

Academic Freedom and Tenure: Alaska Pacific University¹

I. Introduction

Alaska Pacific University, located in Anchorage, was chartered as Alaska Methodist University in 1957 by the Territory of Alaska and was dedicated on June 29, 1959, one day before statehood. Its founder, Peter Gordon Gould, the first Aleut to be ordained in the Methodist clergy, had worked for years to encourage the establishment of a private liberal arts college for Alaskans. His vision was shared by a group of Anchorage citizens who raised matching funds with the Methodist Church's Board of National Missions to purchase the land and launch the institution.

Donald Ebright's brief tenure as the organizing president was followed by a decade of leadership under President Fred P. McGinnis, during which time three major buildings were constructed on the 300-acre campus and a faculty and student body were developed. Despite success with its academic programs, the university was forced to close its doors in 1976 because of financial difficulties. A year later, in the fall of 1977, it reopened with four full-time faculty members and ninety-six students under a new president, Dr. Glenn A. Olds, who had stepped down as president of Kent State University. A new core curriculum with an international emphasis was introduced. In 1978, reflecting the broadened mission of the university, the board of trustees renamed the institution Alaska Pacific University (APU).

During his decade of leadership, President Olds succeeded in shaping APU into a distinctive, small liberal arts university. Enrollment grew to 600 full-time-equivalent students (1,500 enrollees) and thirty-five full-time faculty members. Substantial endowments were developed, and additional campus buildings were acquired. Dr. F. Thomas Trotter, who had held a position of leadership with the Board of Education of the United Methodist Church, became president in 1988. He remained in office until January 1995, when he was succeeded by Dr. Douglas M. North. President Trotter broadened the base of support for the univer-

sity, especially in the corporate community, and facilitated the growth of an intercultural, international, and interreligious student body. Collaborative programs with the University of Alaska Anchorage and exchange programs with Nagoya Gakuim University in Japan and Far Eastern State University in Vladivostok, Russia, were cited as evidence of APU's claim of "anchoring the Pacific Rim and land bridge to Asia."

In early March 1994, a drastic restructuring of the academic and administrative services of APU was announced. It involved notice of termination that June of the services of ten full-time professors, eight of whom were under multi-year continuing contracts, and the elimination of several academic departments and programs. Despite the unanimous recommendations of a faculty grievance panel that the affected faculty members receive a year of severance pay and relocation assistance, no financial compensation or assistance was provided by the university administration. Only two of the faculty members were retained for five and a half advertised positions created by the establishment of a new Department of Liberal Studies, which replaced the discontinued Departments of the Humanities and the Social Sciences.

II. Background

On February 3, 1994, Dr. Rodney W. Kilcup, APU vice president for academic affairs and provost from August 1990 until his office was abolished in February 1995, sent a memorandum to the faculty announcing a change of leadership in the Department of Management and providing a progress report on preparation of the FY95 Budget. He announced that budget requests of \$9.8 million exceeded the current-year budget of \$9.1 million. He disavowed rumors that there would be an 8 to 10 percent cut in the following year's budget but acknowledged that he had no firm revenue projections for FY95 at the present. He also indicated that a forecasted drop in full-time-equivalent students of 7 to 8 percent was a very generous prediction and would probably not be that much.

President Trotter and Provost Kilcup met with the executive committee of the Faculty Assembly on February 11 to discuss budgetary matters. President Trotter assured the committee that the university was in better financial shape than it had ever been. He announced that there would be no faculty pay increases for the following year but that salary inequities would be redressed in the near future.

On February 15, Provost Kilcup sent the business affairs committee of the board of trustees at its request the recommendations

¹The text of this report was written in the first instance by the members of the investigating committee. In accordance with Association practice, the text was then edited by the Association's staff, and as revised, with the concurrence of the investigating committee, was submitted to Committee A on Academic Freedom and Tenure. With the approval of Committee A it was subsequently sent to the faculty members at whose request the investigation was conducted, to the administration of Alaska Pacific University, and to other persons concerned in the report. In the light of the responses received and with the editorial assistance of the Association's staff, this final report has been prepared for publication.

of a "select staff" committee's proposed FY95 budget for action at the board committee's meeting on February 22. Providing only summary accounts, the cover memorandum presented a "no frills budget" that would require a reduction of \$908,484 in order to accommodate projected shortfalls in endowment revenues. This budgetary cut would come largely from economies to be realized by eliminating all degree programs in the Departments of Humanities and Social Sciences and combining these two departments in a much smaller general education department that would provide required service courses for the remaining undergraduate career-track programs in management, education, environmental science, and counseling psychology.

A lengthy justification by Provost Kilcup of the proposed academic changes began with the observation that "the modifications to academic programs embedded in this budget should be adopted even if financial considerations were not pushing us to a serious re-examination of programs." His report argued that the Humanities and Social Sciences Departments had long been over-staffed with "a large number of expensive professors who regularly teach extremely small classes" and who have a poor history of attracting undergraduate majors. In fact, according to the report, these departments largely had provided the undergraduate general education and core requirements, teaching that could be done more appropriately and much less expensively by faculty members prepared to teach only such courses. No specific figures about the number of full-time faculty members whose services would be terminated were provided. A number of additional cuts were proposed, including the Alaska Pacific University Press, the program in continuing education, and master's degree programs in religious studies, liberal studies, and Pacific Rim studies. But the brunt of the proposed changes would be borne by the radical curtailment of the liberal arts offerings of the university.

With some adjustments in projected revenues and further cuts in academic services, a revised proposed FY95 budget was presented to the university's Coordinating Council on the afternoon of February 25. The Coordinating Council, which "facilitates academic decision-making," is composed of five departmental faculty chairs, the chair of the Faculty Assembly, the dean of students, three associate deans, and a student representative. *Ex officio* members include the registrar, the director of admissions and financial aid, and the assistant to the president. Provost Kilcup chaired the council.

Members of the Coordinating Council were informed of the unscheduled meeting by telephone the preceding afternoon. No materials were circulated in advance, and members were instructed not to mention the meeting to colleagues. Upon arrival, Provost Kilcup declared that the council was in executive session; note taking was not permitted, and materials distributed for discussion were not to leave the room. A packet was distributed containing a lengthy cover memorandum, thirty-seven pages of tables concerning credit-hour production, course-by-course enrollments, comparative statistics on departmental majors in the hu-

manities and social sciences over a five-year period, and a twenty-five-page revised FY94 Expenditure Budget and FY95 Revenue Projections.

Provost Kilcup's cover memorandum contained much of the same content as the earlier one to the board's business affairs committee, including the arguments for discontinuing all degree programs in the humanities and social sciences and combining these two departments in a Department of Liberal Studies to serve the general education and core requirements. It also requested the council's "assistance in reviewing these proposals and developing any other better ideas for addressing our problems," while reminding the members "that ultimately the recommendation is an administrative matter and that the decision is in the hands of the board of trustees." Much of the three-hour meeting was devoted to Provost Kilcup's presentation of the proposal. At the close, he invited members to put alternative plans on the table, but those alternatives were to be developed with only limited access to and without notes concerning the administration's proposal and without any consultation with faculty colleagues. They were to be submitted in writing over the weekend.

Provost Kilcup received memoranda from the two members of the Coordinating Council whose departments were targeted for elimination. Professor Chen-shen J. Yen, chair of social sciences, criticized the failure to consult the affected departments, to phase out the programs over a period of time, and to consider spreading budgetary reductions more evenly across the university. He also questioned abandoning programs at the heart of APU's identity as a small liberal arts institution. Professor Alan Schmitz, chair of humanities, questioned the potential staffing of the new Department of Liberal Studies with adjuncts and master's-level faculty and the impact of the planned changes on APU's claim to be a liberal arts university. He also criticized the administration's failure to involve the faculty in solving the university's budgetary problems and its unwillingness to consider phasing in required program changes over a year's period. The concerns expressed by Professors Yen and Schmitz had no discernible effect on the administration's course of action.

On March 1, 1994, Provost Kilcup began personally contacting the ten faculty members whom he was to notify of termination, explaining what the university would do to help them secure new positions and assuring them that they could apply for the five full-time positions in the newly created Department of Liberal Arts. President Trotter and Provost Kilcup held an open meeting with faculty, staff, and students on March 2 about proposed changes relating to the FY95 Budget. President Trotter explained that the changes were triggered by a \$900,000 decline in revenue from real estate-based endowment due to the cutting back of office space leased by the federal government. At the meeting President Trotter did not mention that the leases would not expire until October 1994 and that actual revenue losses would not be known until that date. In fact, on February 22 President Trotter received written confirmation of an earlier oral report from the

university's real estate investment management firm outlining three possible scenarios of revenue losses ranging from \$172,238 to \$762,300. The firm advised that the likeliest outcome was a loss of \$463,298, most of which could be offset by new tenant leases once the vacated space could be marketed.

The reorganization plans were presented to the board of trustees on March 3 for its approval. Faculty members and students were allowed to speak to the issues before a final vote was taken. Members of the faculty addressed a variety of concerns: how such serious financial problems could arise so abruptly; the need for prior consultation with the faculty; market-driven decisions concerning curriculum and faculty; the loss of experienced teachers; and the resulting damage to the university as a whole. Students criticized the lack of notice, the disappearance of liberal arts studies, and the termination of the graduate program in Pacific Rim studies. After hearing these pleas, the board approved with minimum changes the administration's proposed budget and reorganization.

A same-day account in the morning edition of the *Anchorage Daily News* reported that the university was laying off one half-time and eight full-time professors from its thirty-six-member faculty but that new hires would result in a net loss of four and one-half faculty positions. Here, too, the cuts were attributed to reductions in leases of endowment properties by the federal government. A fuller account was provided by President Trotter in a March 7 memorandum to APU faculty, staff, and students. He promised students majoring in the two discontinued departments assistance in completing their programs, and he assured affected faculty members that they were eligible to apply for positions in the new Department of Liberal Studies.

On March 9, 1994, Provost Kilcup sent formal notification of termination to ten faculty members: Michel Berta, Assistant Professor of French; Bernell Blaine, Instructor of English as a Second Language; Guy Burneko, Associate Professor of Literature; Joan Cleppe, Visiting Assistant Professor of Literature and Languages; Robert Craig, Professor of History; Lynn Gordon, Assistant Professor of Speech/Communication; Neil O'Leary, Associate Professor of Theatre Arts; James Payne, Associate Professor of Anthropology; Alan Schmitz, Associate Professor of Music; and Chen-shen Yen, Associate Professor of Political Science.

Provost Kilcup's letters informed the affected faculty members that they would receive their regular salary until June 30, 1994, at which time they could apply for continuation of health insurance. He offered to nominate them for any vacant positions in the University of Alaska system and to write general and specific letters of recommendation to other prospective employers. He also provided a description of the advertisements for the APU positions in the new Department of Liberal Studies. Finally, he referred to an expedited grievance procedure allowing appeal directly to the president, provided such appeals were filed by March 17.

Members of the APU faculty responded quickly to the crisis facing them. On March 3, Professor Schmitz telephoned the

Washington office of the American Association of University Professors to report on what was happening, and on March 8 he mailed a packet of information on the course of events with a request for the Association's advice and assistance. On March 9, a resolution of the Faculty Assembly was sent to the board of trustees. It protested against the violations of *Faculty Handbook* procedures for terminating faculty appointments and discontinuing programs, and it demanded that those members of the faculty whose multi-year contracts were being breached "either be reinstated and their contracts honored, or be given, at a minimum, a full year's severance pay plus moving expenses."

On March 17, nine of the faculty members who had received letters of termination jointly filed two grievances. (Professor Craig chose not to be listed because he had already received encouragement from Provost Kilcup about receiving an appointment in the new Liberal Studies Department.) The first grievance charged that the APU administration had acted in bad faith in representing the university's fiscal circumstances and had selected for removal faculty members who had been critical of the administration's actions. They asked for re-establishment of the Departments of Humanities and Social Sciences and reinstatement of each of them or, otherwise, that each receive a full year's salary and benefits, that the remainder of their contracts (if multi-year) be honored in full, and that each be reimbursed for legal costs. The second grievance claimed that the administration had acted wrongfully in the termination of their appointments by eliminating departments, since no financial exigency had been declared. The demands for re-establishment and reinstatement made in the first grievance were repeated in the second. The two grievances were later consolidated for a single grievance hearing on the termination of the appointments of eight faculty members who had held multi-year contracts. (The administration excluded Professor Cleppe as a grievant because she had held a one-year visiting appointment.)

The grievances were heard by a panel of three faculty members, one of whom, in accordance with university policy, was chosen by the grievants, another chosen by the president, and a third selected by those two to serve as chair. The hearings lasted three days, from April 11 to 13, 1994. The grievants were permitted legal counsel, and a transcript was made of the proceedings. The panel reported to President Trotter on April 15. It faulted the administration for its lack of consultation with the faculty prior to taking action to terminate the faculty appointments and for failing to give timely notice for those who were now forced to seek employment elsewhere. The panel recommended that each of the eight faculty members be continued on the payroll for one additional year and that other financial considerations be provided to ease their transition to other employment.

President Trotter, scheduled to leave on an extended trip the next day, responded to the grievance panel report on the same day it was written and delivered. He denied the panel's claim of improper consultation with the faculty and untimeliness of the ter-

minations. He rejected the panel's remedies, claiming that rescinding the terminations would add nearly half a million dollars to the budget for the coming year.

The grievance panel sent a second report to President Trotter on April 20 calling for improved communications between the administration and the faculty and between the faculty and the board of trustees. The panel members also recommended a thorough revision of the *Faculty Handbook*, which they found to be obsolete and contradictory, lending to "arbitrary, capricious, and whimsical interpretation."

On April 27, the APU faculty decided unanimously to conduct another evaluation of the administration—it had done so the previous spring, ending with the large majority voting no confidence—and to forward the results to President Trotter, Provost Kilcup, and each member of the board of trustees. Twenty-seven of the thirty-one full-time members of the faculty completed and returned the detailed evaluation forms, providing an overwhelmingly negative rating of the performances of President Trotter and Provost Kilcup.

In May the attorney for the faculty members suffering termination of appointment offered to forgo legal action if the university would adopt the grievance panel's recommendations. Mr. Thomas P. Owens, Jr., legal counsel for the university, conveyed President Trotter's refusal, stating that implementation of the recommendations "could move the university toward or into a state of financial exigency." Six of the faculty members filed suit in state court on July 29.

The AAUP staff wrote to President Trotter on March 22 and again on June 24, conveying concerns regarding tenure rights and academic due process. Mr. Owens, responding on behalf of President Trotter, defended the administration's actions as steps taken "to avoid financial exigency."

In the absence of a resolution of the Association's basic concerns, the general secretary authorized an investigation, and President Trotter was so informed by letter of August 12. He was further informed of the membership of the undersigned *ad hoc* investigating committee and the proposed dates for a visit by the committee. The investigating committee visited the campus on September 29 and 30. President Trotter declined to meet with the committee, but Provost Kilcup, joined by the chair of the Faculty Council, did agree to a meeting. The investigating committee also met with nine faculty members whose services were terminated, with the chair of the grievance panel, and with several members of the ongoing faculty.

III. Issues and Findings

The termination of the services of Alaska Pacific University professors prior to the expiration of their multi-year appointments presents issues of academic freedom, tenure, and due process that the investigating committee now will assess, using the standards set forth in the 1940 *Statement of Principles on Academic Freedom*

and *Tenure* and derivative principles and procedures supported by the American Association of University Professors.

1. Grounds for Termination. The 1940 *Statement of Principles* calls for a seven-year probationary period, with retention beyond that period to be with continuous appointment or tenure. The protections associated with tenure apply, according to the 1940 *Statement*, in a case of termination of a continuous appointment or of a fixed-term appointment prior to its expiration. At APU, Professors Craig, O'Leary, Payne, and Schmitz had more than seven years of full-time service when they were notified of the termination of their appointments, and terminations became effective in the midst of a multi-year appointment in the cases of Professors Berta, Blaine, Burneko, and Yen. Each of these faculty members thus was entitled when faced with termination to tenure's safeguards under Association-supported standards.

The 1940 *Statement of Principles* recognizes that a faculty appointment can be terminated not only in the form of a dismissal, but also when the action is demonstrably *bona fide* because of financial exigency. In addition, Regulation 4 of the Association's derivative *Recommended Institutional Regulations on Academic Freedom and Tenure* permits the termination of an appointment because of a formal discontinuance of a program or department of instruction based essentially on educational considerations. Regulation 4 does not permit the termination of appointments, without financial exigency having been demonstrated, because of an announced reduction or reorganization of program as opposed to the program's discontinuance.

APU provides its faculty with indefinitely renewable term contracts rather than a system of probation leading to indefinite tenure. Faculty members have typically been offered one-year contracts for the first two years, followed by a two-year and then successive three-year contracts. The *Faculty Handbook* provides for terminating "the services of a ranked faculty member before the expiration of his or her current contract" on the following grounds:

- (a) prolonged mental or physical illness; (b) major changes in curricular requirements, academic program or area; (c) enrollment exigency; and (d) financial exigency.

A. Financial Exigency. The administration's initial stated reason to faculty, students, and the public for eliminating the Departments of Humanities and Social Sciences and terminating the faculty appointments was an unexpected shortfall in endowment resulting from cutbacks in federal government real estate leases. But at no time did the board of trustees declare a state of financial exigency, a required preface for action according to the *Faculty Handbook*. In later correspondence with the affected faculty members and with the Association's staff, the administration maintained that events forced the university to take the steps necessary to "avoid financial exigency," the same reason it gave for not providing a

year's severance salary to the terminated faculty. The administration justified its actions by reference to a provision in the *Faculty Handbook* that permits termination of a faculty member's appointment on three months' notice "as a result of a major change, including discontinuation of a curricular requirement, an academic program, or area in whole or in part." The administration further defended its reorganization plan by arguing that it addressed broader considerations such as declining student enrollment, the viability of major programs, and the university's mission.

The investigating committee finds that the administration's early justification of its actions in terms of financial necessity did not meet *Faculty Handbook* requirements, much less AAUP standards for invoking a state of financial exigency. Indeed, there is reason to doubt that the university faced a genuine financial crisis in the spring of 1994.² In early February, *after* privately learning of possible endowment lease reductions for the following fall, Provost Kilcup sent a letter to the faculty to dispel rumors of an 8 to 10 percent reduction in the FY95 budget. The following week, President Trotter assured the faculty that the university was in fine financial shape. Yet less than three weeks later, the president defended his abrupt actions against the faculty members by suggesting a threatened financial collapse of the university.

The investigating committee believes that Provost Kilcup seized on the *possibility* of a financial shortfall to institute a sweeping change in the university's academic programs under the guise of a financial emergency.³ He knew that the outcome of the expiring leases would not be determined until the fall of 1994, after which any losses were likely to be offset in whole or in part by new leases. His invoking a "worst-case scenario," however, seems to have lent a certain plausibility and urgency to the radical actions he was initiating.

That the specter of a major financial shortfall provided the excuse rather than the reason for the elimination of academic programs and faculty positions in humanities and social sciences is evident to the investigating committee from Provost Kilcup's written proposal to the business affairs committee of the board, in which he argued that the changes "should be adopted even if financial considerations were not now pushing us to a serious re-

examination of programs." He reiterated the argument when he took his proposal to the Coordinating Council. Moreover, he told the investigating committee that the financial shortfall gave him the chance to make changes that were necessary for the good of the university.⁴

Subsequent developments have confirmed that no serious financial crisis existed, let alone a state of financial exigency. After the October 1994 lease expiration date, Provost Kilcup informed the investigating committee that the lease was still in force. President Trotter's 1993-94 *Annual Report* boasts that FY94 "was the best year the university has ever had financially." The only apparent unbudgeted financial shortfall for the 1994-95 year stemmed from the loss of thirty full-time-equivalent graduate and undergraduate students because of discontinued programs.

B. Program Discontinuance. Discontinuation of academic programs was the official reason given in providing *written* notification and in denying the grievances in the cases of the eight faculty members whose appointments were terminated with three months of notice. The *Faculty Handbook* allows for termination as a result of major curricular or program changes but stipulates that "decisions of such major changes will be made by the vice president for academic affairs in consultation with the Coordinating Council." The *Faculty Handbook* further stipulates that the termination of the appointments of *specific* faculty members shall be determined by the vice-president for academic affairs in consultation with the Faculty Review Committee. Preference is expressed for the terminations to be distributed throughout the university, to prevent the elimination of any program or area; if it is deemed necessary to eliminate an entire program or area, however, that determination is to be made by the vice-president for academic affairs and the Faculty Review Committee.

Neither of these *Faculty Handbook* provisions was honored in the administration-mandated elimination of academic departments and termination of appointments. No Faculty Review Committee was convened or consulted. Moreover, the presentation of the administration's discontinuance proposal to the Coordinating Council was a "consultation with the faculty" in name only. Faculty members of the Coordinating Council had no advance notice of the substance of the meeting, had three hours to digest and discuss a sixty-eight-page proposal, were not permitted

²Counsel for the administration, responding to a draft text of this report sent prior to publication, states that the university did not face a fiscal crisis that spring but did face a prospective crisis for FY95.

³Counsel for the administration, in his prepublication comments, writes that "Dr. Kilcup vehemently denies the suggestion that he 'seized on the possibility of a financial shortfall to institute a sweeping change in the University's academic programs under the guise of a financial emergency.' Dr. Kilcup merely implemented the decisions of the trustees based upon projections of revenue declines for FY95. At that time there was no reason to believe with any certainty that would support a prudent business decision, that the projected losses would be offset in whole or in part by new leases."

⁴According to counsel for the administration, "Dr. Kilcup stands by his statement that changes should have been adopted by APU regardless of financial considerations. He said this often and openly. The programs in the majors which were eliminated had never drawn enough students to justify their continuation. There was no trend line up for these programs over a seven-year period. These programs were expensive and failing. Removing such weak programs was in the best interest of the University because it would allow APU to improve support for the programs for which there was a significant market. It would also benefit the teaching of liberal studies courses because it would make clear the audience for such courses."

to retain the proposal for later study or even to take notes concerning its provisions, and had three days to submit written alternatives. The investigating committee finds that the faculty was denied a meaningful role in these major decisions affecting academic programs and faculty appointments.

Were the administration's decisions to eliminate the Departments of Humanities and Social Sciences based "essentially on educational considerations" as mandated under Regulation 4? These departments at APU had borne the primary responsibility for core and general education courses required of all undergraduate majors. The number of students majoring in specific areas of the humanities and social sciences was quite small compared to the career-oriented undergraduate degree programs, although the collective total majors in these two areas were not insignificant. Similar imbalances can be found in liberal arts colleges and universities large and small throughout the United States in this era of "careerism." Few colleges and universities have been willing to abandon the heart of liberal education by terminating degree programs in the liberal arts, however; nor have they been willing to relegate the liberal arts curriculum to part-time instructors who will work for low wages. The investigating committee finds that the motivation for eliminating degree programs in humanities and social sciences at APU, while by no means mandated by financial exigency, was financial rather than educational. In any event, the committee finds that the Association's recommended standards for terminations based on program discontinuance not mandated by financial exigency were disregarded. AAUP's Regulation 4 mandates that the decision to discontinue formally a program or department be based upon educational considerations "as determined primarily by the faculty as a whole or an appropriate committee thereof" and that every effort be made, including retraining, to place affected faculty members in other suitable positions within the university. Failing such reassignment, Regulation 4 further provides, those whose appointments are terminated should be provided severance salary equitably adjusted to length of past and potential service. None of this was done in the cases of the eight APU faculty members.

2. The Grievance Procedure. Those APU faculty members receiving notice of termination were informed that they could appeal the decisions through the grievance procedure set forth in the *APU Faculty Handbook*. As indicated earlier in this report, the procedure provides for a hearing before a three-member panel, one chosen by the grievants, one by the president, and a third, who serves as chair, by the first two appointees. Attendance at the hearing is limited to witnesses for both parties and legal counsel. The grievance panel is to send its recommendation to the president within two days of the close of meetings. The president may or may not abide by that recommendation. The scope of review by the grievance panel is limited to a determination of whether applicable *APU Faculty Handbook* provisions were followed.

Submitting its report, the grievance panel found that the ad-

ministration failed to meet *Faculty Handbook* directives. The panel further faulted the administration for the timing of its actions and the brevity of notice. As a remedy, it recommended that each grievant be continued on the payroll for one year with medical and retirement benefits, that each be given an additional month's salary for expenses in pursuit of new employment, and that each receive \$1,000 for legal expenses incurred in connection with the grievance procedure. Rejecting the findings and recommendations on the same day that he received them, President Trotter alleged that "the university simply could not survive the coming academic year" if it provided the recommended severance package.

The investigating committee finds that the affordance of the grievance procedure, like the administration's "consultation" with the Coordinating Council, was a *pro forma* exercise intended to fulfill the letter of a stated requirement but negating its spirit.

3. Faculty Relocation. The *APU Faculty Handbook* is silent regarding the Association-supported requirement that every effort be made to relocate faculty members whose positions are eliminated by program discontinuance in other suitable positions within the university. President Trotter's public announcements and letters of termination promised, however, that the affected faculty members would be invited to apply for the five and a half faculty positions in the newly created Department of Liberal Studies. He assured the faculty that "we will give preference in hiring to in-house candidates whose qualifications are equal to those of outside candidates."

The investigating committee was given reason to believe that these assurances originally were taken in good faith by the affected faculty members. Indeed, there is some indication that faculty protest against the administration's plan was dampened considerably in the early days by the assumption that most of the members whose positions were being eliminated would be retained at their current rank and salary for the new program. As noted earlier, Professor Craig, whose position in social sciences was terminated, chose not to join in any appeals to AAUP or grievances against the administration because the provost had spoken encouragingly about his being retained. The assured "preference in hiring to in-house candidates" was not to occur, however.

Provost Kilcup's February 15, 1994, memorandum to the business affairs committee of the board of trustees indicated that he intended to replace "a large number of expensive teachers who regularly teach extremely small classes" with master's-level and part-time instructors who are "more appropriately prepared" to teach the service courses that meet the university's general education requirements. His projected savings in combining the Humanities and Social Sciences Departments in a new Department of Liberal Studies allowed for no other method of staffing the new department. Professor Craig reported to the investigating committee that Provost Kilcup told him on March 1 that most of the courses in the new program would be taught by adjuncts, but that

a few full-time professors, including Craig, would be appointed "to give credence to the new program." Provost Kilcup acknowledged these intentions for staffing in his own meeting with the investigating committee, saying that he "only wanted people who wanted to teach at the remedial level, not Ph.D.s who wanted to teach literature."⁵

The applications and the responses revealed the administration's unwillingness to retain faculty members whose positions were terminated, despite their qualifications and their willingness to teach in the new program. Professor Burneko applied unsuccessfully for advertised positions in the liberal arts program and also for the position of director of the Composition Center. Professor Blaine, formerly director of the English Language Institute, applied for advertised positions in speech/communications and English but was not granted an interview for either position. She was offered a position as director of a new Multicultural Services Center, which involved a twelve-month contract with a reduction in salary from \$33,000 to \$27,000, but the offer was withdrawn when she had not accepted it by an indicated date.

Professors Cleppe and Gordon, who were serving under one-year contracts when their positions were eliminated, were encouraged by the administration to apply for positions in liberal studies. Although there was a search committee, Professor Cleppe was interviewed instead by Provost Kilcup and Ruth De Camp, director of human resources. Professor Cleppe informed the investigating committee that she was given no specific information about duties and salary during her interview but was questioned closely about her attitudes—whether she could "smile and be happy"; whether she would "cooperate with the administration"; whether she would "try to restore things as they were." She states that the interview ended with her voicing the hope that liberal studies would be more than a service department. Later she received a letter of rejection from the search committee.

Professor Gordon was also interviewed by Provost Kilcup and Ms. De Camp rather than by the search committee. She reports having been asked by Ms. De Camp if she would "support Rod [Rodney Kilcup]," and having replied that "I support policy, not people." Later, she was urged by a colleague to write a letter to the provost because he was unhappy with her response. She complied, was called back for a second interview, and was offered the position at lower rank and salary, which she did not accept. She was called back for a third interview and negotiated for an appointment with no reduction in rank but at a lower salary than she had been receiving.

Professor Craig, who had received assurances from Provost Kilcup about being retained, was finally reappointed only after what he describes as "an agonizing four and one half months." He was

told by a colleague that the provost's attitude had changed because Professor Craig had encouraged the students in their protests against the elimination of the humanities and social sciences programs. Subsequently, an open position at the level of full professor was advertised nationally. Professors Craig, Payne, and Yen applied. The search committee sent a short list of candidates with these three names in rank order to the provost three times, only to be instructed each time to be more thorough. The committee then learned that Provost Kilcup was bringing in two candidates who had never appeared on any of the committee's lists, neither of whose qualifications, in the committee's judgment, matched those of the three APU candidates. After months of delay, the provost reappointed Professor Craig at his previous rank and salary.

The investigating committee finds that the administration's promise to give APU faculty members who lost their positions preferential consideration in new appointments was empty. Crucial "qualifications" for those among them who eventually were retained seem to have been support for the provost and, in all cases but one, acceptance of a reduction in salary. Those who had been critical of the provost—Professors Burneko, Payne, and Yen—were not even granted interviews, a fact the investigating committee finds troublesome under principles of academic freedom.

4. Severance Salary. Under the Association's *Recommended Institutional Regulations*, a faculty member with more than eighteen months of service whose appointment is terminated should receive, in all cases not involving moral turpitude, at least one year of notice or severance salary. Seven of the APU faculty members whose positions were terminated qualified under this standard yet received less than three months of notice and no further salary. The investigating committee finds the denial of minimally adequate severance arrangements particularly to be decried in the case of these faculty members, given the difficulties facing someone residing in Alaska who needs to seek a new academic position.⁶

IV. Conclusion

The administration of Alaska Pacific University acted in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure* and in disregard of applicable provisions in the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure* in terminating the appointments of eight members of the faculty. The administration initially linked the actions to a potential financial problem, but the terminations were not necessari-

⁵According to counsel for the administration, "Dr. Kilcup did not intend, ever, to rely upon more adjunct faculty. APU was perfectly willing to hire qualified faculty members for the new positions resulting from reorganization. In fact, several of the faculty members at issue were offered positions."

⁶According to counsel for the administration in his prepublication comments, this report "seeks to characterize a *plan* that was academically and economically prudent and responsible as a *plot*. Such inaccurate and obviously biased 'reporting' does far more damage to academic freedom than any action taken by the administrators and trustees of Alaska Pacific University."

tated by financial exigency. Nor were they necessitated by formal discontinuance of program based on educational considerations. While two departments were discontinued, a new department was established with several openings for which faculty members suffering termination were qualified, but, with one exception, these faculty members were not engaged. In discontinuing departments and terminating appointments, the administration avoided meaningful consultation with the faculty, rejected faculty recommendations to provide severance salary, and, throughout, essentially ignored expressed faculty concerns.

LONNIE D. KLIEVER (Religious Studies),
Southern Methodist University, *Chair*

ART BUKOWSKI (Mathematics),
University of Alaska Anchorage

Investigating Committee

Committee A on Academic Freedom and Tenure has by vote authorized publication of this report in *Academe: Bulletin of the AAUP*.

ROBERT M. O'NEIL (Law), University of Virginia, *Chair*

Members: WILLIAM P. BERLINGHOFF (Mathematics), Colby College; MATTHEW W. FINKIN (Law), University of Illinois; ROBERT A. GORMAN (Law), University of Pennsylvania; MARY W. GRAY (Mathematics), American University; JEFFREY HALPERN (Anthropology), Rider University; THOMAS L. HASKELL (History), Rice University; BETSY LEVIN (Law), University of Baltimore; IRWIN H. POLISHOOK (History), Herbert H. Lehman College, CUNY; LAWRENCE S. POSTON (English), University of Illinois at Chicago; JOAN WALLACH SCOTT (History), Institute for Advanced Study; MARY BURGAN (English), AAUP Washington Office, *ex officio*; JORDAN E. KURLAND (History and Russian), AAUP Washington Office, *ex officio*; JAMES E. PERLEY (Biology), College of Wooster, *ex officio*; RALPH S. BROWN (Law), Yale University, *consultant*; BERTRAM H. DAVIS (English), Florida State University, *consultant*; JUDITH J. THOMSON (Philosophy), Massachusetts Institute of Technology, *consultant*; WALTER P. METZGER (History), Columbia University, *senior consultant*.