism. Complainant and officers of the WSUCRs ignored the warnings and carried out their demonstration, including erecting the Wall.
- 3) The WSUCRs demonstration and the erecting of the Wall received appropriate approval from the Office of Campus Involvement; were forms of lawful constitutionally protected speech; and did not violate University policies.
- 4) Respondent specifically called Complainant "a white shitbag" for which he immediately apologized to Complainant, saying, "I am sorry I did that."
- 5) Complainant's conduct evidenced that he took immediate offense when respondent directed the derogatory phrase at him, and that Complainant accepted Respondent's apology. The two continued to debate for a substantial period of time with neither making further reference to the phrase "white shitbag," and Complainant, in particular, not manifesting that he was intimidated or harassed by Respondent having used the phrase.

- 6) Respondent's single use of the phrase "white shitbag" did not subject Complainant to discrimination or discriminatory harassment in violation of WSU's Discrimination and Sexual Harassment Policy.
- 7) Nevertheless, in calling Complainant a "white shitbag," Respondent engaged in immature, intellectually unsophisticated and thoughtless conduct unbecoming any WSU employee and a member of the WSU faculty, in particular.

Conclusions

To the extent that CHR has investigated in the context of the current investigation, the WSUCRs (concerning their demonstration, including the erection of the Wall) and the student counter-demonstrators remained within their lawful rights of freedom of expression. The only questionable conduct was faculty conduct, including Respondent's behavior.

CHR has found sufficient evidence to support Complainant's allegation that Respondent did, in fact, directly call Complainant "a white shitbag," which Respondent intended as a derogatory and/or demeaning term. However, this single utterance, occurring in the context and manner of a rigorous public debate, did not subject Complainant to discrimination, discriminatory harassment, or intimidation on the basis of Complainant's race, ethnicity, color, creed or any other basis. Nevertheless, the use of such language by a WSU professor, especially with students as occurred in this case, is immature, intellectually unsophisticated and thoughtless conduct unbecoming any WSU employee and a member of the WSU faculty, in particular.

Recommendations

President V. Lane Rawlins recently stated that a "campus is a place where the big issues of the day should be debated." He further stated specifically that WSU "is committed to being a place where people can exercise their free speech rights without fear of harassment or intimidation" and "all members of the university community – faculty, staff and students" are expected to carry on their discussions "in a civil and constructive way."

CHR hereby reaffirms these important precepts that are anchored in the fundamental human right of all people everywhere to freedom of expression. While fundamental, inherent, and guaranteed by numerous international human rights treaties and, most importantly, the Bill of Rights of the constitution of the United States of America and the constitution of the State of Washington, this is a right that always runs the risk of being trampled and violated unless all members of the university community remain mindful to create and maintain an environment of trust and respect for all, at all times.

Consistent with these ideas and the findings of this report, and with no intent to silence, control, or chill the legitimate and lawfully protected speech of anyone, CHR makes the following recommendations:

To the Respondent:

1. In all your conduct, be mindful of your obligations as a member of the WSU faculty and the standards and/or expectations contained in the Faculty Code of Ethics and the WSU Strategic Plan and its Core Values.
2. In particular, refrain from using such derogatory language toward students, which gave rise to the current complaint and has led to the disruption of university activities.

To the Provost, Dean of the College of Liberal Arts, and Chair of CES:

1. Review Respondent's conduct for possible violations of the Faculty Code of Ethics, and carry out such corrective action as necessary (and disciplinary action, if warranted) to impact Respondent to refrain from such conduct.
2. Meet with Respondent via an appropriate supervisory panel to review WSU's Discrimination and Sexual Harassment Policy, Faculty Code of Ethics, and WSU's Strategic Plan and its Core Values, as relevant.
3. Provide mentoring and training to Respondent that will provide Respondent adequate understanding of what appropriate conduct is for a member of the WSU faculty, including but not limited to such conduct that is consistent with WSU's Discrimination and Sexual Harassment Policy, Faculty Code of Ethics, and WSU Strategic Plan and its Core Values.

To the Provost, Dean of the College of Liberal Arts, Chair of CES, Vice President of Student Affairs, and Vice President of Equity and Diversity:

1. Consider carrying out all such actions that may lead to a reduction of tension and mistrust between and among WSUCRs and its members, CES, and others in the WSU community, including students, faculty, staff and student organizations.
2. Consider offering programs or workshops to enhance communication skills among members of the WSU community concerning important issues.

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