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Professor Amy Wax
1531 Amity Road
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Via Email and Overnight Mail

Dear Professor Wax,

As set forth in the Faculty Handbook, I write to provide you with a written description of the charges I intend to file with the Faculty Senate if we are unable to reach a mutually agreed resolution of the issues presented.

As you know, if a charging party believes that a major infraction of University standards has occurred, and no mutually acceptable resolution can be reached, the charging party then requests that the Chair of the Faculty Senate convene a Hearing Board. *Faculty Handbook Section II.E.16, Procedure Governing Sanctions Taken Against Members of the Faculty*. Once the composition of the Board is determined, the charging party sends a written statement outlining the grounds for complaint. If the Hearing Board concludes that the grounds might constitute just cause for the imposition of a major sanction, a hearing will be conducted.

I am initiating this disciplinary action because for several years and in multiple instances you have shown a callous and flagrant disregard for our University community—including students, faculty, and staff—who have been repeatedly subjected to your intentional and incessant racist, sexist, xenophobic, and homophobic statements and actions that inflict harm on them and undermine the core values of our University. Your statements, made in the classroom and on campus, other academic settings, and in public forums in which you were identified as a University of Pennsylvania professor, are antithetical to the University’s mission to foster a diverse and inclusive community and have led students and faculty to reasonably believe they will be subjected to discriminatory animus if they come into contact with you. That concern—entirely reasonable under the circumstances you have created—has led students to conclude that they cannot take your classes and faculty to call your presence “demoralizing and disruptive.”

Moreover, in public discussions about our students’ academic performance, you have disseminated false information about segments of our university community. In addition, you have exploited access to student’s confidential grade information in ostensible support of derogatory and inaccurate statements made about the characteristics, attitudes, and abilities of your students. As a result of your derogatory statements, students who have taken your classes

have expressed anxiety that they will be accused of being at the bottom of their class since the number of minority students in your classes is finite and easily identifiable. Your conduct threatens to cause a chilling effect on students who have chosen to forego enrollment in your classes due to a concern they will be treated more harshly and unfairly relative to their white peers. In addition, your conduct is antithetical to the university's core mission to attract a diverse student body to an inclusive educational environment.

In 2018, your conduct necessitated a prophylactic policy removing you from teaching required courses where students from marginalized groups would be subject to your evaluation without the ability to opt out, shifting a burden to your colleagues who had to compensate with an increased course load. Since then, you have continued to make increasingly vitriolic statements, knowingly rendering yourself unfit for teaching and mentorship of students. Your colleagues report that your conduct, which has included derogatory statements made directly to other faculty members, has led them to feel demoralized and demeaned.

Although the University values academic discretion, your decision to invite a renown white supremacist, Jared Taylor, to be the featured guest speaker in a regular meeting of your Law School course as part of our institutional curriculum, and to have lunch with your students who were expected to attend, crosses the line of what is acceptable in a university environment where principles of non-discrimination apply. Taylor's explicit racism, hate-speech and white supremacy contravenes Penn's express policies and mission and his white supremacist ideology has been associated closely with those perpetrating violence towards minorities in this country and others. In promoting this ideology yourself and bringing it into our curriculum, you have caused profound harm to our students and faculty, and your escalating pattern of behavior raises risks of increased harm and escalating damage going forward.

Our University appreciates divergent speech, values academic freedom, and believes in open debate, but while engaging in such wide-ranging discourse faculty members must adhere to basic norms of civil and professional behavior. You have repeatedly breached such minimum standards of civility and professionalism in recent years. While the policy of the University is to encourage freedom of inquiry and discourse, your conduct constitutes a major infraction of the University's behavioral standards outlined in the Faculty Handbook, including the following:

When speaking or writing as an individual, the teacher should be free from institutional censorship or discipline, but should note that ***a special position in the community imposes special obligations***. As a person of learning and a member of an educational institution, the teacher should remember that the public may judge the profession and the institution by his/her utterances. Hence the teacher should at all times ***show respect for the opinions of others***, and should indicate when he or she is not speaking for the institution. *Faculty Handbook Section II.A, Academic Freedom and Responsibility* (emphasis added).

The concomitant responsibility of faculty members, benefited and encouraged by the tenure system, is to ***use the opportunities thus provided for the advancement of the purposes of the University and of the communities it serves***. These purposes include teaching and scholarship. ***Members of the Standing Faculty are***

obliged to share in the teaching mission so that their students may advance in learning. They are also obliged to push forward the frontiers of knowledge through study and research. These activities go hand in hand, for scholarship is unavailing if its results are not communicated, and a lively stimulus to learn is best imparted by one who is adding to our store of knowledge. *Faculty Handbook Section II.C.1, Tenure System at the University of Pennsylvania* (emphasis added).

You have repeatedly used the platform you were granted when you became a professor at the University to disparage immigrants, people of color, and women, including our students, alumni, and faculty. Much of your public persona has become anti-intellectual: you rely on outdated science, make statements grounded in insufficiently supported generalizations, and trade on our University's reputation to amplify your baseless disdain for many members of our University community. The harm you cause when you repeatedly attack the inherent value of our community members is real. No member of our community should be made to feel like they do not belong, are unwelcome, or are incapable of achieving excellence because of who they are or whence they come. Your statements are a persistent reminder that racism, sexism, and xenophobia are not mere abstractions, but real and insidious beliefs.

Your escalating pattern of conduct raises serious questions as to whether you are fit to perform the requirements of your job, and your deliberate disregard for students, faculty, and the University as a whole constitutes a major infraction that warrants major sanctions. Accordingly, it is my responsibility as Dean to initiate the University procedure governing sanctions taken against a faculty member.

The following is a non-comprehensive list of the relevant standards for faculty conduct that you have breached:

1. **Teaching faculty must avoid exploitation, harassment, and discriminatory treatment of students and must avoid conducting themselves in a manner reasonably interpreted as creating a hostile or discriminatory classroom.**

The mission of the University of Pennsylvania is, in part, to “offer a world class education to our students, train future leaders of our country, expand and advance research and knowledge, [and] serve our community and society both at home and abroad.” *Principles of Responsible Conduct*. To fulfill this mission, the University has prioritized inclusion and diversity “as a central component” in creating an “educational and working environment that best supports the University’s commitment to excellence in teaching, research, and scholarship.” *University of Pennsylvania’s Equal Opportunity and Affirmative Action Policy*.

Accordingly, professors must adhere to a basic standard of ethical and responsible conduct by treating students even-handedly and without harassment or discrimination, including “discrimination on the basis of irrelevant characteristics.” *Faculty Handbook, II.E.10*; see also *Principles of Responsible Conduct, Principle Two*. This basic standard of professional competence is reiterated by the American Association of University Professors (“AAUP”) Statement of Professional Ethics, which sets forth “general standards that serve as a reminder of the variety of responsibility assumed by all members of the profession.” The AAUP states

professors must “avoid any exploitation, harassment, or discriminatory treatment of students.”
AAUP, Statement on Professional Ethics.

Examples of your discriminatory conduct in the classroom include, but are not limited to:

- Telling a student who asked whether you agreed with panelist John Derbyshire’s¹ statements that Black people are inherently inferior to white people that “you can have two plants that grow under the same conditions, and one will just grow higher than the other.”
- Telling a Black law school student that she “only got into Yale because of affirmative action.”
- Telling a student that Black students don’t perform as well as white students because they are less well prepared, and that they are less well prepared because of affirmative action.
- Emailing a Black student that “[i]f blacks really and sincerely wanted to be equal, they would make a lot of changes in their own conduct and communities.”
- Stating in class that people of color needed to stop acting entitled to remedies, to stop getting pregnant, to get better jobs, and to be more focused on reciprocity.
- Stating in class that Mexican men are more likely to assault women and remarking such a stereotype was accurate in the same way as “Germans are punctual.”
- Commenting in class that gay couples are not fit to raise children and making other references to LGBTQ people that a student reported evinced a “pattern of homophobia.”
- Inviting on campus Jared Taylor, one of the world’s most prominent white supremacists, for a mandatory lecture in your Penn Law course.² To prepare for this class, you assigned an interview with Enoch Powell, a man who is regarded even by those who support his other views as deeply racist on immigration, and who was ousted from his leadership role in the British Conservative party over fifty years ago for his inflammatory and racist public speeches, which today are influential among violent white supremacist groups and individuals worldwide.
- Commenting after a series of students with foreign-sounding names introduced themselves that one student was “finally, an American” adding “it’s a good thing, trust me.”
- Telling students invited into your home that “Hispanic people don’t seem to mind...liv[ing] somewhere where people are loud.”

¹ Derbyshire is widely regarded as a white supremacist who was fired by the National Review for making statements that were “indefensible.”
<https://www.nationalreview.com/corner/parting-ways-rich-lowry/>

² According to the Southern Poverty Law Center, “Taylor hosts the annual American Renaissance Conference, where racist intellectuals rub shoulders with Klansmen, neo-Nazis and other white supremacists” and edited the discontinued American Renaissance magazine, which “regularly published proponents of eugenics and blatant anti-black and anti-Latino racists.” As a result, Taylor was named an “extremist” by the Southern Poverty Law Center and the Anti-Defamation League. <https://www.splcenter.org/fighting-hate/extremist-files/individual/jared-taylor>; <https://www.adl.org/sites/default/files/documents/assets/pdf/combating-hate/jared-taylor-extremism-in-america.pdf>

Your in-class and on-campus statements, the way you conduct your classroom, and the extreme and exclusionary voices you have inserted into the Law School's curriculum have led minority students to report feeling "marginalized, isolated, unsupported, and unprioritized"³ and to reasonably conclude that your classroom is not an equal-opportunity learning environment.

2. Teaching faculty must evaluate each student's true merit.

The American Association of University Professors Statement of Professional Ethics holds that professors must "demonstrate respect for students as individuals" and "make every reasonable effort to foster honest academic conduct and to ensure their evaluations of students reflect each student's true merit." *AAUP, Statement on Professional Ethics*.

In addition to the statements you have made directly to students or in class, your public commentary espousing derogatory and hateful stereotypes has led students to reasonably conclude that you are unable to evaluate them fairly based on their individualized merit rather than on unmistakable biases you possess related to race, sex, national origin, and socioeconomic class. You have repeatedly made public bigoted statements against women, Black people, Asian people, and members of the LGBTQ community, including but not limited to:

- Stating, based on misleading citation of other sources, that "women, on average, are less knowledgeable than men," women are "less intellectual than men" and there is "some evidence" for the proposition that "men and women differ in cognitive ability."⁴
- Stating that "our country will be better off with more whites and fewer nonwhites."⁵
- Stating publicly that Blacks have "different average IQs" than non-Blacks, could "not be evenly distributed through all occupations," and that such a phenomenon would not be "due to racism."⁶
- Stating "some of them shouldn't" even go to college in reference to Black students who attend Penn Law and its peer schools.⁷
- Stating that Asians lack "thoughtful and audacious individualism" and that "the United States is better off with fewer Asians."⁸

³ Summer 2019 Statement: Re: Immigration Remarks from Penn Law Professor Amy Wax (<https://docs.google.com/forms/d/e/1FAIpQLSfbZe8jPHNzNB6J9113xS-kLtd2x59Nw97BZgAWZhTZ4EwIdQ/viewform?fbclid=IwAR03-nnDcijd5NS5H8WL1Ac-y1cuheuXDKWfn3Y1-DbcX41p5KLcAEZN-nI>)

⁴ <https://www.newyorker.com/news/q-and-a/a-penn-law-professor-wants-to-make-america-white-again>; <https://www.youtube.com/watch?v=AhyeUd7vOe4&t=21s>

⁵ <https://thefederalist.com/2019/07/26/heres-amy-wax-really-said-immigration/>

⁶ <https://www.youtube.com/watch?v=AhyeUd7vOe4&t=21s>

⁷ <https://youtu.be/cb9Ey-SsNsg>

⁸ https://glennloury.substack.com/p/amy-wax-redux?utm_source=url

- Stating that “groups have different levels of ability, demonstrated ability, different competencies,”⁹ and that there are “clear individual and group differences in talent, ability, and drive” between races.¹⁰
- Stating that “there were some very smart Jews” among your past students but that Ashkenazi Jews are “diluting [their] brand like crazy because [they are] intermarrying.”¹¹
- Stating that low-income students may cause “reverse contagion,” infecting more “capable and sophisticated” students with their “delinquency and rule-breaking.”¹²
- Stating that “if you go into medical schools, you’ll see that Indians, South Asians are now rising stars. . . . [T]hese diversity, equity and inclusion initiatives are poisoning the scientific establishment and the medical establishment now.”¹³
- Writing without valid support that some cultures are “not equal in preparing people to be productive in an advanced economy,” including “the anti-‘acting white’ rap culture of inner-city blacks,” and “the anti-assimilation ideas gaining ground among some Hispanic immigrants.”¹⁴
- Stating that that “fairness requires that we open channels of opportunity to women, although I will say that you know, the crusty old patriarchs of old, in being reluctant to do that, they were kind of on to something.”¹⁵
- Stating that “given the realities of different rates of crime, different average IQs, people have to accept without apology that Blacks are not going to be evenly distributed through all occupations.”¹⁶
- Stating that it is “overly optimistic” to think that “Blacks would be in the same position as whites if we had not been a racist society.”¹⁷
- Stating that your students at this Law School are “cowed benighted sheeples [sic]” who “are ignorant” and “know nothing.”¹⁸

Although faculty members have great freedom to speak in ways that diverge from majority or institutional views, that freedom accompanies a correlative responsibility to adhere carefully to

⁹ <https://www.youtube.com/watch?v=AhyeUd7vOe4&t=21s>

¹⁰ https://glennloury.substack.com/p/amy-wax-redux?utm_source=url

¹¹ <https://www.youtube.com/watch?v=AhyeUd7vOe4&t=21s>

¹² *Harvard Journal of Law and Public Policy: “Educating the Disadvantaged: Two Models,” June 2017*

¹³ https://glennloury.substack.com/p/amy-wax-contesting-american-identity?utm_source=url

¹⁴ *Philadelphia Inquirer Op-Ed.*

¹⁵ <https://www.youtube.com/watch?v=AhyeUd7vOe4&t=21s>

¹⁶ <https://www.youtube.com/watch?v=AhyeUd7vOe4&t=21s>

¹⁷ https://www.youtube.com/watch?v=jZnbDhrw_DI

¹⁸ <https://www.youtube.com/watch?v=AhyeUd7vOe4&t=21s>

standards of research accuracy and attribution, particularly on subjects that, if not protected by academic freedom, might verge on group defamation or harassment and hostility. Your public comments about gender, race, and ethnicity have on numerous occasions breached fundamental ethical and research standards of rigor and attribution.

For example, in support of your sexist claims that “women are less thoughtful than men,” you have mischaracterized the source and improperly cited a decades-old study for present tense meaning. Notably, the author of the study has stated that it does not stand for the proposition you cite it for, clarifying that his research was about the life choices of men and women and did not address claims such as women being less intellectual than men.¹⁹ As another example, you have claimed that the *University of Pennsylvania Law Review* had a racial diversity mandate when it does not.²⁰ On another occasion, when challenged regarding your unsupported and uncited claim that communities that are “more diverse” litter more, you responded that “[s]ociologists don’t study this stuff,” when in fact there are multiple studies on the topic. Lastly, you proclaimed that “there is essentially no science being done in a place like Malaysia. No science, no technology coming out.” This is patently false.²¹

Your pervasive and derogatory racism and sexism expressed in public statements, taken together with your behavior in the classroom, leads reasonable students to conclude that they will be judged and evaluated based on their race, ethnicity, gender, or sexual orientation rather than on their academic performance and “true merit.” Students have expressed it is “impossible to fathom” that you will “treat non-conservative, not-white students fairly.”²²

In fact, several Black students in your Civil Procedure course reported that in the aftermath of your inflammatory interview with Glenn Lowry in 2017, they “deliberately steered clear” of you, “did not feel comfortable engaging [you] throughout the semester and did not trust that [you were] committed to creating a productive learning environment for all students.”²³ One student reported feeling “extremely vulnerable and afraid” working on a student law journal with you, in part, based on your claims that women and people of color, like her, are generally unqualified to be in elite higher education institutions.²⁴ Minority students also reported they were “discouraged” from applying for clerkships when you were on the clerkship committee and questioned whether the committee would zealously advocate for them, in light of your views.

¹⁹ <https://www.newyorker.com/news/q-and-a/a-penn-law-professor-wants-to-make-america-white-again>

²⁰ <https://www.youtube.com/watch?v=cb9Ey-SsNsg>

²¹ <https://oec.world/en/profile/country/mys>

²² January 3, 2022 Letter to Dean Ruger and the Faculty Senate Executive Board <https://docs.google.com/document/d/1muCvT8IBZZnjIvWGboFJhNQnDs3bZ9ULTCyDFuPg1F8/edit>

²³ Complaint Regarding Professor Amy Wax’s Employment at the University of Pennsylvania Carey Law School (April 27, 2021)

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3. Teaching faculty must respect the confidential nature of the relationship between professor and student.

Faculty may be aware of confidential information as it relates to students and are expected to maintain the confidentiality of such information “so as to protect it from improper disclosure and to protect the privacy interests of members of our community.” *Principle Seven, Respect for Privacy and Confidentiality*; see generally *Faculty Handbook IV.J. Policy on the Confidentiality of Student Records*. On multiple occasions, you have violated the confidential relationship with your students by publicly discussing their performance, including but not limited to:

- Discussing specific grade distributions in your first-year Civil Procedure course in a 2017 interview.²⁵
- Stating in a 2017 interview “I don't think I've ever seen a black student graduate in the top quarter of the [Penn Law School] class and rarely, rarely in the top half” and “I can think of one or two students who've graduated in the top half of my required first-year course.”²⁶
- Stating, incorrectly, in a 2017 interview that the *Law Review* has a diversity mandate in its selection process.²⁷
- Stating that Black students tend not to graduate at the top of the class and adding “anybody who teaches law school knows this to be true.”²⁸
- Stating no law professor can honestly say that “Blacks are evenly distributed throughout the class, top, middle, and bottom.”²⁹

The numbers of Black students in your classes in any given year is limited and finite, such that your discussion of their alleged performance reveals impressions and facts about identifiable individuals in your courses. These public statements have contributed to students concern that they will be treated as de facto research subjects in support of your harmful bigotry.

4. Teaching faculty must show respect for others, including faculty.

As a colleague to other staff and faculty, you “have obligations that derive from common membership in the community of scholars.” *AAUP's Statement of Professional Ethics*. Among those obligations is to treat colleagues even-handedly and without discrimination and harassment. *Principles of Responsible Conduct; University of Pennsylvania Nondiscrimination Statement*. Penn's Principles for Responsible Conduct advance a no-tolerance approach in the

²⁵ <https://www.youtube.com/watch?v=cb9Ey-SsNsg>;
<https://www.youtube.com/watch?v=u0GB0LffzCk>

²⁶ <https://www.youtube.com/watch?v=cb9Ey-SsNsg>

²⁷ <https://www.youtube.com/watch?v=cb9Ey-SsNsg>

²⁸ <https://www.youtube.com/watch?v=AhyeUd7vOe4>

²⁹ <https://www.youtube.com/watch?v=AhyeUd7vOe4>

workplace to conduct that constitutes harassment on the basis of race, gender, sexuality, ethnicity, and national origin, among others. *Principle Two, Respect for Others in the Workplace.*

You have made repeated disparaging comments to and about faculty colleagues that violate this standard and exhibit a disregard for your colleagues and your role at our University, including but not limited to:

- Telling a Black faculty member that it is “rational to be afraid of Black men in elevators.”
- Stating, while on a panel with an openly gay faculty colleague, that “no one should have to live in a dorm room with a gay roommate” and, separately, that same-sex relationships are selfish and not focused on family or community.
- Referring to your faculty colleagues who criticized your behavior as “anti-role models” in a talk given to an audience of law students.³⁰

Your actions towards your colleagues, coupled with the stereotypical, demeaning, and false statements you have made about the racial, gender, and ethnic groups to which many of them belong, have led your colleagues to report that your conduct is harassing and your presence on-campus is demoralizing and disruptive.

Your Repeated Violations of University Standards Warrant Major Sanctions

Academic freedom for a tenured scholar is, and always has been, premised on a faculty member remaining fit to perform the minimal requirements of the job. In light of the aforementioned conduct, there is a genuine question as to your fitness for your position. The student body has expressed a mistrust of your ability to fairly instruct or judge them based on their individual merit. Moreover, students, faculty, and staff have expressed that your persistent racist and bigoted on- and off-campus statements have created a demoralizing and demeaning environment for them.

Your statements and actions demonstrate a “flagrant disregard of the standards, rules, or mission of the University.” *Faculty Handbook Section II.E.16, Procedure Governing Sanctions Taken Against Members of the Faculty.* Such disregard for students, faculty, and the University as a whole constitutes a major infraction that warrants major sanctions, which includes significant discipline up to and including termination. Any sanctions will be determined by your peers on the University’s tenured faculty who are best suited to define and apply the minimal standards required for faculty at this University as well as the appropriate sanctions for your refusal to meet such standards.

Past attempts to address your behavior, including not assigning you to teach first-year law students in mandatory courses, have failed to result in a change of conduct. In fact, your hateful disregard for members of our University community has only grown worse. Imposing sanctions on a faculty member of the University of Pennsylvania is a “rare event.” *Faculty Handbook Section II.E.16, Procedure Governing Sanctions Taken Against Members of the Faculty.* However, your continuous violations of University standards and the increasingly negative

³⁰ <https://www.youtube.com/watch?v=vXZ-s5ASHnw>

impact your conduct has had on students, faculty, and staff leaves me with no option but to seek major sanctions against you unless we can arrive at a mutually agreed path forward.

I appreciate your review of this summary document, and hope that it gives you a clearer sense of the institutional harms that your behavior has caused. This stage in the Faculty Handbook process provides an opportunity for informal resolution prior to forwarding a charge to the Faculty Senate's Hearing Board. I will be open to discussing such a resolution when we meet as the next step in the process.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Byrnes". The signature is fluid and cursive, with a large, sweeping loop at the end of the name.