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# Academic Freedom and Tenure: Pacific Lutheran University (Washington)<sup>1</sup>

(JANUARY 2020)

## I. Introduction

This report, prepared by the Association's staff, concerns the case of Dr. Jane Harty, a part-time faculty member with forty years of service in the Department of Music at Pacific Lutheran University. In November 2018, Dr. Harty was suspended from her teaching responsibilities for the remainder of her one-year contract and informed that she would not be reappointed for the following academic year. The stated reason for the action was that she had violated a directive issued by her department chair that prohibited faculty members from accepting payment from PLU students for private lessons given independently of the university. The summary nature of the action, the relatively minor character of the infraction, and the fact that Dr. Harty's longtime advocacy for the rights of faculty members on contingent appointments had brought her into repeated conflict with her administrative superiors suggested that the administration had imposed the suspension for reasons that implicated principles of academic freedom. Following lengthy correspondence between the Association's staff and the administration, in which the administration's representatives repeatedly shifted their characterization of the action against Dr. Harty, the administration agreed to afford her a faculty dismissal hearing, as stipulated under AAUP-recommended standards. Regrettably, in that hearing

the administration declined to assume its responsibility for demonstrating adequate cause for dismissal, and the faculty hearing body did not therefore reach a determination on whether the charges warranted dismissal, rendering the proceedings moot. An AAUP investigation of Dr. Harty's case, which the Association's executive director had authorized and then suspended when the administration agreed to afford Dr. Harty a dismissal procedure, was reopened when the staff learned that the hearing did not conform to AAUP-recommended standards. This report is based on the written record of the case, which includes the account of an Association representative who attended the hearing as an observer.

## II. The Institution

Pacific Lutheran University, located in Tacoma, Washington, is a coeducational institution affiliated with the Evangelical Lutheran Church in America. The university is regionally accredited by the Northwest Commission on Colleges and Universities, and its music department is accredited by the National Association of Schools of Music. Pacific Lutheran serves about 3,100 students, of whom some 2,800 are undergraduates. Its faculty comprises 223 full-time and 121 part-time members.

During the period in which the events under investigation occurred, the institution was conducting a presidential search. The acting president during the 2018–19 academic year was Mr. Allan Belton, who, after a twenty-five-year career with Bank of America Merrill Lynch, joined Pacific Lutheran in 2015 as chief financial officer and had most recently served as senior vice president and chief administrative officer. In April 2019, Mr. Belton was appointed as the university's

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1. The text of this report was written in the first instance by the Association's staff. In accordance with Association practice, the text was then submitted to Committee A on Academic Freedom and Tenure. With the approval of Committee A, the report was subsequently sent to the subject faculty member and to the administration of Pacific Lutheran University. This final report has been prepared for publication in light of the responses received.

fourteenth president.<sup>2</sup> Serving in the position of interim chief academic officer was Dr. Joanna Gregson, who had previously been a faculty member and chair in the sociology department. She was subsequently appointed to the position on a permanent basis.

Beginning in 2012, Pacific Lutheran was the site of an academic labor dispute when the Service Employees International Union (SEIU) attempted to organize the contingent faculty at the institution. The administration opposed this effort, based on Pacific Lutheran University's religious affiliation and on the claim that full-time contingent faculty members are managerial employees. When the regional office of the National Labor Relations Board (NLRB) issued a decision upholding the contingent faculty's right to unionize, the PLU administration appealed that decision to the NLRB. Although the NLRB's 2014 decision was favorable to the union, the organizing drive at the institution was subsequently suspended.

### **III. The Case of Dr. Jane Harty**

Dr. Jane Harty holds an MFA in piano performance from the University of Minnesota and a DMA in keyboard studies and arts criticism from the University of Southern California. She was first appointed as a part-time faculty member at Pacific Lutheran in 1978, initially as a lecturer in piano and from 2001 to 2017 as a senior lecturer, a rank that included at least a half-time teaching load and benefits. In 2017, the administration reclassified Dr. Harty and five other part-time faculty members as lecturers, a rank without benefits, at the same time as it established a second tenure line in piano.

Dr. Harty reports that between 2007 and 2011, she unsuccessfully applied for three tenure-track positions in her subject area at Pacific Lutheran and that, each time, the successful candidate had at least fifteen years less experience than she. According to Dr. Harty, the first two appointees resigned within a year or two. Dr. Harty reports that, in 2017, when the department sought to fill the tenure-track position

whose creation she believes led to her reclassification in rank, the chair of the search committee discouraged her from applying, telling her that the search committee was looking for an "early career" individual. The chair, however, reportedly reassured her that her part-time position was "safe." Dr. Harty filed two separate complaints of age discrimination with the US Equal Employment Opportunity Commission (EEOC) regarding the reduction in rank and the statement by the search committee chair. In both cases, she did not pursue litigation after receiving a notice of right to sue from the EEOC.<sup>3</sup>

In 2012, after Dr. Harty coauthored a report on a survey of the contingent faculty at the institution undertaken on behalf of the local AAUP chapter, SEIU representatives recruited her to lead the organizing effort among the contingent faculty at Pacific Lutheran. Following the conclusion of the organizing campaign, Dr. Harty continued to engage in activism on behalf of the non-tenure-track faculty on campus, which brought her into conflict with the administration.

In the spring 2018 semester, a student contacted Dr. Harty asking to study collaborative piano, an area of study not represented among the course offerings at Pacific Lutheran. On April 23, with Dr. Harty's encouragement, the student contacted Professor Brian Galante, chair of the music department, to request permission to enroll in an independent study course with Dr. Harty on that topic. That same day, Professor Galante denied the student's request in an email message, stating that because faculty members did not receive compensation for independent study courses, the department did not assign such courses to faculty members serving on contingent appointments "in fairness to them." Professor Galante added, "We do not offer a course in Collaborative Piano, and so there is no option for elective credit in this circumstance." As a result, Dr. Harty and the student, together with a voice student, arranged for her to offer instruction independent of the university during the fall 2018 semester.

Dr. Harty reports that other studio faculty members at Pacific Lutheran had provided such lessons at one time or another during her four decades at the institution and that the music department had never established a policy addressing this practice.

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2. Had an investigating committee conducted a site visit, it could have inquired about conditions for academic governance at the institution, which may well have included inquiries about the process of selecting President Belton. According to reports in the press, faculty and students had stated concerns that the search process lacked transparency and that Mr. Belton was selected even though he was not among the finalists who visited the institution for on-campus interviews. According to these reports, President Belton's candidacy had not even been announced prior to his appointment.

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3. The EEOC has authority to enforce violations of its statutes by filing a lawsuit in federal court. If the EEOC decides not to litigate, the charging party (here, Dr. Harty) will receive a notice of right to sue and may file a lawsuit in federal court within ninety days.

On September 6, Professor Galante sent the following email message to the department:

Today, I overheard a few students discussing the possibility of paying a faculty member privately rather than registering for credited lessons. While a faculty member may, with all good intentions, be tempted to enter into such an agreement, PLU faculty (full-time or contingent) may not take payment “under the table” from, nor use PLU resources to teach, a current PLU student, even if that student is at the credit maximum. A student should not, for example, register for one-credit of a lesson, and then pay for the other half hour privately in order to avoid tuition expenses and course fees. Imagine a similar circumstance where a student requests to pay cash to an instructor to take a biology class off the record. It wouldn’t happen.

We certainly cannot monitor what a faculty member chooses to do on their own time, in their own place, but we do not want to get into a situation where it appears that a student or teacher is undercutting the university. That is not good for the health of our budgets and our ability to plan appropriately for teaching loads. It also wades into murky ethical, legal and tax waters.

Should a current student approach you about taking lessons for cash, please decline. Let me know if you have any questions.

Around the same time, Dr. Harty emailed the student an invoice for the private instruction in collaborative piano, which the student forwarded to her parents. In late September, the student’s mother contacted the Office of Student Services to inquire about the bill that her daughter had sent her. The office contacted the music department, and on October 12, Professor Galante’s administrative assistant contacted Dr. Harty to ask for clarification. After calling the student’s mother to explain the arrangement, Dr. Harty informed the music department that the matter had been settled to everyone’s satisfaction.

Following that conversation, the student’s mother sent Dr. Harty a check for \$420 to pay for the lessons. Even though Dr. Harty did not believe that Professor Galante’s directive applied to her case, because it did not mention a scenario in which a student wished to take lessons in a subject area not included in the curriculum, she feared that it might nevertheless be interpreted to apply to her situation. As a result, she returned the check.

In late October, Dr. Harty was called into the human resources office to discuss the inquiry received from the student’s parent. Dr. Harty reports that Ms. Teri Phillips, the director of human resources, accused Dr. Harty of having “undermined the university” when she accepted payment for private instruction and informed her that she was referring the case to the provost and, ultimately, to the president. Dr. Harty further reports that when she informed Ms. Phillips that she had returned the payment to the student’s mother, Ms. Phillips replied that she had done so only because she had been “caught.”

On November 29, Provost Gregson informed Dr. Harty by letter that she would be placed on unpaid leave after the conclusion of her teaching responsibilities in the fall semester, with the leave continuing through the end of the spring semester, when her most recent one-year appointment was set to expire. Provost Gregson’s letter also informed Dr. Harty that her part-time appointment would not be renewed for the following academic year. As the reason for these actions, the provost’s letter stated that her providing instruction to PLU students independently contravened not only the September 6 directive from Professor Galante but also the “long-standing expectations of the University” and had “created a conflict of interest” on Dr. Harty’s part.

On the same day, Dr. Harty wrote an appeal to Provost Gregson. In her letter, Dr. Harty requested that the provost reconsider her decision in light of Dr. Harty’s long record of dedicated service to the institution, what Dr. Harty viewed as a lack of clear institutional expectations regarding private music instruction, the vagueness of the policy promulgated by Professor Galante, and Dr. Harty’s having returned the check. On the following day, Provost Gregson responded by email: “I have received and reviewed the information you provided. My original decision stands.”

#### **IV. The Association’s Involvement**

On December 3, a member of the AAUP’s staff wrote to the administration to convey the Association’s concern that Dr. Harty’s terminal suspension appeared to constitute a summary dismissal under Association-supported procedural standards and urged her immediate reinstatement. In his response, dated January 10, 2019, President Belton rejected the Association’s contention that Dr. Harty had been dismissed: “Contingent faculty members are not guaranteed reappointment in the same manner as tenure

line faculty and the notice periods applicable to tenure line faculty do not apply to the non-renewal of a contingent appointment. To my knowledge, the decision to not reappoint a contingent faculty person has never been viewed as ‘dismissal’ that would be subject to the dismissal procedures of the PLU Faculty Handbook. I believe this is the case at most US colleges and universities.”

President Belton further claimed not only that Dr. Harty had contravened Professor Galante’s directive and “a longstanding expectation that persons teaching music students on behalf of PLU will not simultaneously offer private instruction to the same students for personal profit” but also that she had violated “the duty of loyalty she has as a PLU employee under Washington law.”

President Belton described the action taken against Dr. Harty in terms that differed markedly from those provided in Provost Gregson’s November 29 letter. Instead of referring, as the provost had done, to Dr. Harty’s ongoing separation from her teaching responsibilities as the administration’s having placed her “on leave,” he explained the actions as follows:

The information indicating that Dr. Harty had not complied with PLU’s longstanding expectations, the specific direction from the Music Chair and her obligations under Washington law, resulted in PLU being unwilling to assign additional PLU students to her for private music lessons. A contingent faculty in the Music Department is not guaranteed any specific assignment from term to term and the assignments for private music instruction are made on a term-by-term basis. Additionally, PLU had adequate resources to accommodate the few students Dr. Harty taught so there was no necessity to continue this contingent assignment. . . . Nevertheless, in an effort to avoid any potential financial disruption, PLU continues to pay Dr. Harty the amounts she would have received had she continued to provide private music instruction at the same level as in Fall 2018.

Thus, according to this account, some students had already been assigned to Dr. Harty when the administration decided not to assign additional students to her because of her alleged misconduct. Since the administration was now able to assign the initial group of students to other instructors, it regarded Dr. Harty’s enrollment as insufficient to warrant providing her with any teaching assignment at all.

The staff noted in response that the conditions that led to the modification of Dr. Harty’s contract had in fact been created by the administration. That is, by the administration’s own account, the only reason that Dr. Harty’s enrollment was “insufficient” was that the administration itself had decided not to assign additional students to her. The modification of her contract, the staff stressed, thus constituted a suspension by another name, leaving the Association’s concerns in Dr. Harty’s case unresolved.

With Dr. Harty’s status remaining unchanged at the beginning of the spring 2019 semester, the Association’s executive director appointed an ad hoc committee to conduct an investigation into Dr. Harty’s case, and the AAUP’s staff so informed President Belton on February 8. On February 19, Mr. Warren Martin, an attorney retained by the administration, responded to the staff’s letter. In addition to assuring the administration’s full cooperation with the investigation, the letter provided the following account of Dr. Harty’s case: “Dr. Harty requested and received an opportunity to discuss and respond to the allegations before PLU made any decision. And Dr. Harty did not dispute or deny the underlying misconduct. The AAUP’s 1940 *Statement [on Principles of Academic Freedom and Tenure]* indicates that a hearing before a faculty panel ‘should’ be provided, especially where the ‘facts are in dispute.’ Dr. Harty had an opportunity to be heard by the Provost, who is a long-time tenured member of the faculty, which confirmed that the facts are not in dispute.” In its response on February 22, the staff stated that it was pleased to hear that the administration, as evidenced by its citing provisions of the 1940 *Statement* concerning dismissal, now acknowledged that Dr. Harty had in fact been dismissed. With respect to the administration’s adherence to the Association’s recommended procedural standards, the staff further noted that although some facts were not in dispute, others were, including those related to the question whether the misconduct in which Dr. Harty was alleged to have engaged warranted dismissal. The letter noted that the latter question, in particular, required consideration by a duly constituted faculty body. The letter concluded, “The Association accordingly views the provost’s nominal faculty status as having no bearing on this requirement.”

As Mr. Martin’s letter had stated that the administration was “amenable to discuss possible resolutions,” the staff’s response reiterated that the administration should restore Dr. Harty to her regular

faculty duties, or, failing that, afford her a dismissal hearing before an elected faculty body in which the administration was responsible for demonstrating that she had engaged in conduct that warranted her dismissal. The staff's letter noted that the dismissal procedures contained in the Pacific Lutheran University faculty handbook comported in essential respects with Association-supported standards.

On March 8, only days before the investigating committee was scheduled to visit the institution, Mr. Martin wrote that, in order "to resolve AAUP's concerns and for no other purpose, PLU is prepared to convene a formal dismissal hearing committee process." The Association's executive director consequently suspended the investigation. In informing the administration of that decision, the AAUP's staff also noted that the Association did not consider Dr. Harty's case closed and would reserve the right to publish a report on Dr. Harty's case should the hearing fail to comport in essential respects with Association-recommended standards. In closing, the letter noted that Dr. Harty had asked for the AAUP's national office to arrange for an AAUP representative to be present as an observer at the proceedings.

On April 12, President Belton notified Dr. Harty that the hearing would take place on May 24 and that Provost Gregson's November 29 letter would serve as the statement of charges setting forth the grounds for her dismissal. At the hearing, the committee and the administration were both represented by legal counsel, and Dr. Harty was accompanied by a faculty colleague who served as her adviser. A faculty member from another institution attended in the capacity of an observer representing the AAUP's national office.

In his report on the hearing submitted to the Association, the AAUP observer made the following assessment: "Technically speaking, on my understanding, this proceeding conformed to the letter of the process specified in the PLU faculty handbook." But he qualified this assessment by adding that he had "concerns" about the proceeding's "integrity," specifically, whether it had been conducted in good faith.

The observer noted that in his closing remarks the attorney representing Pacific Lutheran University asked the faculty committee to endorse the following three conclusions:

- (1) In handling this matter, PLU did not in any way or at any time violate the procedures specified in its faculty handbook;

- (2) The termination of Dr. Harty's relationship with PLU had been effected via the non-renewal of her contingent appointment; and
- (3) Had it been necessary for PLU to demonstrate "adequate cause" to warrant Dr. Harty's dismissal, however, the record demonstrates that this standard would have been met in this case.

To the observer, these instructions raised concerns as to whether the proceedings did in fact constitute a dismissal hearing. In order to confirm that he had understood the administration's position, the observer paraphrased the above summary to the university's attorney, and the attorney confirmed that this characterization was accurate.<sup>4</sup> Consequently, the observer reported, "It would appear to follow that this proceeding was not in fact a dismissal hearing because Dr. Harty has not in fact been dismissed; and, if that is so, then I remain unsure how to understand and assess the nature and purpose of the session I attended." The observer further stated, "It seems not unreasonable to speculate that this proceeding was conducted only in order to appease the AAUP and, more specifically, to forestall a full investigation. If that is correct, then one might conclude that this proceeding was a show whose chief purpose was to give the appearance of legitimacy to conclusions already determined by the provost and president. This conclusion appears to be implied by the PLU attorney's closing remarks to the faculty body."

The observer's impressions found confirmation when the hearing committee issued its findings on June 3, 2019. The committee determined that Dr. Harty had violated a directive by her department chair and that the administration acted within its rights in not renewing her appointment. The committee also concluded that the administration's action to suspend Dr. Harty "fail[ed] to provide the level of faculty review and due process inherent in the PLU

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4. The observer's description is further confirmed by the transcript of the proceedings. In the administration's November 22 written response to the draft text of this report, the university's attorney took the position that the administration did make the specific request to the committee to "find that adequate cause is proven on this record," citing the transcript. Again, what the administration actually requested of the committee was to "find that adequate cause is proven on this record," but only "to the extent that adequate cause would be required for this decision," which it denied was required. In other words, the administration asked the committee to endorse a hypothetical or, more precisely, a counterfactual.

faculty handbook.” The committee did not address, however, the one issue that the hearing was supposedly conducted to determine: whether the administration had demonstrated that the charges against Dr. Harty warranted her dismissal for cause.

In a July 22 letter to Dr. Harty, President Belton enclosed a memorandum, dated the same day, that he had sent to the hearing committee. In it, the president acknowledged that “the Formal Dismissal Hearing Committee did not make a specific recommendation—one way or the other—regarding whether ‘adequate cause for dismissal’ was or was not established.” After noting that the dismissal procedures in the bylaws required the committee to report to the president if it concluded that the administration had failed to establish adequate cause, he pointed out that the committee had not done so. He then quoted from the same section of the bylaws a provision permitting the president to transmit “a recommendation for dismissal to the Board when the faculty Hearing Committee has not recommended dismissal” and stated that he intended to do so.

The July 22 letter to Dr. Harty invited her to appear at the October 19 meeting of the board of regents, at which the board would take final action in the matter. It further informed her that, “regardless of any issues relating to a ‘dismissal’ under the 2018–19 agreement, Pacific Lutheran University is exercising its right to not offer [her] a Contingent Faculty Teaching Agreement for 2019-2020.”

On September 11, President Belton forwarded to the governing board and Dr. Harty a memorandum recommending dismissal. It states that the hearing committee had found that Dr. Harty had violated the directive against charging for private instruction that was unsanctioned by the university. As additional rationales supporting his recommendation, the memorandum alleges that Dr. Harty had violated the institutional bylaw that “[e]very faculty member is expected to be committed to the mission and objectives of the university” and had engaged in conduct “not consistent with excellence in teaching.” It should be noted that the administration had not cited these last two grounds for dismissal in any prior communication to Dr. Harty or to the Association, including in Provost Gregson’s letter that served as the statement of formal charges, nor had the hearing committee listed them among its findings. The president’s recommendation also reiterated that, “regardless of any [board] action taken on this recommendation for ‘dismissal,’” the administration had “exercised its right” not to renew Dr. Harty’s appointment.

On October 23, following Dr. Harty’s appearance before the board of regents four days earlier, board chair Edward Grogan IV wrote to inform her that the board had “voted to accept the President’s recommendation” that she be “dismissed from employment under [the] 2018–19 Contingent Faculty Teaching Agreement.”

Based on the observer’s report, the committee’s findings, and the administration’s correspondence, the executive director reopened the previously suspended investigation and directed the staff to prepare this report on the case.

## **V. Issues**

The following are the most salient issues presented by Dr. Harty’s case.

### **A. Procedural Issues**

The administration’s action to suspend Dr. Harty from her teaching responsibilities through the end of her 2018–19 appointment constituted a dismissal under AAUP-supported procedural standards because of the concurrent action not to renew her appointment for the 2019–20 academic year. Under Regulation 5c(1) of the Association’s *Recommended Institutional Regulations on Academic Freedom and Tenure*, “A suspension that is intended to be final is a dismissal and will be treated as such.” The nonrenewal made the suspension final and therefore tantamount to dismissal.

The *Recommended Institutional Regulations* further provides that “termination of an appointment with continuous tenure, or of a probationary or other nontenured appointment before the end of the specified term, may be effected by the institution only for adequate cause,” as demonstrated in an adjudicative hearing before an elected faculty body, with the burden of proof resting with the administration. Even though the administration furnished a written statement of charges, its failure to assume the responsibility of demonstrating adequacy of cause and the consequent failure of the hearing committee to reach a judgment on that issue rendered the hearing pointless.

President Belton betrayed the bad faith in which the administration had agreed to hold the hearing when he placed the word *dismissal* in scare quotes in his correspondence with Dr. Harty and the board, indicating that the administration did not actually regard the action taken against her as a dismissal. Moreover, the administration’s statements that the university would not renew Dr. Harty’s appointment

regardless of the final disposition of her case simply underscored the summary nature of the action taken against her.

In the absence of a hearing in which the administration demonstrated adequacy of cause, the termination of Dr. Harty's appointment was effected by a summary dismissal, in violation of Association-supported procedural standards.

### **B. The Stated Grounds for Dr. Harty's Summary Dismissal**

The stated reason for the administration's actions against Dr. Harty was that she had violated her department chair's directive against providing paid independent instruction to Pacific Lutheran University students. The hearing committee concluded that she did violate the directive. The committee also concluded that the decision not to renew her appointment was within the administration's discretion under the faculty handbook.<sup>5</sup>

Since the hearing committee did not render a judgment as to whether the stated charges warranted Dr. Harty's dismissal, this report will compare them with commonly used grounds for dismissal such as "incompetence," "gross misconduct," "gross neglect," and the like. For this purpose, it is appropriate to consider the circumstances of Dr. Harty's conduct. First, she had agreed to provide the private instruction before her chair had issued the directive. Second, her stated belief was that, contrary to the administration's assertion that Professor Galante's directive represented a long-standing expectation, other music faculty members had in the past provided private paid lessons without university approval.<sup>6</sup> Third, the directive itself

appeared to have been framed to apply to circumstances other than those in which Dr. Harty agreed to provide the lessons. Fourth, she returned the payment to the student's mother.

Considered within this context, Dr. Harty's violation of the directive would appear to most disinterested observers to fall far short of gross misconduct. Furthermore, while the possibility cannot be ruled out that a faculty body might have concluded that Dr. Harty's misconduct was so grave as to warrant dismissal, the faculty body ostensibly constituted for that purpose did not reach that conclusion. Neither does this report.

### **C. Academic Freedom**

This report has concluded that the administration failed to provide Dr. Harty with an appropriate dismissal hearing and, moreover, that Dr. Harty's conduct did not warrant the severe sanction of dismissal. These findings naturally lead to the question whether Dr. Harty's dismissal was based on considerations other than those cited by the administration. This report has alluded to Dr. Harty's long-standing conflicts with the administration and her department, as indicated by her EEOC complaints, and her activism on behalf of the union campaign and of contingent faculty members more generally. The manner in which the administration sought to dismiss her, the relatively minor nature of the misconduct in which she was alleged to have engaged, and the absence of any other evident basis for the action taken against her lend credibility to the notion that the administration's action to dismiss her was based on considerations that violated her academic freedom.

The Association has long held that speech "on any matter of institutional policy or action" is protected under principles of academic freedom. Such speech certainly includes speaking out on behalf of one's colleagues or pursuing grievances related to potential instances of discrimination.

## **VI. Conclusions**

1. The Pacific Lutheran University administration acted in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure*

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5. Although the hearing committee did not address this matter explicitly, it is reasonable to conclude that the committee regarded Dr. Harty's misconduct as sufficient to warrant her nonreappointment. It is important to note, however, that such a finding is not dispositive of the question of adequacy of cause for dismissal, as previous investigations have observed. The Association has recognized that misconduct that does not rise to the level of adequate cause for dismissal may nevertheless be grounds for nonrenewal of an appointment. See "Academic Freedom and Tenure: Northwestern University," *Academe*, May-June 1988, 55-70, and "Academic Freedom and Tenure: University of Southern California," *Academe*, November-December 1995, 40-51.

6. The university's November 22 response to the draft text of this report states that the testimony of a witness called by Dr. Harty contradicted Dr. Harty's claim that this practice was "common." The witness was a part-time faculty member who indicated that she had not provided such lessons for "many years." While this report cannot

reach a definitive conclusion on whether the practice remains common, it can note that expecting a part-time faculty member to testify at a dismissal hearing that she herself had recently engaged in an activity that is the stated ground for dismissing her colleague does present certain challenges.

and derivative Association-supported procedural standards when it summarily dismissed Dr. Jane Harty after forty years of service.

2. The Pacific Lutheran University administration acted in bad faith when it agreed to conduct a dismissal hearing in Dr. Harty's case. By declining to demonstrate adequate case for dismissal, the administration reduced the dismissal hearing to a sham exercise.
3. With respect to academic freedom, the nature of the misconduct in which Dr. Harty engaged and the summary nature of the administrative action lead to the inference that the real reasons for her dismissal may have stemmed from long-standing displeasure with Dr. Harty's activities in defending her rights and the rights of others.<sup>7</sup> ■

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

Chair: **HENRY REICHMAN** (History), California State University, East Bay

Members: **JEFFREY A. HALPERN** (Sociology), Rider University; **EMILY M. S. HOUH** (Law), University of Cincinnati; **IBRAM X. KENDI** (History and International Relations), American University; **MICHAEL E. MANN** (Meteorology), Pennsylvania State University; **MICHAEL MERANZE** (History), University of California, Los Angeles;

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7. In an eight-page letter of November 22 responding to the draft text of this report, the university's counsel wrote that the university "strongly disagrees with the draft report, including [its] factual assertions and conclusions." The letter enumerated some of the administration's specific objections under the following headings:

1. The [administration's stated] reasons for [Dr. Harty's] employment separation have never changed.
2. PLU and AAUP have disagreed over the process required for employment decisions involving contingent faculty members.
3. Dr. Harty received all process required under the PLU Faculty Handbook even for a tenure line faculty member.
4. The draft report attempts to substitute its author's judgment for that of the Board of Regents.
5. There is no evidence of retaliation.
6. The draft report grossly mis-states the record.

In preparing the final text of this report, the staff took into full account the specific comments in the administration's letter.