

# ACADEMIC FREEDOM AND TENURE: CLARK ATLANTA UNIVERSITY<sup>1</sup>

(JANUARY 2010)

## I. Introduction

The subject of this report is the declaration of an enrollment emergency by the administration of Clark Atlanta University and its subsequent action on February 6, 2009, to terminate the appointments of fifty-five full-time faculty members, approximately one-fourth of the total faculty, with no notice and four weeks of unconditional severance salary.

According to its Web site, Clark Atlanta University, located two miles southwest of downtown Atlanta, is a comprehensive, private, urban, coeducational institution of higher education with a predominantly African-American heritage. It offers undergraduate, graduate, and professional degrees as well as certificate programs. . . . It was formed [in 1988] by the consolidation of Atlanta University [founded in 1865], which offered only graduate degrees, and Clark College [founded in 1869], a four-year undergraduate institution oriented to the liberal arts.

Prior to the merger, both Atlanta University and Clark College had experienced budget deficits and declining enrollments, and their consolidation resulted from a decision by their two governing boards to explore the advantages of closer working arrangements between the two institutions. On July 24, 1988, the two boards voted to consolidate the college and university and create

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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, the report was subsequently sent to the faculty members at whose request the investigation was conducted, to the administration of Clark Atlanta University, and to other persons directly concerned in the report. In light of the responses received, and with the editorial assistance of the staff, this final report has been prepared for publication.

Clark Atlanta University under a single board and one president, Dr. Thomas W. Cole Jr.

The current university consists of four schools: arts and sciences, business administration, education, and social work. CAU is a member of the Atlanta University Center, a consortium of five historically black educational institutions. The university has been accredited since 1990 by the Commission on Colleges of the Southern Association of Colleges and Schools to award bachelor's, master's, specialist, and doctoral degrees. Its accreditation was last renewed in December 2006. As of fall 2008, the university had some 230 full-time teaching faculty members, with a student body of just under 4,100 (3,380 undergraduates and 688 graduate students).

Dr. Carlton E. Brown, president of Savannah State University from 1997 to 2006, assumed the presidency of Clark Atlanta on August 1, 2008, following a year as executive vice president and provost at CAU under President Walter D. Broadnax and several months as CAU's interim president after Dr. Broadnax announced his retirement. In the period between leaving his position at Savannah State and assuming the post of executive vice president and provost at CAU, Dr. Brown served as special assistant to the chancellor of the University System of Georgia Board of Regents, the body that oversees state-funded higher education institutions.

The current chair of Clark Atlanta University's thirty-four-member board of trustees is Ms. Juanita Powell Baranco. She served as a member and later chair of the Georgia State Board of Regents during Dr. Brown's tenure as president of Savannah State and was chair of the CAU search committee that recommended his appointment as executive vice president and provost. She chaired CAU's board when Dr. Brown was appointed president.

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The Association's history of involvement with significant issues of academic freedom, tenure, and due process at Clark College, and more recently at Clark Atlanta University, dates back a couple of decades.

In 1986, Clark College was placed on the Association's list of censured administrations following an investigating committee's report on actions by the administration to terminate the appointments of two tenured professors with three months of notice. The stated ground for the action in one case was financial exigency, which the administration did not demonstrate; in the other case, the administration acted on the basis of "nonperformance issues" that it declined to specify. Both of the faculty members had been outspoken critics of the administration. The report concluded that the actions against each of them were summary dismissals. Within a year after the publication of the report and the imposition of censure, the administration had resolved the two cases and agreed to revise key college policies to bring them into essential conformity with Association-recommended standards. Censure was accordingly removed by the 1987 annual meeting. Over the next decade and a half, no major complaints or cases at Clark College, nor at Clark Atlanta University following the college's merger with Atlanta University, were brought to the Association's attention.

CAU's recent history has been marked by recurring financial difficulties and periodic protests. In October 2003, the university's board of trustees, acting on the recommendation of the administration, voted to phase out five academic departments and programs, among them the Department of Engineering. The action was part of what then-president Broadnax described as a "plan to correct multi-million dollar budget shortfalls." President Broadnax was quoted in the local press as having stated that "massive changes were needed to keep the [institution] afloat." The university's governing board did not, however, declare financial exigency. Seven members of the engineering faculty, facing eventual layoff, challenged these actions within the institution. In addition to questioning the extent of the claimed financial difficulties, they complained about the lack of faculty consultation in the decision-making process and about the administration's failure to try to relocate the affected faculty in other suitable positions in the institution. Despite support for their complaints from various constituted faculty bodies, their intramural efforts at achieving a resolution of the matter proved unavailing. In November 2005, some of the engineering faculty, along with a group of students, filed suit in county court seeking to block the closure of the engineering program, alleging that the administration and the board had violated university policies and procedures. A lower court's dismissal of the lawsuit was eventually affirmed by the state supreme court, which ruled that the appropriate action for the affected students and

faculty to take was "not to interfere in the control of the university" but to "seek damages for any individual harm they allege they have suffered."

In spring 2006, growing faculty dissatisfaction with President Broadnax's five-year stewardship of the university culminated on April 13 in a 114–19 vote in support of a resolution of no confidence. A twenty-one-page report prepared by an ad hoc faculty committee cited a "crisis of ineffective leadership," which was characterized as "incompetent, unproductive, demoralizing, insensitive, and arrogant." According to a press release issued soon after the vote, the charges against the president included the following: "no commitment to or interest in academic program development"; "disdain for the tenets of faculty governance and normal communication channels"; "fostering a climate of ill will, fear of reprisals, and low faculty and staff morale"; "poor student recruitment, retention, registration, and support services"; "manipulative and misleading fiscal management"; and "poor maintenance of facilities and the academic infrastructure." At their meeting in May, the trustees rejected the faculty's call for the president's removal and reaffirmed their confidence in his ability to turn the university around. An August 14, 2007, article posted on the HBCU Blog with the headline "Record enrollment at Clark Atlanta causes a housing shortage" reported that the administration was "scrambling to find housing for some of its incoming freshmen after nearly 400 more than anticipated showed up for orientation." The sudden dramatic increase in enrollment that fall would turn out to be only a temporary phenomenon.

## II. The Events of 2008 and 2009

According to an article entitled "Economy Hits Hard on Black Campuses" that appeared in the *New York Times* on February 19, 2009,

Colleges and universities of all kinds across the country are facing shrunken endowments, decreased giving and government cutbacks, and many have reduced their payroll and list of classes. But historically black institutions have two significant disadvantages when it comes to weathering hard times: smaller endowments, which mean heavier reliance on tuition and fees, and a higher proportion of disadvantaged students who are now facing a credit crunch when they apply for loans.

This same article reported that "[a]t Clark Atlanta, 98 percent of the students qualify for financial aid, much higher than the national average of about 70 percent." The university depends very heavily on student tuition and fees, much like the other 104 historically black colleges and universities.

At the CAU board's winter meeting early in 2008, President Broadnax announced his retirement, effective July 31. In a press release issued at the time, the board commended him for his handling of the institution's "grave financial challenges" and for "taking the university from a deficit to a surplus financial position." At that same board meeting, Carlton Brown, who was already serving as the university's executive vice president and provost, was named interim president. A few months later, at the spring meeting of the board, the trustees appointed Dr. Brown to the presidency, effective August 1, without having conducted a search.

In the three months following his appointment, the new president's public comments about CAU's future were quite positive. For example, in a radio interview conducted less than two weeks after he took office as president, he was asked, "Given the current economic climate, do you feel that Clark Atlanta's future is at risk financially? Are you optimistic about the future?" President Brown did not respond directly to the question about the institution's financial future but declared in more general terms, "I'm extremely optimistic about the future," and he went on to speak glowingly about the university's faculty, its programs, and its student body.

As President Brown settled into his new position and the fall 2008 semester began, enrollment at CAU decreased by 230 students, approximately a 5 percent decline from the spring semester. President Brown reported to the board of trustees on October 17, 2008, that the university had anticipated this decline and had budgeted accordingly. He announced a 2 percent across-the-board salary increase for faculty and staff that would be retroactive to July 1, 2008.

At meetings held later in the fall term, however, President Brown is reported as having painted a less attractive picture of the university's financial condition; and, as the weeks went by, it became increasingly apparent to the administration that a bad financial situation was becoming worse. Accounts vary as to what was said about the possibility of faculty and staff layoffs.

In the twentieth-anniversary issue of *Clark Atlanta Magazine*, published in December 2008, President Brown reported that the university was "bracing for a difficult economic period along with other higher education institutions across the country." Moreover, he cited an "enrollment emergency" as a significant factor in the institution's difficulties:

The current trends taking place in our nation's economy threaten to derail the hopes and dreams that our students and their families have worked so hard to actualize over many years. In addition to their own reduced resources to support a child's

education, many of our families are experiencing reduced loan eligibility and less access to loan funds. These factors have had a critical impact on the university as several major markets from which we generate our student body continue to experience consecutive layoffs and closure in critical industry.

Clark Atlanta University is currently experiencing an "enrollment emergency," and as a tuition-driven institution, the current downturn in student enrollment is having a measurable impact on the university.

Despite these overall difficulties, the institution continues to be fiscally sound and on the upside of a significant financial recovery.<sup>2</sup>

On Tuesday, January 6, at the university's annual opening workshop of the spring semester, President Brown, continuing to cite an "enrollment emergency" rather than "financial exigency" as grounds for action, informed the faculty of the necessity of faculty and staff cuts. He said that they would be accomplished "in the most humane manner possible." According to numerous accounts, nothing was stated at the time about when these actions might be taken or how decisions were to be made. Nor did the president's remarks suggest the magnitude of the layoffs that were to take place one month later.

On a Friday in mid-January, department chairs were asked by college deans to complete, over the course of the upcoming weekend, a new evaluation instrument, with newly defined criteria, titled the "Faculty Productivity Framework." Two chairs who were interviewed by the undersigned investigating committee report that they were not told that the evaluation would be used to identify faculty members for termination. Asked later how the decisions on faculty layoffs had been made, President Brown responded: "The department heads, vice presidents, and deans conducted the assessments. The assessments were then vetted by a cross-campus team of people, including Human Resources, that challenged every conclusion, every document, every detail, every number, to make sure that we were doing the right things and we had the right data." Final decisions, the president said, were made by a committee consisting of the four college deans and the associate vice president for academic affairs. (The position of provost and

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2. "Enrollment emergency" is defined in the CAU faculty handbook (section 2.8.5.2) as "a sudden or unplanned progressive decline in student enrollment the detrimental effects of which are too great or too rapid to be offset by normal procedures in the Handbook."

vice president for academic affairs, previously held by Dr. Brown, has remained vacant.)

In a January 29 letter to the “CAU Family,” the president addressed the university’s financial situation. He stated that “while no definitive decisions have been made, we now know that personnel reductions among CAU faculty and staff, as well as several additional cost-saving measures, will have to occur soon. All personnel decisions will honor due process rights and will be completed with the utmost care and respect afforded to the affected employees and their families.” He added, “We boast excellent faculty, a dedicated staff, and a financial posture that remains strong. We are exercising sound management practices that will position the university well for future growth and progress.” At a specially called meeting of the faculty assembly held on that same day, however, the president did not refer to a strong financial posture but instead announced that seventy faculty positions (nearly one-third of the faculty) and seventy staff positions would be cut and that as much as ten million dollars would be needed if these layoffs were to be averted.<sup>3</sup>

In a letter dated January 30, Professor Diane L. Plummer, chair of the Clark Atlanta University faculty assembly, requested a meeting between President Brown and the assembly’s steering committee to discuss alternatives to layoffs. By February 4, the handful of suggestions in her original letter had grown to more than forty, gathered from various faculty members and compiled into a document entitled “Creative Budget-Saving Ideas.” Faculty members proposed “both short-term and long-term solutions,” with “sacrifices . . . equitably distributed [among] faculty, staff, and administration.” Among the suggestions was a 5 percent across-the-board salary reduction beginning in February. The president declined to follow any of these proposals. Asked by a reporter some time later “why the university didn’t take the faculty suggestions for avoiding layoffs,” a university spokesperson stated that “pay cuts would have to be a matter of seeking agreement from all personnel and this was not likely, given our current salary configurations, and the process would have exceeded the time period necessary to maintain good financial positioning.” President Brown would later tell the student news-

paper that the administration “had already discussed most of the ideas listed [by the faculty]. Only a few of [them] really addressed short-term savings.” Moving very far from his assertion about a strong financial posture, President Brown stated that “no plan for reduction [in salaries] could make a serious dent in our savings need.” In an interview with the *Atlanta Journal-Constitution* he further stated, “You have to fit what you do to what you can pay for what you do. . . . It’s what we have to do to move the university forward.”

On Thursday, February 5, the administration sent out a broadcast e-mail message to the faculty instructing all faculty members to report to campus the next day. At about the same time, announcements were circulated that classes were being canceled for Friday and the following Monday. On Friday, February 6, some sixty full-time members of the Clark Atlanta faculty—twenty of them formally holding tenure, others with long years of service, and most of them (perhaps as many as 75 percent) in the School of Arts and Sciences—received identical letters signed by the director of human resources, Valerie Vinson, that were delivered in many cases by their dean, notifying them that their positions at the university had “been eliminated and [their] employment . . . ended effective today.”<sup>4</sup> According to the letter, “The elimination . . . is part of a University-wide reduction in the work force designed to reduce costs and gain operational efficiencies.” President Brown was quoted in the Atlanta press as having reiterated that the university is in “a financial posture that remains strong” but stating that “the layoffs were necessitated by an ‘enrollment emergency’ exacerbated by current economic conditions.”

All of the laid-off faculty members were given thirty days of severance salary and issued a separation and release agreement under which they would receive additional severance payments ranging from two to eight weeks of base salary, depending on the length of their service, if they waived all claims against the university and any rights to pursue internal or external remedies.

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4. Although CAU administrators confirmed to the investigating committee that the appointments of fifty-five faculty members had been terminated, they declined to provide the committee with a list of those faculty members. According to minutes of the February 20, 2009, board of trustees meeting, President Brown reported that four faculty members who had received notices of termination on February 6 were subsequently reinstated, and he explained the reinstatements as necessary to repair “execution errors” in the layoff process.

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3. According to the CAU faculty handbook, the “Faculty Assembly is the officially recognized governance body of the faculty. [It] has the right and responsibility to engage formally in all matters of the university that affect academic programs and policies and that have an impact on the quality of life at the institution.”

Most of these faculty members, upon being notified of their layoff, were directed to surrender their identification cards and office keys, shut down their computers (at which point their passwords were disabled), and remove their personal effects within the hour and exit the campus. Some faculty members report having been intimidated by the presence of security guards, and others report having been escorted off campus by those guards and informed that if they returned to the university without prior permission, they would face charges of trespassing. When questioned by the Association's investigating committee about what seemed the unnecessarily uncivil and, indeed, outrageous treatment of these professors, some of whom had been loyal CAU faculty members for decades, President Brown responded that the process represented "best practices" in higher education and noted that "one never knows what goes on in the hearts and minds of others, no matter how long one knows them." He further stated that threats to arrest faculty members for trespassing had been an error in communication that was later corrected.

Some of the affected faculty members described themselves and their colleagues as "shell-shocked," stunned and overwhelmed not only by the sudden and unexpected notice of layoff in their own cases and in the cases of immediate colleagues but also by the manner in which the information was communicated to them and by the way in which they were treated at the time and subsequently. Many of the laid-off faculty members, faced with the loss of their principal source of income once their assured month of severance salary ran out, signed separation and release agreements in order to secure at most two extra months of severance salary.

Classes had been canceled on Friday as well as the following Monday, ostensibly to allow the administration time to prepare revised class schedules in the School of Arts and Sciences. All physical education classes were canceled for the rest of the academic year, the services of all physical education faculty having been terminated. For the remainder of the semester, in order to offset the loss of faculty in the affected departments, courses of the released faculty members were reassigned to other professors, sections of some classes were combined, and some students were transferred to completely different courses. Faculty members who had not been laid off were directed to take on additional classes, in some cases two or three, without any additional compensation.

In press interviews following the faculty and staff terminations, President Brown stated that the administration "had not done all of the staffing and faculty adjust-

ments [it] should have been doing" and that budget cuts made in the fall, along with a hiring freeze and other cost-saving measures, were not sufficient to address the problems.<sup>5</sup>

In a March 3 letter to President Brown, the faculty assembly condemned what it called the administration's "hodge-podge, helter-skelter methods to reduce the number of faculty." The letter also complained that "the unreasonable disruption of the academic programs and student learning was at best unwarranted and not cost effective." The letter "question[ed] both the form and substance of the recent dismissals of one-third of the CAU instructional faculty." According to the faculty assembly's calculations, these layoffs "will at best lead to cost savings of less than 0.5 percent of the current annual operating budget," not the "millions" that President Brown had asserted the university needed to save.<sup>6</sup>

In comments he made to the student newspaper in April in response to the question why the administration acted in the middle of the semester, President Brown stated, "Without action, our budget shortfall for the current fiscal year would be nearly \$6 million. This would result in a cash position at June 30 of less than the amount necessary to survive summer costs and reach the start of the fall 2009 semester." He further observed,

We would then have [had] to declare financial exigency, which is the most dangerous condition to enter. In order to protect the financial position of the university and preserve its accreditation and capability, the moves that we made and the timing of the decisions were absolutely required in order to protect CAU from having to declare

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5. There is some dispute about whether a hiring freeze was observed.

6. Because many faculty members had chosen to have their nine-month salaries paid over twelve months, upon their layoff the university would be obliged to accelerate their accrued salary in addition to the severance payments specified in the separation and release agreement. These considerations suggest that the cash outlays required as a result of the terminations would not result in substantial savings to the university during the remainder of the fiscal year ending June 30, 2009, and might even result in increased expenditures. Although staff furloughs and other possible cost-saving measures had been discussed earlier, in the meeting with the AAUP investigating committee, President Brown could not point to other concrete actions that the university had taken to close the budget shortfall for the fiscal year.

financial exigency in the very near future. Once we realized that we needed to engineer millions in savings, we explored every possible avenue. . . . We settled on the scenario that begins with layoffs as the only possible means to achieve the required end.

Several of the affected faculty members filed grievances with the university review committee sharply challenging the actions that were taken in their cases.<sup>7</sup> The grounds for grievance included a lack of stated criteria for the actions taken; the absence of a meaningful faculty role in the decision-making process; the release of tenured and other long-serving faculty members in favor of retaining junior colleagues, many of whom were assigned to teach courses, typically as overloads, that the tenured faculty members had been teaching; the administration's failure to make every effort to relocate them elsewhere in the institution; the scant amount of notice or severance salary; and the inadequacy of the procedures to contest the actions taken against them. Those intramural complaints were still being processed at the time of the investigating committee's visit. In addition, several of the dismissed faculty members who had not signed the proffered releases met with local attorneys to explore legal action.

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The involvement of the AAUP in the matter began on the morning of February 9, 2009, when the online publication *Inside Higher Ed* included an article with the headline "Turmoil Over 70 Faculty Layoffs at Clark Atlanta," which painted a dire picture of the situation at the university. Later that day the staff telephoned Professor Diane Plummer, identified (and quoted) in the article as the chair of the CAU faculty assembly. Within a few days of that initial contact, the staff began to hear from some of her (former) faculty colleagues and to receive e-mail messages and a smattering of documents relating to their summary dismissals. Those messages and documents revealed what appeared to be severe departures from Association-supported principles and procedural standards. In late February, a member of the staff met with some four dozen current and former CAU faculty members to offer the Association's advice and assistance. By letter dated March 6 to President Brown, the staff conveyed the Association's

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7. The university review committee, a faculty body, is charged with determining whether a faculty member facing dismissal presents a valid challenge to that dismissal. Should the committee find in the affected faculty member's favor, he or she moves to the next level of review, a hearing before an ad hoc grievance committee.

concerns relating to issues of academic freedom, tenure, and due process, based on the documents that had been received from some of the affected faculty members. The letter ended with the following statement: "Without significant corrective action, we candidly do not see any alternative, given our Association's long-held principles and responsibilities, to a formal investigation of this situation and a resulting report to the larger academic community."

On March 31, having received no answer to its March 6 letter, the staff wrote again to President Brown and reiterated its request for comment on the concerns it had conveyed. The president's reply, in a letter dated April 7, was not responsive to those concerns.

With the Clark Atlanta University administration having failed to address the issues of Association concern posed by the massive faculty dismissals, the general secretary authorized the appointment of the undersigned ad hoc investigating committee, and the staff so notified the administration by letter of May 11. On May 28, the staff informed the administration of the composition of the investigating committee and proposed July 24–25, 2009, as dates for the committee's visit to Atlanta. Responding by letter of June 12, President Brown expressed willingness to cooperate with the investigation.

The investigating committee met with concerned parties in Atlanta on the dates the staff had proposed, interviewing the president; the associate vice president for academic affairs, Jeffrey J. Phillips; CAU's general counsel, Lance Dunning; two college deans; and some two dozen current and former CAU faculty members, including eight or nine former and newly elected officers of the CAU faculty assembly. Subsequent to the visit to Atlanta, the chair of the committee interviewed by telephone the university's former vice president for enrollment services.

### III. Issues of Concern

Summarized here are what appear to the investigating committee to be the central issues raised by the actions taken by the administration of Clark Atlanta University to terminate fifty-five faculty appointments, as determined from information available to the Association, through interviews with members of the Clark Atlanta community, and through additional conversations and correspondence, as related to the joint 1940 *Statement of Principles on Academic Freedom and Tenure*, the joint 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, the Association's derivative *Recommended Institutional Regulations*

*on Academic Freedom and Tenure*, and the *Statement on Government of Colleges and Universities*.

#### **A. STATED GROUNDS FOR THE ACTIONS TAKEN TO TERMINATE FACULTY APPOINTMENTS**

Under the 1940 *Statement of Principles on Academic Freedom and Tenure* and the system of tenure generally in higher education, continuous appointments (or term appointments prior to their expiration) can be terminated on stated grounds if the institution's administration demonstrates the adequacy of those grounds in a hearing of record before a duly constituted faculty body. The 1940 *Statement* deals with cause for dismissal in the sense of questioning an individual's fitness to continue. It also allows, under extraordinary circumstances, for termination of faculty appointments on the basis of "financial exigency," which "should be demonstrably bona fide." Regulation 4c of the Association's *Recommended Institutional Regulations*, which sets forth the AAUP's formulation of applicable criteria and procedural standards, defines "financial exigency" as "an imminent financial crisis that threatens the survival of the institution as a whole and that cannot be alleviated by less drastic means" than the termination of appointments.<sup>8</sup>

The Clark Atlanta faculty handbook describes "financial exigency" as "a rare and serious institutional crisis which is defined as the critical, urgent need of the university to reorder its current fund monetary expenditures in such a way as to remedy and relieve its inability to meet the projected annual monetary expenditures with sufficient revenue" (section 2.8.5.3). As noted above, however, despite the massive financial challenges President Brown asserted Clark Atlanta was facing, the administration and board of trustees expressly declined to declare financial exigency. Indeed, President Brown has stated that the university, out of concern with the institution's "surviving and maintaining its financial stability," was forced "to act immediately and decisively to *avoid* a declaration of financial exigency." (Emphasis added.) Rather, it declared a state of "enrollment emergency," defined in the handbook as "a sudden or unplanned progressive decline in student enrollment the detrimental financial effects of which are too great or too rapid to

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8. Regulation 4d sets forth the Association's recommended procedural standards relating to the termination of faculty appointments on grounds of program discontinuance not mandated by financial exigency.

be offset by normal procedures in the Handbook" (section 2.8.5.2).

The Association does not recognize "enrollment emergency" as a legitimate basis for terminating tenured appointments or nontenured appointments before the end of their specified term, and the investigating committee was very troubled by the "enrollment emergency" category in the faculty handbook. In the sections dealing with criteria and procedures for termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, the faculty handbook tracks closely the guidelines of the Association's *Recommended Institutional Regulations*, except for the addition of "enrollment emergency" as a reason that might lead to such termination. In terms of its placement in the handbook, it would appear to be intermediate between program discontinuance and financial exigency, but the procedural guidelines for faculty involvement and protection are considerably weaker than for either of the other two.<sup>9</sup> The committee sought clarification in its interview with administrators about the distinction between "financial exigency" and "enrollment emergency," but was told that discussion of this topic was "out of bounds" because of pending litigation. The committee also attempted to gain an understanding of the reasons for the president's actions in this regard, but it left the campus knowing no more about that aspect of the situation than it did when it went to Atlanta.

The administration rejected requests from the investigating committee for financial information that could shed light on the actions that had been taken to terminate faculty appointments. It was told that Clark Atlanta is a private institution and that the administration is not required to share financial details with third parties.

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9. In the case of program discontinuance or financial exigency, the academic council (which "has the authority to make recommendations to the President on all matters that relate to the academic programs and mission of the University") and the standing university curriculum committee (which "considers and recommends to the Academic Council appropriate action on all matters connected with educational policy of the undergraduate and graduate programs") are to be involved in the process of determining which programs and departments will be affected. In both of these cases, any individual involuntarily separated is entitled to Association-recommended notice, including one year's notice for any faculty member who has completed at least two years of service. None of these protections is provided under "enrollment emergency."

Without access to CAU financial data, the investigating committee is unable to assess the extent of the institution's financial difficulty at the time of the mass terminations. Available enrollment figures and comments by both President Brown and members of the board of trustees, however, raise serious doubts about the existence of an enrollment emergency. At a February 19, 2009, board meeting, the president reported that student enrollment, which had numbered about 4,100 at the start of the fall semester, had dropped by the beginning of the spring semester to approximately 3,400, but, according to the board's minutes, President Brown also stated that it was not the drastic enrollment drop "but . . . cash erosion that drove all actions."<sup>10</sup> An "enrollment update" provided to the board's student affairs committee on that same day claimed that enrollment for spring 2009 was actually down only 2 percent, from the fall enrollment of 4,063 to just under 4,000 students.<sup>11</sup> Minutes of the meeting indicate that when one trustee "inquired how to address the perception that enrollment was driving all decisions if the enrollment fell within targeted projections," the committee chair responded "that there were other factors that helped drive recent decisions."

The dramatic and precipitate action in the middle of the spring semester does not appear, therefore, to be linked to any comparable decline in enrollment. Everyone acknowledged that the relatively small drop in enrollment from the fall semester to the spring semester was normal, and faculty leaders interviewed by the committee stated that the decline in 2008–09 was one of the smallest in many years. The university may well have been in a difficult financial condition, but if that condition was serious enough genuinely to necessitate the large-scale layoff of faculty and staff in midsemester, then there was de facto a state of financial exigency. Conversely, if the financial situation did not rise to the

level of a bona fide exigency, alternative cost-saving measures should have been employed. The committee found little evidence that such alternatives were pursued. Indeed, interviews and documentation show that good-faith offers of alternatives from faculty leaders were dismissed, with the administration stating that it assumed, without asking, that the faculty would not be amenable.

Subsequent to its interviews at Clark Atlanta, the investigating committee received information from CAU's former vice president for enrollment services that casts serious doubt on the administration's declaration of an enrollment emergency. According to him, the enrollment goal for fall 2008 had been 4,200, and the final enrollment was 4,100. Early in fall 2008, he reports, President Brown requested an enrollment projection for spring 2009, and he responded with a projection of 4,000 students. The president, however, asserted that a figure of 3,400 seemed more likely to him, and he began talking of the need to lay off faculty and staff. But the vice president, confident in his projection of 4,000, believed that such talk was premature.

Early in January 2009, before enrollment could be known definitively for the spring term, the former vice president reports that President Brown continued to project a spring enrollment of 3,400 and began to discuss plans to lay off a significant number of faculty and staff. But by the third week of January, according to the former vice president, enrollment had reached 3,700 students, with more than a week still left in the enrollment period. At that point, the former vice president reports, he received a call from Associate Vice President Phillips and President Brown, in which the president said he thought that everyone had understood that spring enrollment was to be 3,400 and he ordered enrollment be stopped immediately. The former vice president states that he had not considered the possibility that President Brown intended to cap enrollment at 3,400 students and had assumed, erroneously, that the president would be pleased that the enrollment figures were much better than he had anticipated.

The former vice president complied with President Brown's directive, but he informed the president that the enrollment figures would continue to climb because a number of students were in the middle of the enrollment process. Ultimately, enrollment for spring 2009 came very close to 4,000, the projected number presented to President Brown in fall 2008. The former vice president reports that in his twenty years in higher education he had never had a president ask him to curtail enrollment and that such a directive was unheard of at

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10. In their meeting with the AAUP's investigating committee, administration officials indicated that the executive committee of the board of trustees approved the plan for dealing with the enrollment emergency and the decisions made to implement it. Minutes of board meetings provide no indication as to when such approval was granted.

11. When asked by the investigating committee about the discrepancy between President Brown's account of the spring 2009 enrollment and the account in the "enrollment update" at the February 19 meeting, the administration did not dispute the figures in the enrollment update but stated only that the person providing the update "was not authorized" to do so.

an institution like CAU, which is so heavily dependent upon student tuition for its financial stability.

Given all of the information available to it, the investigating committee is led to the unfortunate finding that the CAU administration's declaration of an enrollment emergency was unwarranted and was in fact a pretext, a convenient means to avoid faculty handbook requirements for meaningful academic due process in the termination of faculty appointments.

**B. CRITERIA FOR SELECTING PARTICULAR INDIVIDUALS FOR RELEASE**  
Regulation 4c(3) of the *Recommended Institutional Regulations* provides that “[t]he appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in extraordinary circumstances where a serious distortion of the academic program would otherwise result.”<sup>12</sup>

The notifications of February 6 received by each of the dismissed faculty members were form letters that gave no specific reasons for the actions against any of them. According to published statements made by President Brown, however, the faculty members designated for release were singled out because a five-member committee of administrators judged that they did not meet newly defined performance criteria. First among the listed criteria was faculty productivity, which was assessed by the committee of administrators in significant part on the basis of student evaluations of teacher effectiveness. These administrative officers engaged in an evaluation process to which the affected faculty members were not privy, did not disclose the evaluation criteria, and provided those professors later designated for release no opportunity to correct the record on which the assessments had been based or otherwise to respond to the evaluations.

Releasing faculty members who were unwanted—for reasons, stated by the president, relating to their value to the university, as judged by the administration—appears to have been a central feature of the decision-making process. Faculty members who were not deemed sufficiently “productive” were apparently presumed to be less fit to continue at the institution than were other faculty members—tenured or not. They were found wanting in the administration's assessment of their relative merit (or usefulness) in the context of an announced enrollment emergency. By contrast, the Association's Regulation 4c(3), starting from the premise that tenured professors have been judged qualified

for continuous appointment on the basis of their academic record, assumes, barring “extraordinary circumstances” of “serious distortion” to specific academic programs in a given case, that tenured faculty members will be favored over nontenured faculty members regarding continuance at the institution.

In interviews with the administration, the committee was struck by the fact that the president and the associate vice president for academic affairs seemed to view tenure as having no particular significance when it came to making decisions about whom to lay off. The record of the actual layoffs bears this out, with numerous examples of tenured professors being let go while less experienced nontenured faculty were retained. Nor did the committee find any evidence that the administration deviated from the presumptive preference for tenured faculty for the purpose of avoiding distortion to specific academic programs. On the contrary, the tenured faculty let go, in virtually every instance, were key members of their departments, often the only ones qualified to teach the courses they had been assigned. In a number of cases, (former) tenured faculty members interviewed by the committee reported being engaged in federal grants that were disrupted by the terminations of their appointments.

Among these faculty members whose appointments were terminated are several who had served well beyond the seven-year maximum period of probation and hence were entitled, arguably under CAU's own handbook as well as the 1940 *Statement of Principles*, to tenure's protections on the basis of their length of service, even though the institution had not conferred tenure upon them.<sup>13</sup> Although many were so embittered by their treatment that they no longer cared to be associated with Clark Atlanta University, others were willing, and arguably qualified, to teach courses that were assigned to retained full-time faculty colleagues junior to them in years of service or to newly engaged (or continuing) contingent instructors both part time and full time. These released senior faculty members assert that the administration made no effort to pursue other feasible alternatives to the termination of their appointments.

In light of the dubious evidence for an “enrollment emergency,” the strong reliance on short-term evaluations heavily weighted toward “productivity,” and the disregard for tenure, the committee finds that the

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12. This exact language can be found in section 2.8.5.5.1.B.5 of the CAU faculty handbook.

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13. Section 2.2.2 (“Probationary/Notice Contracts”), like the 1940 *Statement of Principles*, provides that “the probationary period should not exceed seven years.”

layoffs, in many instances, were effectively dismissals for cause in which the administration failed to demonstrate adequacy of cause or provide other requisite procedural protections.<sup>14</sup> (According to the fall 2009 issue of *Clark Atlanta Magazine*, five new full-time faculty members were appointed for the 2009–10 academic year. All of them now appear to be serving in positions left vacant by the layoffs of the previous February.)

### C. THE ROLE OF FACULTY IN THE DECISIONS LEADING TO NOTIFICATIONS OF APPOINTMENT TERMINATIONS

Regulation 4c of the *Recommended Institutional Regulations* sets forth standards for faculty participation in the decisions preceding termination of appointments on grounds of financial exigency.<sup>15</sup> These standards call for meaningful participation by a faculty body in deciding whether a financial exigency exists or is imminent. They confer upon the faculty or an appropriate faculty body primary responsibility for making judgments on where within the overall academic program termination of continuous appointments may occur, if less drastic means for ameliorating the situation cannot be identified. They call for the faculty or an appropriate body of the faculty also to have primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated, and they assign responsibility for identifying particular individuals whose appointments are to be terminated to a person or group designated or approved by the faculty.

The CAU faculty handbook sets forth procedures to be followed in the event of a financial exigency that comport in significant respects with the above Association-

supported standards. By contrast, under conditions of an enrollment emergency, “normal procedures outlined in the handbook” may be bypassed. As far as procedural standards are concerned, the handbook states that “[t]he president, after consultation with the University Senate Executive Committee and the Executive Committee of the Board of Trustees, will make the policy declaration of a state of enrollment emergency to the university” (section 2.8.5.2). Under “General Procedures Regarding Layoff,” the handbook provides that

Once a state of enrollment [emergency] or financial exigency has been declared, the provost and vice president for academic affairs, in consultation with the Academic Council, shall recommend action to the president. The president in consultation with the University Senate shall then recommend action to the Board of Trustees for their approval. Such action may be to eliminate some departments or programs in whole or in part, or to distribute layoffs throughout the faculty so as to prevent the elimination of any program or department. (section 2.8.5.4)

The CAU procedural safeguards for faculty involvement, as outlined in its handbook, thus fall severely short of those set forth in Regulation 4c of the *Recommended Institutional Regulations*, but the administration’s actions failed to meet even the weaker conditions. The CAU regulations call for the involvement of three faculty bodies: the university senate, the academic council, and the council’s curriculum committee. Faculty members complained to the investigating committee about the absence of any faculty involvement in the decisions leading to termination of faculty appointments. They complained that the administration determined unilaterally the criteria for termination and the location within the overall academic program where terminations would occur and then proceeded to identify particular individuals for release. In response to the investigating committee’s questions concerning handbook-mandated consultation with faculty committees, Associate Vice President Phillips stated only that he had “met with appropriate parties,” and minutes of the February 20, 2009, meeting of the board of trustees describe the associate vice president’s contact with the faculty committees as “a presentation to the Academic Council and the Curriculum Committee of the Academic Council as per the Handbook.” Members of the faculty who served on these bodies confirm that the administration informed them about the plans for layoffs, but only after those plans had been made, and that faculty played no role in the prior discussions, despite the handbook’s

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14. In the absence of clear evidence that enrollment was the precipitating cause for the layoffs, and in the face of serious programmatic disruptions, the laid-off faculty members interviewed by the investigating committee offered a variety of hypotheses as to why they were let go. A few asserted that they perceived themselves to be annoyances to the administration and that they were let go in retaliation for prior actions. Several alleged that the decisions in their cases resulted in significant part from impermissible discrimination on the basis of age, race, or national origin. Based upon the limited information available to it, the investigating committee was unable to determine the accuracy of these allegations in specific cases.

15. The investigating committee is analyzing the facts of these cases under the rubric of financial exigency because it does not recognize “enrollment emergency”—particularly as that term is defined in the CAU faculty handbook—as a legitimate basis for the termination of faculty appointments.

provisions. They state that they made repeated requests to discuss matters with officers of the administration both before and after final decisions were made. By the time the president met with the faculty at the end of January, they allege, virtually all the decisions that were announced on February 6 had already been made.<sup>16</sup>

President Brown has publicly stated, and did so again in his interview with the investigating committee, that preserving the integrity of the university's academic programs was the primary consideration in the administration's identification of faculty members for release. Among the many cases of CAU faculty members notified of layoff, some stand out as examples of problems created by the administration's failure to seek faculty advice on matters directly affecting curriculum and academic programs. One example involves the psychology department, where the uproar that greeted the action to lay off a junior professor with very large course enrollments seems to have been so intense that it resulted in his reinstatement and the threat to lay off another full-time tenured department member, who had originally been asked to retire. The investigating committee also encountered examples of departments that lost the only faculty members qualified to teach particular courses. In the biology department, the release of a tenured faculty member resulted in the loss of CAU's only qualified plant biologist.

The investigating committee finds no evidence that the CAU administration engaged in a good-faith effort to consult with appropriate faculty bodies before issuing the notifications of termination.

#### **D. OPPORTUNITY FOR A FACULTY HEARING**

Under Regulation 4c(2) of the Association's *Recommended Institutional Regulations*, a faculty

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16. This was confirmed by President Brown and Associate Vice President Phillips in their interview with the investigating committee. According to the administrators, the entire process of assessing faculty and identifying those to be terminated took place within the last two weeks of January. Associate Vice President Phillips stated that the assessment instrument used was similar to the university's form for annual evaluation of performance and workload but, in this instance, covered a five-year period. However, faculty members interviewed by the investigating committee contend that the form was not one with which they were familiar and that they played no role in developing it. According to department chairs interviewed by the investigating committee, the form explicitly asked for an assessment covering one year.

member whose appointment is terminated on grounds of financial exigency has a right to an on-the-record adjudicative hearing before an elected faculty committee. At such a hearing, according to the standards, the burden rests with the administration to demonstrate the existence and the extent of the financial emergency. The validity of the educational judgments, the criteria for selecting those whose appointments are to be terminated, and the application of the criteria to individual cases are also subject to review at such a hearing. The hearing process permits the testing of the application of the judgments and criteria in particular cases and serves the purpose of identifying, and permitting correction of, specific mistakes. The governing board should be available for final review.

According to the provision "Appeal on Layoff" in the CAU faculty handbook, "If the university issues notice to a particular faculty member of an intention to terminate the appointment" on grounds of enrollment emergency or financial exigency, the affected individual has "the right to a full hearing before an ad hoc Grievance Committee" (section 2.8.5.5.2). By contrast with the AAUP-recommended standards described above, the CAU handbook states that the issues that may be raised in such a hearing "shall be confined to procedural [matters], including adequacy of sources of data," and that "the burden of proof shall be on the grievant."

Whether the university can be said to have been in a state of financial exigency or was facing an "enrollment emergency"—as the administration would have it—in February 2009, the academic due process available to faculty members was seriously deficient when measured against Association-supported standards. According to information available to the investigating committee, only seven of the fifty-five faculty members released on February 6 filed for a hearing before an ad hoc grievance committee. Based on its interviews with close to two dozen faculty members, the investigating committee believes that the weakness of the process, together with the alternative of the separation and release agreements and the general sense of distrust, helps to explain the relatively small number of appeals.<sup>17</sup>

With the CAU administration having publicly cited the evaluation used to identify particular faculty members for termination as one based upon performance and workload, the investigating committee considers the

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17. Several faculty members who met with the investigating committee took the view that pursuing a grievance would be a waste of time and accepted the small severance pay as the least bad option available to them.

decisions to have been based on judgments of relative merit and the resulting terminations, therefore, to have been dismissals for cause.<sup>18</sup>

The 1940 *Statement of Principles* calls for the following safeguards of academic due process in cases involving dismissal for cause:

Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges and should have the opportunity to be heard in his or her own defense by all bodies that pass judgment on the case. The teacher should be permitted to be accompanied by an advisor of his or her own choosing who may act as counsel.

There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from the teacher's own or from other institutions.

These due process requirements are elaborated in the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, like the 1940 *Statement* a joint statement of the AAUP and the Association of American Colleges (now the Association of American Colleges and Universities), and in Regulations 5 and 6 of the AAUP's *Recommended Institutional Regulations*. Of special relevance are the requirements of a statement of charges, framed with reasonable particularity, of the grounds proposed for the dismissal of each faculty member, and a hearing of record before a faculty committee, with the faculty member afforded the opportunity to examine all evidence and to confront and cross-examine all witnesses. Essentially similar safeguards of academic due process, including placement of the burden of proof on the administration, are found in the CAU faculty handbook (sections 2.8.6 and 2.16).

Because the affected individuals were selected by a process of comparative evaluation while the termina-

tions were carried out under a declaration of an enrollment emergency unsupported by the evidence, the investigating committee finds the affected faculty members to have been dismissed for cause and denied the academic due process that the CAU faculty handbook as well as AAUP-supported policy documents should have afforded them.

#### **E. NOTICE AND SEVERANCE**

Association-supported standards provide that a faculty member whose services are terminated after two or more years at the institution will receive at least one year of terminal salary or notice absent a finding of moral turpitude.

All of the released faculty members whose cases have been reviewed by this investigating committee were notified by letters dated February 6, 2009, that their services would no longer be needed at CAU after that day. As stated earlier in section 2, these faculty members would get a few weeks more than thirty days of severance salary only if they waived their right to appeal or pursue any further claim.<sup>19</sup>

In nearly every case, the faculty member concerned had served at the university for at least two years and in numerous cases for more than two decades. The CAU faculty handbook calls for a year of notice if the appointment of a tenured faculty member is terminated on grounds of financial exigency (section 2.8.5.5.A.2.b). The handbook is silent regarding the amount of notice required under a declared enrollment emergency.

A number of faculty members were given the opportunity to retire at the end of the academic year (May 21, 2009) rather than have their appointments terminated as of February 6. If they met the eligibility criteria with respect to years of service and age, these faculty members were provided severance salary equal to one month's pay. Retiring faculty members enrolled in the CAU health-benefits plan would in addition receive a monthly allowance equal to \$1,000 through December 2009; those not enrolled would receive a monthly allowance of \$500 through December 2009.

The separation and release agreements faculty members were asked to sign varied somewhat for those whose services were terminated as of February 6 and for those allowed to retire in lieu of termination, but the common features were that faculty were asked to release the university from all claims.

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18. The administration confirmed this to be so in one particular case cited by Associate Vice President Phillips. He reported having met with a faculty member released on February 6 regarding his evaluation and being pleased that the faculty member had come to appreciate that his performance in the area of scholarship was lacking.

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19. In addition, dismissed faculty members were provided with thirty days of Employee Assistance Program benefits.

All but a small number of faculty members dismissed on February 6 chose either to accept the terms of the retirement option or to sign the separation and release agreement. Some who were interviewed by the investigating committee report having been pressured into signing the agreement at the time they were presented their letters of termination. Whether or not they had felt pressured to sign the agreement, all of the faculty members who spoke with the committee described the panic and vulnerability they felt in the face of having only one additional month's salary guaranteed to them. Although aware that they were relinquishing their rights to any of the available appeals or grievance procedures, faculty members report that they signed the agreement out of a need to secure the small amount of extra severance salary that the agreement offered.

The CAU administration, both in its public statements and in its statements to the investigating committee, asserted that it took the steps it did to avoid a declaration of financial exigency, suggesting that the occurrence of an enrollment emergency is less fiscally severe. Yet the university did not offer notice or severance at a level equal even to that available in the case of exigency. Whether one accepts the administration's position or this committee's position that if there was such a serious emergency it was de facto financial exigency, the committee finds that the notice given and the severance package offered were sorely inadequate.

#### **F. THE FACULTY ROLE IN ACADEMIC GOVERNANCE**

As noted above, generally accepted standards of academic governance are enunciated in the Association's 1966 *Statement on Government of Colleges and Universities*. That document rests on the premise of appropriately shared responsibility and cooperative action among governing board, administration, and faculty in determining educational policy and in resolving educational problems within the academic institution. It also refers to "an inescapable interdependence" in this relationship that requires "adequate communication among these components, and full opportunity for appropriate joint planning and effort."

According to the CAU faculty handbook, the university's "bylaws specifically delegate responsibility for the instructional programs to the faculty under the direction of the president. Further, courses of study shall be the province of the deans and faculties of the schools." The board of trustees, "in exercising its authority, . . . assures itself of access to the thinking of the faculty by two principles of communication: faculty representation on the board and defined procedures for direct commu-

nication with and from faculty members and faculty bodies" (section 1.3). According to the handbook,

The Clark Atlanta University Faculty Assembly is the officially recognized governance body of the faculty. The Faculty Assembly has the right and responsibility to engage formally in all matters of the university that affect academic programs and policies and that have an impact on the quality of life at the institution. . . . The role of the faculty in the conduct of the business of the university is preeminent. It has, under the president and the Board of Trustees, the responsibility for the development of the academic programs and for its own governance. It is an essential element in the decision-making process of the university; and it must be formally involved in all decisions of the university related to its academic structure and the health and well-being of the university. (section 1.6.1)

Under President Broadnax, the faculty assembly had frequently been at loggerheads with the administration and the board of trustees over various academic policy matters for which the faculty had come to expect it would have primary responsibility. The faculty's April 2007 no-confidence resolution, sponsored by the faculty assembly, complained about what it characterized as the president's authoritarian approach to leadership and a climate of distrust, secrecy, and professional disrespect. The investigating committee heard frequent echoes of such complaints regarding the presidency of Carlton Brown, President Broadnax's successor. Faculty members cited what they perceive as a long-standing pattern of administration—and board—indifference toward or disregard for the legitimate role of the faculty in institutional decision making and a lack of sensitivity to faculty needs and concerns.

Testimony from faculty members about the events of this past year reprised the long-standing history of poor communications between administration and faculty, although that history hardly prepared anyone for the magnitude of the events of 2009. In a March 9 letter to President Brown, the chair of the faculty assembly reminded the president of its status as the official governance body of the faculty and stated its dismay at the way the assembly had been ignored or circumvented. After a lengthy list of particulars documenting how students had been damaged and academic programs weakened, the letter stated,

Procedures as outlined in the most recent CAU Faculty Handbook . . . were not followed. A review of each dismissal revealed that . . . the process

itself was flawed. . . . At stake here is whether or not faculty members are real co-contributors to the University's mission, or whether we are mere hired hands, doing the bidding of the administration (or Board of Trustees) without regard to our professional credentials, skills, and responsibilities.

It is all too clear to the investigating committee that the actions of the current Clark Atlanta University administration have exacerbated an atmosphere of mistrust and that shared governance exists at the institution only on paper, in handbook language that reflects the principles set forth in the Association's *Statement on Government*, but not in reality.

#### IV. Conclusions

The administration selected the particular faculty members for dismissal without any discernible prior consultation with appropriate faculty bodies. The administration in its selections also paid no heed to the rights of tenured over nontenured faculty with respect to retention.

1. By not affording the dismissed faculty members opportunity for a hearing before a body of faculty peers, the Clark Atlanta University administration denied them academic due process to which they were entitled under stated university regulations as well as Association-supported standards.
2. The administration attributed its actions to a largely nonexistent "enrollment emergency," a pretext for avoiding affordance of due process required under university regulations in the event of dismissals for cause or terminations necessitated by financial exigency.
3. The administration, in basing its selection of faculty members for release mainly on its assessment of their relative lack of merit, effectively dismissed them for cause but without any demonstration that dismissal was warranted.
4. The one month of severance salary the administration unconditionally provided to all dismissed faculty members was sorely deficient. The modest additional amount of severance offered as a means of pressuring vulnerable faculty members to forfeit avenues of appeal otherwise open to them and to release the university from any further claims was deplorable.
5. The administration, in subjecting fifty-five members of the faculty to immediate dismissal, acted in disregard of the 1940 *Statement of Principles on Academic Freedom and Tenure*, of deriva-

tive Association-recommended standards, and in some instances of the university's own stated policies.

6. The administration showed a consistent lack of regard for a faculty role in academic governance.

As emphasized above, the investigating committee does not accept the declaration of an enrollment emergency as an alternative to a declaration of financial exigency. Moreover, even if the actions taken by the Clark Atlanta University administration had been motivated by a bona fide enrollment crisis with an accompanying precipitous drop in tuition revenue, the investigating committee would have had much the same serious concerns it has expressed regarding the lack of academic due process afforded the fifty-five affected faculty members. The investigating committee has found no evidence to support the administration's claimed enrollment crisis, however, and, in fact, finds credible that in all likelihood the administration, and President Brown in particular, attempted to manipulate enrollment numbers in order to establish plausible grounds to dismiss faculty members summarily. This leads the committee to view the administration's actions as especially egregious.<sup>20</sup> ■

REBECCA J. WILLIAMS (English)  
University of Central Arkansas, *chair*

CHARLES L. BETSEY (Economics)  
Howard University

MARYBETH GASMAN (Higher Education)  
University of Pennsylvania

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20. Responding to a prepublication draft of this report, President Brown wrote as follows:

CAU's enrollment numbers speak for themselves, as does the state of our Nation's economy. I'm sure you recall like I do a time not very long ago when this University boasted well over 5,000 students. Today, the enrollment is less than 4,000 students. Considering the progressive enrollment decline within the context of the worst economic recession since the Great Depression, and it should be clear to any objective person that the actions taken as a part of CAU's resource reduction program were absolutely essential. Please know that we understand and have always understood the position the AAUP would take in this matter. Our number one priority, however, has been and will always be the preservation of this fine institution for the students it serves now and will serve in the future.

KERRY GRANT (Mathematics)  
Southern Connecticut State University  
*Investigating Committee*

Committee A on Academic Freedom and Tenure has by vote authorized publication of this report on the AAUP Web site and in the *Bulletin of the American Association of University Professors*.

Chair: DAVID M. RABBAN (Law), University of Texas at Austin

Members: RONALD M. ATLAS (Biology), University of Louisville; MICHAEL F. BÉRUBÉ (English), Pennsylvania State University; SHELDON KRIMSKY (Biomedical Ethics and Science Policy), Tufts University; DAVID MONTGOMERY (History), Yale University; ADOLPH L. REED JR. (Political Science), University of Pennsylvania; ANDREW T. ROSS (American Studies), New York University; ELLEN W. SCHRECKER (History), Yeshiva University; CARY R. NELSON (English), University of Illinois at Urbana-Champaign, ex officio; GARY RHOADES (Higher Education), AAUP Washington Office, ex officio; MARTHA S. WEST (Law), University of California, Davis, ex officio; ERNST BENJAMIN (Political Science), Silver Spring, Md., consultant; JOAN E. BERTIN (Public Health), Columbia University, consultant; MATTHEW W. FINKIN (Law), University of Illinois at Urbana-Champaign, consultant; ROBERT A. GORMAN (Law), University of Pennsylvania, consultant; JEFFREY R. HALPERN (Anthropology), Rider University, consultant; ROBERT C. POST (Law), Yale University, consultant; JEFFREY KRAUS (Government and Politics), Wagner College, liaison from Assembly of State Conferences.