
Report of Committee A on Academic Freedom and Tenure, 2014–15

Introduction

It is perhaps fitting that in this centennial year the Association published the same number of investigations as the infant AAUP published in its tumultuous and historic inaugural year. That we were compelled to investigate such a large number of cases—cases of major and significant national import—demonstrates that the past year has once again been a busy one for Committee A and for our Department of Academic Freedom, Tenure, and Governance. Indeed, these cases are sadly but the tip of a larger iceberg threatening our most fundamental values. We clearly live in challenging times for higher education and the professoriate, so I want to begin by thanking our members for their work and dedication in support of the AAUP and its principles and urging faculty members everywhere to join us in standing up for academic freedom, shared governance, quality higher education, and the common good.

Judicial Business

Impositions of Censure

At its June meeting, Committee A considered four cases that had been subjects of ad hoc investigating committee reports published since the 2014 annual meeting. The committee adopted the following statements concerning these cases, the Council concurred, and the 2015 annual meeting voted to impose censure.

The University of Texas MD Anderson Cancer Center.

The report of the investigating committee focuses on the cases of two long-serving full-time faculty members who were involuntarily separated from service when the cancer center's president declined to renew their term appointments, despite unanimous recommendations favoring renewal from the faculty personnel committee and despite their evidently having met the requirements for reappointment. Notwithstanding

their many years of service, neither faculty member held an appointment with indefinite tenure. MD Anderson is one of two institutions in the fifteen-member University of Texas system exempt from the system's tenure policy. In its place, the cancer center awards renewable seven-year term appointments, referred to in the institution's policy documents as "term tenure."

Both professors were denied a timely written statement of the reason for the nonrenewal of their appointments, and only one of them was afforded the opportunity to appeal the decision to a faculty body. Although the institution's policies require that appeals of nonrenewal of term tenure be addressed exclusively to the president, an exception was made for one faculty member, who was permitted to file a preliminary appeal with a faculty committee. The appeals committee found in his favor, though an administrative officer concealed that information from the faculty member. His final appeal to the president was unsuccessful. The other professor, in accordance with the institution's policies, was not allowed to contest the decision through a faculty body. He declined to appeal to the president, concluding that it would be futile to expect a favorable review from the official who himself had made the nonreappointment decision.

During the period covered by the report, the administration had exerted increasing pressure on basic-science faculty members to obtain grants to cover larger portions of their salaries and on clinical faculty members to treat more patients, with what the faculty claimed were deleterious results for research and patient care. That period also saw an increasing frequency in presidential rejections of unanimous faculty personnel committee recommendations for appointment renewal, reducing the faculty's confidence in the fairness of the reappointment process. As a consequence, faculty members could be inclined to select lines of research for their fundability and

predictable results. And they tended to censor their own discourse, especially in the years immediately preceding renewal decisions.

The investigating committee also inquired into the administration's removal of faculty status from a third faculty member because he lacked a Texas medical license. The professor's initial letter of appointment made no mention of any such requirement, his chair had regularly assured him that a temporary license would suffice, he was not provided promised time to study for the licensing exam, and other similarly situated faculty members were not required to obtain such a license, leaving open the question of the real basis for the decision.

The investigating committee found that the administration acted in disregard of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure* and of its own policies when it failed to furnish the two professors with written statements of the reasons for the decisions not to renew their appointments and when it failed to provide accurate licensure information to the third professor, leading to his loss of faculty status; of the *Statement on Government of Colleges and Universities* when it failed to provide compelling reasons stated in detail for rejecting the recommendations of the faculty personnel committee, when it unilaterally appointed department chairs, and when it failed to involve faculty in academic decisions; and of the 1940 *Statement of Principles on Academic Freedom and Tenure*, which calls for extending the procedural protections of tenure to full-time faculty members whose service exceeds seven years, when it failed to afford the two nonreappointed professors an adjudicative hearing before an elected faculty body in which the burden of demonstrating adequate cause for dismissal would rest with the administration.

Committee A recommends to the 101st Annual Meeting that the University of Texas MD Anderson Cancer Center be added to the Association's list of censured administrations.

The University of Illinois at Urbana-Champaign.

The report of the investigating subcommittee concerns the actions taken by the University of Illinois administration to reject the appointment of Professor Steven Salaita. In October 2013, Professor Salaita was offered a tenured position in the American Indian Studies Program at UIUC, effective in August with the start of the fall 2014 semester. He accepted the offer, received course assignments, and resigned from his

tenured position at Virginia Polytechnic Institute and State University. Professor Salaita's posts in late summer 2014 on the social media site Twitter expressed outrage in strong language over the war in Gaza. After these posts were brought to the attention of the UIUC administration, Chancellor Phyllis Wise informed him on August 1 that his appointment would not be submitted to the board for approval. His appointment, like all tenured appointments, had been defined in the administration's offer as subject to final approval by the board of trustees, but the appointee and those who recruited him had reason to believe that board approval was a mere formality, mainly because the board's meeting was scheduled for September 25, more than two weeks after the fall term began. Subsequently, the chancellor did submit the appointment to the board, which voted in September to reject it.

The Association has consistently held that aborting an appointment without having demonstrated cause is tantamount to summary dismissal, an action categorically inimical to academic due process. As the stated reasons for Professor Salaita's dismissal were his Twitter posts, the administration was obligated under AAUP-supported standards to demonstrate that these extramural utterances clearly implicated his professional fitness as a faculty member. Instead, the chancellor and trustees justified the dismissal by insisting that "civility" was a standard by which to judge the fitness of a scholar and teacher. They further maintained that incivility threatened the comfort and security of students. The trustees claimed that disrespectful and demeaning speech "is not an acceptable form of civil argument" and "has no place . . . in our democracy." In rejecting Professor Salaita's appointment after it had already begun, the board chair did express interest in compensating him for the damage done to his pocketbook and to his academic career.

The investigating subcommittee concluded that the rejection of the Salaita appointment for the reasons stated by the chancellor and the board violated Professor Salaita's academic freedom and cast a pall of uncertainty over the degree to which academic freedom is understood and respected at UIUC. The subcommittee further concluded that the chancellor in her rejection of the Salaita appointment contravened AAUP's widely accepted standards for the conduct of academic governance.

Responding to an invitation to provide information on subsequent developments at UIUC of which Committee A should be aware when it formulates a statement on the Salaita case for presentation to the

2015 annual meeting, the administration informed the committee of efforts to improve institutional policies and practices, which in the judgment of Committee A have not adequately addressed the issues raised in the investigative report. We will continue to monitor developments in this regard.

Chancellor Wise has reported that “genuine and significant” efforts have been made to reach a settlement with Professor Salaita. Professor Salaita’s attorneys dispute this. Whatever the outcome of the litigation, the Association’s concern is not with whether an administration’s actions have been legal but rather with whether they conform to sound academic practice as established in AAUP principles, principles that UIUC has itself endorsed.

Committee A therefore recommends to the 101st Annual Meeting that the University of Illinois at Urbana–Champaign be placed on the Association’s list of censured administrations.

Felician College (New Jersey). The report of the investigating committee concerns the cases of seven full-time faculty members at this Roman Catholic institution established by the Felician Sisters. These faculty members, along with nine colleagues who did not seek the Association’s assistance, received letters in late January 2014 informing them that their services at the college would be terminated effective June 20. The reason given for the action was “the exigency of the college’s financial status” arising from declining enrollments. Although the new president had in the fall initiated an “academic prioritization process,” the faculty did not perceive that undertaking as potentially leading to layoffs, had heard no previous mention of financial exigency or potential termination of faculty appointments, and did not view two years of declining enrollments as ominous, having seen the college survive similar downturns in the past. Recipients of the notices stated that they came as a complete surprise.

Most faculty members, including department chairs, were unaware that in fall 2013 the president had directed the provost and the deans to compile a list of full-time faculty members whose appointments were to be terminated, although one dean declined to participate in the process and retired from the college shortly afterward, not wishing to “preside over a decimated and demoralized faculty.” The criteria, if any, employed in making the selections were never revealed to the faculty.

Even after the notices were sent, the college did not declare a state of financial exigency and, shortly

after the terminations became effective, published a strategic plan that included a number of expensive initiatives. In attempting to explain the action to the Association’s staff, the president, while referring to a “challenging” financial situation, stressed a stated need to address an over-generous faculty-student ratio.

Making the terminations easier for the administration to effect was the lack of any provision at the college for indefinite tenure, with all full-time faculty members serving on renewable term appointments. Annual appointment contracts, furthermore, contained the following sentence: “In the event that student enrollment during the period of this contract does not warrant the continued offering of courses or services in your professional area, the appointment may be terminated.” Six of the affected faculty members had served at the college for over a decade, while the seventh was in his fourth year of service.

The investigating committee found that in attributing its action of terminating sixteen faculty appointments simply to “the exigency of the college’s financial status” without any further explanation, the administration violated the joint 1940 *Statement of Principles on Academic Freedom and Tenure*, which requires that terminations based on financial exigency be “demonstrably bona fide.” Noting that those affected faculty members who had served beyond the maximum probationary period permitted by the 1940 *Statement* were entitled under that document to the procedural safeguards against involuntary termination that accrue with continuous tenure, the committee found that the administration, in insisting that its decisions on terminations were final and not subject to review, acted summarily and in virtually total disregard of the applicable provisions of Regulation 4c (“Financial Exigency”) of the Association’s derivative *Recommended Institutional Regulations on Academic Freedom and Tenure*.

The committee found that the administration acted in disregard of the AAUP’s *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments* when it failed to provide the affected faculty member in his fourth year of service with an explanation of why he was selected for release, with adequate notice, and with an opportunity for review. The committee found that a state of financial exigency as defined by the Association did not exist at Felician College, leaving as the most plausible reason for terminating the appointments of approximately 15 percent of the full-time faculty the administration’s dubious wish to “improve” the faculty-student ratio.

Regarding the climate for academic freedom, the committee found that the fear of faculty members to communicate with the investigating committee or to be seen by the administration as dissenters was palpable, and that the administration, in denying emeritus status to a long-serving and highly regarded teacher and scholar with a record of speaking out against what he considered wrong, was punitive and petty in the extreme. As to the faculty's role in governance, the committee concluded that, while the forms of faculty governance exist, the substance is sorely lacking, with the administration refusing to involve or even inform the faculty when important academic decisions were made.

Committee A recommends to the 101st Annual Meeting that Felician College be added to the Association's list of censured administrations.

The University of Southern Maine. The investigation of Association concerns at the University of Southern Maine followed actions taken by the administration in fall 2014 to close four academic programs (American and New England studies, arts and humanities at the Lewiston campus, French, and applied medical sciences), to eliminate the Department of Geosciences, and to terminate the appointments of approximately fifty tenured as well as long-serving nontenured faculty members.

The University of Maine system administration did not declare financial exigency for the system as a whole or for its USM campus. USM administrators alleged the need to restructure and eliminate programs in order to close a projected budget deficit for the following academic year. Additionally, the administration argued that USM needed to become a "metropolitan university" whose mission did not duplicate that of any other University of Maine institution.

The investigating committee concluded that the USM administration not only acted in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure* but also disregarded derivative Association-supported standards, in particular, Regulations 4c ("Financial Exigency") and 4d ("Discontinuance of Program or Department for Educational Reasons") of the *Recommended Institutional Regulations on Academic Freedom and Tenure*. Moreover, its actions were at odds with key provisions of the *Statement on Government of Colleges and Universities*, despite references to this fundamental document on shared governance in the preamble to the governance constitution of the USM.

The investigating committee was particularly baffled that, of the four programs selected for closure, three seemed to be central to the "metropolitan university" model advocated by the administration. The committee noted that the program in American and New England studies sent graduates into cultural institutions that directly served the people of Maine, while the high importance of the French program in a state with so many French speakers, the committee observed, went without saying. But the program whose closure most mystified the investigating committee was that of applied medical sciences. The committee was especially struck by the letters of local industry officials, who were bewildered and upset with the news that USM would close a program of such easily demonstrable utility in this growth area of the Maine economy. The committee cited numerous such letters testifying to the vocal and widespread support for a graduate program in applied sciences with both immediate and long-term implications for scientific research and public health. That this support was apparently irrelevant to USM officials, advocates of the "metropolitan university" model, was deeply troubling to the investigating committee.

Also striking was the fact that these programs were canceled in midyear and that no provisions were made for students remaining in the programs to complete their courses of study, in violation of the standards of the New England Association of Schools and Colleges, the university's accrediting body.

The investigating committee concluded with regard to USM's financial condition that it was not facing significant financial distress. It concluded further that the administration ignored the faculty senate's recommendations on programmatic matters, repeatedly and apparently deliberately, in disregard of generally accepted standards of academic governance in American higher education. What remains unresolved in this investigation is the role of the University of Maine system in these closures, a role that should be closely monitored hereafter.

Committee A recommends to the 101st Annual Meeting that the University of Southern Maine be placed on the Association's list of censured administrations.

Removal of Censure

Committee A adopted the following statement recommending action to remove Yeshiva University from the Association's list of censured administrations. The Council concurred in the statement, and the annual meeting voted its approval.

Yeshiva University (New York). In 1982, the investigating committee, reporting on the administration's actions to release three tenured professors on grounds of budgeting problems with their programs, found that Yeshiva University's financial situation was not so severe as to warrant the actions and that the administration had refused to defend its actions in a hearing before a faculty body. Within a few years the three cases were resolved through financial settlements, but deficiencies in the official policies governing faculty appointments remained uncorrected.

Nearly two decades elapsed before a new provost launched a project to revise the entire faculty handbook. Work on it proceeded at a snail's pace, and it took until December 2012 before a revised faculty handbook was adopted. The revisions upheld AAUP-recommended standards in nearly all major respects, but with one important exception: they were ambivalent on whether the administration was required to provide the rejected candidate for reappointment or tenure with a written explanation for the adverse decision. The provost who steered the revised handbook through to adoption insisted that an oral explanation sufficed, should the candidate request it. A lawsuit by a faculty member denied tenure who alleged that she was able to obtain only a few meaningless words by telephone from her dean did not sway the provost from his position.

A new provost assumed office in July 2014. In early October she asked the AAUP staff what needed to be done in order to bring the censure to closure. In April 2015, she had to deal directly with the AAUP's long-standing concerns relating to Yeshiva policies and practices on providing reasons for nonreappointment and review of these by a faculty body. As part of a budget-driven restructuring, the previously separate men's and women's departments of economics were merged into one department. All tenured economics professors were retained, but two promising assistant professors in their third year were notified that they would not be considered for tenure. Widespread fear among the faculty that the administrators were placing the tenure system in jeopardy led the provost to issue a "general e-mail" to the entire faculty. In it she pledged her support for the continuance of the tenure system, provided assurance that tenure to recommended probationary faculty would continue to be granted on the basis of academic merit, and in four sentences explained the "very difficult decision," driven by unique circumstances, to eliminate the two tenure-track lines.

Officers of the elected Yeshiva faculty council, themselves AAUP members, consulted with the staff about the content of a communication they were to send to the provost on April 28. The letter faulted the provost for her refusal to convene a faculty review committee, as called for in Yeshiva and AAUP-supported policies, to hear an appeal from the two candidates. Her rationale was that none of the three grounds for appeal (inadequate consideration, academic freedom violation, and impermissible discrimination) applied in the two cases and accordingly a faculty review committee was not needed. "The provost may argue her position before the committee," the faculty council stated, "but she may not substitute her own determinations for those of the committee." The provost immediately accepted the faculty council's position and proceeded to convene the faculty review committee.

The responsible AAUP staff member telephoned the provost to commend her for her actions in these matters. Mutual interest was expressed in seeking the removal of the censure by the AAUP's 2015 annual meeting. The staff agreed to revise an account of Yeshiva University in "Developments Relating to Association Censure" that appeared in the May–June issue of *Academe* to include the positive new actions, and the provost agreed to provide a letter confirming the university administration's commitment to the tenure system and making several other staff-proposed statements. The resulting letter, dated May 13 and requesting removal of the censure, was signed not only by the provost (who had jurisdiction over the two Yeshiva Manhattan campuses) but also by Yeshiva's president, who is the chief officer of its rabbinical program and whose jurisdiction includes the major Yeshiva professional schools: the Albert Einstein College of Medicine and the Benjamin N. Cardozo School of Law.

The May 13 letter extolled the tenure system as crucial for the functioning of a reputable university. It explained that the decision to deny additional three-year appointments to the two probationary economists was aberrational to that department, that probationary faculty members will continue to be appointed at Yeshiva University, and that they will continue to be considered for tenure based on the merits of their candidacy. The president and the provost also assured the Association that, following the faculty handbook, they will continue to provide reasons in writing and afford opportunity for appeal to a faculty review committee in other cases that may arise. Moreover, they said they

will insist that the other administrators under their jurisdiction adhere to these same processes.

The head of the faculty council has reported that a substantial majority of the council members supports removal at this time, and the chair of the New York AAUP conference's Committee A, apprised of recent developments, favors removal. A former national Committee A member uninvolved with the recent developments was given the charge of conversing with key Yeshiva leaders and providing an impression of the current climate for academic freedom and tenure. A detailed report on these conversations reveals no specific obstacles.

Committee A recommends to the 101st Annual Meeting that Yeshiva University be removed from the Association's list of censured administrations.

Other Committee Activity

At its fall meeting, Committee A authorized a small subcommittee, in response to issues raised by the UIUC case, to construct a page on the AAUP's website containing Association documents addressing the topic of civility and academic freedom. The page can be found at <http://www.aaup.org/issues/civility>. The committee also agreed that its members should communicate with committee member Michael Bérubé, the 2015 editor of the AAUP's *Journal of Academic Freedom*, about submitting essays on this topic for the upcoming issue. At this meeting, the committee directed the staff to provide the committee with language setting forth the AAUP's position on the due-process protections that should be afforded full-time faculty members outside the tenure system whose length of service exceeded the maximum period of probation, an issue bearing on potential censure removal at Louisiana State University, Baton Rouge.

The AAUP's 2014 annual meeting had delegated to Committee A the authority to remove the censure, if it could attest by the time of its fall meeting that "actions are in process which will ensure the protections of academic due process for full-time faculty members holding contingent appointments." Not being able to so attest, Committee A took no action and asked the staff to inform the LSU administration that the matter of censure removal would accordingly be held over until Committee A reports to the 2015 annual meeting. The committee also asked the staff in its communications with LSU to explain the committee's position on due process for contingent faculty members in this case, to note that the committee would make no public announcement about its taking no action on the

censure, and to encourage further discussions between LSU administrative officers and the staff regarding other ways to address the due-process issue.

At its May meeting, Committee A agreed to the appointment of a joint subcommittee, with the Committee on Women in the Academic Profession, to study the issue of college and university administrators increasingly relying, when responding to Title IX complaints, on policies and procedures that disregard AAUP-recommended principles and procedural standards. At the meeting, the committee also considered a text produced by the staff articulating the Association's position on academic due process for full-time contingent faculty members with more than seven years of service. Three members of the committee agreed to add a few sentences of framing language to the text.

The Committee also discussed developments involving New York University's Abu Dhabi campus. As reported in the *New York Times* and elsewhere, the United Arab Emirates has denied an entry visa to NYU faculty member Andrew Ross, president of our chapter at that institution. Professor Ross was to conduct research on labor conditions in Abu Dhabi. In March, the AAUP issued a statement, drawing on our 2009 statement *On Conditions of Employment at Overseas Campuses*, formulated jointly with the Canadian Association of University Teachers. The statement emphasized that this "denial of entry has ominous implications for the state of academic freedom at NYU's branch campus in Abu Dhabi" and called on "the administration of NYU to make every effort to get the ban on Professor Ross lifted and, should such efforts fail, to work with its faculty to reconsider its role in the emirate." Seeing no movement toward a successful resolution, the committee asked the staff to write to the NYU president restating the AAUP's concerns and inquiring what the NYU administration has done and intends to do to address the ban.

Additional topics at the spring meeting included academic freedom and Freedom of Information Act requests, tenure and governance issues in the closing of Sweet Briar College, academic freedom and donors attaching conditions to their donations, investigating academic freedom violations after settlements have been reached, and the national office's endorsing local and state activists as authorities on AAUP policy.

Conclusion

I want to thank the members of Committee A for their tireless work on behalf of the principles of academic

freedom, our profession, and the AAUP. I would also like to thank the members of the Department of Academic Freedom, Tenure, and Governance as well as other members of our devoted national staff for their support of the committee and their hard work on behalf of academic freedom, shared governance, and the common good throughout higher education. In particular, I want to thank Donna Young, who is returning to her faculty position at Albany Law School after a year of service to the department. Fortunately for the Association, Donna's position will be filled starting January 1, 2016, by Hans-Joerg Tiede, a member of Committee A as well as the AAUP Council and Executive Committee and president of the AAUP Assembly of State Conferences. Joerg edited the new 11th edition of *AAUP Policy Documents and Reports* (the "Redbook"), which appeared in January. I also want to acknowledge the fine work of the department's new administrative assistant, Donna Banks,

who in just a few short months has proven to be an invaluable asset to our Association.

Lastly, it would be extraordinarily remiss not to acknowledge that this centennial year also marked the fiftieth anniversary of Jordan E. Kurland's appointment to the AAUP staff. Jordan is the energizer bunny of academic freedom; he never stops fighting on our behalf. As a resolution passed by thunderous acclamation at the AAUP annual meeting in June noted, Jordan "has played a role in more than 90 percent of the case investigations conducted in the Association's history. . . . During the past fifty years, Jordan has contributed, quietly and behind the scenes, more than any other individual to the AAUP's core endeavor of developing and implementing recommended standards on academic freedom, tenure, and governance." He is an inspiration to us all. Thank you, Jordan, for all that you have done and will continue to do to advance the mission of the AAUP.

Cases Settled through Staff Mediation

The four selective accounts that follow illustrate the nature and effectiveness of the mediative work of Committee A's staff during the 2014–15 academic year.

A senior professor holding an endowed chair at a university on the Gulf Coast was interviewed by a prominent newspaper on the subject of American slavery. The professor's reply included the remark that daily life as a slave was not so bad as the abomination of abducting and forcing innocent people against their will into servitude. The newspaper story, however, identifying him and his university, quoted him as having said only that slavery "was not so bad." The resulting uproar was predictable, particularly among the university's student body, faculty, and trustees. The university's president, wanting to distance the institution immediately from what was quoted, submitted a column denouncing the quotation and its alleged author that was published in the weekly student newspaper.

The professor, having already announced that he would be suing the offending newspaper for libel, now publicly threatened to sue his university and its president as well. He sought assistance from the Association's staff, and a member asked him what, short of prevailing in a lawsuit, he would foresee as adequate remedy. He replied that he would welcome a public apology for the president's not having obtained

an explanation from him before publicly attacking him. Asked by the staff member if he would settle for a private meeting with the president at which the president would explain why he acted without first checking with the alleged "not so bad" slavery expert, the professor said that the private meeting would be satisfactory, provided that he was free to talk about it afterward.

The staff member then talked with the president, who said that on the eve of the student newspaper publication, he walked over to the professor's building to look for him but could not locate him. He said that he remained willing to meet with the professor. The staff member promptly arranged for a meeting that both parties understood would provide opportunity for the professor to tell the president directly about the injury the president's letter inflicted on him and opportunity for the president to explain why he responded as he did. In addition, the professor could request confirmation that his academic freedom would continue to be respected. Afterward, the president sent the staff a succinct "many thanks!!" As for the professor, the officers of the state conference

enlisted him electronically to AAUP membership, and he informed the staff that “your newest member” is “very grateful!”

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An assistant professor in his sixth year of service at a historically black institution in the South sought the AAUP’s assistance after receiving notice in late April that his probationary appointment would not be renewed beyond the end of May. AAUP-supported standards require twelve months of notice for a faculty member with three to six years of full-time service. The foundation for this decision was an administrative directive, issued in mid-April, stating that any faculty members in their sixth year of service who declined to submit an application for tenure would “by administrative default” have their services terminated “at the close of the sixth-year contract.” Through what he contended were administrative errors in communicating with him about the year in which he should stand for tenure, the professor had not submitted a tenure application.

The staff’s letter to the administration pointed out that the notice provided was inadequate under both AAUP-supported standards and the institution’s own policy. With the professor having already begun a full-time appointment elsewhere, the AAUP staff urged the administration to pay him one half year’s salary in lieu of an additional year of appointment. Not long after the letter was sent, the professor informed the staff that the administration had made him exactly that offer, in return for releasing any further claims against the institution, an outcome with which he expressed surprise and delight.

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A small university in the Midwest initially had all the members of its faculty serving for terms of one year at a time, renewable at the administration’s discretion. A decade ago, a procedure for faculty review of a contested decision against retention was adopted, but the burden of proof rested with the affected faculty member, whose status throughout his or her career thus was tantamount to that of a probationer. Under the 1940 *Statement of Principles on Academic Freedom and Tenure*, a full-time faculty member whose service has exceeded the maximum seven years of probation can be dismissed only for cause as demonstrated in a

hearing before a body of peers. The burden of proof in such a hearing is to rest with the administration.

A faculty member at the university turned to the Association for assistance after having been notified of nonretention beyond her twelfth year of full-time service. Indeed, in her tenth year she had been promoted in rank to an associate professorship. Shortly thereafter, however, she found herself out of favor with her dean. With her dismissal threatened, a member of the AAUP staff asked about the burden of proof in a hearing, which the dean called “the responsibility of all involved.” The staff member then asked the president, himself an AAUP member in his faculty days, for an amplification of “all involved.” The president, after informal discussion with the staff member, responded as follows: “[T]hose involved are the administration, the subject faculty member, and the hearing body. The administration, seeking the dismissal, is responsible for demonstrating cause for it. The faculty member, seeking to avoid dismissal, is responsible for his or her defense through questioning the adequacy of the stated cause. The hearing body is then responsible for determining whether adequate cause has been demonstrated and recommending accordingly.”

The foregoing has received the concurrence of the university’s faculty council and has been adopted as official policy.

The subject professor’s case was subsequently resolved through her resignation from the faculty as part of a negotiated settlement.

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An assistant professor in his second year of service at a public university in the Southeast spent much of that year appealing an adverse nonreappointment recommendation, handicapped by not having been afforded written confirmation of the reasons for it. Under AAUP-supported standards, full-time faculty members denied renewal of appointment are entitled to a written statement of the reasons for the decision. It was only in late February, after he had exhausted every opportunity for an on-campus appeal, that the administration provided the professor a written statement of reasons along with notice of nonreappointment.

In writing to the administration, the AAUP staff emphasized that the professor had been compelled to pursue his appeals in ignorance of the basis for the nonreappointment decision and that the February

notice he received was far short of the six months of notice to which he was entitled under both AAUP-supported standards and the university's own policy. Furthermore, the staff's letter noted, since the professor intended to appeal to the governing board when it met in May, the decision on his reappointment could potentially not be final until summer. Because of the late notice and the failure to provide a timely statement of reasons, the staff urged the administration to offer the faculty member a terminal appointment for the following academic year.

The institution's outgoing president responded by invoking state law forbidding a public agency from negotiating with a labor union. The staff response conveyed puzzlement, pointing out that the Association was not a labor union, but a professional association, and that it had historically "enjoyed cordial relations with the administrations and governing boards of a number" of higher education institutions in that state. The staff letter elicited a letter from an assistant attorney general, reiterating the president's position, to which the staff replied that it found this response from the state's legal office even more puzzling than the president's. Nevertheless, very soon afterward the administration did offer the professor what the AAUP staff had urged as a resolution in return for his agreeing not to pursue his case further. ■