

## ACADEMIC TENURE IS NOT SACROSANCT: THE CASES OF PROFESSORS CHURCHILL AND MAKI

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On July 24, 2007, the Regents of the University of Colorado voted 8-1 to fire Ward Churchill, a controversial professor of ethnic studies. Over twenty faculty on three different committees deliberated for two years, and, in a unanimous vote, concluded that Churchill was guilty of "four counts of falsifying information, two counts of fabricating information, two counts of plagiarizing the works of others, [and] improperly reporting the results of studies. . . ."

Some groups, including the ACLU, are crying foul because they believe that Churchill is being punished for calling some 9/11 victims "little Eichmanns" and stating that imperialist America got what it deserved on that fateful day.

While admitting that Churchill's comments "outraged and appalled us and the general public," university officials defended his right to speak freely. In addition to their basic constitutional rights, teachers and researchers, after 5-7-year probationary period, are also protected by academic tenure.

Even though there are some cases of abuse, the principle of tenure has served the academic community very well for nearly a century. It was designed to preserve academic freedom and to protect professors from political pressure for teaching controversial issues or pursuing research projects on, for example, embryonic stem cells and homosexual life styles.

During the late 1970s the University of Idaho (UI) Board of Regents instituted a policy of automatic five-year tenure review. The faculty union argued that this procedure was not only a waste of faculty time, but it also undermined tenure as the presumption of continued competence. The new policy amounted to issuing five-year renewable contracts.

Tenure can be removed only when it has been determined that, after full due process, a faculty member has become professionally incompetent, has committed a felony conviction, or has fallen into moral turpitude.

Working both in the courts and with faculty committees, the faculty union persuaded the Regents to abolish automatic tenure review and replace it with procedures that administrators can initiate if sufficient concerns have been raised about a faculty member or researcher.

For a number of years, the UI Center for Advanced Microelectronics and Biomolecular Research (CAMBR) in Post Falls has been under scrutiny because of charges of nepotism, financial mismanagement, and retaliation against employees.

CAMBR has received an average of \$3 million in research funding from the National Aeronautics and Space Administration (NASA), the Air Force, the Defense Advanced Research Projects Agency, the U.S. Department of Agriculture and the Centers for Disease Control.

The charges focus on Gary Maki, who was fired as CAMBR director, but still is a tenured professor in electrical engineering earning \$183,000 per year, more than twice what UI full professors earn. In an e-mail to NASA, Maki prompted a NASA official to make allegations against Kenneth Hass, a former CAMBR employee and the one who informed authorities about the management problems.

Hass obtained Maki's e-mail through Idaho's open records law, has vehemently denied the charges, and perceives it as retaliation. In February, 2007, Hass and his wife filed a whistleblower suit against the university.

Further retaliation came when Hass, an electrical engineer with a distinguished career at Los Alamos, applied for a position on the UI campus. In an e-mail to the search committee, the Dean of Engineering objected very strongly to the fact that Hass had been selected as a finalist. The chair of the search committee resigned because of the incident.

For over a year, a faculty member in Maki's department has requested that Maki undergo tenure review. UI President Tim White admitted that he has known about Maki's e-mail to NASA for a year, but he declined to comment because of pending legal action. White has also refused to answer the professor's request.

Professor Maki is entitled to the presumption of innocence and also full due process within university procedures. But if the charges are true, then there very well may be such a strong case of moral failure that it would justify the removal of tenure.

Perhaps the University is worried about the millions of dollars in research funds that Maki brings to Idaho, but the credibility of tenure is much more important than that. The University of Colorado investigated Ward Churchill, and now the University of Idaho has an obligation to take a very close look at Gary Maki's actions.