

June 6, 2014

LOUISIANA STATE UNIVERSITY, BATON ROUGE

The Association's 2012 annual meeting imposed censure on the administration of Louisiana State University and Agricultural and Mechanical College, Baton Rouge (LSU), based on actions concerning two cases that differed regarding the administrative officers involved and the matters under dispute but that were alike in testing core issues of academic freedom.

The first case, involving a nontenured associate professor of engineering who was denied retention after seventeen years of full-time service, tested freedom regarding research and publication and regarding extramural utterances in a politically charged atmosphere. The professor's work in coastal erosion and in hurricane- and flood-related issues had brought him prominence and favorable evaluations. Hurricane Katrina's August 2005 onslaught placed him in a national spotlight that the LSU authorities were at first glad to share. Their support of him ended, however, after he found that a main cause of the flooding in the New Orleans area was the structural failure of the levees overseen by the US Army Corps of Engineers. Anticipating cooperation from the corps in coastal restoration projects, the LSU administrators expressed resentment over having been linked in the media with the professor's findings. They took several steps to restrain his public activities, to keep LSU at a distance from those activities, and, subsequently, to deny him further appointment.

The AAUP investigating committee concluded that the administration denied the engineering professor the academic due process that should have been afforded under AAUP-supported standards and violated his academic freedom in the following ways: terminating his services largely in retaliation for having dissented from the LSU position on the levees and the flooding, restricting the nature of his research, and penalizing him for having exercised his citizen's rights to speak out extramurally.

The second case, that of a tenured full professor of biological sciences in her thirty-first year of full-time faculty service, tested the freedom of a classroom teacher to assign grades as she saw fit. She had been commended on several occasions for teaching excellence, with praise for her "rigorous approach" and "demanding coursework" in her upper-level courses. In spring 2010, she agreed to "pitch in" by teaching a section of an introductory course for the first time in fifteen years. Her midterm grades were strongly skewed to D and F, leading the college dean, without having consulted with her, to remove her immediately from teaching the course. She asked the dean to hear her explanation for the grades and reconsider, and he replied that he was willing to

discuss the matter but his decision stood. LSU's faculty grievance committee found unanimously in her favor, whereupon the administrators assured the committee that the senate was at work on an improved policy on student grading. The dean apologized to the professor for having failed to meet with her personally to tell her he was removing her from the course, but he did not apologize for not having consulted with her before he acted.

The AAUP investigating committee concluded that the LSU administration violated the professor's rights to assign grades and, in peremptorily removing her from an ongoing course, violated her academic freedom to teach. It concluded further that the administration's imposing the severe sanction of suspending her, without opportunity for a faculty hearing, denied her the protections of academic due process.

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The engineering professor filed suit in federal district court. Late in 2012, after extensive discovery proceedings, he reached a financial settlement with the university. The biology professor received an apology for the actions against her which supporters claimed could have been stronger, but the administrators responsible for the actions had by then all moved on. In May 2014, the LSU Honors College circulated an article, "Always at the Cutting Edge," that praised the biology professor for her teaching leadership. The administration immediately linked the article to a press release posted on the LSU homepage. With the two major cases settled for all practical purposes, remaining to be considered by Committee A in its statement on this case to the one hundredth annual meeting are its knowledge of desired changes in official LSU policies and its sense of current conditions for academic freedom and tenure at Louisiana's flagship public university.

The year 2012 witnessed not only the settlement with the engineering professor but also the departures of the president of the Louisiana State University system in April and the chancellor of the system's Baton Rouge institution in August. A former LSU president served as interim president-chancellor, the two positions to be combined pending the selection of a successor. After a selection process that was stormy even by Louisiana standards, with faculty groups complaining of being shut out of it, Dr. F. King Alexander was appointed in spring 2013 to the combined office.

Writing in March 2014 to AAUP president Rudy Fichtenbaum, Dr. Alexander informed the Association of his interest in having the censure removed. In the two years since the publication of AAUP's investigative report, he remarked, "a number of factors have changed internally," and he noted that, in the cases with which the report deals, "every

administrative position involved in those cases, except one, is now held by a person different from when the cases occurred.” Associate General Secretary Jordan E. Kurland, as the staff member most versed in handling Louisiana cases and the person currently handling the LSU censure situation, immediately assured Dr. Alexander that his interest was welcome, and Dr. Alexander promptly designated Vice Provost for Academic Programs T. Gilmour Reeve as his representative for discussion of the censure and its potential removal. The AAUP staff shared the Alexander letter with current and former officers of the AAUP chapter and faculty senate, inviting their comment on what else, beyond recommended changes in official policies, may need to be done before the censure is removed.

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Over the ensuing weeks, Vice Provost Reeve and his staff have been fully cooperative in locating and providing the AAUP staff with requested information on changes in official policy documents and in numbers of full-time persons holding faculty appointments outside as well as inside the tenure system. The following examples of policy changes strongly support the argument that the LSU administration’s current interest in censure removal be honored.

First, with respect to a key change involving academic freedom, the adoption in August 2013 of Policy Statement 44, “Student Grading,” has been acknowledged by all parties in the 2010 actions against the biology professor as the best that can be said at the upper-class level on fairness in assigning grades, on the basis of grades, and on the respective rights of involved students, instructors, and administrators.

Current official LSU provisions governing tenure-track and tenured full-time faculty appointments are set forth in Policy Statement 36-T, adopted in August 2009. A parallel document adopted at the same time, PS 36-NT, governs full-time faculty appointments at specified ranks designated as ineligible for tenure. PS 36 merits high praise for its emphasis on the crucial role of a strong tenured faculty. It states in its preamble that

the university seeks to employ and maintain a staff of tenured and tenure-track faculty with superior qualifications to advance its mission and to nurture and support the work of those faculty members, while observing the principles of academic freedom and the tenets of the tenure system. . . . Among personnel decisions, the decision to award tenure is of distinguished and central importance. . . . The decision entails the presumption of professional excellence. It implies the expectation of an academic career that will develop and grow in quality and value, and one that will be substantially self-supervised and self-

directed. [Tenure] assures that the employee will not be dismissed without adequate justification and without due process. With tenure comes a steward's role in the university's governance and leadership. In particular, the tenured faculty will play a key role in the decisions to appoint new faculty and to promote continuing faculty.

At least as important as the role of the tenured faculty in granting tenure to candidates is its role in dismissing a tenured faculty member for cause. Until the end of the twentieth century, official LSU policy on "Termination for Cause" was starkly simple and deficient: "appointments may be terminated prior to normal expectation for any conduct that is demonstrably prejudicial to the university. Before termination for cause, faculty members shall be entitled to have the charges against them stated in writing and to request a hearing, according to procedures of due process, before a special committee of the faculty appointed by the Chancellor." Current policy on "Dismissal for Cause for Faculty," PS 104, is a radical improvement. It meets all of the AAUP's recommended standards with respect to dismissal proceedings and in fact exceeds those standards. The faculty senate president is to be consulted before any action is taken to reassign or suspend the faculty member during the proceedings. The administration's charges are still to be heard by a "Committee of the Faculty," but no longer by a committee whose members are appointed solely at the discretion of the chief administrative officer to whom the committee is to report. Rather, that officer, the chancellor, is to solicit names of at least eight possible committee members from the faculty senate executive committee and at least eight from the LSU AAUP chapter. The hearing committee will consist of no fewer than five and no more than seven faculty members, with the chancellor selecting all of the members from the lists of individuals provided by the senate executive committee and the AAUP.

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The good news reported in this statement is tempered by one important area of uncertainty that leaves Committee A hesitant about recommending the censure's removal today. A major concern over the past few years for the AAUP nationally, and particularly at large research universities such as LSU in the context of a removal of censure, is the status and the number of full-time faculty members who serve, beyond any reasonable period of apprenticeship, on term appointments renewable at the administration's discretion. They thus lack the safeguards of academic due process that accrue with the indefinite tenure for which they are not officially eligible.

Late in April the AAUP staff received from the provost's office the previously noted Policy Statement 36-NT, the parallel statement to PS 36-T for tenure-track and tenured

faculty, that governs full-time appointments at specified ranks outside the tenure system. The faculty senate had called for the issuance of PS 36-NT so that procedures for hiring, evaluating, and retaining faculty on contingent appointments are spelled out as clearly as they are for tenure-track faculty, with the result that the procedures in the two documents are much the same until the transition from probation to tenure occurs in PS 36-T. As to the numbers of full-time contingent faculty, figures supplied by the administration indicate that, among those holding one of the three professorial ranks, there were 86 such faculty during 2009–10 when PS 36-T and PS 36-NT were issued, and there have been 93 during 2013–14, both numbers subject to some increase when faculty members holding a nonprofessorial rank such as instructor are included. Certainly the similarity in the numbers over five years indicates that there has been no rush at LSU to fill vacancies with contingent appointments. On the contrary, the vice provost reports that, pending funding in the state fiscal budget, the university plans to fill twenty-five new tenure-track and tenured positions in selective needed specialties.

The LSU administration has not quarreled with Committee A's position that the number of faculty members on full-time contingent appointments can and should be substantially reduced, yet this is the kind of task that cannot be responsibly accomplished by the stroke of a pen. In order to recommend censure removal today, Committee A would need to predict, based on its knowledge of the discussions that have been held on the matter, that within a few weeks after the start of the new academic year, actions that significantly reduce contingent faculty appointments will be in process. Lacking evidence upon which to base that prediction, Committee A is reluctant to recommend LSU's removal from the censure list at this moment. With all of the positive steps toward removal that the LSU administration has taken, however, the committee is equally reluctant to have the action held over until the annual meeting in 2015. It accordingly recommends that this annual meeting delegate to Committee A authority for removing the censure once it can attest that actions are in process which will ensure the protections of academic due process for full-time faculty members holding contingent appointments. If the committee cannot so attest by the time of its fall meeting in November, the issue of censure removal will be held over for consideration by the annual meeting in 2015.