

AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS
CU CHAPTER

STATEMENT ON THE TERMINATION OF PHIL MITCHELL

September 21, 2007

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EXECUTIVE SUMMARY

Phil Mitchell, a senior instructor in the Sewall Residence Academic Program (RAP) at the University of Colorado, Boulder, was terminated by non-renewal of his contract in spring 2007. Mitchell, arguably the most honored teacher in the history of the University, had previously been terminated in 2005, he claims, because of hostility by the History Department toward his conservative religious and political convictions. Mitchell publicly spoke out against his 2005 firing, an endeavor that he believes temporarily saved his job. Mitchell considers his 2007 firing an act of retaliation against his speaking out in 2005.

The American Association of University Professors, CU Chapter, finds substantial evidence that:

- A history of antipathy toward Dr. Mitchell's political and religious convictions existed within the CU History Department.
- CU backed off Dr. Mitchell's 2005 termination because, when challenged by media inquiries, the administration and tenured faculty could not document cause for his firing. Their stories changed several times, as each story proved untrue.
- The CU History Department and the Sewall RAP undertook extraordinary measures to ensure that documentation was available to justify Dr. Mitchell's 2007 firing.
- The 2007 documentation against Dr. Mitchell was orchestrated and fabricated to justify his firing.
- The letter by the director of the Sewall RAP to the Dean of Arts and Sciences, recommending Dr. Mitchell's termination, stands as an egregious act of unprofessional conduct.
- An improper culture exists at the University of Colorado, wherein most of the faculty can be fired at any time for any reason, or for no reason, thus encouraging the administration and tenured faculty to suppress the academic freedom of the majority.
- Dr. Mitchell's termination violates numerous Laws of the Regents protections of due process, shared governance, and academic freedom, as well as his First Amendment right to free speech.

We request that Dr. Mitchell be reinstated as a senior instructor at the University of Colorado. We also request that he be granted tenure both in recognition of his decades as a teacher of the highest quality and to send the message to administrators and tenured faculty that the University of Colorado respects the rights and academic freedom of all its faculty and will no longer participate in their mistreatment. We further request that Ann Carlos be removed from the directorship of Sewall RAP and that the Sewall RAP faculty be given the primary role in selecting the new director, in accordance with the Laws of the Regents.

INTRODUCTION

A Political and Religious Conservative Is Terminated

Until being terminated by non-renewal of his contract in the spring of 2007, Phil Mitchell was a senior instructor in the Sewall Residence Academic Program (RAP), where he had taught history classes for seventeen of his twenty-three years at the University of Colorado-Boulder. Mitchell, who has a BA and an MA in education and a PhD in history from CU, has won numerous teaching awards at CU, some multiple times. He has won more teaching awards than the rest of the Sewall faculty combined (Attachment 1).

Mitchell's student evaluations are the highest in the History Department (for whom he has occasionally taught classes in addition to the courses he has taught at Sewall), the highest at Sewall, and among the highest in the history of CU. During the three-year period prior to what he considers his first termination in 2005, he received an instructor rating of A+ on student evaluations eleven times (Attachment 2). According to Mitchell, these eleven were among fourteen ratings of A+ for freshman level courses endorsed by the History Department during that span.

Mitchell's four peer evaluations prior to his publicly protesting what he considers his 2005 termination ranged from admiration (Anderson) with reservations about Mitchell's Socratic teaching style as well as the pacing of his course, to perfunctory if unqualified praise (Viehmann) to ecstatic testimonial (Ferrini, Lewis) (Attachment 3). As additional evidence of his expertise, he has taught graduate courses at the Denver Theological Seminary on small group instruction, in which the Sewall RAP specializes.

All courses at Sewall require approval by the appropriate disciplinary unit—in Mitchell's case, the History Department.

It is notable that Mitchell is an avowed political and religious conservative; Mitchell claims that over the years he has heard on numerous occasions, from numerous sources, that many in the History Department were hostile toward his religious and political convictions. He had also often heard through back channels that many in the History Department felt his Sewall courses did not meet History Department standards, though what those standards were that his courses failed to meet, or what basis might exist to suggest the standards were not being met, was never expressed to him.

Mitchell claims that he was fired from the Sewall RAP in 2005 due to hostility from several faculty in History toward his religious and political convictions. After he publicly protested his dismissal—an endeavor that, Mitchell believes, temporarily saved his job—he claims he was fired again by Sewall in 2007 because his public protest of the 2005 termination embarrassed the History Department and the University administration; he also claims that Ann Carlos was hired as director of the Sewall RAP with the understanding that she would fire Phil Mitchell.

TIMELINE

What follows is a timeline of events relevant to an assessment of Phil Mitchell's termination:

1. **March 1999.** Mitchell's teaching is observed by his colleague, Gary Ferrini. Ferrini, who has watched Mitchell teach on several occasions, notes that the Sewall program emphasizes class discussion over the standard lecture format and that the challenge for the professor, therefore, is to stimulate active learning through debate, question and answer, and other engagement strategies. Ferrini writes in his peer review, "Professor Mitchell's classes are the finest example of this process I've witnessed at Sewall Hall." He praises Mitchell for his "historian's gift for presenting data in a form, like a story, which is coherent, readily understood and compelling." Ferrini goes on to describe Mitchell as "a master teacher, . . . the sort of teacher who sticks with a person long after his or her school days are past. Each of us has had a teacher or two like Professor Mitchell. They make the education process come alive and provide meaning . . ." (Attachment 3).
2. **January 2002.** Martha Viehmann observes Mitchell's class. While more restrained than Ferrini, her comments are consistently laudatory and reflect Ferrini's content. She concludes her report by saying, ". . . his efforts to keep his courses fresh and to find the right balance between nurturing and challenging his students is a sign of his strong commitment to being the best possible teacher he can be. Phil Mitchell is clearly an asset to CU" (Attachment 3).
3. **May 2002.** Mitchell receives an annual Faculty Performance Rating, commonly referred to as a merit rating, of "Exceeds Normal Expectations" from Sewall RAP Director William Wei. At Sewall, there are no published merit evaluation standards or guidelines on which to base merit decisions. Wei cites Mitchell's popularity as a teacher, as well as his award-winning performance as the Sewall RAP Diversity Officer (Attachment 4).
4. **December 2002.** (There is a discrepancy between the body of the report and the title as to whether this observation took place in 2002, or at the end of 2003. This sort of inconsistency regarding dates and course numbers appears throughout Mitchell's personnel file at Sewall.) Fred Anderson, a professor of history, observes Mitchell's survey class, History 1015. Anderson describes in considerable detail Mitchell's "more or less Socratic strategy" of asking questions and building further questions (and commentary) based upon the answers. For part of the class Mitchell conducts a quiz, based upon the assigned reading, which becomes the basis for his Socratic probing. Anderson notes that Mitchell "is an accomplished instructor who makes strong connections with his students; the students in turn respond strongly to him as a teacher. Similarly, it was quite clear that he imparted substantial amounts of information by means of Socratic

questioning and commentary, a technique he seems to relish.” Still Anderson voices reservations about the Socratic pedagogy. He admits he finds it “disorienting.” What’s more, “Insofar as history is usually communicated to students in History 1015...not as disconnected facts but as a complex, multi-dimensional story, what happened in this class did not resemble what goes on in a typical survey.” Anderson suggests the possibility that a narrative structure may have been provided by the assigned text, over which the students were quizzed, but questions whether Paul Johnson, the English historian who is the author of this particular text “is fully adequate to the [narrative] task.” Anderson continues, “Clearly we are reaching into questions of academic freedom here, and I do not presume to prejudice Dr. Mitchell’s choice of textbook any more than I would criticize his pedagogy on the basis of a single class visit.” Anderson concludes his report by raising questions about what he construes as Mitchell’s emphasis on the modern era of the material under survey, as indicated by his syllabus.

5. **May 2, 2003.** Mitchell again receives a merit evaluation rating of "Exceeds Normal Expectations" from Sewall Director William Wei. Wei cites Mitchell's University Housing Citation award for outstanding performance as an instructor, as well an award Mitchell's received for his work with students of color (Attachment 4).
6. **April 28, 2004.** According to Mitchell, History chair Thomas Zeiler emails Mitchell to advise him that the History Department will no longer hire him to teach courses within the History curriculum over concerns about the “religious tone” of his classes. While Mitchell considers the charge unjust and unsubstantiated, he is not altogether surprised. Among other incidences, Mitchell says that early in his career, his dissertation advisor, associate professor of History Ralph Mann, told him that the History Department would not permit Mitchell to teach the History of Christianity because the course conflicted with the then-chair’s Marxist-feminist ideology. In fact, there had been considerable resistance within the CU History department toward permitting Mitchell to write a dissertation on Protestant fundamentalism. He also claims that when he asked William Wei why the History Department was reluctant to hire him to teach within their curriculum despite his excellent ratings, Wei told him, “Phil, you have to understand that some people hate religion.”

Mitchell meets with Zeiler to discuss the "religious tone" charge. Zeiler informs Mitchell that a complaint of proselytizing has been made against him. According to Mitchell, the complaint stems from his teaching a novel on Protestant liberalism called *In His Steps* by Charles Sheldon, which Mitchell calls the best-selling novel in American history and one he has taught successfully to over 1,000 students as an authentic expression of widespread 19th century views on spirituality. Never before has a student protested that he was trying to convert students to Christianity by teaching the novel. What’s more, Mitchell, an evangelical Protestant conservative, considers Protestant liberalism to be a faith entirely distinct from his own. According to Mitchell, after discussion Zeiler and

Mitchell agree the complaint was most likely a misunderstanding; Zeiler tells Mitchell that he will withdraw his decision.

7. **April 30, 2004.** Mitchell receives a merit evaluation rating of "Meets Normal Expectations" from Sewall director William Wei, who cites Mitchell's popularity as a teacher, as well as his mentoring of students of color in his role as the Program's diversity officer (Attachment 4).
8. **January 21, 2005.** Chris Lewis, an instructor who teaches for both the History Department and Sewall RAP, reviews Phil Mitchell's Western Civilization II class, taught as part of the Sewall curriculum. Lewis also observes that Mitchell's teaching style is "unusual," but concludes that the style "seems to work very well for him and his students." Lewis describes Mitchell's pedagogy of conducting a quiz to test students on the assigned reading, then having students exchange papers and grade each other's quizzes. "It is here where Mitchell's pedagogical strategy really works. . . . It is through his open discussion of the quiz questions that Professor Mitchell helps the students develop an understanding of the larger issues of the course. He doesn't just answer the question, he explains the larger logic and reasoning behind the answer. Because Mitchell has practiced and developed this teaching style for a number of years, he is very skilled at covering a lot of material and integrating that material with the larger issues of the course." Lewis concludes by saying, "His concern for his students, his enthusiasm for the course material, and his love for teaching college all shine through in his teaching. . . . It is an honor to work with such a fine college instructor" (Attachment 3).
9. **February 1, 2005.** William Wei, the director of Sewall RAP, recommends Mitchell for a three-year reappointment. (There is no personnel committee in the Sewall RAP. All hiring and reappointment decisions are made by the director, pending the approval of the appropriate disciplinary unit and the Dean of Arts and Sciences.) Wei concludes his recommendation to Associate Dean Joyce Nielson by stating, "If an academic unit is lucky, it will have at least one Phil Mitchell on its faculty" (Attachment 4).
10. **February 2005.** Sewall Director William Wei calls Mitchell to express his regret that Mitchell has been terminated from the Sewall RAP because the History Department would no longer "sign off" on his classes.

Wei tells Mitchell that he would be allowed to teach classes for one more year "and then no more." According to the *Colorado Daily*, Dean Todd Gleason told Wei that Mitchell was terminated for not teaching up to History Department standards and for preaching to students.¹

According to Mitchell, when he asks Wei what the History Department standards are that he has failed to meet, Wei tells Mitchell, "We don't have any."

11. **Spring 2005.** Mitchell publicly speaks out to protest his firing. He does approximately thirty-five media interviews, including appearances on *The O'Reilly Factor* and *Scarborough Country MSNBC*, claiming he is being terminated because of his conservative political and Christian beliefs. He claims that his religious beliefs make some tenured colleagues uncomfortable and that he alienated the director of the Hallett Diversity Program by presenting an opposing view, quoting black conservative columnist Thomas Sowell during a faculty discussion on affirmative action. The director, Jesse Sell, according to Mitchell, berated him as a racist, a charge that people who know Mitchell find ridiculous, given that he has adopted two black children.

During an appearance on *Scarborough Country*, he is informed that CU says he is not being terminated after all but is being given a one-year reappointment as part of a new Program policy. This is the first that Mitchell has heard of it. CU maintains that he is one of four instructors at Sewall affected by the new policy.

According to CU spokesperson Pauline Hale, as quoted in the *Colorado Daily*, Mitchell's religious and political views are irrelevant: "The decision was made in order to allow the new program director the flexibility to make personnel decisions according to his or her plans for the future of the program."²

Dean Gleeson tells the *Silver & Gold Record*, "There will be a new director, and it was my decision to allow the new director to tweak the curriculum if he or she thought it was in the best interests of what they [sic] were hired to do."³

If Hale and Gleeson were quoted accurately, the decision to allow the new director to decide unilaterally curricular and personnel issues (indeed, that he or she was hired to do so) violates the Laws of the Regents' stipulations on shared governance as well as the fundamental shared governance edicts of the American Association of University Professors (AAUP).

12. **Spring 2005.** CU backs off the story that three other instructors have also been given one-year reappointments, calling it a "misunderstanding."⁴

In the *Silver & Gold Record*, Gleeson also insists that the History Department played no role whatsoever in the reduction of Mitchell's contract: "History, through word and deed, has demonstrated that he's a viable instructor in their eyes."⁵ History Department chair Peter Boag echoes that sentiment, claiming that Mitchell remains "in the pool of instructors that the unit draws on when they need teaching assistance."⁶

13. **Spring 2005.** According to Mitchell, Steve Jordahl, of Focus on the Family, a prominent interest group advancing conservative causes, calls the History Department and is told by the secretary, "Mitchell? We don't allow him to teach for us."

14. **Spring 2005.** Mitchell receives a one-year reappointment in the Sewall RAP.
15. **April 2005.** Mitchell receives a merit evaluation of "Meets Normal Expectations" from Sewall Director William Wei. As in previous merit evaluations, Wei cites Mitchell's popularity as a teacher, and commends him for his work as Sewall's Diversity Officer (Attachment 4).
16. **Fall 2005.** Ralph Mann, a long time associate professor in the History Department, asks to see Mitchell. Mann warns Mitchell that the History Department has not abandoned its quest to see him fired, but that now their efforts have taken on a new dimension: there are rumors that Mitchell is "anti-gay." According to Mitchell, Mann tells him that an investigation has been launched by some History faculty to uncover homophobic remarks by Mitchell. Indeed, Mitchell discovers that Thomas Krainz, his teaching assistant from fifteen years before who was now a professor in Massachusetts, has been contacted by representatives of the History Department, to see if he can recall any remarks by Mitchell, from fifteen years before, that could be construed as homophobic.

According to Mitchell, Mann's information is disturbing from innumerable perspectives: 1) that the powers-that-be in the History Department are so cynical about conservative Christianity that they would assume that he is anti-gay; 2) that these professionals would conduct what amounts to a witch hunt against him; 3) that if their campaign somehow succeeds in finding somebody who remembers something Mitchell said that could be construed as homophobic, his career as a university teacher would effectively end; and 4) that even the existence of such a rumor, though unsubstantiated, might alienate Peter Boag, the new chair of History who is required to sign off on his Sewall classes. Boag, whom Mitchell describes as an outspoken gay rights advocate, is a scholar in the field of gay and lesbian studies.
17. **Fall 2005.** One of Mitchell's students, Ashton Mullins, tells Mitchell that her History advisor, Patrick Talley, has told her, "Don't take Mitchell's classes. They will leave you unprepared for your upper division classes."
18. **September 16, 2005.** Tom Zeiler, professor and former chair of the History Department, observes Mitchell's class, History 1015: United States to 1865. Zeiler notes Mitchell's pedagogy of conducting a quiz based upon the assigned reading, then broadening the discussion during the grading portion. He notes that the atmosphere of the class was "buzzing" and "conducive to learning." He writes, "All in all, the students learned some important tidbits of history as well as some larger trends." While Zeiler observes that Mitchell's pedagogy leads to a "rather haphazard presentation of material" in which it was difficult for him to discern a set theme for the class, he acknowledges that "the rapid-fire approach kept kids on their toes, happy, and interested." Still, Zeiler recommends that Mitchell not base the entire class on conducting a quiz and the subsequent grading/discussing/extrapolating/broadening to larger issues from the quiz (Attachment 3).

Zeiler is quite critical of Mitchell's syllabus. He finds Mitchell's statement of objectives to be too broadly stated, and, while finding the reading load to be "standard" quarrels with Mitchell's selection of texts, as well as Mitchell's pacing through the survey. Zeiler states that Mitchell's syllabus should explicitly articulate the theme for the day's assignment rather than merely list the page numbers of the reading assignments, and when Mitchell does articulate themes in the syllabus, finds his descriptions to be vague. He also suggests that Mitchell teach from the quiz perhaps once a week, rather than "almost every day," as stated in his syllabus. As an overall assessment, Zeiler reports that "Phil Mitchell is a great classroom teacher, as an instructor goes, but his course, and his approach to the material, requires some major modifications" (Attachment 3).

19. **February 23, 2006.** William Wei, professor of history and director of Sewall RAP, observes Mitchell's Western Civilization 11 (History 1010) class. Wei begins his report by stating, "It was a treat to be there to watch a master at work." He notes Mitchell's humor and rapport with the students, his ability to vitalize history through the telling of a good story, and praises his pedagogy of teaching off a quiz, as well as his reference to other historians in his presentation. "In many ways, it was a Socratic approach to teaching," Wei notes. "On more than one occasion, Mitchell would challenge the text's assertion. . . . In effect, through personal example he illustrated how to engage in historical reasoning, achieving in his own fashion the educational goal of critical thinking and encouraging analytical thought." Wei comments upon the difficulty many teachers have of achieving these goals, particularly in a freshman class: "It would behoove them to watch Mitchell in action." Professor Wei concludes his report by writing, "I observed a fine class on a significant aspect of European history taught by an exceptional teacher" (Attachment 3).
20. **March 10, 2006.** Peter Boag, chair and professor of history, observes Mitchell's History 1020 class. While this appears to be the same course (Western Civilization II) that Professor Wei observed two weeks before, Professor Boag's reaction differs profoundly. It is curious that Boag observed this class so soon after Wei had observed it, whereas until now, the pattern had been annual observation.

Boag acknowledges that while RAPs "often provide something of a middle-ground between the more rigorous atmosphere one generally associates with a university education and the high-school, homey situation that first-year students have recently come from," he finds this session "overly casual" and the students less than fully engaged. Boag faults Mitchell's reliance on quizzes, in part because the resulting presentation of facts fail to cohere, in his view, to a central point or thesis, and thus are not conducive toward helping students "develop skills of conceptualizing history." "That such quizzes are a daily affair compounds my concern about the pedagogical soundness of this course," Boag writes. Boag also notes that Mitchell's occasional use of counterfactual material ("e.g., what if the

von Schlieffen Plan had worked?") tends to be too advanced for students in this class, and thus more liable to cause confusion than analytical engagement.

Boag is also concerned that this class discussion "was about three weeks ahead of what the syllabus had actually outlined for the day." "I assume that something happened to lead Dr. Mitchell to jump ahead in the syllabus and that he issued a new syllabus with updates for readings and so on to students," Boag speculates, "though if he had, he provided me with the original and not the amended syllabus" (Attachment 3).

21. **May 2006.** Mitchell receives a merit rating of "Exceeds Normal Expectations" from William Wei, who writes, "Dr. Mitchell is clearly the most popular teacher in the Sewall RAP. Everyone who has ever visited his class comes away impressed with the learning that goes on, the interaction between teacher and student, and the humanity of the lessons taught." Wei also praises Mitchell's work as the Sewall RAP Diversity Officer (Attachment 4).
22. **Spring 2006.** Mitchell receives a one-year reappointment to the Sewall RAP.
23. **Spring 2006.** According to Mitchell, Sewall director William Wei tells Mitchell that Wei is being removed as director and will no longer be able to protect Mitchell. (The faculty of the Sewall RAP is offered no input into the removal of Wei as director, or in the selection of the new Sewall director, as is necessary according to the Laws of the Regents and campus policy.) Also according to Mitchell, another colleague, Chris Lewis, who teaches for both Sewall and the History Department, informs Mitchell that the new director is being brought in primarily for the purpose of firing Mitchell.
24. **Summer 2006.** Mitchell is scheduled by the Honors Program to teach Western Civilization for the fall semester. As with the Sewall RAP, the History Department is required to sign off on history courses offered through the Honors curriculum. Chair Peter Boag refuses to sign the authorization document. According to Mitchell, Mitchell emails Boag for an explanation of why he will not allow Mitchell to teach the Honors course. Boag never responds to Mitchell's inquiry.
25. **June 14, 2006.** The new director of Sewall RAP, Ann Carlos, writes a letter to the Sewall faculty. This letter comprises the only written record of Ann Carlos's guidelines for the faculty of Sewall. In the letter, Carlos claims that these guidelines are the result of conversations with core instructors on "the nature of the academic program and more importantly the nature of the academic community at Sewall." The claim, that her guidelines are the fruit of meetings with the Sewall core instructors, is one that Carlos will repeat in her letter to Todd Gleeson (February 25, 2007) explaining her rationale for terminating Phil Mitchell. It is interesting to note that Carlos never met with Mitchell, one of the five instructors rostered in Sewall, the faculty member with the longest tenure in

Sewall RAP, and, at least by objective measures, the most honored instructor in the history of the program (if not the university), to converse on the future direction of the Sewall program and community, nor, according to Mitchell, did Carlos attempt to meet with him.

In order to impose uniformity across the Sewall curriculum, Carlos stipulates in this letter that faculty incorporate an extensive analytical writing component in their classes (with emphasis on the distinction between description and argument), a component that is to be assessed either through essay exams or “short answer structures.” Carlos further stipulates that students who miss six classes over the course of the semester be given a failing grade, and that a B- student GPA be imposed across the Sewall curriculum. Finally she recommends that faculty encourage students to purchase *Writing Analytically*, by Rosenwasser and Stephens, “as a reference guide for their college years.” Carlos goes on to say that she’s asked the program assistant to order desk copies of this text “for any faculty who is interested” (Attachment 5).

26. **August 2006.** Mitchell meets the new director, Professor Ann Carlos of the Economics Department, for the first time at a general faculty meeting.
27. **August 2006.** A student of Mitchell's, Frank Becky, tells Mitchell that he has been urged by advisor Patrick Talley not to take Mitchell's History of Christianity class. According to Mitchell, Talley told Becky, "This is not to leave this room, but don't take Mitchell's classes. This class won't help you in your later History classes."
28. **September 2006.** Carlos asks Mitchell, the Sewall Diversity Officer, for the Sewall Diversity Plan. He immediately emails it to her. In what Mitchell claims is Carlos's first written communication to him, Carlos emails on September 18, complaining that Mitchell has not "updated" the plan. She writes, "It is also very clear that you did not bother to proofread and change the Program Overview. I do not accept such carelessness from my students and I certainly do not expect it from faculty members."

Mitchell finds this complaint troubling because 1) it is the new director’s first written communication with him, and she accuses him of being unprofessional; 2) he did not lift the plan from the Arts and Sciences Diversity website but wrote it himself; thus the proofing and changes to particularize the Program Overview template were not necessary; 3) he has not been asked to update the report—indeed, many departments, including Economics, go long periods of time without updating their Diversity reports; 4) he was following the protocols he had established as diversity officer, a position in which his performance had often been commended for excellence; and 5) he has done exactly what Carlos asked him to do, exactly when Carlos asked him to do it.

On November 1, Carlos writes to Mitchell, "Thank you for revising the diversity plan. I received a call yesterday from Regent Hall asking who was our diversity officer and where was our update. I told the person that you had sent it to me for review and I had not been able to get to it yet." Carlos tells Mitchell that she went over the revised plan that morning, and enumerates a few more changes she would like Mitchell to make.

After making the recommended changes, Mitchell writes Carlos asking if he should send the final draft to Mary Ann Seargent. "I don't know who in Regent Hall is responsible," Carlos writes to Mitchell on November 6. "You will have to call and find out" (Attachment 6).

29. **Fall 2006.** Faculty meetings are scheduled for Wednesday mornings, when Mitchell teaches a class at Front Range Community College, Brighton campus—a conflict Mitchell claims he made clear prior to the scheduling.

If course guidelines are discussed during these meetings, and if they are approved by faculty, as is necessary according to the Laws of the Regents and campus policies, Mitchell claims that he is never advised of these discussions or faculty votes. According to Sewall RAP program assistant Martha Shernick, no minutes were taken at these meetings and the Sewall RAP has no published course guidelines and criteria.

30. **September 11, 2006.** History professor Padraic Kenney observes Mitchell's History 1010 course. Kenney notes that Mitchell begins the class with some general reflections and a broad overview of the role of Israel and Jews in world history. (The topic for the day is Jewish history in the last two millennia BCE.) Mitchell follows this with a discussion of the last week's reading, and then a lecture roughly covering the two millennia BCE. Kenney writes, "Dr. Mitchell, working mostly at the blackboard, gave a periodization of that history and discussed key moments in that history, relating them all the while to students' reading of primary sources (including the Torah)." In general, Kenney felt that the "material discussed appeared to provide a good example of Dr. Mitchell's desire, as stated in the class syllabus, to show how 'the civilization of the present is innately connected to the past.' Frequent references to present conflicts and contemporary culture helped to make this point." Nonetheless, Kenney found the course disappointing, unreflective, a failure to "meet the expectations outlined in the University's Core area of Historical Context: 'to investigate both the processes and the meanings of change,'" and as such a "disservice" to his students.

According to Kenney, while Mitchell "presented a fair amount of historical material that was not at all uninteresting," he missed numerous opportunities to raise questions about historiographical processes. Kenney writes that Mitchell made history appear to be "simply a collection of interesting facts that may also remind us of the present in various ways." Kenney then provides numerous examples of what he considers lost opportunities, in which Mitchell's presentation

failed to illuminate fundamental ideas of the discipline, or deepen students' historical understanding. Kenney offers numerous examples of the sort of questions/considerations Mitchell should have posed or discussed that might better advance the students' understanding of history than the considerations Mitchell addressed. One missed opportunity Kenney found "particularly disappointing":

Introducing the day's topic, Dr. Mitchell asked students to guess what percentage of the world's population is Jewish. Guesses (which were probably the result of innumeracy rather than anything else) ranged from 2 to 20 percent. Revealing that the actual proportion is more like 0.25%, Dr. Mitchell asked, "Do they exercise influence out of proportion to their numbers?" Let me be clear: this is not a bad question. It is not *a priori* antisemitic, and none of the context implied such a reading of it. What was disturbing was rather that, like every previous or subsequent question, it was dead—didactically speaking—on arrival. Several students answered "yes", and there the matter lay. This was a moment to consider the history of migration; or why some religions, nations, and cultures prove more resilient than others; or how diverse understandings (and misunderstandings) of history and of cultural tradition lead to positive or negative values being assigned to nations; or how demography can be misinterpreted in the service of ideology. Instead, students simply registered their amazement at numbers (some, perhaps, thinking that influential Jews might be something to be concerned about) and were allowed to move on. Once again, history is merely an assortment of curious facts.

Kenney finds that this freshman level class, conducted during the second week of the semester, while unquestionably enjoyable, reminds him of a high school history class, and concludes his report by saying, "Nevertheless, inasmuch as one might want high school merely to awaken students' curiosity in the past, at the University of Colorado we should expect much more of our students and of our instructors as well."

In addition to his critique of Mitchell's teaching, Kenney is equally unforgiving in his assessment of Mitchell's syllabus. While noting that the syllabus does offer a calendar of readings, "It does not list topics to be discussed each week or each session. This would hamper students in understanding the direction of the course, possibly limiting their horizon to the next reading assignment only" (Attachment 3).

31. **October 18, 2006.** Carlos informs Mitchell that his contract will not be renewed because of budgetary considerations.
32. **January 24, 2007.** Carlos emails Sewall faculty that their reappointment files must be submitted by February 15. When Mitchell asks if this directive applies to

him (in that he is being terminated for budgetary considerations) Carlos replies that she wants all current faculty to submit full reappointment files to provide a teaching and service review for future personnel decisions (Attachment 7).

33. **January 30, 2007.** Ann Carlos reviews two classes of Mitchell's that she has observed during the previous week, Western Civilization 2 (History 1020) and History of Christianity 2 (History 2180). In her report, Carlos reviews the classes separately; still, her responses are similar. In both instances she describes Mitchell's approach of administering a quiz on the assigned reading material, then addressing the quiz questions as an avenue into the material, as well as a basis for amplifying discussion. In both instances she is confused by Mitchell's approach. For example, in History 1020, "Firstly there was no outline for the class laid out for the students either on the board, or an overhead, or even verbally. Dr. Mitchell made no mention of what had been covered in the previous class nor how today's class followed from that class. Thus a student who had missed the previous class, due to illness, would have no way of knowing how the material was connected. I certainly did not know what the class was about." Professor Carlos surmises that the purpose of the class might be to enhance student understanding of the textbook chapter through the quiz and subsequent discussion, but finds such an approach redundant: "In a university classroom, we have to assume that the students have the ability to read the text and know what the author is saying. The role of the instructor must be to move the students beyond the merely descriptive and to help develop a critical understanding of the analytical nature of historical inquiry." As for the latter consideration, in both classes Professor Carlos finds Mitchell's teaching to be an unqualified failure.

In this report, Carlos's method of scrutiny closely resembles the approach taken by Professor Kenney in his review of Mitchell. As did Kenney, she describes Mitchell's attempts to move the discussion beyond description, analyzes why they are ineffective, then offers a series of questions, based upon the issue, that would be far better suited to provoke meaningful analysis. As Professor Carlos writes, also in her critique of History 1020 (a class that "disturbed" her):

There were a number of other places where Dr. Mitchell could have shaped the discussion to focus on the analytical nature of historical inquiry. For instance, one of the statements that Dr. Mitchell read to the class was that Europeans were more aggressive than others, which I found to be an odd statement in itself. Although Dr. Mitchell did say that this begs the questions, it was never made clear what begs what question? I was confused. Dr. Mitchell could have asked the class what exactly the author meant by this statement? What does "aggressive" mean? How is it being measured? Who are the comparison group? How reliable are the data used by the author? What are the sources for such a statement? Indeed, one could ask who are "Europeans"? Does the author mean all Europeans or just some? None of these questions were posed to the students nor raised by the students. . . . Another issue that arises here is

why did Dr. Mitchell choose this particular statement? Is this view of Europeans in some way more privileged than others for Blackburn? Does this view drive the author's particular narrative? The problem is that at no time was there explanation by Dr. Mitchell as to why he chose the statements he did; neither did he explain how they help the students understand how the author sees the world or how it might relate to what they were going to see in future chapters.

Professor Carlos goes on to criticize Mitchell for lack of reference to other materials (she cites Kenneth Pomeranz in particular, as well as Malthus and Ester Boserup) that might have helped Mitchell better emphasize an analytical approach to history.

Professor Carlos offers a similar critique of Mitchell's teaching in the session of History of Christianity 2 that she observed, quarreling with his attempts to provoke critical thinking, then offering numerous superior alternatives, but here extends the discussion of her dissatisfaction. While praising Mitchell's ability to "connect" with students, she appears to find some of his remarks offensive, particularly his telling two female students at one point that they could now "change their hair." Carlos supposes this was Mitchell's way of saying that he "recognized their faces," but is concerned that this could be "construed as a very gendered comment." She also professes concern about Mitchell's practice of allowing fellow students to correct each other's quiz papers: "This may breach privacy rules in spirit if not in law and I have already talked to Dr. Mitchell on this matter." Dr. Carlos concludes her report by reiterating, "However, my biggest concern is the total lack of an analytical process in these two classes. Third level institutions are teaching students how to think and how to question. There were many marvelous teaching points in both of these classes which were completely missed" (Attachment 3).

34. **February 25, 2007.** Professor Carlos writes to Dean Todd Gleeson of the College of Arts and Sciences, recommending termination by non-renewal of Mitchell's contract. "In summary," she writes Gleeson, "my decision is based on two considerations: first, issues of academic rigor based on multiple measures of teaching; and second, the financial position of the Sewall budget."

Carlos divides her four-page letter into two sections, *Issues of Academic Rigor* and *Financial Position*. Only the first is germane to this report. Carlos begins by summarizing the range of courses Mitchell has taught for the Sewall Program, and mentions his extensive efforts to get to know his students. She mentions that his FCQ ratings are almost uniformly A's and concedes that "students see him as an outstanding instructor and by this metric he most certainly is." Still, she points out, student FCQs are but one measure, and by other measures Mitchell's teaching raises "serious concern." She mentions that the file contained five peer reviews (Anderson, Zeiler, Boag, Kenney, and her own). "Recurring themes emerge from these reviews which raise questions of academic rigor," Carlos reports. The first

theme regarded the inadequacy of Mitchell's syllabi. Carlos spends some time discussing the importance of extensively detailed syllabi. "The syllabus is the first point of contact between the instructor, the course and the students...As Sharon Rubin writes in *Professor, Students, and the Syllabus*...'students should be able to find out what they will know by the end of the course, and also what they will be better able to do afterwards than before,'" Carlos tells Gleeson. "Dr. Mitchell's syllabi discuss the nature of the course in only the broadest terms." She finds that Mitchell's syllabi "provide the student with little guidance about the context of the course or the issues to be considered." For example, Carlos notes that, after an overly-broad discussion of class goals, Mitchell's syllabus for his History of Christianity course "merely gives a list of what chapter to read for what date. There is no guidance to the student as to why he or she is reading this chapter. What questions should she or he have in mind when reading? What might Dr. Mitchell be expecting the student to gain from this chapter?"

Carlos mentions as a second concern what she calls Mitchell's evaluation of his students. While she acknowledges that this was not a particular concern that emerged from the peer reviews, Mitchell's approach to evaluation is of significant concern to her. "In a letter to the Sewall faculty dated June 14, 2006, I laid out my objectives for the Sewall Residential Academic Program," she writes to Dean Gleeson. "These objectives were emerged from a series of conversations with the core faculty in the program. . . ." First and foremost, Carlos reports, is a focus on analytical reading and writing. "All faculty were asked both in this letter and at a subsequent faculty meeting to incorporate the writing textbook, *Writing Analytically*, in their courses and to ensure that there be an extensive written component for all assessment." Importantly, Carlos writes to Dean Gleeson, as explanation for her decision to recommend non-renewal,

There is no mention of *Writing Analytically* anywhere on his syllabi and the assessment does not include extensive written work. Student evaluation is based on daily true/false quizzes and a final term paper. Although the syllabi mention that there might be short papers assigned from time to time, no point scheme is given for these papers nor is there any mention of how many and what format. . . . Not only do these assessments not meet the standards of evaluation that I set for the Sewall program and which are being met by all other faculty, but the overall vagueness of the syllabi is in stark contrast to College expectations for clarity in methods and conditions of assessment.

The third—and, according to Carlos—most serious theme that emerged from the five peer reviews that Carlos considered, concerned Mitchell's pedagogy of quizzing his students about the assigned writing, then examining the quiz questions as a method of broadening the discussion. "This is very problematic," Carlos writes to Gleeson. "Although the students certainly 'learn' facts about the subject matter being discussed, the material is completely disjointed. There is no narrative framework, no overarching context, nor any analytical structure. History

at the college level is not a disjointed set of facts.” Carlos then refers to the college catalogue, which defines the study of history as about learning “to analyze subjects in their context, that is, to investigate both the processes and meanings of change.”

Carlos tells Gleeson that she is disturbed by what she sees as Mitchell’s “pattern of behavior” in showing a “complete disregard for the issues raised in prior peer reviews, all of which were conducted by full professors in the Department of History noted for their own scholarship and teaching.” She notes that Mitchell was first advised of these concerns in 2002 (Anderson) and that identical issues were raised by other reviews (Zeiler, Boag, Kenney), through her own observations of January, 2007. Carlos concludes this portion of her report by reiterating to Gleeson her dissatisfaction with Mitchell’s syllabi: “As mentioned above, the syllabi for Dr. Mitchell’s courses completely ignore my stated requests concerning the nature of pedagogy in the small liberal arts setting. Dr. Mitchell not only received my letter of June 14th but also attended a faculty meeting in August 2006 when I discussed my direction and requirements for the Program” (Attachment 8).

35. **February 27, 2007.** Dean Todd Gleeson writes to Professor Carlos. He tells her that he has reviewed the reappointment dossier that Carlos prepared and that he concurs with her judgment and accepts her recommendation. Gleeson notes that the primary cause for Mitchell’s non-renewal are “concerns that insufficient attention has been paid to the academic rigor found in Dr. Mitchell’s courses.” Gleeson goes on to say, “You describe dissatisfaction in the areas of syllabus construction, grading, lack of emphasis on student writing, lack of a narrative or analytical structure to lectures, and failure to bring professional expertise to the lecture experience through incorporation of ancillary reading or other materials.” Gleeson concurs with Carlos that these concerns about Mitchell’s teaching “appear in reviews of Dr. Mitchell’s teaching dating back to 2002, suggesting that Dr. Mitchell is firmly committed to his style of instruction, but that this style is in conflict with the expectations of Sewall, the History Department, and indeed the rest of the College.” Gleeson implies that while a style of teaching such as Mitchell’s may once have been deemed acceptable, “Our College’s attention to its instructional standards and goals as articulated in our *Colorado Challenge* initiative, and the interests of the Regents and the public in academic rigor more generally, have made these concerns more important and timely” (Attachment 8).
36. **March 14, 2007.** Carlos informs Mitchell that his contract will not be renewed because of a “history of negative peer reviews” and because he did not follow course guidelines on the analytical writing requirement. When Mitchell asks about the Wei evaluation, Carlos claims she has not read it and it is not in his file. Later, after the letter reappears in his file, Carlos claims it makes no difference in her decision (Attachment 9).

According to Mitchell, this meeting is the first time that Mitchell has been notified that he was not meeting the analytical writing requirement. At no point prior has Carlos told Mitchell that he was not meeting this or any other course objective. Indeed, he claims he has no idea how Carlos would know whether he is meeting the course objectives and standards. She has never met with him for substantive discussions of what he does in class (though on several occasions he has invited her to have lunch with him). She has never polled his students about his standards or what he does or does not do in the classroom. He has tried to meet the B- average, the only "standard" of which he is aware, despite the fact that he considers it unethical not to inform students in advance of the imposition of an arbitrary grade scale that is below the university average.

37. **March 27, 2007.** Mitchell receives an annual merit rating of "Below Expectations" from Ann Carlos. Carlos notes that "concerns" were expressed in peer reviews of Mitchell's teaching, that he failed to follow Sewall guidelines requiring the teaching of analytical writing, and that he did not meet deadlines set by the Diversity Office. Mitchell, writes Carlos, "[r]equired many reminders" (Attachment 4).
38. **April 20, 2007.** In a memorandum to Dean Gleeson, Ann Carlos writes, "Dr. Mitchell did not sign his merit review nor did he discuss it with me. Dr. Mitchell put it in the garbage can in the mail room" (Attachment 4).
39. **April 30, 2007.** Mitchell meets with Dean Gleeson. According to Mitchell, he tells Gleeson that he is angered at his treatment by the University. When he tells Gleeson that his termination was "immoral, unethical, and illegal," Gleeson responds by saying, "I can assure you it wasn't illegal." Gleeson goes on to tell Mitchell that he signed off on the termination because of a "history of negative peer reviews."
40. **Spring 2007.** Mitchell again publicly speaks out against his firing.
41. **May 21, 2007.** University spokesperson Bronson Hilliard is quoted in the *Daily Camera* as saying that Mitchell was not reappointed because he did not meet specific criteria on the most recent evaluations by faculty members.⁷ Hilliard later says he was misquoted, that he never said "faculty members," and goes on to say that Mitchell "failed to meet the course objectives and criteria outlined by the faculty member who ran the Sewall program."⁸

Hilliard does not say whether these objectives and criteria were approved by the Sewall faculty, whether the Sewall faculty was apprised of these objectives and criteria, whether Mitchell was told prior to his termination that he was not meeting these objectives and criteria, or on what basis Carlos was aware that Mitchell was not meeting the objectives and criteria that she outlined.

42. **May 2007.** Associate professor Christian Kopff of the Honors program and the Classics department, asks Mitchell to design and teach the core course during the fall semester for the new Center for Western Civilization (CWC). Kopff will serve as the Center's first director. The course, to be called "Western Traditions" will be cross-listed with the Chancellor's Leadership RAP (for whom Mitchell has taught periodically—with considerable success--over the course of his career at CU); the Chancellor's RAP must also sign off on the course. Carol Miyagishima, Director of the Chancellor's Leadership RAP, offers Mitchell two sections of "Western Traditions." Mitchell accepts Miyagishima's offer and devises a course plan that is quickly approved by the Arts and Sciences Curriculum Committee.
43. **May 21, 2007.** Mitchell meets with Chancellor Bud Peterson. According to Mitchell, Peterson angrily tells him, "What you are doing [complaining to the media] is extremely detrimental to the University." According to Mitchell, Peterson also tells him that he is not being terminated, but rather his contract at Sewall is not being renewed, and that there is a great distinction between the two that Mitchell does not understand.
44. **June 11, 2007.** Chancellor Leadership RAP Director Carol Miyagashima emails Mitchell. "Dear Phil," Miyagashima writes, "I have some bad news to deliver. It appears that we are unable to extend a teaching contract to you. I regret being the bearer of this news especially to you. Phil you have been a great colleague and we appreciate the support you have given the Chancellor's RAP over the years. . ." (Attachment 10).
45. **July 30, 2007.** Christian Kopff, Director of the Center for Western Civilization, writes to Dean Gleeson, requesting that Gleeson rescind his decision not to allow Mitchell to teach the introductory course for the CWC. Kopff notes that the course has been approved by the A&S Curriculum Committee, that Mitchell has helped develop the course, and that plans for teaching it are "far advanced." Kopff points to Mitchell's superlative record as a teacher, as well as his record of "very favorable" peer evaluations from William Wei. "The negative evaluations in Phil's dossier consist of versions of what appears to be the same letter, signed by faculty who are less distinguished teachers and administrators [than Wei]." Kopff adds that the directors of the Williams Village RAP and the CWC have requested that Mitchell teach this course (Attachment 13).
46. **August 8, 2007.** Dean Todd Gleeson writes back to Kopff, denying his request for "a reconsideration of the College's decision not to approve Phil Mitchell as an instructor of a College/CWC course that the Chancellor's Leadership RAP would like to offer this coming term":

In consultation with and concurrence of the Provost and Chancellor, I am sustaining my earlier decision not to authorize Phil Mitchell as a College instructor. This decision follows, as you may know, from a review of Dr.

Mitchell's overall performance as a faculty member and a recommendation from his rostering unit (Sewall RAP) that he not be reappointed. My rationale is that the decision not to reappoint him has as much to do with his failure to take directions from his supervisor as does the quality of his instruction." (Attachment 13)

ANALYSIS

Matters of Interpretation

Some of Mitchell's complaints about his treatment at the hands of the University are unverifiable. For example, Mitchell's memory of what was said at a particular meeting might vary from someone else's. Also, it is unlikely that Ann Carlos, the History Department, and the CU administration would admit to a bias against Mitchell for his political and religious convictions, or even be aware that they harbor such a bias and acted upon it in terminating Phil Mitchell.

Similarly, interpretations and judgments by people acting in good faith can vary. For example, Kenney may consider Mitchell's efforts to engage his classes in "the analytical nature of historical inquiry" (as Carlos calls it) to be ineffectual, even negligent, and thus his teaching a "disservice" to his students; Carlos may see these efforts as "disturbing" and "troubling"; and Boag may see them as approaching a "high school, homey" level of instruction; whereas Wei, Ferrini, and Lewis might behold the same pedagogy in action and see "a master at work."

A third perspective may be voiced by students who, without the benefit of Kenney's or Boag's disciplinary and pedagogical expertise, or Carlos's experience teaching the history of economics, might find Mitchell's Socratic probing more stimulating and less confusing than Anderson, Zeiler, Boag, Kenny and Carlos find it. "For his class alone I have done immeasurably more reading and critical thinking than every other class I have taken combined," writes one student. Another contends,

He engages his students by questioning history and popular thought. Professor Mitchell has a deep concern for his students and tends to play devils advocate in order to encourage them to think critically. History is a subject of critical analysis. If we learn from the past by not only the documents that record it, but also with careful analysis of how it pertains to the now and the future, humanity as a whole improves. (Attachment 11)

One further perspective may be voiced by parents. According to Mitchell, the same session that Boag attended and found to be pedagogically unsound from multiple viewpoints, was attended by Dennis Lied, who is active with the CU Parents Association, and whose son was a student in that section. At the end of the session that Boag considered to be cause for considerable concern, Lied told Mitchell, "This class makes me wish I could go to college again."

That Kenney and Boag question Mitchell's teaching and see fit to report their misgivings in the most uncompromising terms does not mean that they are moved to do so by intolerance of Mitchell's political and religious beliefs. Likewise, that Mitchell regularly invites students to lunch, runs a pleasant class, and has an ability to make facts interesting may not completely account for his record, in over two decades of teaching at CU, of consistently receiving student evaluations of A to A+ in the categories of course effectiveness, instructor effectiveness, effectiveness in teaching critical thinking, and every other student measurement.

Indeed, the analytical nature of inquiry presents endless opportunities for honest disagreement. One could say, as a final example, that while Carlos may find Mitchell's attempts to provoke analysis to be uninspired, many of her own suggestions ("What does 'aggressive' mean?" "Who are Europeans?" "Does the author mean all Europeans or just some?") might be viewed by others as at least equally uninspired.

But while everyone is entitled to an opinion, not all opinions are equal in the marketplace of ideas. The opinions of professionals steeped in the study of pedagogy should carry more weight, generally speaking, than the opinions of students who may lack a reflective view of the forces that inspire them. Similarly, opinions extrapolated from verifiable fact should outweigh groundless assertions. Many of Mitchell's claims are verifiable: his teaching awards and superlative student evaluations, for example, are not matters of opinion, though as to the importance of these facts in adjudging the usefulness of Mitchell's teaching, opinions may differ. On the other hand, Kenney's suggestion that some of Mitchell's questions are anti-Semitic, and Carlos's speculation that at least one remark of Mitchell's was "gendered," are based on the flimsiest of evidence, while the History Department's efforts to uncover evidence of Mitchell's homophobia are altogether groundless. As a matter of fact, over a period of twenty years Mitchell has consistently received student evaluations of A+ regarding the question of professional treatment and respect for diversity.

It is verifiable that an alternative version offered by the University in 2005—that Mitchell's one-year reappointment was not a termination but a restructuring based upon new policy—did not emerge until Mitchell went public to protest his firing. It is also verifiable that the alternative version changed after portions of it were proven to be untrue. It is further verifiable that in 2007 the administration's alternative versions shifted again as Mitchell again publicly protested his firing. When comparing the credibility of competing narratives, that one version consistently shifts in response to the other bears significance.

Similarly, it is fact that in 2006-07, faculty meetings at Sewall were scheduled when Mitchell was teaching a class thirty miles away; that very early in her first semester as director of the Sewall RAP Ann Carlos sent an email to a long-time, much honored instructor saying that his performance as diversity officer was unprofessional; that Carlos gave Mitchell a merit evaluation of "Below Expectations" based in part on his late delivery of the Sewall diversity plan, while email records indicate any tardiness was

directly Ann Carlos's fault; that the Sewall faculty never voted to approve criteria and objectives presented to them as requirements in Ann Carlos's June 14, 2006, letter to the faculty—criteria and objectives that, in at least one version offered by the administration, Mitchell was terminated for failing to meet; and that there are no published criteria and objectives for the Sewall faculty beyond the letter of June 14. It is also fact that Ann Carlos misrepresented that letter in her February 25, 2006, letter to Dean Gleeson, in which she constructs a rationale for Phil Mitchell's termination by non-reappointment.

Indeed, ample evidence exists that Ann Carlos, in her February 25, 2006, letter to Gleeson, made numerous representations of fact that are contradicted by the verifiable record and thus committed serious acts of unprofessional conduct in pursuing the termination of Phil Mitchell. Because this is a grave allegation, and because it provides some context for our assessment of whether violations of procedure and academic freedom were committed in the termination of Phil Mitchell from the Sewall RAP, we will discuss it at some length.

Phil Mitchell's Syllabi

In her letter to Dean Gleeson, Carlos writes that one of the recurring themes emerging from the five peer reviews in Mitchell's file "concerns the structure of the course syllabi and their inadequacy." Carlos quotes Sharon Rubin, from an article in the Faculty Teaching Excellence Program's *Memo to Faculty Series* titled "Professors, Students and the Syllabus"⁹ to the effect that from a functional syllabus "students should be able to find out what they know by the end of the course, and also what they will be able to do better afterwards than before." According to Carlos, Mitchell's syllabi are "extremely spare in this regard." She cites the syllabus for Mitchell's HIST 2180 course as an example. Furthermore, Carlos writes, "This syllabus merely give [sic] a list of what chapter to read for what date. There is no guidance to the student as to why he or she is reading this chapter. What questions should he or she have in mind when reading? What might Dr. Mitchell be expecting the student to gain from this chapter?" Carlos concludes, in this section of her letter to Gleeson, "The objective in a college-level course is to guide the students toward a greater understanding of how to think critically and analytically about the subject. These particular syllabi provide the student with little guidance about the context of the course or the issues to be considered."

These are valid observations by Carlos, and her own syllabi, judging from her Economics 4514-001 course, fall 2005 (available online) does explicate the context in which students might consider the assigned readings. But if Mitchell would do well to supply additional context in his syllabi, Peter Boag would also. Boag's History 5106 syllabus, spring 2007 (available online) is if anything more spare than Mitchell's in every area of concern that Carlos mentions to Gleeson. Similarly, Tom Zeiler, whose peer review of Mitchell is outspoken in raising issues of insufficient context provided by Mitchell's syllabi, might consider applying some of that context to his own syllabi. His History 1065 syllabus, spring 2003 (available online) provides only the briefest of descriptions (e.g., "Jazz Age") to frame the readings for students. It is debatable whether Zeiler's deployment of context is much more useful than Mitchell's listing of primary sources (Attachment 12).

This is not to criticize either Boag or Zeiler for not constructing syllabi up to the standards of Ann Carlos or, according to Carlos, Sharon Rubin. Given the classes they teach, their syllabi may be adequate. Effective syllabi can differ, as can class structure. For example, in a class of 400, in which the student may have little contact with the professor outside class, and which is based entirely on a lecture format that leaves little time for questioning, syllabi such as recommended by Rubin and Carlos are essential. However, in a small seminar setting such as the Sewall classes taught by Mitchell, where the atmosphere is “buzzing,” where none of the five reviews included in the Mitchell file noted reticence on the part of students to ask questions, and where, as Carlos writes in her letter to Gleeson, “Dr. Mitchell works very hard to get to know his students,” if a student finds herself confused by the context of the course or the issues under consideration, she can simply ask a question, perhaps over lunch in the Sewall dining hall.

Interestingly, Sharon Rubin understands this. She concludes the same article that Carlos enlists in condemning Mitchell’s syllabi, by saying,

The syllabus is a small place to start bringing students and faculty members back together. . . . But if students could be persuaded that we are really interested in their understanding the material we offer, that we support their efforts to master it, and they [sic] we take their intellectual struggles seriously, they might respond by becoming more involved in our courses, by trying to live up to our expectations, and by appreciating our concern. . . . Then the real work of learning can begin.

In essence, classes such as Mitchell’s are what Sharon Rubin finds ideal; the purpose of a syllabus, in creating a “small place to bring students and faculty back together” is to help foster the environment that, by all accounts, Mitchell furnishes his students. It is curious indeed that Carlos would use this article to condemn him.

Sewall RAP's Course Objectives

After persuading Gleeson that Mitchell should be terminated in part because he fails to provide adequate guidance to students through a useful syllabus, Carlos explicates a second concern that “has to do with the evaluation of students in his courses.” In presenting the case for concern to Gleeson, Carlos makes several claims that, when measured against the verifiable record, are either vastly overstated or outright fabrication. She begins by referring to her June 14, 2006, letter to the Sewall faculty, in which she outlines her objectives for the program. “These objectives were emerged from a series of conversations with the core faculty in the program and are based on what we consider to be vital for the continued academic success of the students in the program.” This claim is notable because, as mentioned earlier, she never met with Mitchell. Of course one is entitled to generalize and not every statement can be taken literally, but the assertion that she conducted a series of conversations with the core faculty in the program does imply that she met with those she considers to have a central role in the program. Prior to Carlos's assuming the directorship of Sewall, it is difficult to imagine anyone being more core to Sewall than Mitchell. After all, he is one of only five faculty rostered at Sewall;

he has taught more classes and won more teaching and service awards than anyone in the history of the program. To over a generation of students, Mitchell has been the face of the Sewall RAP. Yet Mitchell claims that Carlos never attempted to meet with him. Whatever the circumstances of Carlos's exclusion of Mitchell from her conversations with "the core faculty" at Sewall, her implication is either misleading or evidence that, before she had ever met him or observed his classes, she did not consider Mitchell to be central to the future of the program.

Carlos then writes to Gleeson,

At the center [of my objectives] stands a programmatic focus on analytical reading and writing. All faculty were asked both in this letter and at a subsequent faculty meeting to incorporate the writing textbook, *Writing Analytically*, in their courses and to ensure that there 'be an extensive written component for all assessment.' Dr. Mitchell has completely ignored my request on both of these issues. There is no mention of *Writing Analytically* anywhere on his syllabi and the assessment does not include extensive graded written work. Student evaluation is based on daily true/false quizzes and a final term paper. Although the syllabi mention that there might be short papers assigned from time to time, no point scheme is given for these papers nor is there any mention of how many and what format. In essence this means that the students receive no written feedback on written materials during the course of the semester.

In making the case to Gleeson here that Mitchell has "completely ignored" program objectives, Carlos makes multiple claims that are false. In the letter to the Sewall faculty of June 14, 2006, she does articulate the new focus on analytical reading and writing, but her representation to Gleeson that all faculty are asked in this letter "to incorporate the writing textbook, *Writing Analytically*, in their courses," is at variance with what the letter states. The only mention of this text in the June 14 letter occurs in the following three sentences: "We are also recommending that students purchase *Writing Analytically* by David Rosenwasser and Jill Stephens to keep as a reference guide for their college years. I have also ordered desk copies for any faculty who is interested. Please ask [program assistant] Martha Shernick for a copy." Nowhere in this letter does she require her faculty to incorporate this text in their courses, as she asserts she has to Gleeson as pretext for terminating Mitchell's employment. Memory, of course, is fallible. It is natural not to recall precisely whether months previously a text was required or recommended, but to employ one's error in the service of firing a long-time, much honored member of the faculty is shoddy.

Furthermore, in the June 14 letter, after asking that there be "an extensive written component for all assessment," Carlos writes, "I realize not all classes are amenable to essay style exams; in such courses, short answer structures could be used." In other words, Carlos allows the Sewall faculty considerable flexibility in how they might meet the objective of an analytical writing component. Unless one takes the unlikely position that "short answer structures" are a superior vehicle for "extensive written" assessment than short papers, her June 14 letter reasonably permits the assignment of short papers as

means of fulfilling her analytical writing requirement. Nonetheless, in her letter to Gleeson she uses Mitchell's assignment of short papers as evidence that he has "completely ignored" program objectives. Perhaps Carlos is made uneasy by Mitchell's qualification that he "might" issue these written assignments. In any event, based upon her description of Mitchell's syllabi, Carlos can have no idea of whether or not Mitchell has ignored her request to include an extensive writing component in this course; she assumes that he has, then represents her assumption as fact in her recommendation to Gleeson that Mitchell be terminated.

The ultimate irony, however, of Carlos's claim to Gleeson that Mitchell has "completely ignored" her request in that "There is no mention of *Writing Analytically* anywhere on his syllabi and the assessment does not include extensive graded written work," and, what's more, "no point scheme is given nor is there mention of how many . . ." is that, at least on his Western Civilization syllabus (fall 2006), *Writing Analytically* is clearly listed as a required text, as is the stipulation that there will be "two short papers (50 points each)" and a "final paper (100 points)" (Attachment 12).

Peer Reviews: A Curious Selection

The most serious charge in Ann Carlos's letter to Dean Gleeson concerns his peer reviews. After presenting a brief overview, then acknowledging the range of courses that Mitchell has taught for the Sewall RAP, and applauding Mitchell for his extensive efforts to provide "a great opportunity for students to relate to an instructor on a level separate from the classroom," as well as his uniformly high student evaluations ("The students see him as an outstanding instructor and by this metric he most certainly is"), Carlos tells Gleeson that student FCQs are but one measure of assessment, and that "serious concern emerges from other measures of teaching." She points out that "Five peer reviews are contained in his file. There are four reviews by senior members of the history department dated from October 2002 to October 2006. There is also a peer review by me. . . ." She goes on to state that "Recurring themes emerge from these reviews which raise questions of academic rigor concerning Dr. Mitchell's courses."

There is no question that five peer reviews were contained in the file that Ann Carlos prepared and submitted to Dean Gleeson, and that her summaries of these reviews (while she leans most heavily on her own) are accurate within the bounds of reasonable interpretation, though those by Anderson and Zeiler are considerably less negative than Carlos implies. A question emerges, however, as to why she included only five reviews, and why—on the assumption she was seeking a representative sampling of the nine reviews in Mitchell's personnel file at Sewall—she chose these five. If Carlos had decided to include only peer reviews by full professors in the History Department, there is no indication that she advised Dean Gleeson that these peer reviews were chosen according to this criterion.

It is also curious that Carlos did not include the review of William Wei, which—as do the reviews Carlos chose not to select by Ferrini, Lewis, and Viehmann—tells a vastly different story of Mitchell's teaching. Wei, a full professor of History, had reported on

Mitchell's teaching numerous times over the years. (Almost three weeks after Gleeson had agreed to terminate Mitchell, Carlos, responding to Mitchell's question as to why Wei's reviews were not included in the file, tells Mitchell that the personnel files were in disarray due to "staffing changes" but that she has now found the Wei reviews and has sent them over to the Dean's office) (Attachment 9).

It is standard academic practice to include only peer reviews taken during the most recent completed contract period (in Mitchell's case the 2005-06 academic year), yet Carlos chose not to include the overwhelmingly positive reviews by Ferrini, Lewis, and Viehmann, but did include respectful but mixed reviews by Anderson and Zeiler which also occurred before 2005-06. The answer as to why appears to be in what Carlos tells Gleeson: "I am very concerned with what would appear to be a pattern of behavior. Dr. Mitchell appears to have shown complete disregard for the issues raised in prior peer reviews, all of which were conducted by full professors in the Department of History noted for their own scholarship and teaching. My evaluation of the two classes that I visited in January 2007 raises the same issues first raised in October 2002."

Carlos does demonstrate a pattern of behavior, but it is one of her own devising. If her inclusion of peer evaluations had been more comprehensive, and her descriptions of reviews by Anderson and Zeiler more reflective of their admiration for Mitchell's abilities, it would be evident that this "history of negative peer reviews" was not established until after Mitchell had publicly protested his termination in 2005.

If the process of termination is to be legitimate, the Dean, who makes the final determination (pending approval of the Regents) based upon both the director's recommendation and the reappointment file submitted to him, must have assurance that the file contains all relevant documents, and not only those that support the director's recommendation.

One cannot presume what conclusions Gleeson might have reached about Mitchell's pedagogy if presented with the full range of peer reviews, but it is reasonable to conclude that the file Carlos prepared for Gleeson was deceptive and that the deception—unless by coincidence the evaluations by Ferrini, Viehmann, Lewis, and Wei were all misplaced during the staffing changes, while those by Anderson, Zeiler, Boag, Kenny, and Carlos were not—was purposeful.

Peer Reviews: Mitchell's Pedagogy

The third and "most serious theme that emerges from all the peer evaluations," Carlos writes to Gleeson, "concerns the lectures themselves." Carlos focuses on Mitchell's pedagogy of teaching from the quiz and then using the answers "to elaborate on the facts of the statements as presented by the author of the particular textbook. This is very problematic," Carlos writes to Gleeson. "Although the students certainly 'learn' facts about the subject matter being discussed, the material is completely disjointed. There is no narrative framework, no overarching context, nor any analytical structure. History at the college level is not a disjointed set of facts." Carlos reiterates that these concerns "are

also present in the peer reviews conducted over the past four years by senior members of the Department of History.” Here, as elsewhere in her letter to Gleeson recommending Mitchell’s termination from Sewall, her representations about the peer reviews she has included with the file, though over-generalized and misleading in terms of Anderson and Zeiler, do not entirely distort their assessments.

It may be that Mitchell is as incompetent as three of these five included peer reviews describe him to be in provoking analytical thought. It may be that students, not knowing any better and influenced by Mitchell’s efforts to “connect,” consistently rate themselves as satisfied by a course that presents them with a vast series of interesting (if disjointed) facts but that offers little else in the way of intellectual fortification. It may be as well that Mitchell is less than the “master at work” that Ferrini, Lewis, and Wei consider him to be, though his accumulation of teaching awards—a fact that, not surprisingly, Carlos did not see fit to mention to Gleeson as she recommended non-reappointment—does tend to tilt the ledger toward those who champion Mitchell. Still, in many disciplines within the humanities, contemporary discourse is postmodern; there are only different views, differing perspectives. As the historian Howard Zinn says in a letter to the editor of *The New York Times Book Review*, “Most historians, and most intelligent people, including bright 12-year-olds, understand that there is no such thing as a single 'objective' truth, but there are different truths according to the viewpoint of the historian.”¹⁰

In that light, while the probity of the five peer reviews is difficult to assess, conclusive patterns emerge. Neither Boag, Kenney, nor Carlos allow for the possibility that Mitchell’s Socratic pedagogy might inspire critical reflection; Kenney and Carlos in particular demonstrate at great length why Mitchell’s efforts to broaden discussion are invariably “dead—didactically speaking—on arrival,” and then provide examples of superior alternatives that, in our view at least, would be preposterous in a freshman level class (Carlos: “What is China? Is it one great homogeneous plain?”). Four of the five criticize the structure of Mitchell’s syllabi and not a single one—including Carlos, who is not only merciless in her evisceration, but who leans upon Sharon Rubin for authoritative substantiation—so much as balance their criticism with the recognition of Rubin’s fundamental insight that the purpose of an effective syllabus is to help create the sort of environment that Mitchell, according to the reports of each, creates. Kenney implies that Mitchell is anti-Semitic, Carlos suggests that he is sexist, both on the scarcest evidence, and all but Carlos are members of a department that has investigated Mitchell for evidence of homophobia during Boag’s tenure as chair. Typically, in the academic tradition, a negative peer review will announce itself by damning with faint praise, or criticizing by omission. The peer reviews by Boag, Kenney, and Carlos in particular, rank easily among the most derogatory that the executive committee of the CU AAUP has seen in a combined century of teaching at the university level. These reviews certainly do not read like disinterested observations; they read as if they were written to get someone fired.

Carlos’s misrepresentations to Gleeson in her letter of February 25, 2007, are not negligible errors; they comprise her central support that Mitchell be fired: that his syllabi are not up to university standards, that he has “completely ignored” the analytical writing

requirement, and that his dossier reveals a "history of negative peer reviews." It is reasonable to conclude that this letter amounts to a fabrication.

Dean Gleeson's Concurrence

It is notable that in Gleeson's letter to Carlos of February 27, 2007, wherein he concurs with Carlos' dissatisfaction over Mitchell's "syllabus construction, grading, lack of emphasis on student writing, lack of a narrative or analytical structure to lectures, and failure to bring professional expertise to the lecture experience through incorporation of ancillary readings or other materials," Gleeson lists a consideration that Carlos does not mention in her indictment of Mitchell: grading. Gleeson understandably assumes that "questions of academic rigor" might involve grading. Of course, grading is not the sole determinant of rigor; its reliability as a measurement is debatable. But Ann Carlos thinks enough of grading as a measure of classroom rigor that in her letter to the Sewall faculty of June 14, she writes, "I am asking that we organize our courses such as that we have a B- average. Rather than impose an average *ex post*, we each need to think about our grading policies *ex ante* so that our grading structures are in line with the intended outcome." Carlos's non-mention of Mitchell's grading standards is a glaring omission in that the data suggest that Mitchell's classes are not easy, relative to those of other Sewall instructors. Of those Sewall faculty for whom we were able to obtain data from Pickaprof.com, Mitchell ranks among the half who give the lowest grades (Attachment 14). Additionally, with regard to academic rigor, Mitchell has clearly complied with Carlos's attendance requirements, as his syllabus states, in boldface, "Six absences will result in failure in the class" (Attachment 12).

Would inclusion of such data in her letter of February 25 in any way have modified Gleeson's concurrence with Carlos's judgment? That we can't know, though Gleeson, according to his letter, was persuaded by Carlos that Mitchell's grading was of sufficient concern to be contributory to his termination from the Sewall RAP. But it is axiomatic at CU that in personnel matters Gleeson practices a blind obedience to the recommendations of program directors and department chairs, so as not to embarrass them before their faculties. There is a grander practice in the academic tradition, however—nobler because fairer—dictating that overly positive or conspicuously negative personnel recommendations raise a figurative red flag. Scrutiny must then be applied, as an expression of the compact between the administrator and the principles of ethics and morality that govern the university he serves. It is difficult to imagine a personnel recommendation from a director or chair to a dean that could cry out more loudly, "Warning: Potential academic hit job" than that of Ann Carlos in recommending Phil Mitchell's termination from the Sewall RAP. Carlos's letter to Gleeson was dated February 25, 2007. On February 27, Gleeson wrote back to concur with her judgment, and to thank Ann Carlos for her commitment to academic rigor. The virtual contemporaneousness of recommendation and concurrence is troubling.

Other aspects of Dean Gleeson's behavior are similarly troubling, beyond the latitude that one might enjoy as an administrator with decision-making authority who, after all, can't know everything or please everyone. His constantly shifting explanations bespeak a lack

of candor. His apparent misunderstanding that non-tenured faculty are essentially employees of their directors is a particularly destructive view for the administrator of a College in which the majority of the faculty are non-tenured. However, while these considerations might raise questions of competence, they do not invariably evoke ethical concerns. While we find a fact pattern that reveals Ann Carlos's actions to be unscrupulous, we find no such clear-cut fact pattern with regard to Dean Gleeson. At best, he was merely indifferent to the point of negligence. At worst—as with Gleeson's desire to shield Directors Kopff and Miyagashima, both of whom have worked extensively with Phil Mitchell and have requested that he teach for their programs, from the burdens of working with Phil Mitchell—Gleeson appears to act vindictively against a colleague who refuses to go away quietly.

VIOLATIONS OF THE LAWS OF THE REGENTS: DUE PROCESS AND SHARED GOVERNANCE

Following are violations of the Laws of the Regents concerning due process and shared governance in the conduct of the Sewall RAP and the CU administration in the termination of Phil Mitchell. Because Mitchell's allegations that the university violated his academic freedom are arguably of greater public interest than the procedural violations enumerated below, a separate discussion of those charges will follow.

Terms of Appointment, Evaluation, and Reappointment

1. 5.B.2.(C): "The terms and conditions of every appointment shall be stated in writing and be in the possession of both the university and the appointee, whenever possible, before the appointment is begun."

Mitchell was never informed, among many other things, that he was required to change his pedagogy, in accordance with recommendations made by his peers who are less experienced classroom teachers than he, or he would be terminated.

2. 5.B.5.(A)(1): "Every primary unit and reviewing body or person making recommendations concerning appointment, reappointment, tenure, and promotion shall follow and apply the procedures and standards described in regent policy."
3. 5.B.5.(A)(2): "In order to provide a fair and unbiased evaluation, each primary unit shall develop specific written criteria and procedures for measuring the performance of candidates in that primary unit, which are consistent with regent policy. The primary unit criteria shall be used by every level of review, and a copy of the written criteria shall be included in the candidate's dossier."

Ann Carlos's letter to the Sewall RAP faculty dated June 14, 2006, does not constitute such "criteria and procedures for measuring the performance of candidates," as they were not developed by the unit.

4. 5.B.6(A): "A faculty member's performance shall be evaluated based upon performance standards developed by each academic unit and any written expectations agreed to between the faculty member and the unit."

Phil Mitchell was terminated, ostensibly, because his syllabi and pedagogy were found lacking. The primary unit has never developed or adopted standards with regard to syllabi or pedagogy. All standards have been imposed from outside the Program.

Shared Governance

5. 5.E.5: "The faculty takes the lead in decisions concerning selection of faculty, educational policy related to teaching, curriculum, research, academic ethics, and other academic matters. The administration takes the lead in matters of internal operations and external relations of the university."

Clearly, this basic principle of shared governance has been violated when the administrator makes unilateral decisions in the termination of a faculty member.

6. Article 5.E.5.(A): "The faculty shall have the principal role for originating academic policy and standards, including initial authorization and direction of all courses. . . ."

This basic principle of shared governance has also been violated when an administrator, not the faculty, decides that the average grade given cannot be above B-.

Due Process

7. Appendix A: Nearly every pertinent stipulation in "Appendix A: Standards, Processes, and Procedures Document" have been violated in the termination of Phil Mitchell.

- A.1.a. and b.; B.2.a: The primary unit—"the unit composed of professional colleagues most directly involved with the candidate"—in this case, Sewall RAP, is supposed to "elect or appoint (having previously voted on the method to be followed) from among its members an evaluation committee for each candidate being considered during an academic year" to review the candidate's qualifications for reappointment. "Administrators who will review candidates at later stages of the review process shall not serve on primary unit evaluation committees."

Sewall RAP has never chosen an evaluation committee, has never voted upon the method for choosing an evaluation committee, and the director, an administrator, is ineligible to serve on or as the unit's committee.

- A.2.: "[E]ach primary unit shall develop specific written criteria and procedures for measuring the performance of candidates in that primary unit, which are consistent with the standards herein. These approved criteria, called the 'primary unit criteria,' shall be subject to periodic review and approval by the campus chief academic officer. All primary unit criteria shall be in writing and shall be used by the primary unit. The primary unit criteria shall be included in the candidate's dossier and must be used by all other bodies or persons as part of their evaluation of the candidate."

As noted earlier, there are no written criteria for measuring the performance of Sewall RAP faculty, nor, obviously, were they included in Phil Mitchell's dossier in his application for reappointment.

- A.2.: "The 'Standards, Processes, and Procedures document,' as well as the primary unit criteria and procedures of the primary unit, shall be made available by the head of the primary unit to each faculty member at the time of appointment and reappointment."

These documents were not made available to Phil Mitchell by Ann Carlos.

- B.1.b.: "Every candidate for reappointment, promotion, and/or tenure shall consult with and be advised by the chair of the primary unit regarding the areas of performance that will be examined, other factors that have a material bearing on the decision, the standards of performance that must be met, and the primary unit criteria that the primary unit uses in reaching a decision about the candidate's performance."

Ann Carlos has never advised Phil Mitchell of these areas of performance that would be examined.

- B.1.c.: "When joint or split appointments are made, the affected faculty member must be informed in writing, prior to the appointment, of: (1) The duties and expectations as agreed upon by all primary units involved; and (2) Which primary unit will be responsible for such personnel recommendations as tenure, reappointment, promotion, and salary."

Phil Mitchell's primary unit is Sewall RAP, but, since the History Department is required to "sign off" on his courses, the History Department faculty were also responsible for informing him in writing, prior to his (non)reappointment of his duties and expectations to which they had agreed with Sewall RAP. No such information was ever supplied to Phil Mitchell in writing or verbally.

- 2.b.: The evaluation committee should report its findings concerning reappointment to the primary unit (Sewall RAP) or the committee thereof

(such as a personnel committee) which should make its recommendation to the dean.

The responsibility of the head of the primary unit (in this case, Ann Carlos) is to report the decision of the primary unit to the dean (*not* to make the decision herself).

- 2.c.: The head of the primary unit should send the dean certain materials, including a statement describing the procedures followed and actions taken *by the unit* making the recommendation.

Since no actions were taken by the unit, this material could not have been included in Ann Carlos's report.

8. Appendix B: Ann Carlos neglected to fulfill her responsibilities as Director of the Sewall RAP.

- Article A.1.c.: "The chair has the explicit responsibility to ensure that faculty members are aware of the departmental, college, and campus criteria prescribed for appointment, reappointment, promotion, and tenure. . . ."

Ann Carlos did not fulfill this responsibility with regard to Phil Mitchell.

- Article A.2.: "[T]he chair is expected to seek the advice of departmental faculty colleagues in a systematic way, to provide for the conduct of department affairs in an orderly manner through department meetings and the appointment of appropriate committees, and to keep department members informed of his or her actions in a timely manner."

Ann Carlos did not fulfill these responsibilities with regard to Phil Mitchell, in that she did not appoint a personnel committee, an essential step in the shared governance of any academic unit.

VIOLATIONS OF THE LAWS OF THE REGENTS: ACADEMIC FREEDOM

Any conclusions concerning Phil Mitchell's charges that the University of Colorado violated his rights of academic freedom must stem from a consideration of two questions: 1) Was he fired in 2005, as he claims? 2) If so, was his termination the result of hostility toward his political and religious views?

The answers to these two questions furnish context for considering the third question germane to Mitchell's charges: Was his 2007 firing an act of retaliation by the History Department and the University against Mitchell for publicly speaking out against what Mitchell believes to be his 2005 firing?

Was Mitchell Fired in 2005?

It is difficult to imagine that, as the director of Sewall RAP, William Wei would tell Mitchell that he was to be fired "after one more year," and repeat that claim to David Harsanyi of the *Denver Post*¹¹ as well as tell the *Colorado Daily* that Dean Gleeson told him that Mitchell was being terminated¹² if Wei did not believe that this was the case. Similarly, it is difficult to imagine that Mitchell would go to the trouble of publicly protesting his firing if he did not believe that he was being fired.

On the other hand, the response by the University in reaction to the negative publicity appears much less sincerely held. The original explanation changed, then the revised explanation shifted after portions were proven untrue. Finally, the actions by the University subsequent to 2005—Ann Carlos's determination to fire Mitchell, as documented herein; the suddenly numerous and unyielding peer reviews; the emerging reports from History Department advisors that Mitchell's classes will leave students unprepared for upper division classes; the investigation by the Department into Mitchell's alleged homophobia—are 1) too unusual to consider as plausible variation of published reappointment procedure, and 2) vastly more consistent with the view that the University wanted Phil Mitchell fired than with any other narrative.

We conclude that Mitchell was fired in 2005, as he claims.

Why Was Mitchell Fired in 2005?

None of the published reasons for Mitchell's 2007 termination existed in 2005, as evidenced by his personnel file. There was no meaningful history of negative peer reviews, no standing criticism of Mitchell's syllabi, no complaints of failure to adhere to Sewall or History Department guidelines. While Anderson's 2002 peer review did express concern over lack of narrative structure to Mitchell's presentations and noted that his syllabus indicated rather more of an emphasis on the modern era than Anderson might prefer, these observations were highly qualified, accompanied by considerable praise for Mitchell's classroom abilities, and occurred in juxtaposition with other peer reviews that

described Mitchell as "gifted" (Lewis) in creating narrative context to vitalize the presentation of data. Beyond Anderson, there is only Mitchell's history of superlative student evaluations, his numerous awards in recognition of outstanding teaching and service, and his glowing peer reviews. His personnel file does not contain any corroboration whatsoever for the complaints that Mitchell was not teaching up to History Department standards and was preaching to students.

As a non-tenure track instructor, Mitchell—like the majority of the faculty at CU—is employed at-will. What this means, at least as interpreted by the University and some courts, is that he can be fired at any time for any reason, or for no reason at all. In terms of state and federal statutes, no explanation is required. From a public relations standpoint, however, in a circumstance where an instructor at a state institution in a politically and religiously conservative-leaning state publicly protests that he has been fired for hostility to his conservative political and religious beliefs, explanations are necessary. Typically, if an instructor is fired for any reason, or for no reason, the instructor, recognizing the long odds against a successful legal challenge, will go away quietly, humiliated and battered but helpless to respond. In Mitchell's case, the haphazard explanations by the University certainly suggest that they were caught off-guard by Mitchell's public protest as well as the necessity of providing an explanation beyond that, legally speaking, what they say goes.

Gleeson's original explanation—that Mitchell was not teaching up to standards and was preaching to students—would have been impossible to support publicly because no record existed of Mitchell's failure to meet standards and the single complaint against Mitchell for proselytizing had been quickly dismissed and was refuted by a history of student evaluations addressing respect for diversity. We surmise that the best the University could do, under the circumstances, was back off: Mitchell was not being fired after all; it was just a misunderstanding.

Assuming Gleeson's original explanation to be the most candid of the several offered, it is necessary to examine this version. First, was Mitchell teaching up to History Department standards? It is possible, of course, that in 2005 Mitchell's teaching was not meeting standards, though it is unclear how the History Department would know. Anderson's equivocal peer review did not mention standards; all other reviews are glowing. Furthermore, the Department has never used outcomes assessment procedures—controlled mechanisms for assessing whether students from Mitchell's courses fare better (or worse) in subsequent history classes than other students.

Second, was Mitchell preaching to students? While we have already discussed that the charge cannot be plausibly supported, doubtless—considering the charged atmosphere of a good university classroom—Mitchell might be perceived by some students as trying to persuade them of the validity of his opinions. All teachers occasionally present opinions in class in addition to facts, and, if they are to have careers of any duration, learn to let students know which is which. Yet, at least at the university level, teachers must also assume that in some instances students can draw distinctions between fact and opinion on their own, even when the opinion is voiced by a teacher. This dynamic is further

complicated by the circumstance that in smaller classes, such as those taught by Mitchell, during the give-and-take between students and teacher, the teacher may play "devil's advocate"—as one student describes Mitchell's pedagogy—and propose views that are designed to challenge the opinions of students, perhaps even dislodge students from their intellectual comfort zones—in effect, to teach critical thinking. It is also reasonable to assume that, just as many teachers in politically-laden disciplines such as history might betray, for example, a Marxist-feminist perspective in their presentation of seemingly objective materials, Mitchell's politically conservative viewpoint no doubt influences the historical "truths" that he presents to students.

Why was he fired in 2005? We surmise that the History Department refused to sign off on Mitchell's classes because the Department assumed his classes were not up to standards, because they assumed he was preaching to students, because his worldview made them uncomfortable, and because, as Mitchell was an instructor and thus employed at-will, no proof was required to substantiate their assumptions; they could get rid of him if they wanted, even when the reasons they wanted to stemmed from antipathy toward his opinions.

Why did the University accede to the History Department's judgment before backing off in the face of public scrutiny? Based on the articulated practice of the CU administration, we surmise that the University considered the authority of the History Department chair to terminate an instructor without being subject to administrative second-guessing to be sacrosanct. Correspondingly, because Mitchell was "just" an instructor, the University disregarded his academic freedom.

Was the 2007 Firing an Act of Retaliation against Mitchell for His 2005 Public Protest?

The 2007 case differs in numerous ways from 2005. To begin with, in 2005 the Sewall RAP, under William Wei, enthusiastically recommended Mitchell for a three-year reappointment. The reappointment recommendation was denied by the administration because, according to Wei and, originally, Dean Gleeson, the History Department refused to sign off on Mitchell's courses. In 2007, it was the Sewall RAP, under Ann Carlos's direction, that recommended Mitchell be terminated. Furthermore, no mention is made in 2007 of Mitchell's preaching to students. In 2007, unlike the vague assumptions at work in 2005 that were voiced by Gleeson, the record is clear and substantiated: Mitchell's history of negative peer reviews, the inadequate syllabi, his "complete refusal" to meet course guidelines. There is nothing in the file to suggest that anyone had any problem whatsoever with either Mitchell's political or his religious beliefs, other than Carlos's brief suggestion that Mitchell may be sexist and Kenney's briefer implication that Mitchell may be anti-Semitic. Certainly, if it ever crossed the mind of anyone in the History Department that Mitchell is or ever has been homophobic, no mention is made in the file. When in 2005 the University was unprepared to justify the Mitchell termination without dissembling, in 2007, the University constructed a "pattern of behavior" going back to 2002.

As we have demonstrated, the History Department was determined to get rid of Mitchell in 2007. But was the termination retaliation for embarrassing them in 2005, as Mitchell claims, or instead an inconvenient finding, now substantiated, that Mitchell is simply not up to their teaching level? As we have also suggested in this report, it is too unlikely that the vehemence of the peer reviews by Boag and Kenney might be inspired by unease over Mitchell's Socratic pedagogy as a viable method of provoking critical inquiry, as well as alarm over insufficiently detailed syllabi. It is also unlikely that the four peer reviews since 2005 would essentially be facsimiles of each other—reflecting the same talking points—if they were independently constructed and not products of a previously arrived-at consensus. As the Director of the Center for Western Civilization Christian Kopff says in a letter to Dean Gleeson, urging Gleeson to reconsider his decision to fire Mitchell, “The negative evaluations in Phil’s dossier consist of versions of what appears to be the same letter. . . .” Here, as elsewhere, the plausible explanation is Mitchell's: He embarrassed them by speaking out.

We find that the University of Colorado committed the following violations of the Laws of Regents protections of academic freedom, in terminating Phil Mitchell:

9. 5.D.1.(B): "For this purpose, 'academic freedom' is defined as the freedom to inquire, discover, publish and teach truth as the faculty member sees it, subject to no control or authority save the control and authority of the rational methods by which truth is established."
10. 5.D.1.(C): "Within the bounds of this definition, academic freedom requires that members of the faculty must have complete freedom to study, to learn, to do research, and to communicate the results of these pursuits to others. The students likewise must have freedom of study and discussion. The fullest exposure to conflicting opinions is the best insurance against error."
11. 5.D.1.(E): "All members of the academic community have a responsibility to protect the university as a forum for the free expression of ideas."
12. 5.D.2.(A): "Faculty members have the responsibility to maintain competence, exert themselves to the limit of their intellectual capacities in scholarship, research, writing, and speaking; and to act on and off the campus with integrity and in accordance with the highest standards of their profession. While they fulfill this responsibility, their efforts should not be subjected to direct or indirect pressures or interference from within the university, and the university will resist to the utmost such pressures or interference when exerted from without."
13. 5.D.2.(B): "Faculty members can meet their responsibilities only when they have confidence that their work will be judged on its merits alone. For this reason the appointment, reappointment, promotion, and tenure of faculty members should be based primarily on the individual's ability in teaching, research/creative work, and service and should not be influenced by such extrinsic considerations as political, social, or religious views, or views concerning departmental or university

operation or administration. A disciplinary action against a faculty member, including dismissal for cause of faculty, should not be influenced by such extrinsic consideration."

CONCLUSION A TWO-TIERED SYSTEM: AN IMPROPER CULTURE

Why would they do it?

- Why would Ann Carlos betray her profession by manipulating and distorting documentation to create the obviously false impression that Mitchell had a “history of negative peer reviews” dating back to 2002?
- Why would Carlos misrepresent documents that she wrote herself, as well as Mitchell’s syllabi, to construct a similarly spurious case that Mitchell “completely ignored” course objectives?
- Why would Carlos urge Mitchell’s termination for constructing syllabi beneath college standards, when according to the authority she cites the primary purpose of college syllabi is to create the classroom environment that by all accounts Mitchell accomplishes consistently?
- Why, in condemning Mitchell, would Carlos enlist the support of Zeiler and Boag, both of whom offer, by the standards Carlos articulates, syllabi arguably inferior to Mitchell’s?
- Why would Boag, Kenney, and Carlos conspire to fire a fine teacher and honorable colleague by writing scathing peer reviews that, as Christian Kopff observes, appear to be versions of the same letter?
- Why would the History Department, under Boag’s chairmanship, take it upon themselves to initiate a search for homophobic statements made by Mitchell over at least the last 15 years—a search, by the way, that proffered zero results?
- Why would the administration sign off on Mitchell’s termination if the process was as conspicuously corrupted as we have depicted here?

Just as there may be no single objective "truth," there is no single explanation that might thoroughly account for a particular event. Human motivation, as ever, is multi-determined. As we noted earlier in this report, it is unlikely that Boag, Carlos, or Kenney would admit that they acted out of animus toward Mitchell’s conservative political and religious beliefs, or necessarily be aware that they harbor such a bias. It is similarly unlikely that Gleeson or Peterson would publicly acknowledge that they fired Mitchell because they considered his speaking out to be “extremely detrimental” to the University, though the available evidence clearly points in that direction. Still, it is notable that of all

the actors critical of Mitchell, only Anderson voiced the possibility that in faulting Mitchell's pedagogy he might be "reaching into questions of academic freedom." We doubt that Carlos, Kenney, Boag, Zeiler or Gleeson are unappreciative of academic freedom, unaware of the central role academic freedom plays in the survival of democracy, or that they otherwise consider it an outmoded abstraction. It is certainly difficult to fathom that Kenney, for example, as a student of Eastern European history, or Boag, as a scholar in the field of gay and lesbian studies, are indifferent to the primacy of academic freedom.

There is at the University of Colorado an improper culture. There is a two-tiered faculty system: faculty who are tenured or on a tenure-track, and who therefore enjoy (or who may one day enjoy) academic freedom protected by meaningful due process; and then there is the majority of the faculty, who are not on a tenure track, who serve at-will, who can be fired at any time for any reason or for no reason at all. This precarious employment circumstance provides these faculty with overwhelming incentive to keep quiet and not challenge the status quo, even if they perceive such challenges as in the interest of society.

There is, however, another consequence to the two-tiered system at the University of Colorado: when one tier of the faculty is treated as second-class by the administration, they will inevitably be perceived as second-class by the some in the other tier. Thus, at the University of Colorado, many tenured faculty consider the majority of the faculty to be not-quite-colleagues. They consider them to be "backfill," as Ann Carlos's colleague Nicholas Flores of Economics referred to non-tenure track faculty during a meeting of the Boulder Faculty Assembly, May 3, 2007.¹³ As Peter Boag told the *Silver and Gold Record* in 2005, there is a "pool of instructors that the unit draws on when they need teaching assistance."¹⁴ If you are merely one of a pool, whose function is to provide assistance, if you are merely backfill, it is difficult to credit you with having the identical rights to academic freedom as, say, Peter Boag. Evidence of this improper culture is reflected in what is in Phil Mitchell's file and in what is missing from his file. It does not appear to have occurred to Carlos, Boag, or Kenney that Mitchell, who has taught more classes at the University level than all of them combined, might have some idea of what he is doing in the classroom. It is difficult to imagine their voicing similar criticisms about each other's teaching.

Still, this improper culture at the University of Colorado may not be entirely the result of indifference on the part of many tenured faculty toward the academic freedom of most of their colleagues, so much as ignorance. Unless Carlos, Boag, and Kenny happen to have read clauses 5.D.1 and 5.D.2 of the Laws of the Regents, they may be unaware that Mitchell, though untenured, has the same rights to academic freedom that they enjoy as tenured faculty; that therefore his function in a university classroom is not merely to serve as their employee. Why would Carlos, Boag and Kenney conspire to deprive Mitchell of his academic freedom? They may be unaware that he has any.

Until the administration of the University of Colorado demonstrates a pattern of respecting the laws and published policies of the University regarding rights to due

process and academic freedom for all of its faculty, this improper culture will continue. Unless efforts are made by the administration to educate tenured faculty on the rights of their non-tenured colleagues, and to demonstrate that these rights are a matter of practice, eventually the improper culture will metastasize. Tenured faculty and administrators will continue to retaliate against non-tenured faculty whose opinions they find inconvenient. And as the majority of the faculty increasingly becomes aware both of their published rights and of the unwillingness of the administration to protect these rights, relations between the administration and the majority of the faculty will inevitably deteriorate. It is difficult to imagine that the administration might reasonably view this predictable state of affairs as being in the best interest of the University.

Submitted by:
Don Eron, Treasurer, AAUP-CU Chapter
Suzanne Hudson, Secretary, AAUP-CU Chapter

ATTACHMENT 1

PHIL MITCHELL'S TEACHING AWARDS

- The Marinus Smith Teacher Recognition Award presented by the Parents Association, University of Colorado, Boulder. Professors are nominated for making an outstanding contribution to the life of students at the University. 2006.
- Residence Life Academic Teaching Award, Department of Housing and the Committee on Learning and Academic Support Services, University of Colorado, Boulder. Spring 2006.
- Residence Life Academic Teaching Award, Department of Housing and the Committee on Learning and Academic Support Services, University of Colorado, Boulder. Spring 2003.
- Residence Life Academic Teaching Award, Department of Housing and the Committee on Learning and Academic Support Services, University of Colorado, Boulder. Fall 2002.
- Residence Life Academic Teaching Award, Department of Housing and the Committee on Learning and Academic Support Services, University of Colorado, Boulder. Spring 2002.
- Certificate of Appreciation, Contribution to Students of Color, McNeill Program, University of Colorado, Boulder. 2001.
- Excellence in Teaching Award, Department of Housing, University of Colorado, Boulder. 2001
- Teaching Recognition Award, Student Organization for Alumni Relations, University of Colorado, Boulder. 1998.
- GPTI Teaching Excellence Award, University of Colorado, Boulder, 1987.

ATTACHMENT 2

FACULTY COURSE QUESTIONNAIRES

Phil Mitchell's claim that his FCQ's are superior to those of any member of the History faculty is substantiated by the following comparison. Not every member of the History faculty is included in the comparison, but the highest and the lowest faculty FCQs in the History Department and Sewall RAP are included.

Course #	Term	Instructor	#ENR	#RET	CRSE	INST	FAIR	ACES	WORK	DIVS	ISSU	TITLE
CAMW-2001-714	Fal03	MITCHELL, PHIL	18	14	A+	A+	A	A+	5.3	A+	B+	THE AMERICAN WEST
HIST-2746-300	Fal03	MITCHELL, PHILIP	17	14	A	A+	A+	A	4.9	A	A	CHRISTIANITY/AMER HIST
HIST-1020-710	Spr06	MITCHELL, PHILIP	20	20	A-	A	A	B+	5.3	A-	B+	W CIV 2-16C TO PRESENT GT-HI1
HIST-1025-300	Spr06	MITCHELL, PHILIP	47	36	A-	A	A	A-	5.1	A+	A+	HIST OF US SINCE 1865 GT-HI1
HIST-1025-730	Spr06	MITCHELL, PHILIP	22	19	A	A	A+	A+	4.9	A+	A+	HIST OF US SINCE 1865 GT-HI1
HIST-2180-710	Spr06	MITCHELL, PHILIP	20	14	A-	A	A+	A	5.1	A+	A+	HIST OF CHRISTIANITY 2
HIST-1010-710	Fal05	MITCHELL, PHILIP	18	17	A	A+	A+	A	5.1	A+	A+	W CIV 1-ANTIQUITY TO 16C GT-HI
HIST-1010-750	Fal05	MITCHELL, PHILIP	21	20	A	A+	A	A+	5.1	A+	A+	W CIV 1-ANTIQUITY TO 16C GT-HI
HIST-1010-790	Fal05	MITCHELL, PHILIP	20	18	A+	A+	A+	A	5.1	A+	A	W CIV 1-ANTIQUITY TO 16C GT-HI
HIST-1015-200	Fal05	MITCHELL, PHILIP	25	21	A-	A	A	B+	5.5	A	A	HIST OF US TO 1865 GT-HI1

Mitchell's FCQ's for the period fall 1988-spring 2005 are attached.

FCQ'S OF HISTORY FACULTY FOR COMPARISON:

Course #	Term	Instructor	#ENR	#RET	CRSE	INST	FAIR	ACES	WORK	DIVS	ISSU	TITLE
HIST-6556-801	Spr06	BOAG, PETER	10	8	B	B+	B	A	5.8	A+	A+	U.S. DEPRESSION & WWII
HIST-4636-001	Fal05	BOAG, PETER	41	34	A-	A	A-	A	5.8	A+	A+	LESBIAN AND GAY HISTORY
HIST-5106-801	Spr05	BOAG, PETER	16	15	B	B+	B+	A	5.6	A+	A+	COLLOQ-US SINCE 1865
HIST-4636-001	Fal04	BOAG, PETER	45	38	A-	A-	A-	A-	5.9	A	A	LESBIAN AND GAY HISTORY
HIST-4227-001	Spr04	BOAG, PETER	48	36	B	B	A-	B+	6.8	A+	A	AMERICAN WEST-TWENTIETH
HIST-5106-801	Spr04	BOAG, PETER	9	9	B	B	B	B+	6.1	A	A	COLLOQ-US SINCE 1865
HIST-1025-001	Fal03	BOAG, PETER	133	70	B	B+	B	B+	4.8	A	A	HIST OF US SINCE 1865
HIST-2227-001	Fal03	BOAG, PETER	48	29	B-	B	B	B+	5.8	A	A	HIST OF AMER SOUTHWEST
HIST-7257-801	Fal03	BOAG, PETER	11	10	B+	A-	A	A-	5.0	A+	A-	SEM-HIST AMER FRONTIER
HIST-4233-001	Spr06	HANNA, MARTHA	43	22	B+	A	A	A+	5.7	A	A	HIST/FRANCE SINCE 1815
HIST-7052-801	Spr06	HANNA, MARTHA	9	7	A+	A+	A+	A+	5.1	A+	A	SEM-MOD EUROPE HISTORY
HIST-4020-100	Fal05	HANNA, MARTHA	74	45	B+	A-	B+	A	5.6	A+	A+	TPC-COMPARATV REVOLUTION
HIST-4020-102	Fal05	HANNA, MARTHA	37	33	B	B+	A-	A	5.2	A+	A	REC
HIST-5012-801	Fal05	HANNA, MARTHA	12	12	A	A+	A	A+	5.7	A+	A+	GRAD COLLOQ IN EUR HIST
HIST-1020-100	Spr05	HANNA, MARTHA	264	125	B+	A	A	A	5.2	A+	A	W CIV 2-16C TO PRESENT
HIST-6012-801	Spr05	HANNA, MARTHA	7	7	A+	A+	A+	A+	5.1	A+	A+	RDGS-MODERN EURO HISTORY
HIST-4623-100	Sum05	KENNEY, PADRAIC	31	17	B+	A	A	A	6.5	A+	A	HIST/E. EUROPE SINC 1914
HIST-4442-001	Spr05	KENNEY, PADRAIC	34	28	B	B+	B	A-	6.4	A	B+	EUROPE SINCE 1945
HIST-3010-801	Fal04	KENNEY, PADRAIC	18	14	A	A	B+	A+	6.9	A+	A+	COMMUNIST SOCIETIES
HIST-6012-802	Fal04	KENNEY, PADRAIC	14	13	A	A	B-	A	6.9	A+	A	RDGS-MODERN EURO HISTORY
HIST-4442-100	Sum04	KENNEY, PADRAIC	31	27	B-	B-	C	B	7.1	A	B+	EUROPE SINCE 1945
HIST-4623-001	Spr04	KENNEY, PADRAIC	50	34	A-	A	B	A+	6.9	A+	A+	HIST/E. EUROPE SINC 1914
HIST-5012-802	Spr04	KENNEY, PADRAIC	5	5	B+	A	A	A+	5.4	A+	A	GRAD COLLOQ IN EUR HIST
HIST-2100-002	Fal03	KENNEY, PADRAIC	65	49	B	B	B	A	6.1	A	A-	REVOLUTION IN HISTORY
IAFS-4500-803	Spr05	KENNEY, PADRAIC	29	27	B	A-	B	A	7.1	A+	A	THE POST-COLD WAR WORLD

Course #	Term	Instructor	#ENR	#RET	CRSE	INST	FAIR	ACES	WORK	DIVS	ISSU	TITLE
CAMW-2001-001	Fal04	LIMERICK, PATRICIA	36	33	B+	A-	B+	A	6.3	A+	A	THE AMERICAN WEST
CAMW-2001-001	Fal03	LIMERICK, PATRICIA	38	38	B	B	B	B+	6.3	A	A	THE AMERICAN WEST
HIST-3317-801	Spr06	LIMERICK, PATRICIA	19	19	A	A	A	A+	5.5	A+	A	SEM-AMERICAN WEST
HIST-6317-802	Spr05	LIMERICK, PATRICIA	6	5	A+	A+	A+	B+	5.0	A+	A+	READINGS
HIST-1010-002	Spr06	GERBER, MATTHEW	94	58	C	C+	B	B	6.2	A	A-	W CIV 1-ANTIQUITY TO 16C GT-HI
HIST-4020-001	Spr06	GERBER, MATTHEW	65	51	B	B	B+	B+	5.3	A	A	TPC-COMPARATV REVOLUTION
HIST-4212-001	Spr05	GERBER, MATTHEW	44	24	B+	B+	A-	B	5.4	A+	A-	EARLY MOD EUR:1500-1789
HIST-5012-801	Spr05	GERBER, MATTHEW	11	9	B-	B+	A+	B	5.8	A+	B+	GRAD COLLOQ IN EUR HIST
HIST-1010-100	Fal04	GERBER, MATTHEW	241	193	C	C	B-	B	7.0	A-	A-	W CIV 1-ANTIQUITY TO 16C
HIST-4212-001	Fal04	GERBER, MATTHEW	47	29	B	A-	A	A	5.8	A+	A	EARLY MOD EUR:1500-1789
HIST-2112-200	Sum04	GERBER, MATTHEW	12	10	B-	B-	A-	B	6.2	A+	A-	EARLY MODERN SOCIETIES
HIST-2100-001	Spr04	GERBER, MATTHEW	69	40	B-	B	A-	B+	5.6	A+	B+	REVOLUTION IN HISTORY
HIST-5014-802	Spr04	GERBER, MATTHEW	4	4	B	B	A+	A	5.3	A+	A	LAW/LEGAL HIST E MOD EUR
HIST-1010-030	Fal03	GERBER, MATTHEW	60	51	C+	B-	B	B+	6.3	A	A-	W CIV 1-ANTIQUITY TO 16C
HIST-4212-001	Fal03	GERBER, MATTHEW	48	37	B	B+	B+	B	5.6	A+	A	EARLY MOD EUR:1500-1789
HIST-1010-001	Spr06	LESTER, ANNE	89	42	C+	B	B-	A	6.9	A+	A	W CIV 1-ANTIQUITY TO 16C GT-HI
HIST-3511-801	Spr06	LESTER, ANNE	17	17	A	A+	A	A+	6.8	A+	A+	SEMINAR/MEDIEVAL HISTORY
HIST-2543-001	Fal05	LESTER, ANNE	51	31	C+	B	B	A	6.6	A+	A-	MEDIEVAL SOCIETIES
HIST-4521-001	Fal05	LESTER, ANNE	40	19	B	B+	B+	A-	6.4	A	A	EUROPE IN HIGH MIDL AGES
HIST-2437-001	Sum06	LOVE, ERIC	37	23	C+	C+	C	B-	4.8	B+	A-	AFRICAN AMERICAN HISTORY
HIST-4235-200	Sum06	LOVE, ERIC	20	7	D-	D	D	D	4.4	B	B	JACKSONIAN AMERICA
HIST-4235-001	Spr06	LOVE, ERIC	45	28	C	C	C	B-	5.6	B+	B+	JACKSONIAN AMERICA
HIST-3516-802	Fal05	LOVE, ERIC	17	16	B	B+	A-	B	6.3	A	A	AMERICAN CULT & REFORM
HIST-6427-801	Fal05	LOVE, ERIC	3	3	A+	A	A+	A+	4.7	A+	A+	READNG AFRICAN AMER HIST
HIST-2437-001	Sum05	LOVE, ERIC	31	20	B	B+	B	B+	5.1	A+	A	AFRICAN AMERICAN HISTORY
HIST-2437-001	Spr05	LOVE, ERIC	33	16	C-	C-	D	B	5.6	A	A	AFRICAN AMERICAN HISTORY
HIST-4016-001	Spr05	LOVE, ERIC	39	28	B	B	C	B	5.4	A+	A+	AFRICAN AMERICAN HISTORY
HIST-4235-001	Spr05	LOVE, ERIC	46	15	C+	C	C-	B	5.8	A	A-	JACKSONIAN AMERICA
HIST-2437-001	Fal04	LOVE, ERIC	130	95	B	B	B	B	4.8	A	A	AFRICAN AMERICAN HISTORY
HIST-3417-801	Fal04	LOVE, ERIC	17	11	A-	A	A	B-	5.6	A+	A+	SEMINAR/AFRICAN-AM HIST
HIST-4235-200	Sum04	LOVE, ERIC	45	27	B	B	B	B	5.5	A	A	JACKSONIAN AMERICA
HIST-2437-001	Fal03	LOVE, ERIC	88	67	B	B-	B-	C+	5.2	A	A	AFRICAN AMERICAN HISTORY
HIST-4016-001	Fal03	LOVE, ERIC	60	43	C+	B-	B	B-	5.9	A	A+	AFRICAN AMERICAN HISTORY
HIST-3328-801	Spr06	WILLIS, JOHN	14	13	B	B	B+	A+	5.7	A+	A+	SEMINAR/MIDDLE EAST HIST
HIST-4368-001	Spr06	WILLIS, JOHN	39	23	B	B+	B+	A-	6.1	A+	A-	HIST SOC MODERN ARABIA
HIST-1308-001	Fal05	WILLIS, JOHN	103	52	C+	B-	B	B+	5.6	A+	A	INTRO MIDDLE EAST HIST
HIST-4328-001	Fal05	WILLIS, JOHN	42	23	B-	B-	B+	A-	5.3	A	B+	MODERN MIDDLE EAST 1600 TO THE

FCQ'S OF SEWALL FACULTY FOR COMPARISON

Course #	Term	Instructor	#ENR	#RET	CRSE	INST	FAIR	ACES	WORK	DIVS	ISSU	TITLE
ECON-4339-801	Spr06	CARLOS, ANN	12	9	A	A	A+	A+	6.7	A+	A+	ECONOMICS HONORS SEM 2
ECON-4514-001	Spr06	CARLOS, ANN	47	34	B	B+	B+	A-	5.4	A	A	ECONOMIC HISTORY-EUROPE
ECON-8764-001	Spr06	CARLOS, ANN	8	5	C+	B+	B	B+	6.4	A+	B	HISTORY ECON DEVELOPMENT
ECON-4514-001	Fal05	CARLOS, ANN	45	29	B	A-	B+	A-	5.3	A+	A+	ECONOMIC HISTORY-EUROPE
ECON-4524-002	Fal05	CARLOS, ANN	43	28	B	B+	B	A-	5.0	A+	A	ECONOMIC HISTORY OF U.S.
ECON-4339-801	Spr05	CARLOS, ANN	14	14	A	A+	A	A+	6.4	A+		ECONOMICS HONORS SEM 2
ECON-4514-001	Spr05	CARLOS, ANN	38	27	B	B	B	A-	5.2	A+	A	ECONOMIC HISTORY-EUROPE
ECON-4514-001	Fal04	CARLOS, ANN	47	25	B	A	A-	A	5.1	A+	A+	ECONOMIC HISTORY-EUROPE
ECON-4524-001	Fal04	CARLOS, ANN	45	26	B	A-	B	A	4.9	A+	A+	ECONOMIC HISTORY OF U.S.
CAMW-2001-712	Spr06	AIKEN, ELLEN	13	12	C-	C	B	A-	6.8	A	A	THE AMERICAN WEST
CAMW-2001-713	Fal05	AIKEN, ELLEN	18	17	C+	B	B+	A	5.9	A+	A	THE AMERICAN WEST
CAMW-2001-714	Fal05	AIKEN, ELLEN	18	16	B	B	A-	A-	5.8	A+	A	THE AMERICAN WEST

Course #	Term	Instructor	#ENR	#RET	CRSE	INST	FAIR	ACES	WORK	DIVS	ISSU	TITLE
CAMW-2001-714	Spr05	AIKEN, ELLEN	9	9	B	B	B	A	6.0	B+	B+	THE AMERICAN WEST
CAMW-2001-713	Fal04	AIKEN, ELLEN	18	18	B-	B	B+	A	6.2	A+	A-	THE AMERICAN WEST
CAMW-2001-714	Fal04	AIKEN, ELLEN	18	16	B	A	A-	A	5.6	A+	A	THE AMERICAN WEST
CAMW-2001-710	Spr04	AIKEN, ELLEN	6	6	B	B	B-	A	7.0	A+	A+	THE AMERICAN WEST
CAMW-2001-711	Spr04	AIKEN, ELLEN	15	13	B	B	A	A+	5.2	A+	A+	THE AMERICAN WEST
CAMW-2001-710	Fal03	AIKEN, ELLEN	18	16	B	B	A	B+	5.9	A+	A	THE AMERICAN WEST
CAMW-2001-711	Fal03	AIKEN, ELLEN	19	17	C	B-	B	A-	6.2	A-	B+	THE AMERICAN WEST
CAMW-2001-712	Fal03	AIKEN, ELLEN	17	14	B	B+	A	A	5.5	A+	A	THE AMERICAN WEST
HIST-2117-001	Spr06	AIKEN, ELLEN	47	37	B	B	B	B+	5.4	A	A-	HISTORY OF COLORADO
HIST-2626-710	Spr06	AIKEN, ELLEN	19	19	C+	C+	B+	A	5.5	A+	A	GENDER AND CULTURE
HIST-2117-001	Fal05	AIKEN, ELLEN	50	33	B-	B-	B	B	6.1	A	A	HISTORY OF COLORADO
HIST-2626-710	Spr05	AIKEN, ELLEN	19	16	C	C+	C+	A	5.6	A	A	GENDER AND CULTURE
HIST-2626-710	Spr04	AIKEN, ELLEN	18	17	B	B+	A-	A+	5.2	A+	A+	GENDER AND CULTURE
SEWL-2020-710	Spr06	AIKEN, ELLEN	175									EXPLORING THE NEW WEST
SEWL-2020-710	Spr05	AIKEN, ELLEN	15									CONVERS ON AMERICAN WEST
SEWL-2020-711	Spr05	AIKEN, ELLEN	18									CONVERS ON AMERICAN WEST
SEWL-2020-712	Spr05	AIKEN, ELLEN	13									CONVERS ON AMERICAN WEST
SEWL-2020-713	Spr05	AIKEN, ELLEN	6									CONVERS ON AMERICAN WEST
SEWL-2020-714	Spr05	AIKEN, ELLEN	9									CONVERS ON AMERICAN WEST
SEWL-2020-715	Spr05	AIKEN, ELLEN	17									CONVERS ON AMERICAN WEST
SEWL-2020-716	Spr05	AIKEN, ELLEN	16									CONVERS ON AMERICAN WEST
SEWL-2020-717	Spr05	AIKEN, ELLEN	15									CONVERS ON AMERICAN WEST
SEWL-2020-718	Spr05	AIKEN, ELLEN	14									CONVERS ON AMERICAN WEST
WRWG-1150-038	Fal04	DOERSCH, C	17	17	B	B	B	A-	6.6	A	A-	1ST YR WRITING/RHETORIC GT-CO1
WRWG-1150-088	Fal04	DOERSCH, C	18	13	B-	B	B-	B+	6.6	A+	A	1ST YR WRITING/RHETORIC GT-CO1
WRWG-1150-106	Fal04	DOERSCH, C	12	9	A	A	B	A	6.1	A+	A	1ST YR WRITING/RHETORIC GT-CO1
WRWG-3020-200	Sum06	DOERSCH, CHARLES	15	10	B+	A-	B	A	5.2	A+	A+	QUEER RHETORICS
WRWG-1150-711	Spr06	DOERSCH, CHARLES	16	15	B	B+	B	A	6.5	A	A	1ST YR WRITING/RHETORIC GT-CO1
WRWG-1150-712	Spr06	DOERSCH, CHARLES	16	16	A+	A	A	A	5.9	A+	A	1ST YR WRITING/RHETORIC GT-CO1
WRWG-3020-030	Spr06	DOERSCH, CHARLES	18	14	C	C	B-	A	4.9	B	B	QUEER RHETORICS
WRWG-1150-036	Fal05	DOERSCH, CHARLES	18	12	B	B	B	B	6.2	B+	B+	1ST YR WRITING/RHETORIC GT-CO1
WRWG-1150-710	Fal05	DOERSCH, CHARLES	17	13	D+	D+	C-	B	6.5	C+	C+	1ST YR WRITING/RHETORIC GT-CO1
WRWG-1150-711	Fal05	DOERSCH, CHARLES	18	14	B-	A-	B-	A-	6.9	A+	A-	1ST YR WRITING/RHETORIC GT-CO1
WRWG-1150-712	Fal05	DOERSCH, CHARLES	16	12	B-	B	B	B+	7.5	B+	B	1ST YR WRITING/RHETORIC GT-CO1
WRWG-3020-203	Sum05	DOERSCH, CHARLES	15	12	A	A	B+	A	5.7	A+	A+	SPIRITUALITY: LIT/ART
WRWG-1150-003	Spr05	DOERSCH, CHARLES	17	15	B	B	B	A-	7.1	A		1ST YR WRITING/RHETORIC GT-CO1
WRWG-1150-006	Spr05	DOERSCH, CHARLES	17	12	C	B	C	A-	7.5	A		1ST YR WRITING/RHETORIC GT-CO1
WRWG-1150-030	Spr05	DOERSCH, CHARLES	17	14	C+	B	C+	A-	7.9	A	A	1ST YR WRITING/RHETORIC GT-CO1
HIST-1015-100	Sum06	FUNK, MERLE	29	13	C	B	B-	B+	7.0	A+	A-	HIST OF US TO 1865 GT-HI1
HIST-1025-710	Spr06	FUNK, MERLE	18	16	B	A	A	A	5.3	A+	A+	HIST OF US SINCE 1865 GT-HI1
HIST-2126-710	Spr06	FUNK, MERLE	20	14	B	A-	B+	B+	6.1	A+	A+	MODERN U.S. POL/DIPLOM
HIST-2316-001	Spr06	FUNK, MERLE	52	21	C+	B	A-	B+	5.0	A+	A	AMERICAN POPULAR CULTURE
HIST-2326-001	Spr06	FUNK, MERLE	60	40	B	B+	B	A-	5.1	A+	A+	ISSUES IN AMER THOUGHT
HIST-2326-300	Spr06	FUNK, MERLE	19	16	B+	A	A	A-	5.6	A+	A+	ISSUES IN AMER THOUGHT
HIST-1015-030	Fal05	FUNK, MERLE	122	50	C+	B	B	B	6.0	A	A	HIST OF US TO 1865 GT-HI1
HIST-1025-004	Fal05	FUNK, MERLE	46	29	B	B	B	A-	5.3	A	A	HIST OF US SINCE 1865 GT-HI1
HIST-1025-710	Fal05	FUNK, MERLE	18	15	B	A-	A	A	5.3	A+	A	HIST OF US SINCE 1865 GT-HI1
HIST-2326-002	Fal05	FUNK, MERLE	59	39	B+	B+	A-	A-	5.2	A+	A	ISSUES IN AMER THOUGHT
HIST-2100-300	Sum05	FUNK, MERLE	8	8	A-	A	A+	A+	5.3	A+	A+	REVOLUTION IN HISTORY
HIST-1025-710	Spr05	FUNK, MERLE	17	13	B	B+	A	A	5.5	A	A	HIST OF US SINCE 1865
HIST-1025-711	Spr05	FUNK, MERLE	14	11	B	A-	A	A	5.6	A+	A+	HIST OF US SINCE 1865

Course #	Term	Instructor	#ENR	#RET	CRSE	INST	FAIR	ACES	WORK	DIVS	ISSU	TITLE	
HIST-2126-001	Spr05	FUNK, MERLE	59	32	B	B	A-	B	5.3	A+	A	MODERN U.S. POL/DIPLOM	
HIST-2227-001	Spr05	FUNK, MERLE	50	31	C+	C+	B	B-	6.0	A	A	HIST OF AMER SOUTHWEST	
HIST-2326-003	Spr05	FUNK, MERLE	74	55	B	B	B-	B+	5.1	A	A	ISSUES IN AMER THOUGHT	
HIST-2326-300	Spr05	FUNK, MERLE	19	12	A	A+	A+	A	5.3	A+	A+	ISSUES IN AMER THOUGHT	
HIST-1025-300	Fal04	FUNK, MERLE	30	24	B	B+	A	B	5.4	A+	A	HIST OF US SINCE 1865	
HIST-1025-710	Fal04	FUNK, MERLE	17	17	B	B	A	B	5.4	A+	A	HIST OF US SINCE 1865	
HIST-2126-001	Fal04	FUNK, MERLE	94	72	C+	B-	B-	B	5.6	A	A	MODERN U.S. POL/DIPLOM	
HIST-2126-300	Fal04	FUNK, MERLE	28	19	B	B	A+	A	5.3	A+	A+	MODERN U.S. POL/DIPLOM	
HIST-2227-001	Fal04	FUNK, MERLE	49	32	C	C	B+	C+	5.0	A+	A-	HIST OF AMER SOUTHWEST	
HIST-2326-002	Fal04	FUNK, MERLE	73	57	B+	B+	A-	A-	5.1	A+	A	ISSUES IN AMER THOUGHT	
HIST-1015-100	Sum04	FUNK, MERLE	48	31	B	B	B	B+	6.0	A	A	HIST OF US TO 1865 GT-HI1	
HIST-2316-100	Sum04	FUNK, MERLE	9	7	A+	A+	A+	A+	5.0	A+	A+	AMERICAN POPULAR CULTURE	
HIST-1025-300	Spr04	FUNK, MERLE	31	22	B	B+	A	B+	5.4	A+	A	HIST OF US SINCE 1865	
HIST-1025-710	Spr04	FUNK, MERLE	14	Forms requested but not returned									HIST OF US SINCE 1865
HIST-1025-711	Spr04	FUNK, MERLE	19	14	A-	A	A+	A	5.1	A+	A	HIST OF US SINCE 1865	
HIST-2326-300	Spr04	FUNK, MERLE	36	26	A+	A+	A+	A+	4.9	A+	A+	ISSUES IN AMER THOUGHT	
HIST-2746-001	Spr04	FUNK, MERLE	53	41	B	B+	A	A-	5.6	A+	A	CHRISTIANITY/AMER HIST	
HIST-4235-001	Spr04	FUNK, MERLE	57	43	C+	B-	A	A-	5.5	A+	A	JACKSONIAN AMERICA	
HIST-1015-100	Fal03	FUNK, MERLE	24	20	A	A	A+	A	5.7	A+	A	HIST OF US TO 1865 GT-HI1	
HIST-1025-200	Fal03	FUNK, MERLE	31	Forms requested but not returned									HIST OF US SINCE 1865
HIST-1025-710	Fal03	FUNK, MERLE	19	19	B	A	A+	A	5.3	A+	A	HIST OF US SINCE 1865	
HIST-1025-711	Fal03	FUNK, MERLE	18	17	B	B	A	A	5.1	A+	A	HIST OF US SINCE 1865	
HIST-2126-002	Fal03	FUNK, MERLE	110	75	B	B+	A	B	5.1	A+	A	MODERN U.S. POL/DIPLOM	
HIST-2316-002	Fal03	FUNK, MERLE	76	58	B-	B	A-	B	5.2	A+	A	AMERICAN POPULAR CULTURE	
HIST-2326-001	Fal03	FUNK, MERLE	71	48	A-	A	A	A	5.3	A	A	ISSUES IN AMER THOUGHT	
HIST-1015-710	Spr06	HELM, RUTH	14	14	A-	A	B+	A+	5.0	A+	A+	HIST OF US TO 1865 GT-HI1	
HIST-2215-710	Spr06	HELM, RUTH	15	13	A	A+	A+	A+	4.9	A+	A+	THE AMERICAN REVOLUTION	
HIST-1015-710	Fal05	HELM, RUTH	15	14	B+	A-	A	A	4.9	A+	A	HIST OF US TO 1865 GT-HI1	
HIST-2215-710	Fal05	HELM, RUTH	15	11	A+	A+	A	A+	4.9	A+	A+	THE AMERICAN REVOLUTION	
HIST-1015-710	Spr05	HELM, RUTH	17	15	B	B+	B	A+	4.9	A+	A+	HIST OF US TO 1865 GT-HI1	
HIST-2215-710	Spr05	HELM, RUTH	15	10	B+	A	A	A+	4.9	A+	A	THE AMERICAN REVOLUTION	
HIST-1015-710	Fal04	HELM, RUTH	15	15	B+	A	A	A+	4.7	A+	A	HIST OF US TO 1865 GT-HI1	
HIST-2215-710	Fal04	HELM, RUTH	15	15	A	A+	B+	A+	4.9	A+	A	THE AMERICAN REVOLUTION	
HIST-1015-710	Spr04	HELM, RUTH	12	10	B+	A-	A	A+	4.7	A+	A	HIST OF US TO 1865 GT-HI1	
HIST-1015-710	Fal03	HELM, RUTH	18	17	A-	A	A	A+	4.9	A+	A+	HIST OF US TO 1865 GT-HI1	

ATTACHMENT 3
MITCHELL'S PEER EVALUATIONS

ATTACHMENT 4
MITCHELL'S MERIT EVALUATIONS

ATTACHMENT 5

ANN CARLOS'S LETTER TO THE SEWALL RAP FACULTY
JUNE 14, 2006

ATTACHMENT 6

SEWALL RAP DIVERSITY REPORT:
EMAIL EXCHANGE

ATTACHMENT 7

MITCHELL'S REAPPOINTMENT FILE:
EMAIL EXCHANGE

ATTACHMENT 8

ANN CARLOS'S LETTER TO DEAN GLEESON
AND DEAN GLEESON'S RESPONSE

ATTACHMENT 9

MISSING PEER EVALUATION:
EMAIL EXCHANGE

ATTACHMENT 10

EMAIL FROM CAROL MIYAGASHIMA

ATTACHMENT 11
STUDENT LETTERS

ATTACHMENT 12

MITCHELL'S, ZEILER'S, AND BOAG'S SYLLABI

ATTACHMENT 13

CHRISTIAN KOPFF'S LETTER TO DEAN GLEESON
AND DEAN GLEESON'S RESPONSE

ATTACHMENT 14

PICK-A-PROF DATA

A COMPARISON OF GRADES GIVEN BY SEWALL FACULTY

<u>Faculty Name</u>	<u>Number and Type of Classes</u>	<u>Number of Students</u>	<u>Average GPA</u>
Ellen Aiken	10 HIST	287	2.97
Daniel Brigham	31 PWR	494	3.16
Randy DiDomenico	2 MCDB 12 EBIO	227 571	2.97 2.50
Charles Doersch	16 PWR	248	3.04
Tracy Ferrell	12 PWR 6 SPAN	191 80	3.19 2.63
Sue Fredericki	no data		
Merle Funk	47 HIST 2 RUSS 6 AMST	1,791 39 110	2.97 3.46 3.57
Ruth Helm	21 HIST 10 AMST	799 182	3.19 3.43
Peter Kratzke	29 PWR	472	3.28
Chris Lewis	17 HIST	432	3.22
Mary Beth Lynch	no data		
Rebecca Mindock	no data		
Phil Mitchell	60 HIST	1370	3.12
George Moore	31 ENG 8 ARSC	640 1	3.21 3.13
Karen Ramirez	8 PWR 3 ENG	109 84	3.22 2.95
Richard Smith	34 HIST	1872	2.76

ENDNOTES

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- ³ Dodge, Jefferson. "Churchill's Attorney Calls for End to Investigation: Academic Freedom Issue Raised by 3rd Faculty Member." *Silver & Gold Record*. April 7, 2005.
<<https://www.cu.edu/sg/messages/4334.html>>.
- ⁴ *Ibid.*
- ⁵ *Ibid.*
- ⁶ *Ibid.*
- ⁷ Colorado Daily article quoting Bronson Hilliard.
- ⁸ *Mount Virtus*. <<http://bendegrow.com/?p=1137>>.
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- ¹⁰ Zinn, Howard. Letters to the Editor of the *New York Times Book Review*. 1 July 2007.
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- ¹¹ Harsanyi, David. "A CU Prof Deserving of Sympathy (Not Churchill!)." *Denver Post* 7 Mar. 2005.
<<http://www.freerepublic.com/focus/f-news/1357629/posts>>.
- ¹² Williams. *op cit.*
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- ¹⁴ Dodge. "Churchill's Attorney." *op cit.*