

The KC Johnson Case: A Question of Collegiality

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*At all times and in all circumstances, all over the globe, there exists
a conspiracy, framed by nature herself, of all the mediocre,
inferior, and dull minds against intellect and understanding.
—Arthur Schopenhauer*

On 24 February 2003, the Board of Trustees of the City University of New York (CUNY) voted, on the recommendation of Chancellor Matthew Goldstein, to grant to Professor Robert David (KC) Johnson promotion to the rank of full professor with tenure. Their action overturned all earlier decisions on the case made by faculty committees and the president of Brooklyn College, one of the ten CUNY senior colleges.

The decision was made, as the Chancellor later asserted, on “the merits,”¹ given a dossier of achievements in the three areas of scholarship, teaching, and service that was indisputably excellent. The college, by contrast, had denied Johnson on the basis of “collegiality,” a criterion increasingly used in academic personnel decisions although, in its appeal to subjectivity on the part of those judging a candidate’s record, it is prone to misuse. It nowhere explicitly appears, moreover, in the university bylaws or the contract between the faculty union (the Professional Staff Congress) and the university. The Johnson case warrants close attention for many reasons. Here it is explored as an instance of the abuse of the collegiality criterion.

When KC Johnson arrived at Brooklyn College’s history department as a new associate professor in September 1999, he brought youth, energy, intelligence, and enthusiasm to a consortium of mostly aging veterans. His previous job was at Williams College as an assistant professor specializing in twentieth-century U.S. political and diplomatic history. He had published two books,

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both with Harvard University Press, as well as seven peer-reviewed journal articles. Students flocked to his courses on U.S. politics, constitutional history, and international relations. He volunteered for openings in department committees, and was encouraged to do so by Chairman Philip F. Gallagher. He submitted reports promptly, revised old course offerings, and was prolific in his proposals for new ones. He was always available—in his office six or seven days a week, working away at his computer amid stacks of books and audio tapes of telephone calls recorded by former president Lyndon B. Johnson, but always eager to take off his headphones and have a conversation on the election of 2000 or the attacks of 9/11. Gallagher recognized and applauded Johnson's talents, lavishing praise upon him in annual evaluations in spring 2000 and 2001. In 2000, Gallagher said he was "extremely pleased" with Johnson and congratulated him on "his outstanding performance in every category of scholarly assessment"; the following year, Gallagher commented that Johnson had brought a new level of "scholarly collegiality" to the department.²

All this was to change, as Gallagher's admiration for Johnson transformed itself into its opposite. Forewarnings of trouble appeared in the spring and fall of 2001; the storm gathered late that fall; and the campaign to oust Johnson began in the early days of 2002. By the summer of 2002, Johnson undertook the defense that culminated in the decision of the CUNY Board of Trustees on 24 February 2003.

May to December 2001: Forewarnings and First Events

In spring 2001, an untenured professor complained to three different colleagues that Johnson set a standard of scholarly production and teaching success so high that it endangered her own chances for promotion and tenure. With a completed manuscript to be published by W.W. Norton and a contract for another book with Cambridge University Press, in addition to five new journal articles, Johnson had indicated his intention to seek promotion soon, and with promotion to full professor, at his stage of service, automatic tenure. Although the concerned faculty member was told that her candidacy would not be viewed in relation to Johnson's, Gallagher suggested to Johnson both in the spring of 2001 and in the fall of 2002 that he might reconsider his plan to seek promotion at that point and adopt a lower profile in department affairs. Johnson was understandably distressed. There seemed to be no rational basis for the resentment directed at him. Perhaps he aroused jealousy by being a dynamic and popular teacher. Nor could it be charged that his popularity was cheaply purchased: he was not an easy grader; he gave quizzes every week in introductory courses, and substantial reading assignments in advanced courses.

As these events unfolded, in the wake of the attacks on the World Trade Center on 9/11, the Brooklyn campus union leadership at Brooklyn College planned a teach-in, which won the endorsement of the recently-appointed provost, Roberta S. Matthews. She sent an e-mail message to the entire college

community urging attendance and granting professors permission to dismiss their classes so that students could attend it. Two senior history professors sent e-mail messages to the Provost protesting that the panel was unbalanced and should not have received college endorsement. So did Johnson. He was summoned to the Provost's office and reprimanded although his two senior colleagues were not. Later the history professor who had organized the panel accused Johnson and only Johnson of attacking his "work."³

At about this time, the department began a search for a modern European historian. Johnson was a member of the Appointments Committee that, together with the search (screening) committee, was to assess the candidates. Although the committee was informed that in this search it was prohibited to give preference on the basis of gender since there was no affirmative action requirement to give such preference, written and statistical evidence suggested that some members of the department were pressing for the appointment of a woman regardless of qualifications. Gallagher made the charge, in writing, about two members of the search committee, while the chairman himself indicated a preference for "some women we can live with, who are not whiners from the word go or who need therapy as much as they need a job."⁴ The chair of the search committee produced a document containing demonstrable falsehoods about the two leading male candidates, while a fifth member of the eight-person search committee advocated, again in writing, a department whose membership was more than 40 percent female. And while only 24.8 percent of the applicants for the job were women, a full 41.7 percent of the initial screened list were female, and 40 percent of those invited to campus were women.

Early in this process, Margaret King, the author of this article, a full professor and a member of the Appointments Committee, sent two memos to the committee: one commenting on some of these numbers and another deploring what she perceived as the search committee chair's scripting of the questions that the other members of the committee could ask candidates. Professor Edwin Burrows addressed an e-message to King rebuking her for what he perceived as her unacceptable treatment of the chair. He concluded his message by saying that King and Johnson were perceived as a "package;" if it "rains" on King, Johnson too would "get wet." "It's not fair, but it's the way of the world."⁵ A few days before he penned these words, Burrows had been named the history department's representative on Johnson's promotion subcommittee.

There were other indications that something was amiss in the search. For example, although three members of the committee including King and Johnson studiously examined each of the candidates' files, others did not—as Gallagher himself admitted in writing.⁶ These department members argued that reading the files was inappropriate because the committee members were not qualified to assess the information they contained. They should rely instead on the letters of recommendation, although it is well known that such letters are usually inflated and cannot be properly interpreted without refer-

ence to the other information in the files. It was also said that junior faculty should “respect” the views of senior faculty by concurring with their views in hiring decisions; and Brooklyn College, it was claimed, is a teaching college where scholarship is irrelevant. Gallagher even complained to a recently retired faculty member that Johnson read the files too carefully.

King came to the conclusion that in these and other ways, scholarly standards of merit were repeatedly undermined in the course of the search. After the committee had ranked the final five candidates, Gallagher informed the committee that the president of Brooklyn College, Christoph Kimmich, had expressed interest, even before the search had begun, in one woman candidate—the one who had been consistently preferred by those committee members who had been most vocal in their opposition to a close reading of the scholarly record. Johnson was among the several in the department who judged her unqualified on the basis of her scholarship.

All five candidates were extended the job offer in turn, and all five turned it down. A sixth candidate was eventually offered the position. He accepted and appears meritorious in every way. For unknown reasons, Johnson was blamed for the difficulties in the search process and even for the failure of the first five candidates to accept the college’s offer.

Within an hour of writing an e-mail message denouncing Johnson’s view of candidate No. 5 as “preposterous, specious, and demeaning,” Gallagher complained to the Associate Provost Eric Steinberg about the alleged impropriety of Johnson’s transferring some Master’s student advisees to another faculty member.⁷ This transfer had been authorized, orally, by Gallagher in the fall, in five different conversations with two faculty members and two students. But after the denunciation of Johnson, Gallagher claimed to have forgotten each of these conversations.

January-August 2002: The Turn against Johnson

Several new incidents indicated an effort underway to undermine Johnson’s standing in the department. Just before the start of the 2002 spring semester, Gallagher mailed letters to fifteen of Johnson’s students, removing them from his classes, on the grounds that they had not met the stated prerequisite. The letter asserted that prerequisites in the department were regularly enforced, and that exceptions were granted only when “senior standing or the ability to attend only evening classes have presented hardships.”⁸ Johnson replied in a memo given to the associate provost and placed in his file for all chairs to read, showing that Gallagher heretofore had never enforced the prerequisite; indeed, since 1996-1997, members of the department had been admitting students without the prerequisite into colloquia at rates up to 52.9 percent.⁹ Nonetheless, on 11 February 2002, a few days before the deadline for the submission of files for those seeking promotion and tenure, Gallagher inserted a highly negative evaluation into Johnson’s file.

Only a few days later, however, the central charge against Johnson would shift. The criterion that would henceforth be used against Johnson was that of “collegiality.” The new ground-rule was announced on 13 February 2002, when Associate Provost Steinberg attended, as invited, a meeting of the department’s senior members and described the bases for personnel decisions: the familiar trio of scholarship, teaching, and service. Gallagher specifically raised the collegiality criterion as if it were a separate, distinct criterion, but Steinberg indicated it was just a component of the record of service. This first enunciation of the collegiality criterion would be recalled in the coming months as it became apparent that Johnson was being presented in the personnel process as having failed to meet its standard.

The use of the collegiality standard was evident in his interview with the divisional subcommittee on promotion on 19 March 2002. The meeting did not discuss, as was customary and expected, Johnson’s scholarship and teaching. Instead, he was asked how he planned to “heal” the department; whether he was doing enough to “cuddle” our “barely literate” students, and whether his website was not too demanding of them; and how he accounted for the failure of five candidates to accept the offers of employment extended as a result of the recent history department search.¹⁰ Johnson later found out that only one of the five-member subcommittee voted in his favor. Such lopsided negative votes recurred in subsequent committee decisions. Clearly, Johnson’s outstanding record in teaching, scholarship, and service was being submerged by allegations of uncollegiality.

At any CUNY institution, it is expected that the guidelines for personnel procedures specified in the By-Laws of the CUNY Board of Trustees, and personnel practices memoranda pursuant to it, will be faithfully observed. These procedures simply reflect the demands of due process, and violations of them are subject to an established grievance procedure designed to protect the rights of the candidate. Senior colleagues expressed strong doubt, even at the beginning of the process, that Professor Johnson was being treated fairly. On 13 February 2002, Professor Emeritus Leonard Gordon met with President Kimmich, not only advocating Johnson’s candidacy but also detailing the violations of due process that Johnson had suffered. Gordon noted that Gallagher seemed intent on trapping Johnson on technical violations which were department culture; appealing to a select group of senior professors who spoke against Johnson, while failing to report at the same time the positive views of other professors; making “collegiality” an independent criterion, in violation of the personnel guidelines, while ranking it higher than the three standard criteria of scholarship, teaching, and service; and maligning Johnson with denunciations which should not have been allowed into the personnel process. Kimmich averred that Gallagher was a “man of integrity,” to which Gordon responded that he had once been, but was no longer such.¹¹

Throughout the spring and summer of 2002, a number of incidents point to a pattern of harassment. Johnson's address was "accidentally" dropped from the department's listserve. His extensive list of publications was "accidentally" removed from the department website. A senior professor told a junior colleague that there would be a "reign of terror" in the department for a year or so, and then things would be all right. Another professor broadcast the news to colleagues outside the department in the Graduate School and even in Johnson's hometown that he would be dismissed. The department's deputy chairman revealed to a colleague the votes of the college Promotion and Tenure committee, votes that are supposed to be confidential, and said that the Dean and Provost would not support Johnson's candidacy. He reported further that the college's labor relations associate (whose "resignation," ironically, was announced the day after Johnson was granted tenure) had assured Gallagher that "academic plaintiffs never prevail in collegiality cases."¹² This advice explains why the collegiality line of attack had been chosen.

March to November 2002: Johnson's Defense

At this point, Johnson's prospects were glum indeed. It seemed not only that Johnson's bid for promotion was finished, so also were his hopes for a career at Brooklyn College. From this nadir, however, Johnson and others began to launch a defense.

Several colleagues from the department wrote to Kimmich supporting Johnson, although their letters were not even acknowledged. In the end, sixty-four letters advocating Johnson's promotion and tenure were sent to the president, many from prominent historians throughout the country warning of the potential for abuse of the collegiality criterion. For instance, Lloyd Ambrosius of the University of Nebraska informed Kimmich, "I cannot believe that any college that is at all concerned about its reputation would base its decisions on tenure and promotion on that criterion," since doing so "would seriously jeopardize the college's reputation as an institution of higher education dedicated to academic freedom and to the pursuit of excellence in research, teaching, and service."¹³ The University of Wisconsin's John Milton Cooper added that the collegiality criterion "strikes me as the academic equivalent to what Samuel Johnson said about patriotism being 'the last refuge for scoundrels.'" Cooper argued "that the mark of a strong university is that it avoids the pitfalls inherent in using the 'collegiality' smokescreen."¹⁴

Even more than supporting letters, however, the key to Johnson's defense was the store of e-mail messages exchanged among department members that resided in his computer's memory. What was revealed was, though bad for the department, good news for his case: a remarkably uncollegial department where some individuals regularly insulted others in writing, and where political and personal agendas outweighed objective criteria for personnel decisions. This material constituted evidence of a conspiracy against him. Johnson retained

an attorney, Robert M. Rosen, and the two prepared a Memo of Law backed by a 114-page Statement of Facts. The document's most powerful exhibits included e-mail messages from Gallagher and other department members proving their bias and six e-mails from the college's own associate provost conceding procedural violations in the case, regarding: improper questions asked in the promotions subcommittee meeting (22 March 2002); misleading lobbying by Gallagher to other chairs (1 May 2002); improper leaking of confidential personnel material (15 May 2002); improper leaking of confidential personnel material (15 June 2002); treating different members of the department differently for the same alleged offenses (15 July 2002); and Gallagher's failure to consult all possible parties regarding Johnson's committee service (1 September 2002).

In October, Rosen sent the Memo of Law and Statement of Facts to Kimmich as well as to Chancellor Goldstein. Without responding directly to these documents, Kimmich decided on 26 October 2002 not to recommend Johnson's promotion and tenure, a decision he communicated by letter.

Chancellor Goldstein eventually responded, through the university's general counsel, but only several weeks later. By that time, Brooklyn College had created a "shadow file" on the Johnson case.

August to December 2002: The Brooklyn College Counteroffensive

Although the Shadow File, as Johnson later dubbed it, was not intended for his eyes, it came into his hands in February 2003 as part of his negotiations with the general counsel of the university. The first documents to enter the Shadow File were four letters written in September 2002, apparently solicited by some college official after Johnson first revealed that he possessed e-mail evidence that proved malice and bias on the part of senior colleagues.

These Shadow File letters, addressed to president Kimmich, contained copies of earlier denunciatory e-mails solicited by Gallagher outside of the bounds of accepted CUNY procedures. They contained a number of false and defamatory statements: among them the claim that Johnson was "corrupt" and "immoral" because he did not favor the letter writer's preferred candidate in the European history search, and distasteful insinuations about Johnson's personal relationships with three male junior colleagues. Notes handed over by the college as part of the discovery process confirmed that selections from these documents were read to committees during the promotion process. Johnson also discovered that the letters previously had been shown to an untenured member of the history department, who had posted quotations from them on a website that receives 3 million hits annually, the *History News Network*. Johnson, in contrast, was never given an opportunity to rebut these allegations until, in February 2003, the university general counsel revealed their existence.

The Shadow File also contained Chairman Gallagher's response concerning Johnson's rebuttal of 11 June 2002 to Gallagher's 28 May evaluation. It

repeatedly accused Johnson of “disingenuousness” and “playing word games” in the documents that Johnson had compiled to defend his candidacy and preserve his reputation.

Before a faculty member at CUNY attains tenure, he is reappointed on a year-to-year basis. In the fall of 2002, Johnson was in his fourth year. Although he was a member of the department’s five-person appointments committee, to which he had been elected by a strong majority, he could not, of course, vote on his own reappointment. When the question of his reappointment came up for consideration, the committee voted two in favor and two against, which amounted to a failure to recommend. Although the college Promotion and Tenure committee also voted against reappointment, President Kimmich decided for reappointment on his own, still maintaining, nonetheless, that he saw nothing wrong with the standards used in the case. In his letter to Johnson dated 26 November 2002, announcing his decision, Kimmich included a defense of the criterion of collegiality as a factor “integral” to scholarship, teaching, and service, a hint that this criterion would acquire special force in subsequent decisions.

President Kimmich’s letter to Johnson that both conferred reappointment and reaffirmed the collegiality argument was dated on the same day (although not posted until three days later) that Johnson and the university general counsel had signed an understanding stating that the college would not proceed on the reappointment decision until after an initial meeting between the counsel and Johnson’s attorney.

November 2002 to February 2003: Toward Resolution

The university’s willingness to act on the Johnson case was probably motivated not only by the receipt of the Memo of Law in October, 2002, but also by a mountain of press coverage, nearly all of which was highly unfavorable to the college. In a letter dated 12 November 2002, and sent with accompanying press release to local journalists, twenty-four nationally-prominent historians deplored the decision that reflected, they said, a “‘culture of mediocrity’ hostile to high academic standards.” The letter further protested the use of the collegiality criterion:

Imposing a litmus test of collegiality rewards young professors who “go along to get along” rather than expressing independent scholarly judgment. It poses a grave threat to academic freedom, since the robust and unfettered exchange of ideas is central to the pursuit of truth.

Beginning in November 2002, editorials and articles appeared in *The New York Sun* (14 and 15 November), *The Chronicle of Higher Education* (15 November), *The New York Times* (18 December), *The Wall Street Journal* (20 December), *The New York Post* (1 December), the Brooklyn College student newspaper *The Kingsman* (9 December), *The New Republic* (30 December), the webzines *Criti-*

cal Mass (20 December) and *Boundless* (19 December), and variously-dated Internet posts on *The History News Network*, *The Volokh Conspiracy*, and *Instapundit*. In addition, a significant number of Brooklyn College students protested the decisions against Johnson; some of them marched on the president's office and delivered a petition with more than 500 names in support. Moreover, several trustees publicly expressed outrage at the standards the college employed in the case: trustee Jeffrey Wiesenfeld, for instance, stated, "collegiality is an appropriate criterion if I wanted to join a prestigious country club and play well with the other children, but it is not that which is necessary to determine whether someone is a good professor."¹⁵

Negotiations between the university and Johnson's attorney began in December and were completed in February. Chancellor Goldstein appointed a select faculty committee to make a recommendation to him in the Johnson case. It was unusual for the highest authorities in the university to take such an action, particularly when the Chancellor must have known that some faculty would be unhappy with what they would take as undermining "faculty autonomy." The procedural violations in this case were so extreme, however, that the chancellor must have believed he had no choice. On 24 February 2003, the Chancellor recommended to the Board of Trustees of the University on the basis of a unanimous vote by the select committee, that Johnson be granted promotion to full professor with tenure. The Board approved the recommendation, and several of the Trustees made public statements in support of the principle that excellence in scholarship and teaching should be the primary consideration in considerations of promotion and tenure. Subsequent press coverage was strongly favorable to the Chancellor's way of handling the issue and the decision in favor of Johnson.

Conclusion

The resolution of the KC Johnson case should hearten those who believe that excellence in scholarship and teaching should be upheld as the primary standard for those who teach our young people in our nation's colleges and universities. Despite a widespread "culture of mediocrity" in institutions of higher learning, there are enough who support high standards, providing they are willing to take a public stand, to enable excellence to triumph. In this instance, students at the college, courageous department members, national scholars, and several trustees joined in a powerful coalition that eventually smashed the "culture of mediocrity" that had seized control of the Brooklyn College promotion and tenure process.

The KC Johnson case also highlights the potential for the abuse of the collegiality criterion. Although it may be desirable to consider how well a faculty member interacts with his or her colleagues and members of the administration, the collegiality criterion can be used illegitimately to throttle disagreement on academic and departmental issues, and to permit personnel decisions

to be made on the basis of ideological preference or mere whim. Colleges might consider removing it entirely from the personnel process. Failing that, those involved in personnel decisions should be aware of the dangers inherent in its use, insist that evidence of deficient collegiality be backed up by unimpeachable evidence, and not permit collegiality to be the sole determinant of a decision, trumping meritorious performance in scholarship and teaching.

Notes

1. "I can only tell you that my decision was based totally on merits." *UFS Reports & Deliberations, 293rd Plenary, February 25, 2003*, 6.
2. Philip F. Gallagher, "Annual Evaluation for Associate Professor KC Johnson," 28 March 2000; Philip F. Gallagher, "Annual Evaluation for Associate Professor Robert (KC) Johnson," 17 April 2001.
3. Dorothy Rabinowitz, "The Battle of Brooklyn," Weekend Journal, *Taste* Section, *Wall Street Journal*, 20 December 2002, W-17.
4. Philip F. Gallagher to KC Johnson, e-mail, 29 October 2001.
5. Edwin G. Burrows to Margaret King, e-mail, 15 November 2001.
6. Philip F. Gallagher to Margaret King, e-mail, 30 October 2001.
7. Philip F. Gallagher to Appointments Committee, "Inter Alia," e-mail, 5 January 2002.
8. Philip F. Gallagher to Dan Weininger, 25 January 2002.
9. Robert David Johnson, "Regarding the History Department and Prerequisites," 18 March 2002.
10. The list of questions asked at the subcommittee was confirmed by subcommittee chair Egon Mayer to KC Johnson, 22 March 2002, e-mail.
11. Leonard Gordon to President Christoph M. Kimmich, e-mail, 15 February 2002.
12. Paula Fichtner to KC Johnson, e-mail, 13 June 2002.
13. Lloyd Ambrosius to Christoph M. Kimmich, 9 July 2002.
14. John Milton Cooper, Jr., to Christoph M. Kimmich, 18 July 2002.
15. Ella A. Hoffman, "Harvard Prof Appeals on Behalf of CUNY Colleague," *Harvard Crimson*, 19 November 2002.

The NAS has assembled a group of distinguished scholars and invited them to comment occasionally on breaking developments in higher education. We have been posting their brief articles as we receive them on our new internet publication—the *NAS Online Forum*. Access to this web log is open to all at <http://www.nas.org/forum.html>.