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LET GO: "I wanted it on record that I am a pacifist," Wendy Gonaver said. She wants an apology and a teaching job for next year.

COLUMN ONE

Teacher fired for refusing to sign loyalty oath

Cal State system ousts another instructor who objects on religious grounds to a pledge adopted by California in 1952 to root out communists.

By Richard C. Paddock, Los Angeles Times Staff Writer
May 2, 2008

When Wendy Gonaver was offered a job teaching American studies at Cal State Fullerton this academic year, she was pleased to be headed back to the classroom to talk about one of her favorite themes: protecting constitutional freedoms.

But the day before class was scheduled to begin, her appointment as a lecturer

abruptly ended over just the kind of issue that might have figured in her course. She lost the job because she did not sign a loyalty oath swearing to "defend" the U.S. and California constitutions "against all enemies, foreign and domestic."

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The loyalty oath was added to the state Constitution by voters in 1952 to root out communists in public jobs. Now, 16 years after the collapse of the Soviet Union, its main effect is to weed out religious believers, particularly Quakers and Jehovah's Witnesses.

As a Quaker from Pennsylvania and a lifelong pacifist, Gonaver objected to the California oath as an infringement of her rights of free speech and religious freedom. She offered to sign the pledge if she could attach a brief statement expressing her views, a practice allowed by other state institutions. But Cal State Fullerton rejected her statement and insisted that she sign the oath if she wanted the job.

"I wanted it on record that I am a pacifist," said Gonaver, 38. "I was really upset. I didn't expect to be fired. I was so shocked that I had to do this."

California State University officials say they were simply following the law and did not discriminate against Gonaver because all employees are required to sign the oath. Clara Potes-Fellow, a Cal State spokeswoman, said the university does not permit employees to submit personal statements with the oath.

"The position of the university is that her entire added material was against the law," Potes-Fellow said.

In February, another Cal State instructor, Quaker math teacher Marianne Kearney-Brown, was fired because she inserted the word "nonviolently" when she signed the oath. She was quickly rehired after her case attracted media attention.

It is hard to know how many would-be workers decline to sign the pledge over religious or political issues. Some object because they interpret the pledge as a commitment to take up arms. Others have trouble swearing an oath to something other than their God.

Public agencies do not appear to keep a record of people denied employment over the oath. Union grievances and lawsuits are rare.

Some agencies take the oath more seriously than others. Certain school districts and community colleges have been known to let employees change the wording of the oath when they sign or to ignore the requirement altogether. Others, including the University of California, advise employees on how they can register their objections yet still sign the pledge.

All state, city, county, public school, community college and public university employees -- about 2.3 million people -- are covered by the law, although noncitizens are not required to sign.

UC Berkeley was the first to impose a tough anti-communist loyalty oath in 1949 and fired 31 professors who refused to sign.

After a version of the oath was added to the state Constitution, courts eventually struck down its harshest elements but let stand the requirement of defending the constitutions. In one court test, personal statements accompanying the oath were deemed constitutional as long as they did not nullify the meaning of the oath.

Now, the University of California advises new employees who balk at signing the pledge that they can submit an addendum, as long as it does not negate the oath.

UC even provides sample declarations, such as: "This is not a promise to take up arms

in contravention of my religious beliefs," or "I owe allegiance to Jehovah."

The California State University system takes a firmer approach.

Kearney-Brown, the math instructor fired by Cal State East Bay, said she added the word "nonviolently" just as she had when taking previous jobs as a high school teacher. The university, however, told her she could not alter the pledge.

After her case attracted media attention and help from the United Auto Workers, which represents some Cal State employees, the university reversed course. The office of Atty. Gen. Jerry Brown drafted a statement declaring that the oath does not commit employees to bear arms in the country's defense. Cal State agreed to let Kearney-Brown attach it to her oath and she was reinstated.

Kearney-Brown said she believed she was defending the Constitution by objecting to the oath and argued that signing a pledge should not be reduced to a meaningless formality.

"The way it's laid out, a noncitizen member of Al Qaeda could work for the university, but not a citizen Quaker," she said.

The 23-campus Cal State system has fired instructors over the oath at least twice before.

In 2001, Cal State Dominguez Hills dismissed geography lecturer Alejandro Alonso after he refused to sign. He said at the time that he identified with the Jehovah's Witnesses and that swearing an oath to anyone but God violated his religious beliefs.

When his request for a religious exemption was denied, he proposed signing the oath and attaching a personal statement. That also was denied. Alonso, who went on to teach at USC, has become an expert on Los Angeles gangs and runs the website www.streetgangs.com.

In 1995, Methodist minister Bud Tillinghast was teaching a course on comparative religion at Humboldt State University, when he was pulled out of class by campus police and fired because he had not signed the oath.

Tillinghast said he believed that swearing an oath to the state helped establish the government as a religion.

"I was teaching world religions and I ran up against a state religion," the retired minister recalled. "My concern was that this was breaking down the separation of church and state and making the state a religion you swear allegiance to."

He filed suit against Cal State for reinstatement arguing that the oath violated the 1993 federal Religious Freedom Restoration Act. But after a court found that law unconstitutional, his suit was thrown out.

In all, Tillinghast said, he went up against the loyalty oath three times. Before being fired by Humboldt, he taught a religion class at a community college for nearly a decade. For that job, the school allowed him to sign an alternate oath.

Last year, he was named to the Humboldt County Human Rights Commission. A potential problem was averted when officials decided he didn't need to sign the oath.

Efforts to remove the oath from the state Constitution have been unsuccessful, although the matter came under scrutiny in 1998 when a congressional subcommittee held a hearing on religious freedom.

Among those who testified was Zari Wigfall, a Jehovah's Witness who said she twice lost jobs at Sacramento City College in 1994 because of the oath, first as a student tour guide and later as a theater house manager for a children's play.

"Citizens are entitled to certain rights, and also minorities, including religious minorities, are given certain guarantees," she told the committee. "And I just didn't think that . . . because of my religious beliefs I would have two jobs taken away from me."

She is now a dancer, choreographer and teacher in Southern California.

For Gonaver, the oath came up unexpectedly.

She was offered the job at Fullerton teaching two classes last fall, Introduction to American Studies and Introduction to Intercultural Women's Studies. She received two appointment letters and signed a contract. When she attended an orientation session for new faculty, she heard of the oath for the first time.

After researching the issue and learning that UC allowed its employees to provide personal statements, she submitted her own six-sentence declaration to Fullerton.

In her statement, she wrote that the oath violates the 1st Amendment and discriminates against religious pacifists, such as Quakers and Buddhists. She called the pledge an "instrument of intimidation." And she wrote that employees who sign it "while harboring legitimate religious and political objections" could be exposed to a charge of perjury.

Margaret Atwell, the Fullerton school's associate vice president for academic affairs, replied in an e-mail that Gonaver was not allowed to submit any statement, no matter what the practice at UC. Gonaver would have to sign the oath or lose the job, Atwell said.

Gonaver refused.

Potes-Fellow, the Cal State spokeswoman, said the university stands by its stricter interpretation of the requirement and is not affected by how UC or other public institutions handle the oath.

"The university concluded that state law did not allow her to attach her addendum," Potes-Fellow said.

The attorney general's statement that Kearney-Brown was allowed to attach her oath did not violate Cal State's policy because it was not an addendum, Potes-Fellow said. "We think the circumstances are different in both cases," she said.

Gonaver said the attorney general's statement does not go far enough in answering her objections to the oath. But if she had been offered a chance to use it last fall, she said, she probably would have signed the oath and would have been teaching all year at Fullerton.

Now, she would like to see the oath eliminated for all public employees except those who deal with sensitive information. She also would like an apology and a job next year.

"It makes no sense that they do this to people," she said. "It's people who take it seriously who don't get hired."

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