

## I. INTRODUCTION

The devastation that Hurricane Katrina inflicted on the universities of New Orleans in late August 2005 is undoubtedly the most serious disruption of American higher education in the nation's history.<sup>1</sup> This was hardly the first time that collegiate facilities had been destroyed and academic programs halted; one need only recall the savage tornadoes that leveled buildings at Central State University (Ohio) and Gustavus Adolphus College (Minnesota), or the earthquake that destroyed much of California State University, Northridge, or the effect of the September 11, 2001, attacks on lower Manhattan campuses such as Pace University and Borough of Manhattan Community College.

Yet Hurricane Katrina was different in far more than sheer magnitude of damage, although that measure alone would distinguish it from any previous calamities. No earlier disaster destroyed virtually an entire community, not only depriving affected institutions of usable facilities, but also depleting severely the student population, leaving faculty and staff without homes, teaching hospitals without patients, and so on through an unprecedented litany of woes. One could not in good conscience undertake such an inquiry as this one without acknowledging the uniqueness of the experience from which New Orleans's universities are only now beginning to recover.

Part of what made Katrina so disruptive to higher education was the impossibility of anticipating its force and effect. Since intense storms are all too familiar along the Gulf Coast, the community was theoretically prepared even for a Category Five hurricane, including water that might breach the levees—but not for the complete destruction of critical sections of those levees. Although most New Orleans universities had adopted and disseminated plans for closure by the eve of the

storm's landfall, and some had even begun to evacuate students to higher ground, the worst that seemed likely was a brief period of disruption. Tulane University, for example, announced the weekend before the hurricane that it would be closed through the following Thursday, apparently planning a return to normal operations within the week. Even the day after the storm had hit and severe initial damage was manifest, Tulane continued to express publicly the hope that classes could resume by September 7.

What actually befell New Orleans higher education on August 29 far exceeded even the worst fears. While facilities at the two "uptown" private institutions (Tulane University and Loyola University New Orleans) suffered less physical damage than did the inundated buildings at Southern University at New Orleans, the Louisiana State University Health Sciences Center, the University of New Orleans, Xavier University, and Dillard University, electricity and communications were down throughout the city. Although most of the universities had made some provision for remote backup of electronic data systems, gaining access to those records and files proved a daunting task well after the water had subsided.

Gradually it became clear that the affected campuses would have great difficulty reopening in the near future. By the end of the first week of September, both Tulane and Loyola (the two most nearly intact campuses) announced that they would not reopen for any part of the fall semester. Students were encouraged to enroll elsewhere, if possible; dozens of campuses in adjacent states and much farther afield did find places for New Orleans students—though usually on the understanding that when their home institutions reopened they would return. Roughly a month after Katrina, the Gulf Coast prepared for another disaster as Hurricane Rita neared shore, but this time the New Orleans area was mercifully spared; major damage was confined to the coastal region of western Louisiana and east Texas, notably the several campuses of Lamar University.

The impact and cost of Katrina can be quantified, although numbers fail to capture the many other dimensions of devastation. Louisiana's Commissioner of Higher Education, Dr. E. Joseph Savoie, reports that 84,000 students and 15,000 faculty members were initially displaced by the hurricane. The state's public institutions of higher learning suffered between \$500 and \$600 million in damage, lost more than \$150 million in revenue and tuition, and suffered \$75 million in immediate budget cuts. Another assessment reported a total direct revenue loss of \$229 million by Louisiana's

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1. The text of this report was written in the first instance by members of the Special Committee and approved by that body for submission to Committee A on Academic Freedom and Tenure. With the approval of Committee A, the report in draft form was subsequently sent to the chief administrative officers of the universities at which investigations had been authorized, to the chief officers of the AAUP chapters and of the senates and other relevant faculty bodies, to faculty members who sought the Association's assistance, and to other persons directly concerned in the report. In light of the responses received, and with the editorial assistance of the Association's staff (which assisted the Special Committee throughout the process), this final report has been prepared for publication.



public colleges and universities, virtually all of it in the immediate New Orleans area. Although the monetary losses of the private institutions are harder to quantify, comparable estimates emerged in the ensuing months.

The far deeper harm defies quantification or physical description. For faculty and staff who lacked not only telephone and Internet access but also places to live after their homes had been destroyed, the measure of loss seems incalculable. For scientists who eventually returned to their flooded laboratories only to find that years—even decades—of research had been destroyed, the impact of the storm is well beyond even the most sympathetic conjecture. Throughout the first year following the hurricane, a brave hope that as many as 60 percent of former residents of the city had remained or returned eventually yielded to the grim reality that only two-fifths were present. And for those who had remained or returned, much of the city still lacked electricity and even water, making survival a challenge and postponing indefinitely any prospect of a return to normal, pre-storm conditions.

Nothing approaching the magnitude of Hurricane Katrina may ever have affected American higher education, and the Special Committee fervently hopes there will never again be a comparable challenge. Still, disaster and devastation can hardly be dismissed from the planning process. Whether it is tornadoes in Ohio and Minnesota, earthquakes and fires in California, hijacked aircraft destroying buildings in New York, or floods along the Gulf Coast and in Florida, the threat is inexorable. Many institutions of higher learning have taken note of these disasters, and have undertaken some form of emergency planning. Typically such plans focus chiefly on the physical and financial effects of natural or man-made catastrophes. The Special Committee's concern, however, is more with the academic and personnel consequences to which substantially less attention seems to have been devoted. In that spirit, and with the benefit of what the committee has learned about the experiences of the New Orleans institutions, at the outset it offers a few suggestions that may be helpful to other colleges and universities as they prepare for contingencies one hopes they will never face.

*First*, each institution of higher learning—whether or not it could be termed “disaster prone”—should develop and periodically review an emergency plan. Such a plan should presuppose the total breakdown of all traditional communications and information systems, as well as mandatory evacuation of campus facilities. Copies of the plan should be retained by members

of the governing board, senior administrators, and faculty and student leaders.

*Second*, the development of such plans should provide an occasion for renewal of the institution's, the board's, and the administration's commitment to academic freedom and due process, including a recognition of the stresses and pressures upon those abiding values that may result from a major disaster or emergency. Thus the reaffirmation should include a “notwithstanding” or “no matter what” corollary.

*Third*, the disaster plan should specify the steps that might become prudent or unavoidable in the event of a prolonged inability of the institution to function. The circumstances that might occasion major changes in programs or personnel should be anticipated and potential changes should be examined in the context of existing university policies—thus reducing the need that, as will be seen, some of the New Orleans administrations apparently felt to abandon preexisting policies without indicating why they could not adhere to emergency procedures that were already on the books. Wherever the existing policy fails to provide adequate guidance to address a major crisis, revision should be undertaken in more tranquil times.

*Fourth*, simulated previews of emergency conditions might be undertaken, perhaps on an annual basis. The governing board should participate in reviewing and responding to plausible case studies of such eventualities, thus preparing for the real challenge they would very much hope to avoid. The administration and the essential faculty consultative bodies should preview their respective roles in coping with such a challenge, anticipating how they would interact in the event that such consultation might be needed under the worst imaginable conditions. While one cannot doubt the need for prompt and decisive action by the New Orleans universities in the days after Katrina, the course actually followed in each case will be seen as having had a regrettably hit-or-miss quality that might have been avoided by such simulation.

*Fifth*, emergency communications and information systems should be in place ahead of any critical need for their use. The Special Committee was favorably impressed with Loyola's electronic database backup in Chicago, while noting the unexpected difficulty of accessing that resource with telephone lines and other communication systems so gravely disrupted by Katrina. Whether the solution is satellite-based communications or generator-driven support systems, each institution should have an emergency alternative in readiness.

*Sixth*, the Special Committee would urge colleagues across the country to study carefully the experiences of the New Orleans universities as they will be recounted here, and consider how each of our own institutions would respond, could respond, and should respond to a comparable challenge. Faculty consultative committees, for example, should review their assigned roles in exigent times, including emergency communication channels through which to reach the chief academic officer and other university officials with whom contact would be vital.

The foregoing suggestions look to the future and to steps that colleges and universities could take in advance of a calamitous event. The central concerns of this report, however, relate to the actions taken by the governing authorities of New Orleans universities in response to Hurricane Katrina. The Special Committee recognizes and acknowledges that the unique and catastrophic circumstances brought about by the hurricane required immediate, drastic, and far-reaching actions. At the same time, there were choices to be made and alternative ways to proceed. The choices actually made are not immune from examination, evaluation, and criticism. The Special Committee does not accept the view stated or implied by various administrators that, given the crisis, they were justified in everything they did, and that to question any of their actions is to fail to observe the best interests of the institutions and higher education in New Orleans. As will be seen in each of the individual reports that follow, there is much to examine, question, and criticize.

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Faculty members at New Orleans institutions initiated contact with the Association very soon after the hurricane. General Secretary Roger Bowen made two trips to the area and met during the fall and winter with groups of affected professors. In March 2006, Committee A chair David Hollinger authorized appointment of this Special Committee to address both the particular responses of each of the affected universities (most especially the impact of those responses on faculty rights and interests) and broader issues that had arisen in the storm's aftermath. The goal of such an inquiry would include gaining a better understanding of what had been a traumatic experience for the New Orleans academic community, recommending potentially ameliorative and preventive measures, and assessing the extent to which the responses of the universities adhered to the values and standards of the academic profession. A broader hope was to offer to the American

academic community useful guidelines for preserving academic freedom and due process under the most adverse conditions.

The Special Committee first met in Washington, D.C., on May 24, 2006, to review the scope of its daunting task and to assign responsibility for specific activities. In the ensuing weeks, a large and growing quantity of information was analyzed. Arrangements were made for committee members to go to New Orleans in mid-August, two or three at a time and accompanied by staff, to hold more than fifty interviews with faculty members from the various universities. Information gleaned from the interviews, added to previously available documentation, correspondence with administrative officers, and other written accounts, presented concerns relating to academic freedom and tenure of sufficient magnitude to warrant authorization by the Association's general secretary of formal investigations. He authorized investigation, with members of the Special Committee serving as the investigators, in the cases of the Louisiana State University Health Sciences Center, the University of New Orleans, Southern University at New Orleans, Loyola University New Orleans, and Tulane University.<sup>2</sup> Specific investigations were not undertaken either at Xavier University or at Dillard University, although at both institutions catastrophic damage occurred and a significant portion of faculty and staff lost their positions. At Xavier, where AAUP inquiries revealed that after the hurricane the president took the extraordinary action of releasing all members of the faculty and then reinstating those whom the administration wished to retain, and where the Special Committee became aware of deficiencies in appeal procedures and in shared governance that preceded Katrina and have been allowed to continue, no specific case emerged that could be pursued to investigation. No one at Dillard sought the Association's assistance.

The full Special Committee met in New Orleans during the final week in August, as that community marked the first anniversary of Katrina. It began its stay with a lengthy tour, arranged by Commissioner Savoie and conducted by the Louisiana National Guard, of the most

2. A parallel investigation, of issues raised in the dismissal of a single faculty member at Our Lady of Holy Cross College, proceeded separately from the Special Committee's undertaking because the dismissal at this New Orleans institution, across the Mississippi River from the others, suffered no flooding and the dismissal was not a direct consequence of the hurricane. The report of the investigation was published in the January–February 2007 issue of *Academe*.





severely devastated areas of the region. This experience was deeply sobering for those of us who were able to participate. Over the course of two days, the committee assessed the results provided by its individual members and staff of their interviews with faculty members from the city's universities, and the committee spent a most productive evening hearing from the leaders of the Louisiana AAUP state conference and of the AAUP chapters in New Orleans and nearby about what the region's universities and their faculties had endured. Through the good offices of Commissioner Savoie, the Special Committee on its final day met with the chancellors of the University of New Orleans, the LSU Health Sciences Center, and Southern University at New Orleans, along with attorneys and several other officials of the statewide Board of Regents, of the LSU System, and of the Southern University System, as well as one community college representative. The presidents of the two private universities authorized for investigation, Loyola New Orleans and Tulane, declined proposed meetings with the Special Committee before receiving the committee's report.

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Following the Special Committee's New Orleans meetings, subgroups prepared separate reports on issues and findings at the five universities where investigations had been authorized. The five included the city's three public universities: the LSU Health Sciences Center, the University of New Orleans, and Southern University at New Orleans.

The statewide coordinating body for public higher education is the Louisiana Board of Regents, with Commissioner of Higher Education Savoie as its chief executive officer. The board of regents oversees four systems, each governed by its own board of supervisors: Louisiana State University (which includes its flagship component in Baton Rouge and its two New Orleans components, the LSU Health Sciences Center and UNO); Southern University (the historically black system, which includes its flagship component, also in Baton Rouge, and its New Orleans component, SUNO); the University of Louisiana (consisting of eight institutions at various Louisiana locations); and the Louisiana Community and Technical College System. The current president of the Louisiana State University System is William L. Jenkins, and Ralph Slaughter currently serves as the Southern University System's president.

The chief administrative officer at the LSU Health Sciences Center at the time of Hurricane Katrina was

Chancellor John Rock. Shortly thereafter he was succeeded in that office by Chancellor Larry H. Hollier, who also continued to serve as dean of the School of Medicine. Chancellor Timothy P. Ryan, who previously had been dean of the College of Business, has headed the UNO administration since October 2003. The SUNO administration when Katrina struck was headed by Interim Chancellor Robert B. Gex. He was followed in January 2006 by Chancellor Victor Ukpolo, who had been the Southern University System's vice president for academic and student affairs.

As will be seen in the chapters that follow, the LSU Health Sciences Center, UNO, and SUNO all had institutional regulations governing financial exigency and the resulting termination or interruption of faculty appointments that provided many, though by no means all, of the procedural safeguards called for in applicable AAUP-recommended standards. Common to all three was the abandonment following Katrina of the existing financial exigency regulations in favor of new regulations under which procedural protections were sharply reduced. In the cases of the LSU Health Sciences Center and SUNO, this was done through adoption by their respective boards of supervisors on the same day (November 18, 2005) of virtually identical declarations of "force majeure" (to be discussed in detail in the chapter on the LSU Health Sciences Center that immediately follows), with implementing regulations superseding what were in existing board bylaws and faculty handbooks. In the case of UNO, the regulations were changed five months later, when on April 21, 2006, the LSU System's board of supervisors, rather than declare "force majeure" for that institution, adopted a "Declaration of Financial Exigency" with implementing procedures that superseded the existing financial exigency provisions. Whether under the rubric of "force majeure" or financial exigency, a faculty appointment could be disrupted through "termination" (permanent separation), "layoff" (termination pending potential recall), or "furlough" (temporary unpaid leave that, however, as with "layoff," could become permanent). At all three of these public universities, the involuntary separations were implemented through placement on "furlough," which at least at the LSU Health Sciences Center and SUNO are apparently destined in significant number to be permanent. A more detailed treatment of these general terms will be found below in chapter III on the University of New Orleans.

The two private New Orleans institutions where investigations were authorized are the Jesuit Roman Catholic Loyola University New Orleans with the Reverend Kevin

W. Wildes serving as its president and the nonsectarian Tulane University under the presidency of Scott S. Cowen. A prominent feature first at Tulane and then at Loyola (and also at UNO in the public sector) was an administration-sponsored master plan for renewal and long-range development. Common to Loyola and Tulane was the retention of existing faculty regulations rather than their replacement as was done at the three public-sector institutions. As will be seen in the following reports, the Tulane regulations largely but not entirely track AAUP-recommended standards in key respects, and the Loyola regulations adhere fully to these standards. The differences between the Tulane and the Loyola situations are considerable, however. At Loyola, unlike Tulane, financial exigency was not declared or seriously argued, and appointments were subjected to termination on grounds of discontinuance of programs because of educational considerations. How closely the Tulane administration has adhered to the institution's own regulations is an issue occasioning debate, while the Loyola administration has provided scant evidence or argument in support of its assertions that it has abided by the applicable university regulations. Another noticeable difference is in the faculty's attitude toward the administration. While the Special Committee did not discern widespread faculty support for the actions of the Cowen administration at Tulane, it was struck by the massive faculty opposition at Loyola, punctuated by successive "no confidence" votes, regarding the administration of President Wildes.

Each of the report's chapters on the individual institutions includes available information on the numbers of full-time faculty subjected to layoff or furlough. With isolated exceptions, information on the numbers of adversely affected part-time faculty has been elusive to obtain, and the Association has not been advised of any specific New Orleans cases involving a part-time appointment and potential AAUP concern. The Special Committee is well aware, however, that the damage to academic careers resulting from Katrina extended in no small measure to part-time faculty members and indeed to academic staff members in positions not carrying faculty status.

The five chapters, which now follow, begin with the three public universities (the LSU Health Sciences Center, UNO, and SUNO) and end with the two in the private sector (Loyola and Tulane). They have been reviewed and approved for publication by the Special Committee and by Committee A, which under its regular procedures will in turn report on them to the Association's next annual meeting in June 2007. They form the core of this general report.

