

A PLEA FOR FAIRNESS AT MIT

MIT, Sunday, February 1, 2007

Two years ago, in January 2005, Professor James Sherley, the only African-American faculty member ever appointed in the Division of Biological Engineering (BE), filed a letter of complaint about the division-level evaluation that resulted in the denial of his tenure in BE. Prof. Sherley's complaints include charges of conflict of interest and racial discrimination. Provost Rafael Reif has now decided that, given the findings of the grievance review committee, Sherley's tenure denial should stand.

Because charges of conflict of interest and racial discrimination cut at the very core of MIT's community values, it is imperative that they be thoroughly pursued, wherever they lead. We are writing this letter because we believe that there remain several issues related to Prof. Sherley's grievance process that need to be further examined. Our concern here is not, *and could not be*, about the scientific merits of Prof. Sherley's tenure dossier, which is not available to us and about which we as a group would be in no position to opine. Our concern in this letter is with the integrity of the grievance process. We would like to highlight a sample of evidence that might help decide whether Prof. Sherley's complaints were given fair, diligent and thorough consideration. The evidence surrounds the following topics:

- + conflict of interest in tenure review;
- + various sorts of unfair treatment to Prof. Sherley as a junior faculty member vis-à-vis:
 - space allocation,
 - space-related impediments and misinformation during recruitment and hiring,
 - problems related to mentorship and tenure review,
 - failure to acknowledge achievements;
- + mishandling of complaint of racial prejudice.

Conflict of interest:

The BE Division Head is married to a senior BE faculty member whose relationship with the candidate has been openly contentious. Given this relationship, it would have been appropriate for the BE Division Head to recuse himself from assembling and deciding Prof. Sherley's tenure case. However, not only did the Division Head fail to recuse himself, but he solicited an internal letter from his wife to be included in the tenure file.

The Provost, in his 12/22/06 letter to Prof. Sherley, summarizing the Review Committee's report (to which we do not have access), states: "The Committee found that it was appropriate for [the BE Division Head] to solicit an internal reference from [his wife], given the overlap in your research areas and the fact that you had not asked that she be excluded from the list of referees." In other words the Provost here places the burden for identifying and preempting the conflict of interest on the candidate himself.

This seems to us highly problematic. A tenure candidate should not be expected to openly challenge the judgment of a senior faculty member who will play a key role in deciding

the candidate's tenure status. MIT's *Policies and Procedures* (7.2) states: "While general responsibility for assuring adherence to these policies must rest with those responsible for appointments and assignments (principally academic and administrative department heads and laboratory and center directors), a particular responsibility for sensitivity to the potential conflicts falls on those whose family or personal relationships may give rise to them." This makes it clear that the burden of action lies on department heads and on parties whose relationships may compromise (or give the appearance of compromising) due process in professional decision-making. Thus, as Head of BE and as spouse of a senior BE faculty in open conflict with the candidate, the BE Division Head was, in two distinct ways, responsible for avoiding any appearance or potential of conflict of interest. The BE Division Head failed to fulfill his responsibility. As a result, Prof. Sherley was not duly protected from the *appearance* of, and the *potential* for, conflict of interest.

Unfair treatment:

Space allocation and space-related impediments and misinformation during recruitment and hiring

In July 1998, Prof. Sherley was hired into a faculty slot reserved for under-represented minorities as established by a special Provost's initiative to promote minority recruitment. Such a slot came with certain restrictions on laboratory space: any minority recruited in such a line would have to be given space that is *already available* from the hiring unit--not additional space by the Provost. As he was being recruited, Prof. Sherley was never told that he would be hired into a special-initiative minority-faculty slot or that such a slot came with restrictions on how space would be allocated to him. This was confirmed in exchanges both with Prof. Sherley and with senior BE faculty involved in his recruitment and hiring. These space restrictions have continued to plague Prof. Sherley throughout his career at MIT. We believe that these facts concerning Prof. Sherley's recruitment and lab space raise a variety of questions, including questions about Prof. Sherley's fair treatment as a new recruit and a junior faculty member, and questions about the reliability of the grievance committee's findings vis-à-vis the size of Prof. Sherley's *independent* laboratory space and how much control he could actually exert over this space.

For example, space loaned to Prof. Sherley by a senior faculty in BE has been listed as part of Prof. Sherley's "independent" lab space. Yet Sherley's dependence on others for lab space has been used to intimidate and pressure him. On July 3rd, 2006, Prof. Sherley received an email message in which the afore-mentioned senior BE faculty threatened to "formally request return of [this space] to [him]." The senior BE faculty wrote to Sherley: "Remember that it was I who gave you access to that lab." In that email exchange, the senior faculty's threat was explicitly stated in response to Prof. Sherley's handling of a complaint by one of Sherley's assistants who was feeling harassed by one of the senior faculty's assistants. As far as can be gathered from the corresponding email exchanges, Prof. Sherley was handling this complaint in the most appropriate fashion, according to the relevant MIT guidelines.

Problems related to mentorship and tenure review

Various concerns also arise in the context of Prof. Sherley's pre-tenure mentorship and subsequent tenure denial. In question here are descriptions in the Provost's letters of the role of one Department Head in the School of Engineering, outside of BE, who according to the Provost's 1/23/06 letter, was asked to "review" Prof. Sherley's tenure case. As it turns out, this Department Head who was claimed in that letter to have "agreed with [the BE Division Head's tenure-denial] decision" was subsequently identified as the Head of Aeronautics and Astronautics [Aero-Astro], and the sole African-American Department Head at MIT. The Aero-Astro Head is also the very mentor whom senior BE faculty had recommended to Prof. Sherley and whom Prof. Sherley had consulted about his tenure dossier, before and after the tenure-denial decision. On December 20, 2006, the Aero-Astro Head categorically stated that *all* he saw of Prof. Sherley's tenure dossier is what Prof. Sherley himself had shown to him in his capacity of mentor. On that same occasion, the Aero-Astro Head unambiguously stated that it would have been "inappropriate" for him to "review" Prof. Sherley's case. Then and on another occasion (on January 4, 2006), he emphatically denied having done so. Be that as it may, in light of the identification of the Aero-Astro Head as the other Department Head who "reviewed" Prof. Sherley's case, the Provost's summary letters dated 1/23/06 and 12/22/06 display obfuscatory statements vis-à-vis the committee's findings about the Aero-Astro Head's role in Prof. Sherley's tenure denial. In his 12/22/06 letter, the Provost states: "The Committee confirmed that [the Aero-Astro Head] did not see the tenure case for you that was presented to the BE faculty." Whether he did or not, one is left to wonder if the integrity and fairness of Prof. Sherley's mentorship and/or tenure review were in any way compromised by the Aero-Astro Head's role therein.

An important aside is in order here with respect to MIT's commitment to minority recruitment and retention. The above inconsistency in the Provost's letters is all the more troubling, given the Aero-Astro Head's stature in the minority-faculty community and the need for reliable mentorship therein. Any mishandling of these issues may have long-lasting effects on the quality of mentorship for younger minority faculty and on the recruitment and retention of minority faculty.

Failure to acknowledge achievements

Prof. Sherley charges that his stature, contributions, and awards have not been duly acknowledged by his senior colleagues and that, even when he demanded acknowledgment, this was denied. Sherley has provided a variety of examples of this pattern. But there's one that is clearly documented, which relates to Prof. Sherley's status as the first new faculty appointment in BE.

Prof. Sherley has complained to the Provost that the BE Division Head has never acknowledged his (Sherley's) distinction as the first new faculty member hired into the newly formed Division of Bioengineering and Environmental Health in July 1998. In response to this complaint, the Provost, in his 12/22/06 letter, states: "While you [Sherley] feel that you should have been acknowledged as the first faculty member hired

in BE, the Committee found that you were in fact hired in the Toxicology division, prior to the formation of BE.” However official MIT documents (e.g., Prof. Sherley’s initial appointment letter dated July 1st, 1998) contradict the findings of the committee vis-à-vis Prof. Sherley’s initial appointment at MIT. Prof. Sherley’s very first letter of appointment from MIT is dated July 1st, 1998, and lists his affiliation with *Bioengineering and Environmental Health, and not with the Toxicology Division*. The latter no longer existed as of July 1st, 1998: by then the faculty from the former Toxicology Division had become part of Bioengineering and Environmental Health. This simple fact, as straightforwardly documented by Prof. Sherley’s initial appointment letter from MIT and by the history of BE, raises questions concerning the reliability of the Review Committee’s findings as summarized by the Provost.

Prof. Sherley has asserted that such documented discrepancy about his MIT appointment-- in spite of his (and the BE Administrative Officer’s) attempts at correcting it---is one instance of a larger pattern of discrimination in BE. Statements to the effect that Prof. Sherley was not “the first faculty member hired in BE” do not simply downplay the significance of the facts, but they take away his place in the history of BE and his legacy to that Division. Though it may seem insignificant to some, Prof. Sherley’s place in BE’s history, especially given the fact that he’s still the only African-American faculty member in BE, is powerfully symbolic in the context of race relations at MIT and elsewhere. It is thus unfortunate that the Provost’s 12/22/06 letter furthers the slight: it suggests that Prof. Sherley’s “feel[ings]” are the source of the error rather than close attention to the facts whose documentation lies within the purview of the Provost’s office.

Mishandling of complaint of racial prejudice

Racial attitudes, as is well known, are usually complicated and deeply nuanced. When complaints about racial prejudice arise, every possible angle ought to be pursued to reach a reasonable understanding as to influence and impact. Committee members ought to be well versed in the problems involved through experience, knowledge and/or deep reflection and sensitivity. With these caveats in mind, consider the following statement from the Provost’s 12/22/06 letter to Prof. Sherley: “Although one personal opinion differed, the Committee found strong evidence that racial prejudice did not affect the evaluations of your tenure case among the BE faculty, and found no evidence (as opposed to that opinion) to the contrary”. The Provost’s statement that the committee found “strong evidence” that racial discrimination did *not* occur in this case leaves us wondering. While a committee could reasonably state that they uncovered no evidence of racial discrimination, for them to claim to have “found strong evidence that racial prejudice did not affect [said tenure] evaluations” strikes us as highly implausible, especially in this case. And what about that “one personal opinion” in opposition to the committee’s conclusion? Is that an opinion of a senior BE faculty? If so, it would plausibly be based on first-hand observations of two crucial sorts of data: interactions between Prof. Sherley and his BE colleagues, and comments about Prof. Sherley by his BE colleagues. Such “personal opinion” should not be so readily dismissed.

Taken all together, the above evidence calls into question the grievance committee's findings and, by extension, the Provost's decision to conclude Prof. Sherley's tenure case on the basis of those findings. Furthermore the above facts suggest that it is *impossible* to separate the specifics and eventual resolution of Prof. Sherley's case from the "barriers that may exist for under-represented minority faculty members and [...] effects that race may play in the hiring, advancement and experience of under-represented minority faculty" (this is a quotation from the last paragraph in the Provost's 1/29/07 message to the MIT faculty about Professor Sherley's grievance; this message is posted at <http://web.mit.edu/provost/letters/letter01292007.html>).

In conclusion we are left doubtful as to whether the grievance review committee exercised due diligence in investigating, ferreting out, and interpreting evidence, and in distinguishing fact from opinion. We therefore believe that the following measures are in order:

- All aspects of the grievance process should be reviewed by a committee composed of members from inside and outside of MIT to determine the adequacy and fairness of the process. Details of this review should be reported to the faculty in full and in a timely fashion.
- Should the committee determine that the process was flawed or inadequate, then appropriate redress should be made to Prof. Sherley.

Last Friday (2/2/07) President Hockfield rehearsed the Provost's announcement on 1/29/07 of "plans to undertake a comprehensive, rigorous, and systematic study of the impact of race on the hiring, advancement, and experience of minority faculty at the Institute" and "to take a position of leadership on this important issue." Unfortunately, given the above and related evidence pertaining to Prof. Sherley's grievance process, we feel obliged to point out that, while such an initiative is essential and long overdue, it appears to run counter to the administration's actions vis-à-vis Prof. Sherley's grievance.

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