

SOUTHERN NAZARENE UNIVERSITY (OKLAHOMA)¹

Southern Nazarene University, a coeducational institution of higher education under the ownership and control of the Church of the Nazarene, is located on a forty-acre campus in the center of Bethany, Oklahoma, within metropolitan Oklahoma City. Tracing its origins to the founding of Peniel University in 1899 near Dallas, Texas, the current university developed through the merger over the years of six educational institutions, each established to develop Christian leadership, lay and ministerial, in the Wesleyan-Arminian theological tradition. From 1920 to 1955 the institution was known as Bethany-Peniel College. The board of trustees then renamed it Bethany Nazarene College. In March 1986 the name was changed again to Southern Nazarene University.

The university, with approximately 1,000 students, is currently served by some sixty full-time faculty members. In addition to baccalaureate degrees it grants a Master of Arts in Education and in Religion, a Master of Ministry, and a Master of Science in Management. The institution has been accredited since 1956 by the North Central Association of Colleges and Secondary Schools.

The university's board of trustees has fifty-one members, most of whom serve as elected representatives of the twelve districts in the states of Arkan-

sas, Louisiana, Oklahoma, and Texas, which comprise the South Central Region of the Church of the Nazarene. There are a minimum of four members from each district, two of whom are laypersons, one a pastor, and one the district superintendent. The board's current chair is The Reverend Ralph E. West, who is also superintendent of the church's Louisiana District.

The president of the university is The Reverend Ponder W. Gilliland, who was elected to that position by the board of trustees on August 1, 1985. He had been a member of the board for the previous fifteen years and its chair for the past eight. For many years, and through the first two months of his presidency, he served as pastor of Bethany's First Church of the Nazarene, located adjacent to the university campus.

Dr. Loren P. Gresham was appointed to the newly established position of provost by President Gilliland in early October 1985, to serve as chief operating officer of campus affairs. Dr. Gresham, who received the Ph.D. degree in political science from the University of Oklahoma, has served on the Southern Nazarene University faculty since 1967. At the time of his appointment as provost, he was head of the Department of Political Science and head basketball coach. During the 1985-86 academic year he continued to teach two courses and to coach.

I. THE BACKGROUND

The number of students at Southern Nazarene University, in terms of full-time equivalents, decreased by 9 percent, from 1067 to 970, between the fall of 1984 and the fall of 1985. Because the decrease in enrollment was due primarily to a decline in the rate of retention rather than to a decline in the number of entering freshmen, it was recognized only after registration for the fall had occurred. A resulting shortfall of \$353,305 in revenues was projected for the 1985-86 academic year, and the president immediately ordered the budget to be reworked. President Gilliland presented the new budget (projecting a deficit of \$26,355) to the board of trustees at its October meeting.

Two months earlier, the new president had announced the appointment of a six-member Select Committee on Institutional Effectiveness and Efficiency, to be chaired by Dr. Gresham. (Although most of its members came from the ranks of the faculty, the Select Committee lay outside the institution's established faculty committee structure.) According to a "Statement on the State of the College" presented by President Gilliland in January 1986, substantial cost savings were necessary in order to avert a financial crisis and "sustain the college's health." The president stated that the select committee was charged with studying every part of institutional life, including academic programs and personnel, with a view toward making recommendations to him that would result in "reducing, on a permanent basis, our budget by \$500,000." The select committee interviewed department and division chairs, asking at least one of them which of the faculty members in his unit he could best do without. At least one member of the select committee interviewed each faculty member, seeking suggestions for reducing the budget deficit. Although the president had informed the board of trustees in early October that "recommendations affecting personnel will be

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 Southern Nazarene 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.

ready by Thanksgiving so that we can be fair to any who need to look elsewhere for employment for the next school year," the select committee's report was not submitted to the president until December. In it, according to the president, were some thirty recommendations, including recommendations that the contracts of seven named full-time faculty members not be renewed beyond the 1985-86 academic year. The report was not released to the named individuals or to others on the faculty, and the faculty thus had no opportunity to discuss the report's contents before the president began acting on the committee's recommendations.

In late November, before the select committee reported, a professor of psychology and education in her seventeenth year of service at the institution, recognized as holding continuous tenure, had been notified orally that the administration intended to terminate her appointment at the end of the academic year. On December 31 and January 2, seven faculty members, identified by the president as those recommended by the select committee for release, were individually called to the office of the dean and informed that their services would be terminated at the end of the academic year. They were told in each case, as the professor in November had been, that the action was being taken for financial reasons. President Gilliland said in his January statement to the faculty that the actions would serve "to bring the student-faculty-ratio in line with . . . declining enrollment" and "to reduce the cost of instruction while maximizing program effectiveness." These actions became possible, he said, "by some mergers of assignments and dropping some less popular or less important offerings."

Unlike the professor who was notified in November, none of the seven had been granted tenure at the institution. All but one of them had, however, served beyond—some long beyond—the maximum of seven years of probation permitted under the 1940 *Statement of Principles on Academic Freedom and Tenure*. An associate professor of voice and fine arts was in his twenty-fourth year of service, an associate professor of mathematics in his twentieth year, a professor of health, physical education, and recreation in his sixteenth year, an associate professor of speech communication in her tenth year, an associate professor of music in his eighth year, and a professor of English in his sixth consecutive year but with two additional years served previously on the institution's faculty and twelve additional years of prior service at other Nazarene colleges. The seventh faculty member recommended by the select committee, an assistant professor of education, was in her fourth year of service. The notice of termination of services in all of these cases (written notification was to follow only in April) was late under the Association's recommended standards, which call for each of the faculty members to receive at least twelve months of notice in writing.

Several of the affected faculty members requested, but did not receive, a written statement of the reasons for the administration's actions and of the criteria that had been used to identify them as the particular individuals whose services were to be terminated. In mid-January, two of them filed complaints with the Oklahoma Human Rights Commission and the federal Equal Employment Opportunity Commission, alleging discrimination on the basis of sex and age.

In the weeks that followed, several of the faculty members who had been placed on notice sought assistance from the Association. In February and again in March, the Association's staff wrote to President Gilliland, on the first occasion questioning the soundness of the administration's actions against the faculty members in light of the standards set forth in the 1940 *Statement of Principles* and on the second setting forth in some detail the Association's concerns about the institution's apparent failure (1) to afford the faculty members the protections of academic due process to which they were entitled under the 1940 *Statement* and derivative principles and procedural standards, and (2) to pursue other feasible alternatives to the termination of their appointments. The staff expressed concern over reports that junior faculty members were being retained and part-time and adjunct instructors were going to be engaged for teaching that the faculty members being released had previously done or were qualified to do. The staff stated that the Association's concern was intensified by a report in the student newspaper which quoted President Gilliland as having said that "the necessity for the cuts was financial only, but the individual reasons were different," and that the affected professors "were not told those reasons in an effort to protect them and their reputations." The staff inquired as to whether the president's statement indicated that the administration was in fact dismissing some or all of these faculty members for cause bearing upon their professional or personal fitness.

Responding at length on March 31, the president reviewed the economic factors and the procedures that led to the notices and went on to state that the administration would have acted against two of these faculty members on grounds of "moral turpitude" even if enrollments had been increasing and that there were faculty and student complaints of "dereliction of duty" and "demonstrable incompetence" in the cases of an unspecified number of others. If, however, enrollment had not declined, he indicated, these others would have been retained.

By letter of April 11, the staff stated to President Gilliland in response that "you appear to have acted against these faculty members for reasons bearing on their personal or professional fitness, without having apprised any of them of the specific reasons for the actions in their particular cases and without affording them the protections against dismissal for cause to which they are entitled under standards for academic due process generally accepted in the community of American higher education." The staff urged, as it had previously, that the actions against the professors be rescinded and that any further steps taken in their cases conform with generally accepted academic procedure.

Two of the eight cases had in the meantime come to a mutually acceptable resolution. The professor in her seventeenth year of service who had received notice in November, and who was the only one recognized as having tenure, was granted a hearing in March before a joint trustee-faculty board of review, following which she accepted a financial settlement. The associate professor in her tenth year of service accepted an offer of an administrative position. In a third case, that of the professor with twenty-four years of service at the institution, an adjustment was made. The administration, following a protest, extended the ef-

fective date of termination by one semester, thus enabling the professor to retire at age sixty-two and receive Social Security payments. In the remaining cases, the notification of termination of services as of the end of the 1985-86 academic year was allowed to stand.

On May 9, with the Association's concerns relating to the unsettled cases remaining unresolved, the staff notified President Gilliland that the general secretary had authorized an investigation. By letter dated June 6, 1986, counsel for the university advised the staff that the administration did not "recognize the AAUP as the representative of members of its faculty," and that, accordingly, it would not cooperate with the investigation. The staff replied on June 24 to counsel's objections and reiterated its invitation to the administration to meet with the investigating committee. The administration did not meet with the committee, however, or otherwise cooperate with it. The committee, having examined available documentation, visited Oklahoma City on July 17 and 18, 1986, and met with most of those whose services were terminated as well as with numerous faculty members who remain affiliated with the university.

II. ISSUES

1. *Tenure and applicable standards.* The 1940 *Statement of Principles on Academic Freedom and Tenure* calls for a period of probation not to exceed seven years, including at least three years of prior service at other institutions, with service beyond the probationary period constituting continuous appointment or tenure. The Association has asserted that faculty members who have served beyond the maximum probationary period should be afforded the protections of tenure even in the absence of institutional regulations to that effect or of a specific decision to grant tenure in the given case.

The regulations governing faculty appointments at Southern Nazarene University do not provide for tenure after a fixed period of probation. In his response of March 31, 1986, to the concerns of the Association's staff about actions at variance with the provisions of the 1940 *Statement*, President Gilliland stated as follows:

Our tenure policy as clearly enunciated in our Faculty Handbook provides a very different procedure and attending underlying assumptions for granting tenure from that of the 1940 *Statement*. Tenure at this institution is granted based on a process related to years of service and quality of work. A tenure-readiness program is supervised by division chairpersons based on a number of factors, none of which are automatic because of years of continued service. In that regard we are quite different from the 1940 *Statement*. However, we do not face the regular termination of contracts for those individuals who are not voted tenure after a prescribed period, e.g., seven years of full-time faculty service. We regularly receive applications from individuals seeking faculty positions who have been similarly terminated in other institutions with a policy patterned after the 1940 *Statement*. We prefer to allow more time for an individual to exhibit his or her value to the institution before such final terminations. This difference of philosophy allows some to continue longer in order to provide additional time for development and movement toward tenure. We prefer this type of program.

In its discussions both with the faculty members who were not being retained and with those who were continuing, the investigating committee was struck by the human dimensions of the reaction to the terminations. Almost all of the faculty members at Southern Nazarene University are members of the Nazarene Church, and about half of them attended the institution as undergraduates. The faculty-administration-student community is closely knit, held together by strong family and religious ties. Many faculty members view their academic work as a religious calling, and some took substantial reductions in income to teach there. The dismissed faculty members not only faced the prospect of unemployment but also felt a deep emotional hurt in being forced to leave an academic community that many considered to be their extended family. Some of the individuals who spoke with the investigating committee expressed the belief that the continuing faculty members would have been willing to take pay cuts in order to retain their colleagues if the administration had appealed to them to do so and that an appeal to the general church membership could also have raised the funds needed for this purpose.

The university's *Faculty Handbook* sets forth a complex "Tenure Point System" which is "designed to incorporate degree and rank with years of service as indicators of instructional value." This system seems to require that a faculty member attain at least the rank of associate professor and have a minimum of eleven years of total college teaching experience in order to achieve "tenure readiness." The Rank and Tenure Committee, meeting normally once a year and using rating forms, decides whether or not to recommend a "tenure-ready" candidate to the board of trustees for tenure; a single member of the committee can disqualify a candidate by giving a rating of "strongly do not recommend." The president then reviews the candidacies of those recommended "in relation to the institutional tenure distribution, quota, and needs." Candidacies which do not survive presidential review can "remain on the 'recommended-to-the-President' list for future consideration." As of the 1985-86 academic year, 26 percent of the Southern Nazarene University faculty held tenure within a mandated quota for tenure of 40 percent of full-time faculty members.

As stated earlier, seven of the eight professors who received notice had completed more than seven years of full-time service, yet only one of them had been awarded tenure. The professors whose services were terminated told the investigating committee that they believed an application for tenure was successful only when the administration invited it and that none of those without tenure had been so invited. Most of them, however, said to the investigating committee that they would not have considered themselves more secure had they been awarded tenure. All of them stated that they fully expected renewal of contract for each future year until retirement. In the end, though, the action taken against them by the administration demonstrated that their confidence had been misplaced.

The investigating committee finds the regulations for granting tenure at Southern Nazarene University to be seriously deficient when measured in light of generally accepted standards as enunciated in the 1940

Statement of Principles. The committee finds further that the Southern Nazarene University professors who received notice of termination after having served for over seven years should have been afforded the protections, provided in the 1940 *Statement*, that accrue with tenure.

2. *The administration's actions to terminate the professors' services: financial considerations.* The 1940 *Statement of Principles* provides that, "after the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their services should be terminated only for adequate cause." The 1940 *Statement* also recognizes that, other than dismissal for cause relating to the individual's professional or personal fitness, a tenured faculty appointment can be terminated before the age of retirement on grounds of a demonstrably *bona fide* financial exigency (a condition defined in Regulation 4[c] of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure* as an "imminent financial crisis which threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means").

By letters dated April 10, 1986, and addressed to each of the faculty members whose appointments were being terminated, President Gilliland confirmed the notices given orally some three and a half months earlier: "Because of the critical financial situation of the University, there is a necessary reduction of faculty. As a result, your contract is not being renewed for the 1986-87 school year." Neither the administration nor the board of trustees of Southern Nazarene University declared a financial exigency, however, and the investigating committee does not see the existing conditions as suggesting that the institution was facing an imminent financial crisis at the time that the notices were issued. The university's vice president for financial affairs, in his annual report that went to the board of trustees at its October 1985 meeting, had stated that, after twelve previous years of surpluses, expenditures in unrestricted funds for the 1984-85 academic year exceeded revenue by over \$90,000, reducing the fund balance to about \$270,000. His report, after characterizing the institution's overall cash position as "the best in its history," noted the unexpected shortfall of \$353,305 in revenue for the 1985-86 budget because of the decline in enrollment, and it indicated the adjustments in the new budget that would be made in order to keep the deficit for that year to \$26,355. The institution's budget thus would show a second successive annual deficit, and the continued decline in enrollment—18 percent over a three-year span—was certainly cause for concern. Still, the university's survival seems hardly to have been threatened. Nearly \$250,000 remained in the unrestricted fund balance. Moreover, in April 1986 the administration notified the continuing members of the faculty that they would be receiving a 4 percent increase in salary (their first in three years) for the 1986-87 academic year, and it announced further expenditures associated with campus renovation and improvement of the physical plant.

It may well be, given the continuing decline in enrollments and a weakening financial situation, that the administration was justified in seeking to reduce the size of the faculty for the years immediately ahead. The investigating committee, however, is convinced that the university's fiscal condition did not approach that of a financial exigency necessitating the termina-

tion of faculty appointments that are continuous under the provisions of the 1940 *Statement of Principles on Academic Freedom and Tenure*. The committee finds that the Southern Nazarene University administration, in terminating faculty appointments on financial grounds without having demonstrated that a *bona fide* financial exigency mandated the terminations, acted in violation of the 1940 *Statement of Principles*.

3. *The administration's actions against the professors: other considerations.* In his January 1986 "Statement on the State of the College," President Gilliland said that the select committee, in making its recommendations, had reviewed "load comparisons, importance of course offerings, overlaps, lightly supported courses, etc., etc. Because their assignment was for both effectiveness and efficiency, any faculty reductions could not be based *only on seniority or similar criteria*" (italics in original). As to the individuals, "spread across several departments," who were selected for termination of appointment, no information was provided to the faculty as a whole or to the affected individuals regarding the materials examined by the members of the select committee or the criteria they used. The committee's report was not shared with the faculty, and its recommendations were implemented by the administration without first affording the faculty opportunity to discuss them.

The February 7, 1986, issue of *The Reveille Echo*, the university's student newspaper, quoted President Gilliland as having stated in an interview that "the necessity for the cuts was financial only, but the individual reasons were different." The affected professors, according to this report, "were not told those reasons in an effort to protect them and their reputations." However, the president stated, "if they insist on knowing the reasons, we will tell them." Although several of the professors, as mentioned earlier, requested the "individual reasons" for the administration's action in their cases, they did not receive them.

In his letter of March 31 to the Association's staff, President Gilliland reiterated his position that the decision to terminate the services of the professors was based primarily on economic considerations. After discussing these considerations at some length, however, he interjected new grounds, asserting that the administration had cause bearing on personal and professional fitness in specific cases for acting as it did. He alleged that the cases of two of the faculty members (whom he did not identify) involved moral turpitude (he also referred to "a history of moral indiscretion"), and that their appointments would have been terminated even if student enrollment had increased. "In our type of institution," he added, "we would have been severely criticized if definite, positive steps had not been taken in those instances." Aside from the cases of these two professors, President Gilliland cited additional reasons for terminating particular appointments (again, without specifically identifying anyone), including "colleague and student complaints of dereliction of duty" and "demonstrable incompetence."

President Gilliland has asserted that he withheld the "individual reasons" for dismissing these professors out of a concern "to protect them and their reputations." Whatever may have motivated him, the investigating committee finds that his unsubstantiated indictments of this group of professors—in which everyone and no one stood accused of highly severe offenses and deficiencies—served to besmirch the

reputations of the entire group while denying all of them the elementary safeguards of due process they needed to defend themselves. The president by his own acknowledgment dismissed two of the professors, without saying which two, for alleged misconduct (which he did not specify) that he viewed as sufficiently grave to warrant dismissal whatever the institution's enrollment and the state of its finances. The president indicated that in other cases, without saying how many others, the selection of particular unnamed individuals for release was based on complaints about their professional performance, although in these cases the in-

dividuals would not have been dismissed had it not been deemed necessary to reduce the number of faculty positions. The administration thus dismissed a group of professors based, in whole in some cases and in part in others, on blanket charges, not saying who was charged with what, not providing any particulars, and not providing anyone tarred by the charges with opportunity to be heard.² The investigating committee finds the administration's action in these cases to be summary dismissals of the worst order, violative of the 1940 *Statement of Principles on Academic Freedom and Tenure*.

III. CONCLUSIONS

1. The system of tenure at Southern Nazarene University, providing no maximum period of probation and accordingly allowing full-time members of the teaching faculty to serve throughout their careers on term contracts renewable at the pleasure of the administration, is severely deficient when measured against the provisions of the 1940 *Statement of Principles on Academic Freedom and Tenure*.

2. In terminating the services of a group of professors who had served beyond the seven years of probation permitted by the 1940 *Statement of Principles*, and in taking these actions in part or in whole on stated grounds of financial considerations, the Southern Nazarene University administration violated the 1940 *Statement* by failing to demonstrate that the actions were necessitated by financial exigency.

3. In acting against some of these professors in part or in whole on stated but unexplained and unsubstantiated grounds bearing on their personal and professional fitness, without identifying who was alleged to have done what, the administration inflicted summary dismissals on them, violative of the 1940 *Statement of Principles*, that warrant condemnation in strongest terms.

CHARLES R. BARR (Chemistry),
Austin College, *chair*

José M. Sanchez (History),
Saint Louis University

Investigating Committee

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

MATTHEW W. FINKIN (Law), Southern Methodist University, *chair*.

MEMBERS: THOMAS D. MORRIS (History), Portland State University; JOEL T. ROSENTHAL (History), State University of New York at Stony Brook; EDWARD F. SHERMAN (Law), University of Texas at Austin; CAROL SIMPSON STERN (Performance Studies), Northwestern University; JUDITH J. THOMSON (Philosophy), Massachusetts Institute of Technology; SAUL TOUSTER (Legal Studies), Brandeis University; WILLIAM W. VAN ALSTYNE (Law), Duke University; NANCY J. WEISS (History), Princeton University; ERNST BENJAMIN (Political Science), Washington Office, *ex officio*; JULIUS G. GETMAN (Law), University of Texas at Austin, *ex officio*; JORDAN E. KURLAND (History and Russian), Washington Office, *ex officio*; RALPH S. BROWN (Law), Yale University, *consultant*; BERTRAM H. DAVIS (English), Florida State University, *consultant*; MARY W. GRAY (Mathematics), American University, *consultant*; WALTER P. METZGER (History), Columbia University, *senior consultant*.

²A previous Association investigating committee, commenting on a notorious case in which an administration leveled blanket charges against a group of faculty members without offering evidence or opportunity for hearings, noted that "there is no rational way of evaluating charges which are attributed to no particular person. It is equally obvious that actions ascribed to no person cannot be properly used against any person." "Academic Freedom and Tenure: St. John's University (New York)," *AAUP Bulletin* 52 (Spring 1966): 12-19.