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Subject: Response to Notice of Proposed Suspension

Dr. Adedeji B. Badiru  
Dean, Graduate School of Engineering and Management  
Air Force Institute of Technology

Dear Dean Badiru

Thank you for the extension of time within which to prepare my response to the Notice of Proposed Suspension (The Notice) which was delivered to me on 23 May 2017. I would like you to consider a number of objections that I have to the manner in which my teaching methods were challenged, the manner of the investigation, but most importantly the lack of any objective standards by which to evaluate my actions. Furthermore, even under any objective standards that you might have referred to, it is clear that my conduct does not rise to any level that would constitute a violation of any AFIT policy or any other policy promulgated by the Secretary of the Air Force. My 1<sup>st</sup> amendment rights to free speech in the classroom should be protected especially since the speech was not gratuitous but related to, and an important part of, an important classroom discussion. The principle of Academic Freedom requires that I be given great leeway in how I conduct classes and the public suspension from classroom responsibilities, the manner of the investigation and the proposed suspension are violations of those rights and principles.

I have been informed that all of the information relied upon to proceed with this action was included in the information handed to me, in hard copy only, on May 23, 2017 by Dr. Pignatiello. I asked for and was refused electronic copies. I am aware that the Commander Directed Investigation on this incident was completed around the 6<sup>th</sup> of March. I have been led to believe that you, Ms. Lee the HR representative, Dr. Pignatiello the Department Head and the AF Counsel, as a minimum, have had access to this report. The report is cited in The Notice. I have repeatedly asked to see a copy of this report and have been denied. In light this, I hereby submit a request under the Freedom of Information Act for the entire CDI file, and an opportunity to review that file with the right to supplement this response upon such a review.

The Notice is inadequate on the policy under which action against me is being considered. The Notice, without specifics, cites 36-704, which contains no relevant standards of conduct. It appears that the basis of the proposed action must be that of the original allegation AFI36-2706, paragraph 1.1.1. I am confident that a fair and impartial review could lead only to the conclusion that this Instruction has not been violated. I think it essential for me to include the full text of that instruction as part of my response. It is attached as Exhibit A.

Before I address the specifics of the allegations against me, I think it important for me to share with you and remind you of my extensive academic and teaching background, which is reflected in my CV, a copy of which is attached as Exhibit B. My history of teaching reflects my area of specialty, Behavioral Operations Management, a very distinct academic discipline which includes the consideration of human behavior in Operations Management models. This history is important because of the events which occurred in my class, LOGM542 Management of Logistics Organizations. An essential component of this graduate level course is the education of the students in critical thinking. Critical thinking includes mechanisms for addressing and challenging the status quo. Graduate education requires more than training concerning procedures. It requires educating the students in understanding their thought processes and the thought processes that go into the consideration of human behavior.

This leads to the topic and concept of stereotypes and biased decision making. Discussions about stereotypes and bias will inherently include topics and concepts that themselves could be offensive, uncomfortable and objectionable. Professionally and personally these students must learn how to confront these concepts and address these concepts, and the only way to prepare them to do so is to talk about them in open discussion within the scope of the classroom. While such discussions may be inappropriate in other venues, they are essential in the classroom if real education, true critical thinking, is the goal.

As an analogy, it would be inappropriate to train a pathologist without exposing students to human cadavers. The presence of those cadavers, their appearance, their smell and the idea might certainly be objectionable, would cause certain persons to be uncomfortable, and trainees could be offended for a number of reasons by being placed in proximity to a cadaver. However, it would be impossible to fully educate a pathologist without his or her exposure to a cadaver. Therefore, if someone took such objection or offense to being forced to interact with a cadaver, that person would not be a viable candidate as a pathologist. We cannot educate our officer corps if we are unwilling to challenge their thinking on stereotypes in a class on human behavior. They should think about it and they should think critically about it.

Stereotypes are a legitimate and important topic in managing organizations and, unfortunately, are seen as a widespread problem within the United States and the Air Force. Discussing them is important to AFIT, the USAF, and the country. They need to be discussed even when the topic is provocative and challenging. Students need to be challenged if we are to develop critical thought about important social issues. Further, my discussing stereotypes, in a class on stereotypes, is protected free speech under the 1<sup>st</sup> amendment and an important part of Academic Freedom the very goals of which are to protect that speech which others see as inappropriate. The current AF program on "Red Dot Training" is good but insufficient. It is a) training and b) concerned not with the use of stereotypes in decision making but with a choice for interpersonal violence and c) not arranged in a manner to encourage free discussion. Discussion questions in the class are almost exclusively limited to question of "what should you do" or "what is the definition of" – training questions, not analysis questions.

As with my suggestion about cadavers, it would be useless to discuss the concept of stereotypes in a completely theoretical manner. The stereotype which appears to have offended certain students in the class is one which, unfortunately, is commonplace in our society. The issue was



not raised gratuitously nor with the purpose of causing offense to any particular person. Indeed, it was raised allegorically in order to minimize potential offense and it was chosen because, in the past, discussions with African Americans led me to believe it was less likely to cause offense. Frankly, any stereotype completely without any potential to offend anyone would not be a relevant concept to further the discussion.

Ironically, the need for the discussion was made evident by an example raised by one of the students in that very class. The student asked a question using the example of the racial composition of basketball teams to challenge the suggestion that stereotypes are never useful. This demonstrates that he had thought critically about what he considered the "party line" and he had problems with it. It is important that we be able to, and the students taught how to, think critically about questions concerning the use of stereotypes in decision making. Whether there is utility in a particular stereotype is essential to understanding their place in a logical discussion. That example from a student not only justifies my efforts, but vindicates the need to discuss the concept within the context of the class. It is only through discussion, about the student's example, my example, or any other real example (real enough to have a potential to cause offense) that the inherent decision fallacies of using stereotypes can be critically analyzed. It is through example that I can show the disadvantages to this type, "System I," decision making. The student's question in class shows the need for open discussion, the need for real examples to frame that discussion and the willingness to accept the possibility of offending somebody along the way. The purpose of the class was to analyze critically the use of stereotypes in decision making and the cognitive fallacies in doing so. This should be evident in the copies of class slides provided to the investigating officer, which should be included in the CDI report.

In my classes I have always fostered an atmosphere of open discussion. One of the essential objectives of my teaching, and what should be an essential objective of the curriculum overall, is teaching students to think critically. Open discussion of controversial topics is essential to that objective. One of the essential sources in my class is the book *Thinking Fast and Slow* by D. Kahnemann (1). The concepts in that book are especially relevant to discussions of stereotypes and bias and relate to the difference between reaction and cognitive thought, between "System I" and "System II" decisions. In fact, the concepts in Kahnemann's book parallel the logical issues that arise in teaching about stereotypes.

Ironically reliance upon selective information in forming a conclusion, as seen in the process of the proposed action against me, is precisely what my class was intended to address. The irony is that statements in a class on human decision biases are investigated and prosecuted with total disregard to the influence of those biases. It appears that everyone involved in the process has access to the CDI report except me. By its very nature that report will, consciously or unconsciously, influence the decisions of those who read it. Because I was not given access to the complete CDI, it is impossible for me to know whether other students in the class, or other faculty, were consulted or interviewed prior to the issuance of the conclusions. If LtC. Franz was made aware of any "exculpatory" statements or evidence, what I have been given does not mention that. As far as I know, I was the last person interviewed by the investigating officer. Certainly I have not been provided any material statement dated after mine. On page 76, Kahnemen writes "Your mind is ready and even eager to identify agents, assign them personality traits and specific intentions and view their action as expressing individual propensities. Here

again, the evidence is that we are born prepared to make intentional attributions:" (1 p76) Thus, it is very likely that, even before he spoke to me, LtC. Franz had drawn certain conclusions about the implications of my comments in the classroom. He may have made them without intent to come to a conclusion but, by basic human nature, he probably made them. Once preliminary conclusions are made, further evidence is usually assessed to support those conclusions (Confirmation Bias). Since he spoke to me at the end of the process, with an extension already granted, he would have been strongly biased not to gather further information based on anything I may have presented. The Notice also, by failing to discuss the proper reasons for discussing stereotypes in class, sets up the Fundamental Attribution Error and WYSIATI (What you see is all there is) bias. Further evidence of bias is that the investigation reportedly concluded that I said "high rho" in class on Jan 10, 2017 when that simply did not occur.

Further evidence of this bias is in his summarized testimonies which he typed up after each interview. The allegation LtC. Franz was investigating including saying "high rho" in class on Jan 10. There is no evidence in the statement of Lt Herald or Capt. Boothe that he asked if I had said that in class. In the restatement of my interview he reported that I could not control how the students chose to interpret my comments yet he left conspicuously absent my immediately adjacent statement that I was fully aware of how they were likely to interpret it. The first statement figures prominently in the The Notice. The second statement is conspicuously absent.

A good professor cannot do his job without being willing to risk offending students. Students can be offended by low grades, difficult exams, difficult homework, being told they are incorrect in class, being told they are incorrect outside of class, by their inability, attributed to the instructor, to understand the course material, and a whole list of actions which are part of teaching. This is not to say offense should ever be the *intended* purpose of any action. Rather that the risk of offense in the pursuit of other academic goals is not to be avoided. This certainly applies with the pursuit of education on understanding and making decisions under stereotypes. Protecting that right to pursue education at the risk of giving offense is one of the reasons that Academic Freedom is an important concept in academia.

Academic Freedom argues that professors and teachers must be given a great deal of flexibility in constructing concepts to further the objectives of the class. Any class on human decision making, the nature of human behavior, and the biases that are inherent in that behavior, simply cannot be taught or expressed without treading into controversial territory. My example was in no way intended to offend anyone in the class. The whole point is to encourage students to express their reaction to controversial subjects which include stereotypes and biases. The hope for the class was to go past "I can't believe he said that" (a System I reaction) to "Why did he say that" (a System II process.) Provocation of thought is essential to the educational process. I hope that some of the statements that were given to the investigator (that I was not allowed to see) confirm that some of the students understand that.

Regarding the comment at which the student took offense, let me say in summary, discussions of race and sex were unavoidably inherent in the subject matter of the class that day. Using examples is a necessary part of a discussion based, critical thinking, class. To eliminate the possibility of offending someone is not a good reason to avoid teaching important concepts.



Conspicuously absent from The Notice is any reference to a standard which I supposedly breached. The only Instruction or Regulation mentioned in The Notice, AFI36-704, makes no mention of any standard of conduct. After repeatedly requesting specific reference for any violation I was referred to AFI 36-703, without any specifics. This AFI is 7 chapters on 16 pages and refers to 10 other AFI, two DoD directives, two AF Manuals, the 5 USC, the 5 CFR and 2 AFPDs. One of the AFIs referenced is AFI 36-2706, which was specified in the allegation made against me dated Jan 18, 2017. The only specific standard I have, from any part of the process, over the last 5 months, is that reference to AFI36-2706, subsection 1.1.1 which was made in the original allegation dtd Jan 18, 2017. Refer to Appendix A for the text of AFI36-2706. The conduct of which I am accused is in no way referred to or identified in that Instruction. I did not engage in any discrimination, harassment, intimidation, threats or any other conduct that is addressed in that regulation. I have not been accused of any unlawful act that would be covered by that Instruction. That I was not even accused of anything that qualifies as a violation of AFI36-2706 should have been obvious to the official writing the allegation. I have not been made aware of any standard that would identify "inappropriate conduct" by me. That one or more students might have subjectively taken offense at an example used in the context of a teaching or learning situation does not constitute inappropriate conduct under any Regulation or Instruction of which I have been made aware. That a couple of students may have thought my statements "unprofessional" is not evidence of any lack of integrity. That someone does not like what I said is not a basis for judgement unless it is supported by applicable regulation or instruction.

A review of the statements of the students who were in the class make it clear that the allegation concerning another statement, supposedly uttered "in a manner meant to mock Asians," is false. There is absolutely no evidence presented that I made such a statement in class on January 10. If at any time I did make any reference to "hi-rho," it was an appropriate concept within an academic literature of queueing theory. If, and I speculate here, if anyone took offense at my use of that word at any time, that would be unfortunate because any academic familiar with that term could explain its usage in the proper context.

In summary, there is no evidence that I engaged in any conduct that would violate any Regulation, Instruction, Law or other applicable standard. Furthermore, having reviewed the AFI 36-704 regarding factors in penalty selection, not one would warrant the imposition of any term of suspension. Suspension is not an action to be taken lightly. Even to remove me from teaching LOGM 542, without due process, denied my rights as a professional, directed public ignominy upon me, put me under a great deal of stress for an (overly) extended time and was detrimental to the rights of the faculty to the Academic Freedom they need to do their jobs. The potential consequences of any accusation of an Equal Opportunity violation are severely detrimental to my entire career. The unfortunate "unintended consequence" of this action for the USAF will be to discourage any discussion of any stereotype in any class except in the vaguest of terms. This furthers the 'risk adversity' which Gen Kwast warned us, in his talk on 23 March, is far too prevalent in the AF today. Therefore, I respectfully request that the proposal be rescinded and that no official action be taken against me.

Now that all the facts are in, I would certainly hope that you can make your consideration and respond to me with your decision within the next 2 weeks. If not, I respectfully ask that you let

me know when such a decision should be forthcoming.

Respectfully submitted,

Kenneth Schultz

(1) Kahneman, Daniel. Thinking, Fast and Slow. Farrar, Straus and Giroux, N.Y., 2011.

Attachment A: AFI 36-2706 paragraph 1.1.1

Attachment B: C.V., Dr. Kenneth L. Schultz



## Chapter 1

### AIR FORCE EQUAL OPPORTUNITY (EO) PROGRAM

#### *Section 1A—Equal Opportunity (EO) Policies*

**1.1. Zero Tolerance for Unlawful Discrimination or Harassment.** It is the policy of the United States Government, the Department of Defense, and the Air Force, not to condone or tolerate unlawful discrimination, to include sexual harassment, of any kind. This Zero Tolerance policy ensures that once unlawful discrimination or sexual harassment is alleged, immediate and appropriate action will be taken to investigate/resolve the allegations and ensure any proven unlawful behavior stops. Further, appropriate disciplinary action will be taken against any Airman, military or civilian, who engages in unlawful discriminatory practices. Air Force EO policy compliance is a function of leadership.

1.1.1. It is against Air Force policy for any Airman, military or civilian, to unlawfully discriminate against, harass, intimidate or threaten another Airman on the basis of race, color, religion, sex, national origin, age, disability, reprisal, or genetic information. Unlawful harassment includes unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature particularly when submission to such conduct is made directly or indirectly as a term or condition of employment, and/or when submission to or rejection of such conduct is used as a basis for an employment decision affecting the person. Unlawful harassment also includes creating an intimidating, hostile working environment for another person on the basis of race, color, religion, sex, national origin, age, disability, reprisal, or genetic information. The use of disparaging terms with respect to a person's race, color, religion, sex, national origin, age, disability, or genetic information contributes to a hostile work environment and must not be tolerated. Commanders and supervisors should ensure all types of harassment are corrected as soon as possible once they are made aware.

1.1.2. The operational language of the Air Force is English. Air Force personnel must maintain sufficient proficiency in English to perform their official duties. All official communications must be understood by everyone who has a need to know their content. Commanders may require Air Force personnel to use English only when such use is necessary for the performance of official duties. Accordingly, commanders, supervisors, and managers at all levels must not require use of English for personal communications which are unrelated to official duties.

1.1.3. Harassment Based on Sexual Orientation. Although not within the purview of Title VII, the Air Force's goal of maintaining a harassment-free environment for its military members and civilian employees also includes harassment based on sexual orientation. Leaders have a responsibility to take appropriate action to prevent and address harassment based on sexual orientation. Additional guidance can be found in Executive Order 11478 and 13160, the U.S. Office of Special Counsel (OSC), <http://www.osc.gov>, for civilian employees. Sexual Orientation harassment by military personnel may be punishable under UCMJ, Article 92, and should be addressed through command channels.