

# Report

## Academic Freedom and Tenure Lawrence Technological University (Michigan)<sup>1</sup>

### I. Introduction

This report concerns actions taken by the administration of Lawrence Technological University to terminate the appointment of Professor Ernest L. Maier following a decision to discontinue the undergraduate programs in business management.

Founded in 1932 as Lawrence Institute of Technology, Lawrence Technological University (commonly called Lawrence Tech or LTU) is a private institution, located in suburban Detroit, with a coeducational student body numbering approximately five thousand. Its board of trustees is drawn entirely from the local business community, particularly the automobile industry; the chair of the governing board, Dr. Lloyd E. Reuss, formerly served as vice president of General Motors Corporation. The institution's 1996-98 catalog maintains that "there is an unusually close interaction between the University and the professions that attract its students and graduates." The university's motto, "Theory and Practice," indicates the emphasis placed on on-the-job experience as a necessary adjunct to classroom education. Accredited since 1967 by the Commission on Institutions of Higher Education of the North Central Association of Colleges and Schools, Lawrence Tech consists of four colleges: Architecture and Design, Arts and Sciences, Engineering, and Management. The university has a variety of bachelor's and master's degree programs, nearly all of which are offered in the evening as well as during daytime hours in order to accommodate the schedules of students who are in the workforce. During the 1996-97 academic year, the full-time faculty numbered 88. The university catalog also lists 241 part-time lecturers, not all of whom teach

every term; most appear to be employed full-time in business or industry.

Dr. Charles M. Chambers was appointed president and chief executive officer of Lawrence Technological University in 1993. He holds B.S., M.S., and Ph.D. degrees in physics from the University of Alabama and a J.D. degree from George Washington University. Prior to assuming the presidency of Lawrence Tech, he served as a member of the administration at George Washington University. He is a past president of the American Association of University Administrators.

Mr. Ernest L. Maier was a professor of marketing at Lawrence Tech from fall 1971 until January 1997, when the events that are the substance of this case took place. He holds a B.S. degree in marketing and an M.B.A. degree from the University of Detroit. From 1961 to 1963 he was a Ph.D. candidate in marketing and economics at the University of Illinois at Urbana-Champaign. At Wayne State University, where he served for three years prior to joining the faculty of Lawrence Tech, Professor Maier taught graduate and undergraduate courses in marketing. Prior to joining the Lawrence Tech faculty, he worked for over four years as a marketing representative with IBM. At Lawrence Tech he served as a consultant on marketing projects in the United States and abroad and authored or co-authored numerous publications in management, including two textbooks published respectively by McGraw-Hill and Prentice-Hall. He also founded and managed several businesses, the sort of outside professional activity encouraged by the university administration. Professor Maier is listed in the 1996-98 catalog as a lecturer in architecture as well as a professor in the College of Management.

### II. The Events

#### 1. The Action Against Professor Maier

On January 6, 1997, Professor Maier, a tenured full professor of marketing with twenty-five years of service at Lawrence Technological University, was called at home and told that he should come to the dean's office. He was informed there by Interim Dean Louis A. DeGennaro that his position in the College of Management was being terminated on grounds of program discontinuation. The executive committee of the board of trustees

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1. The 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 member at whose request the inquiry was conducted, to the administration of Lawrence Technological University, to the AAUP chapter president, and to other persons concerned in the report. In light of the responses received and with the editorial assistance of the Association's staff, this final report has been prepared for publication.

had that same day passed a resolution, effective immediately, "that the undergraduate programs in the College of Management be discontinued" because of long-term declining enrollments. Professor Maier was relieved of all teaching duties for the spring semester, which was scheduled to begin January 13, and his courses were reassigned to others. While informed that he would receive twelve additional months of salary and benefits, Professor Maier was told to vacate his office by January 10, which he did, though under protest. He was offered financial assistance, "up to a total amount of \$5,000," to reimburse him for expenses incurred in his search for new employment.

In his January 6 letter of notification to Professor Maier, Dean DeGennaro stated that, while the College of Management would cease to exist as an undergraduate-degree-granting entity, the university would continue to offer undergraduate courses in management in order to allow current students to complete their bachelor's degrees. The administration of these courses, however, would be shifted to the Colleges of Engineering and Arts and Sciences. Dean DeGennaro went on to state that, in accordance with provisions in the faculty handbook, a committee consisting of the provost and the college deans had reviewed Professor Maier's credentials in order to determine to which of these two colleges he could be reassigned. According to the interim dean, this group had concluded that "no reassignment is possible." (Not mentioned in the letter of notification was that the committee of deans had determined that two other faculty members—both of them tenured—could not be reassigned and that their appointments were also terminated. They chose not to bring their cases to the Association's attention.) Dean DeGennaro did not attempt to reconcile Professor Maier's relief from any further teaching with the fact that all of his regularly assigned courses continued to be offered. In closing, Dean DeGennaro advised Professor Maier that he could request a hearing before this same administrative body if he wished to appeal its decision.

## 2. Subsequent Developments

Approximately two weeks later, Professor Maier requested the assistance of the Association. In a January 27 letter to President Chambers, the staff conveyed the AAUP's concerns about the apparent lack of adherence to Regulation 4(d) ("Discontinuance of Program or Department Not Mandated by Financial Exigency") of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*. The staff's letter noted that, contrary to the provisions of Regulation 4(d), the decision to discontinue the undergraduate program in management had not been determined by a faculty body, adequate measures had not been taken to find an alternative position for Professor Maier within the institution, and he had not been afforded the opportunity for a hearing of record before an elected faculty committee. The staff expressed particular concern that Professor Maier had been involuntarily removed from classes that he was scheduled to teach and that continued to be offered. As the January 27 letter to President

Chambers points out, "such a practice, even if motivated by a desire to give faculty an unfettered opportunity to undertake new career ventures, can have the unintended effect of implying that a dismissal for cause was effected because of some sort of unstated culpability. Professor Maier states that he would have preferred to continue with his teaching duties for the additional year, rather than have to remove himself and his possessions immediately from an institution in which he had served for twenty-five years."

Responding by letter of February 11, President Chambers, charting a history of enrollment declines, provided a long and detailed account of the decision to discontinue the undergraduate programs of the College of Management and addressed some of the particular concerns raised by the Association's staff. He indicated that, as a longtime member of the AAUP, he was fully aware of the Association's recommended procedures for program discontinuance. The executive committee of the board and university counsel, he wrote, were also cognizant of the applicable Association-supported standards.

With respect to the issue of faculty participation in the decision to terminate the undergraduate programs in management, President Chambers mentioned the report of a faculty-administration task force that he had appointed in fall 1995 and had charged with making recommendations about the future of the College of Management. He quoted one of its eleven recommendations—that undergraduate enrollments in the College of Management be closely monitored—as indicative of faculty concern about the "steep decline" in enrollment. He also cited a memorandum, dated December 18, from the College of Management faculty to the board of trustees, which dealt with the possibility of program discontinuation. Throughout his narrative of the events leading up to the board's decision, President Chambers emphasized the steps he had taken to increase faculty involvement in governance since becoming president of the university in 1993.

In regard to the administration's attempts to find other suitable work for Professor Maier, President Chambers cited the commitment in the proposed new faculty handbook that "good faith efforts would be made to reassign tenured faculty to other programs for which they were qualified and which could provide a full-time teaching load." In accordance with this provision, he had appointed the committee of deans that had reviewed Professor Maier's credentials in order "to determine what reassignments and/or retraining options might be available."

On the subject of not allowing Professor Maier and the other affected faculty members to continue teaching their classes during their remaining twelve months on the payroll, President Chambers stated that it was "the judgment of the trustees, who have faced similar restructuring in their own companies, that the faculty members would be better served by not having to integrate a schedule of teaching duties into their relocation efforts, which may involve periodic recruiting trips out of the area."

In regard to not affording Professor Maier the opportunity for a hearing before a faculty body, President Chambers wrote that

"advice of counsel was that any adjudication of an individual faculty member's status would be tantamount to an ad hominem dismissal for cause. The faculty member would then have standing to pursue, and likely prevail in, a defamation suit against the university based on current case law."

"In conclusion," President Chambers wrote, "while our efforts may not have been precisely the same as outlined in your policies, I believe the record, taken as a whole, demonstrates that our management of this program discontinuance is not inconsistent with the principles espoused by the Association."

Seeking to preserve his rights under the only avenue of appeal accorded him in Interim Dean DeGennaro's letter of notification, Professor Maier had written Provost Lewis N. Walker on January 27 in order to request a hearing before the committee of deans. In his letter, Professor Maier objected to an appeal process that merely allowed him an opportunity of persuading the deans to reconsider their decision. In an appeal document subsequently submitted to Provost Walker, Professor Maier argued that his academic training and teaching experience qualified him for a number of teaching assignments in the university. He listed twenty-one undergraduate and graduate courses that he claimed he was qualified to teach beyond the undergraduate marketing courses he normally taught (which were now being staffed by adjunct faculty). He also noted that he was "professionally qualified" (though not "doctorally qualified") to teach graduate business courses, according to the criteria of the Association of Collegiate Business Schools and Programs (currently the International Association for Management), which had accredited both the graduate and undergraduate programs in the College of Management in 1993.

On March 27, Professor Maier appeared before the committee of deans accompanied by Professor Karl Greimel, the faculty senate chair. According to Professor Maier, his meeting with the deans was perfunctory, and indeed the outcome was not communicated to Professor Maier before classes resumed for the 1997-98 academic year, by which time it was clear that he was not being returned to what President Chambers had termed "duty status" in the classroom.

In a February 19 letter to President Chambers, the Association's staff took issue with the argument attributed to Lawrence Technological University counsel that affording a hearing on program discontinuance would leave the impression that Professor Maier had been dismissed for cause. Rather, the staff maintained, the act of "terminating his services forthwith and having him vacate the premises" was tantamount to a summary dismissal. In a telephone call he placed on March 6, President Chambers informed the staff that the possibility of assigning some courses to Professor Maier was being considered. In a letter to the staff dated April 2, President Chambers noted that it was too late for Professor Maier to teach during the current term but stated that the administration would look into his having teaching duties in the fall, when he would still be receiving salary and benefits. The staff

wrote on May 13 to ask whether teaching responsibilities for Professor Maier were being arranged. Receiving no response, the staff wrote again on July 7. A telephone message on July 29 from President Chambers's office indicated that a response would not be imminent. The Association's general secretary then proceeded to authorize an investigation, and President Chambers was so informed by letter of August 20.

The undersigned investigating committee, after examining available documentation, visited Lawrence Technological University on October 30 and 31, 1997, and was cordially received by the Chambers administration. The committee interviewed Professor Maier and ten senior faculty colleagues, and it met with President Chambers, Provost Walker, and the deans of all four colleges.

### III. Issues and Findings

Professor Maier had been granted tenure at Lawrence Technological University. Accordingly, under Association-supported standards, his appointment could be involuntarily terminated only for cause or because of financial exigency, discontinuance of an academic program, or medical reasons. The administration of Lawrence Technological University has attributed the termination of Professor Maier's tenured appointment to program discontinuance, the applicable standards for which are set forth in Regulation 4(d) of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*.

#### 1. The Faculty Role in the Discontinuation Decision

Regulation 4(d)(1) specifies that "the decision to discontinue formally a program or department of instruction will be based essentially upon educational considerations, as determined primarily by the faculty as a whole or an appropriate committee thereof." Relevant sections of Lawrence Tech policy documents accord with this AAUP-recommended standard. Section 5.4 ("Program Control") of the 1990 faculty handbook, in effect at the time of the decision, emphasizes the faculty's primary role in decisions affecting academic programs: "New degree programs and credit courses, or changes to the existing ones, require approval at several levels. Such changes are normally initiated by the faculty; however, the Dean may request faculty consideration of programs which are suggested by interaction with the University's markets and constituencies." When changes are being proposed in undergraduate programs or courses, "the proposal is sent by the Associate Provost to the other three Deans for referral to their faculties for comment." The charter of the faculty senate, approved by the board of trustees in 1993 and thus to some extent superseding the faculty handbook, specifies in Article IV, Section 2, that "any proposed change in educational policy or any matters affecting faculty rights and responsibilities" should be submitted to the faculty senate "at a sufficiently early stage to allow for significant faculty input before decisions are taken." When decisions are to be

made by the governing board, "the Faculty Senate shall be given a timely opportunity to provide a position paper for submission to the Board of Trustees." Moreover, the bylaws of Lawrence Tech, dated June 27, 1994, contain a provision in Article VI ("Educational Program") that requires the board to consult the faculty and the faculty senate before making changes affecting academic programs: "The rules, regulations, restrictions, and requirements as to students, faculty, and the course of studies in the Corporation shall at all times be subject to review and change by the Board of Trustees *upon the advice of the Faculty and the Faculty Senate* as transmitted to the Board of Trustees through the President." (Emphasis added.)

In his February 11 letter to the Association's staff, President Chambers suggested that the Lawrence Tech faculty did participate in the decision to discontinue the undergraduate programs in management. He referred to the Management Planning and Assessment Task Force, which he had appointed in fall 1995. Its charge was to make "recommendations about the future direction of the College of Management" in response to a history of declining enrollments and based on a review of both the graduate and undergraduate programs. In its report, issued in December 1995, the task force recognized that "a very critical decrease in the undergraduate program enrollment" had occurred over a six-year period. Included among its nine recommendations were suggestions that the college continue to monitor enrollments closely as "one of [its] most important priorities" and that college faculty review the undergraduate programs "with the objective of consolidating and/or canceling those majors which have enrollments too small to cover their costs."

The Management Planning and Assessment Task Force, however, did not recommend that any program in the College of Management be discontinued. On the contrary, most of its recommendations dealt with ways of strengthening existing programs while increasing enrollments. As stated in the concluding section of the report, "No alterations of the existing structure were proposed, and our conclusions assume continuation of the present structure." The composition of the task force, moreover, was such that it could hardly be said to constitute a faculty body, as called for in Regulation 4(d)(1) and by the Lawrence Tech policy statements cited above. Of the thirteen members of the task force, all of whom were appointed by President Chambers, seven, including the chair, held primarily administrative appointments. Only four members of the task force had full-time faculty appointments.

President Chambers and other members of the administration indicated that informal conversations between individual faculty members in the College of Management and Interim Dean DeGennaro or Provost Walker fulfilled the university's requirements for faculty consultation about matters of program discontinuation. The investigating committee was told that during the fall semester faculty members did indeed suspect that the board was considering the discontinuation of some of the undergraduate programs in the College of Management and that some faculty

members had reportedly discussed their concerns with the interim dean and the provost. But these random conversations scarcely constitute formal consideration by duly constituted faculty bodies as specified in Regulation 4(d)(1) and the Lawrence Tech policy documents cited above.

Finally, President Chambers, in his February 11 letter, alluded to a memorandum containing "an analysis of the options facing the College" that the College of Management faculty sent to the board on December 18. He went on to suggest that it was in response to this memorandum—in order "to give the urgent attention requested and promptly take whatever action was deemed prudent and proper"—that Dr. Reuss, the chair of the board, had called for the special meeting at which the decision to terminate the programs was made. In short, President Chambers seemed to imply that this memorandum had contributed to the decision to discontinue the undergraduate programs in management and had constituted another means of faculty involvement in that decision.

A glance at this document reveals that the implication is invalid, however. It is signed by Professor Stan Harris, who, as chair of the faculty council of the College of Management, was writing at the behest of college faculty. He begins by noting that "[r]umors are rampant about closure of the Lawrence Tech College of Management undergraduate programs" and asks for the board's "[u]rgent attention and prompt action." He points out that the "College of Management faculty strongly believe the College's undergraduate programs, which are both of high quality and regarded highly, should not be terminated" and lists a number of adverse effects upon the university that terminating these programs would produce. He recommends that "if pressures for program closure are so strong that they must be addressed by the Board, the College of Management should be given the opportunity to propose a survival plan." He also states that "faculty (thus far) are not involved in any program discontinuation plans" and that unilaterally discontinuing the programs would create "a significant negative impact across the campus on the University's most important resource, its faculty. Faculty in all colleges will conclude that decision-making is not shared."

Despite President Chambers's suggestions to the contrary, these putative forms of faculty involvement in the discontinuation decision fail to meet the standards for faculty participation promulgated by the Association. The management faculty may have been aware that a history of declining enrollments endangered the undergraduate programs, four faculty members may have participated in the 1995 task force appointed to address the enrollment problem, and conversations with faculty members about the possible closure of the undergraduate programs may have occurred in administrative offices during the fall semester. Nevertheless, no faculty body had ever been asked to consider program discontinuance in the College of Management. On the contrary, when the academic affairs committee of the board of trustees determined in mid-November to recommend closure, the faculty seems to have been intentionally kept in the dark. In the

intervening months before the January 6 meeting at which the executive committee of the board adopted the recommendation of the academic affairs committee, neither the administration nor the board informed the faculty that the issue was under consideration. Instead, the provost and the deans met by themselves to determine what faculty positions would be cut when the programs were discontinued. Far from being invited to participate in the decision-making process, the Lawrence Tech faculty seems to have been systematically excluded.

The investigating committee finds that, contrary to Regulation 4(d)(1) of the Association's *Recommended Institutional Regulations* as well as to the relevant policies of Lawrence Technological University, neither the faculty as a whole nor a duly constituted body thereof participated meaningfully in the decision to discontinue the undergraduate programs in the College of Management.

## 2. Relocation to Another Suitable Position

Under Regulation 4(d)(2), "Before the administration issues notice to a faculty member of its intention to terminate an appointment because of formal discontinuance of a program or a department of instruction, the institution will make every effort to place the faculty member concerned in another suitable position. If placement in another position would be facilitated by a reasonable period of training, financial and other support for such training will be offered." Section 6.7.5 of the Lawrence Tech faculty handbook (dated July 1, 1990) specifies that "[i]n the event of discontinuation of a program, the University will make a reasonable effort to reassign a tenured faculty member to another academic program for which he is qualified," though it says nothing about retraining. An older policy statement, the "tenure document" adopted in the 1968–69 academic year, is closer to Regulation 4(d)(2) in requiring the institution to make "every effort" rather than "a reasonable effort." Since the current faculty handbook states that this tenure document remains in "full force and effect for all faculty members who . . . obtained tenure prior to . . . the 1990[–91] academic year," the requirement to make "every effort" to relocate an affected faculty member should apply in Professor Maier's case.

According to President Chambers, the review of Professor Maier's credentials by the committee of deans did conform to the standards set forth in the 1990 faculty handbook, if not to the earlier tenure document. The deans reportedly found that the number of courses Professor Maier was qualified to teach did not support his reassignment to another college. But the university continued to offer Professor Maier's regularly assigned courses, now being taught by adjunct faculty members.<sup>2</sup> Moreover, Professor Maier asserted that he was qualified to teach twenty-one undergraduate and graduate courses beyond the courses he regularly

2. Courses to which Professor Maier had regularly been assigned were still being offered into the 1997–98 academic year. According to course schedules, in the 1997 fall semester his two sections of "Principles of Marketing" were taught by an adjunct faculty member.

taught.<sup>3</sup> The investigating committee believes that the university could easily have provided him with a full-time teaching load.

The investigating committee finds that the administration of Lawrence Technological University did not make "a reasonable effort," much less "every effort," to relocate Professor Maier in another suitable position within the institution, thus acting at variance with standards articulated in the Association's Regulation 4(d)(2) and in the university's own policy statements.

## 3. Provision for a Hearing

According to Regulation 4(d)(3), a faculty member whose appointment is terminated as a result of program discontinuance "may appeal a proposed relocation or termination resulting from a discontinuance and has a right to a full hearing before a faculty committee." The proceeding should be an adjudicative hearing of record before a body of elected faculty peers. In such a hearing, the burden of proof is upon the administration to demonstrate that it has fulfilled all the requisite conditions of Regulation 4(d)—that is, that the discontinuation is bona fide, that the faculty played the primary role in the decision, and that every effort was made to relocate the displaced faculty member in a suitable position elsewhere. Relevant policy documents of Lawrence Technological University contain no provisions similar to those called for in Regulation 4(d)(3), although the faculty handbook does state that "[t]he University accepts the responsibility for demonstrating that financial exigency or discontinuation of an academic program is bona fide" (Section 6.7.5).

As previously noted, President Chambers had stated that the university did not afford Professor Maier a hearing such as that stipulated in Regulation 4(d)(3) because university counsel had advised against it. The only means of appeal open to Professor Maier was to appear before the committee of deans and present his case for relocation. This appearance, which occurred on March 27, bore scant resemblance to the hearing called for in Regulation 4(d)(3). It was obviously not before an elected faculty body, but rather before the same group of administrators who had initially recommended termination of his appointment. The issue was whether Professor Maier's credentials warranted his reassignment to other colleges in the university—not whether the program discontinuance had been effected in good faith, or whether the faculty had played its appropriate role in reaching the decision, or whether every effort had been made to find him another suitable position. The burden of proof was not upon the administration to demonstrate that Professor Maier lacked the necessary qualifications to continue full-time teaching in the university, but rather upon Professor Maier to demonstrate that he did indeed possess those qualifications. According to Professor Maier (and to what the investigating committee was told by Professor Greimel, who accompanied him), the hearing before the committee of deans was little more than an empty formality.

3. Thirty-six sections of such courses were scheduled for spring semester 1998.

The investigating committee finds that the administration of Lawrence Technological University, in denying Professor Maier the opportunity for an adjudicative hearing before an elected faculty body as called for in Regulation 4(d)(3), deprived him of requisite protections of academic due process. The committee finds, further, that the administration violated the university's own policy in declining to demonstrate that the discontinuation of the undergraduate programs in management was bona fide and that it necessitated the termination of Professor Maier's appointment. The investigating committee considers the administration's stated reason for declining—that justifying its actions before a faculty hearing body “would be tantamount to an ad hominem dismissal for cause” and would likely be found defamatory—to be bizarre.

#### 4. Removal of Professor Maier from Any Further Teaching

The American Association of University Professors considers the involuntary removal of a faculty member from the classroom, without prospect of reinstatement or a hearing on cause for the action, to be tantamount to a summary dismissal. According to the 1970 *Interpretive Comments on the 1940 Statement of Principles on Academic Freedom and Tenure*, “a suspension which is not followed by either reinstatement or the opportunity for a hearing is in effect a summary dismissal in violation of academic due process.” Regulation 5(c)(1) of the *Recommended Institutional Regulations* similarly states that “a suspension which is intended to be final is a dismissal, and will be treated as such.” Discussion of the Association's position on the matter can be found in investigating committee reports on St. John's University (*AAUP Bulletin*, spring 1966), Yeshiva University (*Academe*, August 1981), Goucher College (*Academe*, May/June 1983), and the University of Southern California (*Academe*, November/December 1995).

Professor Maier was unwillingly removed from his teaching duties in the middle of an academic year, without the affordance of a hearing and despite the fact that his courses continued to be offered. The investigating committee believes that the action cannot be justified on the basis of a judgment by the trustees, according to President Chambers, that faculty members are “better served by not having to integrate a schedule of teaching duties into their relocation efforts.” As previous investigating committees have stated in the above-cited reports, the decision whether or not to remain in the classroom rightfully belongs to the affected faculty member. This investigating committee finds that the precipitate removal of Professor Maier from his teaching responsibilities, and indeed from his campus office, was tantamount to his summary dismissal in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure*.

One possible adverse effect of this type of action is to raise questions of fitness. The 1981 report on the Yeshiva University investigation noted that “the denial of the right to teach can be an inherent commentary, intended or not, on the affected faculty member's competence.” Indeed, Professor Maier expressed concern to this investigating committee about the stigma of incom-

petence that his abrupt removal may have created, both as it might affect future professional opportunities and as it manifested itself in the reactions of others. The investigating committee therefore hastens to state that it found no basis for suspecting that the real reason for Professor Maier's precipitate removal from the classroom was professional incompetence, real or perceived. On the contrary, a number of the individuals interviewed by the committee (including the former provost) spoke in glowing terms of Professor Maier's contributions to the university. A senior colleague referred to his qualifications as “stunning.” It is troubling indeed to the committee that the administration's abrupt removal of Professor Maier from the classroom may have an unwarranted adverse effect on his professional reputation.

During its campus visit, the investigating committee attempted to ascertain whether the administration's sudden termination of Professor Maier's long-term service to the university could be attributable to any other cause. Nothing dramatic was suggested, and no one argued that the decision to discontinue the undergraduate management programs was a pretext for getting rid of Professor Maier and the other affected faculty members. Nevertheless, the committee did hear that terminating the undergraduate management programs, in addition to providing an expected financial savings, gave the administration an opportunity to rid itself of a perceived “troublemaker.” Most of the faculty members interviewed by the committee indicated that Professor Maier was seen by the administration as difficult or uncooperative. They described him as “the arch-typical faculty member,” “a strong individual,” “a vocal critic of the administration,” “visible and confrontational,” and “one of the most outspoken people in the college.” Over the years Professor Maier had led efforts to unionize the campus, an unpopular move with the administration, and had helped form the Lawrence Tech AAUP chapter, serving as its first president. These observations do not seem to the investigating committee sufficient to support a finding that the administration effectively dismissed Professor Maier because of displeasure with his attitude and his conduct. They do, however, suggest a reason for the administration's lack of interest in making a real effort to retain him.

#### 5. Severance Pay

Regulation 8 of the Association's *Recommended Institutional Regulations* calls for payment of “at least one year” of severance salary or notice in all cases of termination of appointment of tenured faculty (with the exception of dismissals involving moral turpitude). Regulation 4(d)(2) calls for severance pay “equitably adjusted to the faculty member's length of past and potential service,” implying that more than a year of salary or notice may be appropriate in cases where service has been lengthy. According to the Lawrence Tech faculty handbook, tenured faculty members whose appointments are terminated because of program discontinuation or financial exigency shall be given “minimum notice of twelve months,” a provision that does not preclude payment of

more than a year's severance salary. Lawrence Tech does not seem to have been suffering financially at the time; administrative officers confirmed that the university ended that year with a surplus of some \$1.5 million. In view of Professor Maier's twenty-five years of full-time service at Lawrence Technological University, the investigating committee questions the sufficiency of payment of twelve months of severance salary with a modest additional "outplacement allowance."<sup>4</sup>

## IV. Conclusions

The administration of Lawrence Technological University, in terminating the appointment of Professor Ernest L. Maier, acted in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure* and in disregard of Regulation 4(d) ("Discontinuance of Program or Department Not Mandated by Financial Exigency") of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*.

1. Contrary to the provisions of Regulation 4(d)(1) and the university's own stated policy, the administration and board of trustees of Lawrence Technological University discontinued the undergraduate programs in the College of Management without allowing meaningful participation in the decision by the faculty or an appropriate body thereof.

2. The administration made no significant effort to relocate Professor Maier in another suitable position, thus disregarding the provision in Regulation 4(d)(2) that calls for "every effort" to do so as well as the university's own stated policy.

3. The administration denied Professor Maier the opportunity for an adjudicative hearing of record before a faculty body as called for in Regulation 4(d)(3), declining to demonstrate that the

4. Replying to a draft text of this report sent to him prior to publication, President Chambers commended the investigating committee for its effort, stated that he had noted the existence of omissions and inaccuracies, but declined to provide specific comments because of litigation Professor Maier had initiated in December.

program discontinuance was bona fide and that it necessitated the termination of Professor Maier's appointment.

4. The administration's abrupt removal of Professor Maier from his teaching responsibilities was an action tantamount to summary dismissal in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure*. ☞

GREGORY SCHOLTZ (English), Wartburg College, *Chair*

DONALD W. PEARSON (Economics), Eastern Michigan University

### *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:* ROBERT A. GORMAN (Law), University of Pennsylvania; MARY W. GRAY (Mathematics), American University; JANE DINEEN PANEK (Education), Molloy College; IRWIN H. POLISHOOK (History), Herbert H. Lehman College, City University of New York; WENDY W. ROWORTH (Art History), University of Rhode Island; JOAN WALLACH SCOTT (History), Institute for Advanced Study; DENISE MARIE TANGUAY (Management), Eastern Michigan University; GERALD TORRES (Law), University of Texas at Austin; LELAND WARE (Law), Saint Louis University; MARY A. 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*; MATTHEW W. FINKIN (Law), University of Illinois, *consultant*; WALTER P. METZGER (History), Columbia University, *senior consultant*; BEULAH WOODFIN (Biochemistry), University of New Mexico, *liaison* from Assembly of State Conferences.