

## R E P O R T

# COLLEGE AND UNIVERSITY GOVERNANCE: RENSSELAER POLYTECHNIC INSTITUTE (NEW YORK)<sup>1</sup>

This report concerns the action taken in summer 2007 by the board of trustees and the administration of Rensselaer Polytechnic Institute to suspend the faculty senate and replace it with a “transitional structure of faculty governance.” The board and administration stated that they took this step because the senate had declined to follow a board directive to amend its constitution to exclude all

but the tenured and tenure-track faculty from the senate’s constituency and membership. In issuing its directive in December 2006, the board was reacting to a senate proposal to grant the “clinical” faculty<sup>2</sup> the right to participate as voting members in the senate.

After outlining the history of the faculty’s conflict with the administration and governing board both before and after the suspension of the faculty senate, the report analyzes the administration’s rationale for suspending the senate and the ways in which its substitute for faculty governance departs from applicable AAUP-supported standards. The report also considers issues relating to the participation of non-tenure-track faculty in shared governance, and it comments on the climate for faculty dissent.

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1. The text of this report was written in the first instance by the members of the investigating committee, with the assistance of the Association’s staff, and then submitted to the Committee on College and University Governance. The text was then revised by that committee and edited by the staff before being sent to the administration of Rensselaer Polytechnic Institute and to institute faculty members concerned in the report. In light of the responses received and with the staff’s editorial assistance, this final report has been prepared for publication.

2. The nomenclature for non-tenure-track faculty varies from one institution to another. Although the term “clinical faculty” is typically used to describe appointments occupied by practicing professionals in medicine, architecture, law, or engineering who are employed to teach “applied” courses, at RPI the term denotes full-time, teaching-intensive appointments not eligible for tenure. These appointments are typically for one-year terms and include benefits. According to the information available to the undersigned investigating committee, at the time the faculty senate was suspended, about seventy-five clinical faculty members were teaching on RPI’s main campus and nineteen, reportedly the entire full-time faculty, held appointments at RPI’s small branch campus in Hartford, Connecticut. At present, departmental web pages list at least thirty-one clinical faculty members in fifteen different departments on the main campus, although faculty sources report that the actual count is closer to sixty. The departments and programs in which they teach include architecture; biology; civil engineering; cognitive science; language, literature, and communications;

## I. The Institution

Stephen Van Rensselaer, a Federalist politician, wealthy New York landowner, and force behind the construction of the Erie Canal, established the Rensselaer School in Troy in 1824 “for the purpose of instructing persons, who may choose to apply themselves, in the application of science to the common purposes of life.” According to an early historian of the institution, which became Rensselaer Institute in 1833 and Rensselaer Polytechnic Institute in 1861, RPI was “the first school of science and school of civil engineering, which has had a continuous existence, to be established in any English-speaking country.” The institute today offers its more than seventy-five hundred undergraduate and graduate students some 145 programs of study in schools of engineering, architecture, science, the humanities, and

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mechanical, aerospace, and nuclear engineering; math; and physics. The numbers of appointments in each department vary, with nine in architecture; five in cognitive science; five in language, literature, and communications; and one in physics. Current figures for the Hartford campus are not available.

management and technology, as well as interdisciplinary studies in information technology. According to the institute's website, more than 450 faculty members instruct students and conduct research. Among those are 386 "full-time instructional faculty" and 89 "part-time instructional faculty."

In 1999, Dr. Shirley Ann Jackson, formerly chair of the U.S. Nuclear Regulatory Commission, became the eighteenth president of RPI. Holding a PhD in theoretical elementary particle physics from the Massachusetts Institute of Technology, she is the first African American woman to have earned a doctorate at that institution. After leaving MIT, Dr. Jackson conducted research at AT&T Bell Laboratories, served briefly as a professor of physics at Rutgers University, joined a variety of corporate boards, and became nationally noted as a leading public intellectual. When she arrived at RPI in 1999, she was enthusiastically welcomed by the board, the faculty, and the staff, and her focus on a "Renaissance at Rensselaer" fundraising campaign as well as on a "Rensselaer Plan" were well accepted by the campus community and the board of trustees.

The Rensselaer Plan aimed for the institute "to achieve prominence in the twenty-first century as a top-tier world-class technological research university, with global reach and global impact." This plan sought the reduction of class sizes, an emphasis on education at all levels, the diversification of the faculty and of the student body, the creation and funding of "research constellations" in information technology and biotechnology (and, later, nanotechnology), the construction of new facilities, and the renovation of the institute campus. As a result, RPI has been appointing "star" professors in the areas of emphasis, has added buildings to the campus, and has, at least until recently, significantly increased the use of clinical faculty. The Renaissance at Rensselaer endowment-fund drive has been somewhat more controversial, given the recent downturn in the stock market, attendant problems in fundraising, and an expensive program of constructing new facilities.<sup>3</sup>

Mr. Samuel F. Heffner Jr., a 1956 graduate of RPI and a large-scale developer and general contractor in Baltimore, was chair of RPI's board of trustees during the period covered in this report. (In January 2011, Mr. Heffner was succeeded as chair by Judge Arthur J. Gajarsa.) The

board consists of twenty-nine members, all but two of them graduates of the institute. Board membership does not rotate, though there is a requirement for board members to retire at the age of seventy-five. The president's cabinet, Dr. Jackson's primary body of advisors, consists of thirteen administrative officers. Among them are the provost, Dr. Robert Palazzo; the institute's general counsel, Mr. Charles Carletta; and the vice president for human resources, Mr. Curtis Powell. A council of deans from the schools of engineering; architecture; humanities, arts, and social studies; management and technology; and science also advises the president. Three of these deans are currently serving in an acting capacity as the result of a turnover of deans in the past several years.

Under the now-suspended senate constitution, faculty governance at RPI was exercised through direct faculty election of a faculty senate charged with representing "faculty interests in the broader issues of education and research, including Curriculum, Promotion and Tenure, and Planning and Resources." The senate consisted of twenty-one elected faculty representatives, apportioned to represent the various schools at RPI. Included in that number were the six officers constituting the senate executive committee, who were elected at large. The provost participated as a nonvoting member. Declaring that the resolutions of the senate should guide the institute, the constitution mandated two general faculty meetings per year at which "[i]mportant issues affecting the Faculty in general will be presented, with recommendations." The voting members of the faculty were defined in this constitution to include not only the tenured and tenure-track faculty but also research faculty, librarians, archivists, and retired and emeritus faculty. The faculty senate had one representative from each of the non-tenure-track categories, including one clinical faculty member from the Hartford campus. In addition to an elected executive committee, there were elected committees on curriculum, promotion and tenure, planning and resources, elections, and honors. According to former senate leaders, these structures worked well, and faculty members elected to the senate usually enjoyed the support and respect of their colleagues. Elections were held annually in the spring, and until the resignation of Provost George P. "Bud" Peterson in July 2006, the leaders of the faculty senate met regularly with the provost.

## II. Events Leading to an AAUP Governance Investigation

The relationship between the faculty and the administration at Rensselaer had been troubled long before the

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3. See Audrey Williams June, "The Tenacious President: Shirley Ann Jackson Sticks to the Plan," *Chronicle of Higher Education*, June 15, 2007, A24.

crisis that led to the suspension of the senate. President Robert Byron Pipes, President Jackson's predecessor, had stepped down immediately after the faculty voted no confidence in his administration in 1998. As noted above, most members of the faculty regarded Dr. Jackson's recruitment in 1999 as a coup for the institution. After her first several years in office, however, some faculty members expressed concern about unexpected policy changes—most important, a reduction in Rensselaer's contributions to some faculty retirement benefits and a shift in funding for graduate students, the latter by establishing a two-year limit on graduate teaching assistantships, eliminating partial-year stipends for graduate students, and requiring faculty members to pay full-year stipends for graduate students supported on faculty grants. Early in 2005, the faculty senate sponsored a motion of no confidence in President Jackson. With 320 faculty members participating, the motion failed by six votes.

Events reached a crisis in spring 2006, when the faculty voted by a margin of more than 200 votes (88 percent of those voting) to approve a senate recommendation to the administration and governing board to enlarge the membership of and the voting population for the faculty senate by adding "clinical faculty" to the senate constitution's definition of "faculty." As noted previously, the voting population already included research faculty, librarians, archivists, and retired and emeritus faculty along with the tenured and tenure-track faculty. This definition of the voting faculty had first been approved by the board of trustees in 1961 when it adopted the faculty handbook, was confirmed in 1993 when the faculty senate was established by action of the RPI board, and was confirmed again in 2006 when the trustees approved the handbook's latest revision. According to faculty sources, in 1993, at the time of the senate's formation, only three or four non-tenure-track instructors served on the faculty, but in the intervening years the number of these "clinical" faculty members had increased dramatically. These same sources report that the consensus among faculty and administration was that full-time, teaching-intensive appointments off the tenure track were needed to serve a substantial number of undergraduate students and to enable other faculty members to concentrate on grants and research. This last advantage was thought to be especially critical, given RPI's strong emphasis on faculty research under President Jackson's leadership. Many tenured faculty members believed that including the clinical faculty as voting members of the senate provided not only a measure of fairness but also a way to

benefit from their perspective on such matters as curriculum and student life.

The senate resolution to add the clinical faculty to its constituency and membership had been sent to the provost's office in spring 2006, but Provost Peterson, who had supported the change, resigned in July to become chancellor of the University of Colorado at Boulder, and Dr. Palazzo, who succeeded him as acting provost, did not respond until well after the beginning of the fall term. Rather than recommend adoption of the senate's proposal, he presented his own critique of the matter in a November 20, 2006, memorandum to President Jackson, objecting not only to the addition of the clinical appointees to the voting faculty, but also to the fact that research faculty, retired faculty, librarians, and archivists were already included in that electorate. In supporting his assertion that "the privileges of voting and serving as a Faculty Senate Representative or membership of the Faculty Senate Leadership should only apply to current and active tenured and tenure-track faculty," he laid out the following argument:

The faculty vested in the life and guidance of the Institute are the tenured and the tenure-track faculty. These are recruited and promoted on the campus with the highest standards of rigor. No other form of faculty or Institute employee is subject to the level of review, scrutiny, and weighing of merit as the tenure and tenure-track faculty. . . .

Quite frankly, no other category of employee shares the vested interest and stewardship responsibility of the Institute as does the active tenure and tenure-track faculty. . . .

While I can understand the need to provide voice to the instructional and research faculty for the purpose of bringing matters to the attention of the Faculty Senate, I do not understand burdening them with the responsibility of stewardship, a responsibility that they simply cannot and should not share with tenure[d] and tenure-track faculty. I argue that the current situation is already dangerous, providing opportunities to undermine a long cherished tradition of academic culture, namely tenure, and all the responsibilities that come with that privilege. . . .

In a December 11, 2006, memorandum, President Jackson notified the acting provost that the board of trustees, presumably influenced by his critique, had unanimously rejected the faculty senate's proposed amendment and instead had passed a resolution, again unanimously, to redefine "the Faculty of Rensselaer to be only the active tenured and tenure-track faculty currently

holding the titles of Professor, Associate Professor, or Assistant Professor.” This memorandum also conveyed the board’s directive that the senate amend its constitution to conform with the board’s new definition of the faculty.

And so, beginning in early 2007 and lasting through the spring, the faculty senate at RPI debated the issues involved in the rejection of its proposal on clinical faculty and in the board’s demand that the senate alter its electorate. Minutes from January and February 2007 senate meetings indicate that the senators reacted in two different ways to the board’s directive. On the one hand, some senators thought the board’s view (initially set forth by the acting provost) of the primacy of the tenured and tenure-track faculty in governance was likely the standard at many peer institutions. These senators believed it was indeed already possible to enable other faculty groups to express their views and raise their concerns through appropriate committees and in senate meetings without granting them the vote, and they therefore found the substance of the board’s directive to be unobjectionable. On the other hand, some senators did object to what they saw as an attempt by the board and the administration to demand revisions to the existing constitution, expecting compliance from the faculty without opportunity for consultation. Even while some members of the senate were willing to concede that the board had acted within its prerogatives, others argued that submitting to the demand could establish a precedent that would lead the board to continue to issue mandates rather than engage in consensus-building with the faculty. At its meeting on February 7, the faculty senate, by a vote of 11 to 6 with 1 abstention, resolved to “go on record that we decline making the changes as requested by the President.” After continuing the discussion at the February 21 meeting, the senate voted 9 to 0 in favor of the following motion:

The Senate formally withdraws the handbook as submitted to the provost in May 2006, and [proposes] that the Senate form a committee of faculty, administration, and at least one member of the board of trustees, to study models of faculty definition and governance at peer and aspirant institutions, and to recommend to the Senate appropriate language for the constitution and handbook to be taken to the faculty for a vote in spring 2008.

The senators agreed to form a task force to implement the motion and “examine the role of Rensselaer Clinical Faculty and what contributions they make to Rensselaer.”

In spring 2007, the faculty senate held its regularly scheduled election under the old rules set forth in the still

unchanged constitution. Months later, in a July 27 memorandum to the president, Dr. Palazzo (who had just been appointed provost at the conclusion of a national search) indicated that an “impasse” had been reached: the faculty senate had not made the constitutional changes demanded by the board and had in fact proceeded with the scheduled spring 2007 senate election without these changes in place. He stated that “no recommendations have been received by the Provost[’s] Office regarding faculty governance modifications to meet the Board’s directives.” He offered a number of recommendations, including the immediate declaration of a “state of transitional faculty governance,” in which senate committees retained their memberships from the previous year, thus preventing the newly elected senate from establishing new committees. He also recommended the creation of a Faculty Governance Review Committee (FGRC), “members of which will be recommended by the Provost and appointed by the President” and charged with developing “a plan for ideal faculty governance at Rensselaer within the context and boundaries of the directives of the Board of Trustees.” The president and board endorsed the provost’s recommendations, which Dr. Palazzo announced to the faculty on August 7.

On August 13, the RPI board adopted a resolution in support of the provost’s plan. It noted that the “role of the Faculty Senate at Rensselaer as set forth in its constitution which was approved by the Board and remains subject to such continuing approval, shall be temporarily supplanted with replacement processes or methodologies.” In an August 14 e-mail message to board chair Heffner, the faculty senate president, Professor Larry Kagan, expressed the faculty’s agreement that the time was ripe for a review of governance on campus, but, in response to the allegation of faculty inaction, he informed the chair that the faculty had already recommended a faculty governance review plan quite similar to the one advanced by the provost. In a contentious meeting with the provost on August 22, faculty members raised a number of objections and also made it clear that they would not be satisfied with a governance review committee that lacked elected faculty representatives.

The administration clarified its position in “Questions and Answers about Faculty Governance,” which appeared September 4 on the RPI website.<sup>4</sup> This document stated that the faculty plan had been rejected because “it did

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4. According to faculty sources, at this time the faculty senate was “locked out” of its website and therefore unable to post its own account or even its minutes.

not comply with the Board's request that the Faculty Senate take action, itself, to modify its constitution" and because it "proposed inappropriate roles for members of the Board of Trustees" (presumably, serving on a joint committee to review governance). Other questions and answers sought to reassure the faculty that the provost's governance plan would be "highly participatory."

The provost addressed the faculty again in a September 10, 2007, e-mail message that called into question the legitimacy of the recently elected faculty senate as a truly representative faculty body. The provost argued that the senate's refusal to comply with board directives established it as a kind of maverick body, and he cautioned faculty members not to allow such a body to pressure them into supporting its problematic behavior. He stated that the faculty senate was not the only mechanism for faculty governance at RPI, and he asserted that governance had persisted through faculty committee work and activities at all organizational levels. In concluding, the provost wrote that there would be "no formal role for the Faculty Senate in university affairs" until the present impasse was resolved.

Two weeks later, the tenured and tenure-track faculty voted 200 to 21 (with seven abstentions) to approve a resolution calling for the reinstatement of the faculty senate. On September 27, the administration announced the creation of the Faculty Governance Review Committee, whose membership of senior faculty members had been nominated by the faculty of RPI's schools and then appointed officially by the provost. In an October 14 e-mail message to all faculty members, senate president Kagan conveyed news of what appeared to be a softening of Provost Palazzo's stance following the faculty referendum in support of the senate. Professor Kagan reported that the provost agreed to attend the upcoming senate meeting and to restore secretarial support so that meeting minutes could be recorded and published. And the provost clarified that the FGRC's charge was simply to survey how faculty governance operated at peer institutions to establish "benchmarks" for RPI, not to formulate a new governance scheme.

Professor Kagan proposed the formation of a separate joint faculty-administration group to address possible changes to faculty governance at RPI, including revisions to the constitution and handbook, with such changes to be ultimately submitted to a faculty vote. The following day, President Jackson e-mailed the faculty to lend her support to the provost's proposals and to express respect and understanding for both the board's and the faculty's positions. She reiterated the plan to form a joint group, to be led by Provost Palazzo and

Professor Kagan, with the charge of revising the constitution to bring it into compliance with the board's directive. She also expressed her intention to create a committee of clinical faculty members to advise the provost on relevant issues. In fact, a November 2 letter to the faculty from the provost announced the creation of the Clinical Faculty Committee, made up of "dedicated clinical faculty who have devoted themselves to serving the academic mission of Rensselaer" and charged with assisting the provost with a review of clinical compensation and benefits, of clinical teaching loads, and of clinical opportunities for involvement in academic programming and shared governance.

About four months later, on March 4, 2008, President Jackson released the report of the FGRC and the recommendations of the Palazzo-Kagan Committee, these documents having been endorsed by the board in a March 1 resolution.<sup>5</sup> The Palazzo-Kagan Committee proposed three kinds of emendations to the senate constitution. First, in apparent conformity with the board's directive, it proposed that non-tenure-track members of the senate be designated as "non-voting" and that one such representative each be given to the faculty at Hartford, to the librarians, and to the research, retired, and clinical faculty. Second, it recommended breaking down the electorate by school to engage members of the various components of the institution in choosing their representatives from within their fields. Finally, the

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5. The board had passed a second resolution on the faculty handbook that drew harsh criticism from some faculty members. According to the resolution, "the Promotion and Tenure, and Curriculum review processes shall operate independently of any newly established, or reestablished, form of faculty governance. The President shall provide for the appropriate representative members of any such committees to be selected for the implementation of the Promotion and Tenure, and Curriculum review processes." Critics interpreted this provision to mean that the president would personally select members of these key committees. The provost sent an e-mail message to the faculty on March 11, 2008, to correct this "confusion." "This resolution," he wrote, "does not mean that the President will, or intends to, personally select members of the P&T and the Curriculum Committee, now or in the future." Members will be selected "through whatever governance structure the faculty finally endorses and is approved by the President and the Board of Trustees. . . . [I]t is not the President's intent to select committee members for representation, but rather to assure that a certified process exists as expected."

committee recommended that the charge of the Planning and Resources Committee be redefined to emphasize academic planning only, deleting the committee's former responsibility for "identifying necessary resources and activities to achieve long-term goals and ensure the fair and proper distribution thereof."

The FGRC made no recommendations concerning alternate governance structures but simply presented the results of its survey of the literature and its comparisons of five unnamed peer institutions, which seem to have emphasized the role their administrations played in governance. In April, the faculty voted on two resolutions based on the Palazzo-Kagan recommendations, one proposing changes in the definition of the faculty and faculty voting rights for the faculty senate that appear to have complied with the board's wishes and the other dealing with the simplification and transparency of faculty senate operational procedures. Neither set of amendments garnered the two-thirds vote necessary for adoption. As a result, Provost Palazzo advised the faculty on May 14 that his office would continue to oversee the establishment and functioning of key representative faculty committees, including the new Clinical Faculty Committee. "I remain open," he stated, "to suggestions and proposals from the faculty to resolve faculty governance issues to meet Board of Trustees guidelines."

That same month, the "shadow" faculty senate (so called because the administration did not recognize its legitimacy) that had been elected in spring 2007 appointed a two-member committee whose charge was "to scope out the prospects for a negotiated solution to [the] governance crisis." During summer 2008, this "scoping committee" met with representatives of various groups of faculty, including tenured faculty, clinical faculty, librarians, archivists, and retired and emeritus faculty, as well as with the provost, the deans, and two department heads. The committee's extensive report, issued in September, provided the results of its thorough canvassing of the faculty and the administration and called for a new constitution that would include the following desiderata:

- Provide all faculty with an acknowledged mechanism for advancing their concerns to the Senate and the administration.
- Recognize that each category of faculty may create [its] own representative bodies and elect [its] own representative[s] to the Senate. . . .
- Accept in turn that there will be categories of voting and non-voting faculty. Both within the Senate and the faculty at large, all matters of policy to be advanced to the administration will be voted on only by the tenured and tenure-track faculty. . . .

- Adopt the stated provisions of the first P-K [Palazzo-Kagan Committee] resolution for ensuring more proportionate representation from each of the Schools.
- Strengthen the committee structure of the Senate. . . . Permit mixed representation within Senate committees (faculty and administration, as well as students and staff, where appropriate) . . . to facilitate a more coordinated approach to policy-making. Any policy resolution advanced by a Senate Committee will be reviewed by the Senate and, where required, by the faculty at large before being advanced to the administration.

The scoping committee members called for the immediate creation of a new constitutional committee composed of elected full professors to submit a revised constitution that would meet with the approval of the administration and at least two-thirds of the faculty. This new committee would base its deliberations on the findings and recommendations of the scoping report, on the current faculty senate constitution, and on the resolutions previously proposed by the Palazzo-Kagan Committee. This body, later known as the "Watson Committee" after its chair, Professor Bruce Watson from the School of Science, was duly constituted in September 2008 with faculty members perceived by all parties to be neutral rather than partisan.

As a result of the Watson Committee's work, a newly revised draft of a proposed constitution was made available to the faculty in February 2009. The suggested revisions to the senate constitution contained in the Watson Report seemed to differ little from those contained in the Palazzo-Kagan report. According to faculty sources, the RPI faculty voted by a wide margin to approve a proposed constitution as modified by the Watson Committee.

On March 4, however, the provost notified the faculty that he was reviewing the document "for conformity to Board of Trustees guidelines and resolutions" and that he would consult "as necessary" with the deans, Professor Watson, and Professor Kagan. In a March 30 e-mail message to the faculty, the provost reported his finding, without elaboration, that "the modified constitution does not comply with the resolutions set forth by the Board of Trustees." At the same time, he noted that "much progress was made by the faculty group. . . . Many of the modifications do mark strong steps in the right direction, and I am committed to working through the remaining issues with you as quickly and thoroughly as possible." The provost expressed his hope that a resolution based on the Watson report would be reached

by the end of the spring 2009 semester. The faculty, apparently, was less hopeful. Reportedly, only thirty faculty members attended an April 8 general faculty meeting called by the provost to discuss his proposed modifications of the Watson Committee's draft. On April 24, the provost e-mailed the faculty again: "I regret that the academic community has yet to mutually agree on the structure of faculty governance at Rensselaer." He advised the faculty that the current governance structure of committees, "composed of elected faculty," would continue.

A September 16, 2009, e-mail message from the provost to the faculty shed light on how committees were to operate in the interim. In his message, the provost noted that members of four key faculty committees—Promotion and Tenure, Curriculum, Honors, and Faculty Handbook and Grievance—had been asked to serve an additional year. The Planning and Resources Committee was not mentioned in the provost's scheme, however, and neither was the Election Committee. Elections to fill vacant seats in the "transitional" committees were to be conducted by school deans, who would compile slates of candidates based on nominees put forth by department chairs. Tenured and tenure-track faculty would then vote to elect new members of the committees. According to the RPI website, "Elected members of faculty committees elect chairs from their ranks, and these chairs compose a Faculty Advisory Committee, which regularly meets with the Provost to discuss matters of importance to the faculty, including faculty governance." The provost scheduled monthly faculty meetings to which he invited "the entire Rensselaer faculty."

One such meeting was held on March 24, 2010. According to a faculty report of the meeting, the provost expressed his belief that the Palazzo-Kagan revisions to the faculty senate constitution would still meet with board approval and called on the faculty to vote again to approve the document. Some faculty members cited the need for consensus building among the faculty before any new vote occurred, and others noted that faculty members might well wish to discuss the proposed revisions before a new vote. In response to other proposals from faculty members, including one that suggested that the board "preapprove" the Palazzo-Kagan revisions before the faculty voted on them again, the provost reportedly stated that the "interim governance structure is working and will continue to work until the faculty comes forward."

At the beginning of the 2010–11 academic year, Provost Palazzo wrote to the faculty concerning elections to fill the many committee vacancies. He also

announced the "establishment of a Faculty Governance Recommendation Committee charged with recommending a modified faculty governance constitution within the guidelines set by the Board of Trustees." Members of this new committee would be elected through "nominations and school-based elections" conducted by the deans. Once established, this committee would be the fourth such body charged with writing a senate constitution in the hope that it would pass muster with the president, the board, and the faculty. The provost set a deadline of October 1, 2010, for the election of this committee to be completed.

### III. The Involvement of the Association

The initial involvement of the AAUP in the RPI governance matters addressed in this report dates to summer 2007, when the suspension of the faculty senate was announced. On August 8, 2007, an *Inside Higher Ed* article reported on the governance situation at RPI and quoted Association president Cary Nelson, who observed that "[t]he very notion that full-time faculty off the tenure track could be barred from the governance process is immensely retrograde and reactionary." A September 14, 2007, story in the *Chronicle of Higher Education* took note of the upcoming faculty referendum that would call for the reinstatement of the faculty senate. That story also quoted Professor Nelson, who declined to comment directly other than to reiterate his surprise and distress that the RPI administration would not honor faculty decisions regarding faculty governance and that it would decide "to eliminate the whole decision-making body."

On September 20, 2007, the Association's staff sent its first letter regarding the situation at RPI to President Jackson and board chair Heffner, recommending that the faculty senate "be reinstated to its traditional duties and functions" and that "the current review of faculty governance proceed under the direction of the Faculty Senate." On September 24, RPI's general counsel, Mr. Carletta, wrote to President Nelson, taking issue with the staff's "biased representation of an internal matter" and stating that the then-current course of action at RPI was intended to achieve "appropriately shared responsibility and cooperative action among the governing board, faculty, and administration." After the tenured and tenure-track faculty voted to call for the reinstatement of the faculty senate, the Association's staff responded by letter of September 28 to Mr. Carletta, urging the administration to honor the faculty's wishes.

As described in the previous section of this report, the governance stalemate at RPI continued through the

2008–09 academic year. At the AAUP’s June 2009 annual meeting, RPI professor Jane Koretz presented a paper written in collaboration with Professor Nancy Campbell titled “‘We Want Our Faculty Senate Back’: The Fate of Shared Governance in the Corporate University. Lessons from Rensselaer Polytechnic Institute.” A version of this presentation was subsequently published in the December 2009 issue of the online *AAUP Journal of Academic Freedom*, edited by President Nelson. Meanwhile, faculty members at RPI had asked for a formal AAUP governance investigation. By letter of October 22, 2009, the Association’s staff first proposed that the administration and faculty utilize the services of a capable AAUP member from another campus with significant governance experience and mediation skills who would endeavor to assist in resolving matters informally. The administration, however, declined the offer.

Finally, in a December 16, 2009, letter, the AAUP staff notified President Jackson, Provost Palazzo, and board chair Heffner of the general secretary’s authorization of this investigation. Responses from the institute’s general counsel referred to the planned investigation as “counter-productive,” informed the staff that the administration would neither meet with the undersigned committee nor provide it with comments on the Koretz-Campbell paper, as requested, and stated that the investigating committee would not be welcome on campus. The chair of the investigating committee wrote by e-mail to President Jackson on April 7, 2010, inviting her to a private interview. Attorney Carletta responded by stating that he was the only Rensselaer administrator designated to answer AAUP communications. His April 12 letter reiterated RPI’s position: “[W]e see no role for any outside agency, including the AAUP, and choose to make our campus unavailable for visits or other activity generated by such external groups.” He stated in closing, “[P]lease assume that no member of the Administration of Rensselaer Polytechnic Institute will be speaking to or meeting with you or your colleagues either before or during your visit to Troy.”

The investigating committee visited Troy on April 22 and 23, conducting interviews at an off-campus location with as wide a variety of Rensselaer faculty members as it could identify. The twenty-two faculty members interviewed included many who had been involved in faculty governance, some of them sympathizing with the administration’s views. Two of the faculty members who met with the committee had served under clinical faculty appointments. The committee also received follow-up e-mail messages from several faculty members. Given the administration’s refusal to cooperate in the investi-

gation, the committee was not able to interview current deans or department chairs, although it did meet with several former chairs. It has studied all the available documents—official letters, e-mail messages, meeting minutes, and accounts in the national educational press and in local newspapers.

#### IV. Issues and Analysis

The investigating committee has identified three key governance issues of concern at Rensselaer Polytechnic Institute. The first is whether a legitimate basis existed for the governing board’s suspension of the faculty senate. The second is whether the conditions required for effective shared governance now exist at RPI. The third concerns the inclusion of the clinical faculty in governance through the granting of voting privileges in the faculty senate. The investigating committee also comments about possible academic freedom implications in the governance crisis.

##### *1. The suspension of the faculty senate: Did a compelling rationale exist for the suspension of the Rensselaer faculty senate, as recommended by the RPI administration and implemented by the RPI board of trustees?*

The administration’s view of the nature of the governance crisis at RPI was summarized in the “Questions and Answers about Faculty Governance” posted on the institution’s website in September 2007. The administration gave as its rationale for suspending the faculty senate that it had failed to “comply with the board’s directive to modify its constitution consistent with the Board’s definition of the faculty.”

Provost Palazzo elaborated on this rationale in his “Message on Faculty Governance” sent via e-mail to the RPI faculty on September 10, 2007. In that sharply worded communication, he accused the senate of lacking credibility, acting inappropriately by conducting an election, and failing to command the allegiance of many of the RPI faculty. The provost expressed a judgment “that the Faculty Senate would continue its destructive behavior by interfering with a fair and open independent faculty governance process review.”

The investigating committee reads the provost’s brief against the faculty senate as leveling three charges that it had acted against its own constitution. First, the provost claimed that the senate’s proposal to include clinical faculty in its constitution “bypassed the process required for constitutional revision, which calls for review and comment by the provost, transmission to the President, and final delivery of the proposal with full presidential



opinion to the Board of Trustees.” Second, he described the faculty senate’s vote to resist the board’s directive as destructively hostile: “This egregious act compromised faculty senate credibility with the other partners engaged in university governance, and brought into question the faculty senate’s intention to work in a constructive manner with the administration and the board of trustees in a shared governance process. This act compromised the faculty senate’s credibility as a fair body that accurately represents the will of the faculty of Rensselaer.” Third, he asserted that the faculty senate’s holding of an election not in conformance with the board’s wishes “automatically [sent] shared governance at Rensselaer into a compromised state that we must now resolve.”

On the first point, the investigating committee believes that it makes little sense to employ the faculty senate’s deliberations about the board’s mandate as justification to suspend the primary faculty-governance instrument. Indeed, the board of trustees amplified the constitutional importance of the deliberations not only by voting down the senate’s proposed enfranchisement of the clinical faculty but also by passing a resolution that aimed to disenfranchise other groups defined by the constitution as faculty “for the purposes of participating in the senate.” It cannot have come as a surprise when the senate, fresh from a strong vote in favor of expanding the franchise and not having been consulted on the disenfranchisement proposal, voted not to act promptly to implement the changes required by the trustees’ resolution but instead to ask for mutual study of the issues.

The provost also alleged that the faculty had misrouted the proposed constitutional amendment to avoid his and the president’s oversight. This claim seems without foundation. Faculty members have reported that the proposal was in fact forwarded directly to the Office of the Provost once it had been approved by the faculty. It is no fault of the faculty senate that the proposal apparently was not flagged for action within the provost’s office.

The provost’s second allegation, that the faculty senate voted not to comply with a board directive, was valid, but the faculty’s rejection of the board’s mandate was accompanied by a resolution asking for the formation of a joint committee to address the attendant issues. The provost’s insinuation that faculty opposition was pernicious seems to indicate a basic misperception of the role of the various institutional components in a system of shared academic governance, where dissent is expected and agreement is reached through a process of negotiation and compromise. Senate members who voted against administrative directives were not engaged in “egregious” behavior; they were representing the faculty

who had elected them in principled resistance to what many of them perceived as an arbitrary action. The 2007 senate election did bring to office a faculty member who was known for his frequently uncivil criticism of the administration; faculty leaders reported being distressed by this colleague’s often stridently negative attitude. Nevertheless, most faculty senate communications with the administration had been reasoned and balanced. Granted that one or two senators had expressed themselves abrasively, the provost’s claims of lost credibility because of discourteous behavior by a few seems to the investigating committee to be exaggerated and in any case no justification for suspending the entire faculty senate.

Regarding the provost’s charge of “lost credibility” in the senate election of 2007, members of the senate leadership were indeed troubled by the difficulty of identifying individuals willing to stand for election. They also debated the causes for a fall-off in faculty voting. But it seems to the investigating committee unfair to blame the difficulties of the 2007 election on the faculty or the senate leadership, when the administration’s continuing conflict with the senate’s leaders may well have been a major factor in any decline in faculty participation. The original vote for including clinical faculty in the electorate had, after all, shown a majority of the faculty approving the faculty senate’s initiative.

The investigating committee believes that the provost’s final allegation—that the April 2007 faculty senate election was unconstitutional because of the board’s disapproval—does not pass muster. At the time of that election, and indeed still three years later, the RPI faculty handbook and the constitution of the faculty senate read as they did when they were approved by the board of trustees in January 2006. Since neither the handbook nor the constitution had undergone revision, the faculty senate election was conducted according to RPI’s official regulations, and the senate’s conducting an election according to the institute’s published rules cannot validly be characterized as unconstitutional, let alone destructive. At one juncture, the provost alleged that the clinical faculty had voted in the election illegally. Former senate officers, however, have informed the investigating committee that clinical faculty members did not vote in this election. The senate election results were based solely on the ballots of “the faculty” as defined in the existing constitution.

In point of fact, the Rensselaer faculty’s response to the challenge to its decision making was legitimate under rules that had been ratified by the board of trustees in 2006, only a year before the beginning of the crisis

chronicled in this report. It is the board's and the administration's action to suspend the faculty senate, duly constituted under RPI's official policies, that cannot be justified. According to the most influential articulation of principles of shared academic governance, the AAUP's *Statement on Government of Colleges and Universities*, "The governing board and president should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail." In the view of the investigating committee, the RPI administration and board have failed to provide a compelling argument for the suspension of the faculty senate.

***2. Shared governance: To what degree does shared governance survive at RPI after the suspension of the faculty senate and under the terms of the administration's transitional governance structure?***

The characteristic features of the faculty role in academic governance are set forth in the *Statement on Government*:

The faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process. On these matters the power of review or final decision lodged in the governing board or delegated by it to the president should be exercised adversely only in exceptional circumstances, and for reasons communicated to the faculty. It is desirable that the faculty should, following such communication, have opportunity for further consideration and further transmittal of its views to the president or board. . . .

Faculty status and related matters are primarily a faculty responsibility; this area includes appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal. . . . The governing board and president should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail. . . .

Agencies for faculty participation in the government of the college or university should be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty. The

structure and procedures for faculty participation should be designed, approved, and established by joint action of the components of the institution. Faculty representatives should be selected by the faculty according to procedures determined by the faculty.

In the view of the investigating committee, the current "transitional" governance structure at RPI lacks these essential elements of an effective system of shared governance.

First, the faculty no longer has an adequate decision-making role in those academic matters for which it bears primary responsibility. Under the present transitional system, the administration continued the Promotion and Tenure Committee, the Curriculum Committee, the Committee on Honors, and the Faculty Handbook and Grievance Committee, but it let lapse the important Committee on Planning and Resources. In place of the senate executive committee, the transitional system called for a committee advisory to the provost, consisting of the chairs of the other four committees. According to faculty members interviewed by the investigating committee, the Advisory Committee has not functioned successfully. Some faculty members noted that "no one is speaking up at the faculty advisory committee." Others explained that they consider the Advisory Committee to be "an administrative committee, not a faculty committee." Moreover, the administration seems to be determining the agendas of the holdover committees. Without being able to form their own agendas and to initiate discussion, the new governance committees cannot function as autonomous vehicles for faculty deliberation. Without an elected faculty senate, RPI faculty members not only lost their one campus-wide decision-making and advisory mechanism and their means for building trust and understanding across disciplines; they also lost key committees on which they had been able to exercise their primary responsibility for academic matters.

According to the information received by the investigating committee, the character of the tenure and promotion process has changed under the transitional committee system. Under the senate constitution, the Promotion and Tenure Committee was a standing committee of the faculty senate reporting to the senate and the provost. It consisted of eight tenured full professors, one elected from each of the five schools and three elected at large, of whom two were elected by the faculty and one elected by students. All were voting members and were elected from a slate of candidates presented by the Election Committee according to procedures outlined in

the constitution of the faculty senate. After the senate was dissolved, the provost eliminated the three at-large faculty positions on the Promotion and Tenure Committee. The five remaining faculty members are elected by the faculty in each school, but the nominations and elections are not conducted according to procedures determined by the faculty. Some deans are reported as recruiting faculty members to run for committee slots, while others solicit nominations.

Under the faculty handbook, grievances were directed to the executive committee of the faculty senate, which supervised their handling. According to the handbook, “If a dispute cannot be resolved through mediation, a hearing may be requested by the grievant. An ad hoc Hearing Committee composed of three voting members of the Faculty, not previously involved in the case, shall be appointed by the Executive Committee of the Faculty Senate.” With the suspension of the senate, a directly elected executive committee no longer functions to oversee and supervise the institution’s grievance process, which is now essentially under administrative direction and, according to some faculty members, no longer functioning.

It should be noted that the absence of a faculty role in determining the allocation of institutional resources is one of the most pressing issues at RPI. The Faculty Planning and Resources Committee had been weakened prior to the suspension of the senate. As one professor commented at the February 7, 2007, meeting of the faculty senate, “the Constitution specified that the Planning and Resources Committee will review certain financials, and the Vice President of Finance has said we will not do that.” According to the *Statement on Government*, “Each component [in shared governance] should . . . have a voice in the determination of short- and long-range priorities, and each should receive appropriate analyses of past budgetary experience, reports on current budgets and expenditures, and short- and long-range budgetary projections.” Even without such sharing of information by the administration, the Committee on Planning and Resources at least provided one forum for members of the faculty to discuss budgetary and planning priorities at an institution that has been undergoing major changes. Faculty members informed the investigating committee of their suspicion that one main reason for the administration’s rejection of the Watson Committee’s amendments to the senate constitution was that they included the restoration of the Committee on Planning and Resources, with a provision that “committee members shall be given access . . . to information within the academic portfolio required for informed participation in matters of institute priorities

and strategy.” Among the provost’s proposed modifications to the Watson draft of the senate constitution was the deletion of this provision.

Second, under the transitional governance structure, the administration has reportedly been appointing faculty members to committees. A key feature of shared governance is that the faculty decides for itself, through an electoral process, who speaks for its interests. According to the passage from the *Statement on Government* quoted above, “Faculty representatives should be selected by the faculty according to procedures determined by the faculty.” Without faculty selection of its own representatives, authentic faculty participation in decision making is lacking.

The provost has asked for schools to nominate candidates for committees and then to conduct elections, but not all schools seem to be holding elections. In speaking with faculty members from various schools, the investigating committee discovered that half had participated in elections while the other half had not. Furthermore, some faculty members asserted that the nominees for the four committees under the provost’s replacement governance structure, like the Promotion and Tenure Committee discussed previously, are handpicked by deans. Many appointed members of the provost’s committees may also have felt constrained to speak up because they lack the protections of tenure or hold endowed professorships under the control of the president. The investigating committee accordingly views Provost Palazzo’s transitional committees as having displaced an elected faculty governance structure with one that is largely appointed by the administration and serves essentially at the administration’s pleasure.

Third, the faculty no longer has an effective means of communicating or interacting with the governing board. Faculty members report that in the pre-Jackson years there were opportunities for faculty leaders to meet annually with the board at social occasions or at board committee meetings by invitation. In recent years, faculty representatives have not met in any official capacity with the board, and faculty communications have been transmitted to the board through the president. The president may have presented faculty views to the board, but the board’s continual rejection of them has not led to the kind of interchange envisioned in the *Statement on Government*: “On these matters the power of review or final decision lodged in the governing board or delegated by it to the president should be exercised adversely only in exceptional circumstances, and for reasons communicated to the faculty. It is desirable that the faculty should, following such communication, have

opportunity for further consideration and further transmittal of its views to the president or board.” Clearly, the board has been informed of the faculty’s objections to its mandates, but the investigating committee questions whether the board is sufficiently aware of the extent of its departure from accepted norms in refusing to “further consider” its actions in dialogue with the faculty.

Fourth, the suspension of the faculty senate has left the faculty at Rensselaer without an independent all-campus forum for productive discourse and, most importantly, without a body that can speak on behalf of the faculty to the administration and governing board. One faculty member who met with the investigating committee addressed this problem when he lamented that “without the senate, there is no cross-generational, cross-disciplinary exchange.” He also explained that without the senate “there is no official leadership of the faculty.” In a well-functioning faculty senate, meetings are not seen as mere forums for faculty members’ complaints. Rather, its committees and plenary sessions help to organize, winnow, and review faculty recommendations on critical issues before their transmission to the administration and governing board. In the words of the above-quoted passage from the *Statement on Government*, “An agency should exist for the presentation of views of the whole faculty.” At Rensselaer, such an agency no longer exists. Under the current arrangements for faculty governance, the provost began a series of open meetings with the faculty. At these meetings, however, attendance has reportedly been low.

***3. The inclusion of the clinical faculty in governance: Did the board and administration have a legitimate basis for rejecting the proposal of the tenured and tenure-track faculty to extend voting rights to the clinical faculty? Does the inclusion of non-tenure-track faculty members in governance undermine an institution’s reputation?***

In his November 20, 2006, memorandum to President Jackson, Provost Palazzo argued against including clinical faculty as full participants in academic governance by contending that, with the presence of retired faculty, librarians, research faculty, and archivists on the senate, “the current situation is already dangerous, providing opportunities to undermine a long-cherished tradition of academic culture, namely tenure, and the responsibilities that come with that privilege.” The board adopted this argument and expanded it. According to President Jackson’s December 11, 2006, memorandum to the provost, at its December 9 meeting the board had opined that “the ‘faculty’ of a world-class

institution of higher education should be a term confined to those who are either currently invested or have declared their intent to invest their academic credentials and intellectual energies into the long-term well being of the Institute.” Furthermore, “they undergo a rigorous examination relative to being awarded the status of tenured faculty.” This and subsequent statements suggest that the board’s stand against the participation of clinical faculty in faculty governance may have been based upon a belief that their inclusion would threaten the institution’s reputation, its status as “a world-class institution of higher education.” The investigating committee is not aware of any research that would confirm this belief, and in the experience of investigating committee members in recruiting professors to their own institutions, the issue of the governance role of non-tenure-track faculty has never arisen.

The committee suggests that a more relevant question is whether the participation of the clinical faculty in governance would enrich academic decision making at RPI. According to the AAUP’s 2003 statement on *Contingent Appointments and the Academic Profession*, including part-time and full-time non-tenure-track faculty in academic governance helps an institution to understand student learning, informs policy debates, and serves to protect academic freedom for all who teach. In an academic world that has become increasingly dependent on faculty members holding contingent appointments, the AAUP recommends that “[f]aculty and administrators in each institution, program, or department should together determine the appropriate modes and levels of participation in governance” for such faculty, “considering issues such as voting rights, representation, and inclusion in committees and governance bodies, with the primary aim of obtaining the best wisdom and cooperation of all colleagues in the governance of their institutions.” The *Joint Statement on Faculty Status of College and University Librarians*, which the AAUP developed in cooperation with the Association of College and Research Libraries and the Association of American Colleges (now the Association of American Colleges and Universities), articulates the “essential criterion” that should guide faculty and administrators when determining who should be granted faculty status and with it, presumably, the right to participate in academic governance: “not professional degrees, titles, or skills, per se” but whether or not the appointee in question is a “participant in the processes of teaching and learning.”

As the previous citation would suggest, the AAUP is not the only higher-education organization to call for the

inclusion of contingent faculty in institutional governance. The Association of American Universities (AAU) in 2001 issued its *Non-Tenure-Track Faculty Report*, which makes a recommendation similar to that of *Contingent Appointments and the Academic Profession*:

Institutions might consider whether to extend a role in institutional governance to full-time NTT faculty whose professional activities fully engage them in the mission of the institution. Such a role might include membership in the faculty senate, voting rights on governance issues other than those involving tenure, and involvement in curriculum development.

The scoping committee's interviews with clinical faculty members revealed their belief that, because they constituted a substantial part of RPI's teaching staff, the administration had come to depend on them, a belief confirmed in interviews with members of other faculty groups. The scoping committee's interviews also revealed that clinical faculty members desired a voice in the affairs of the institution and wished to be heard by the administration.<sup>6</sup> But the committee found that "Rensselaer's focus on research, its recent emphasis on tenure[d] and tenure-track faculty, and its effort to preserve the academic tradition of tenure [have] had unintended consequences for the clinical faculty." Clinical faculty members expressed concern about their lack of status, their lack of integration into the institute—especially in discussions about the curriculum—their lack of a defined career path, and the precariousness of their benefits. Acknowledging all these pressures—economic, pedagogical, and political—their faculty colleagues at RPI were impelled to seek inclusion of these non-tenure-track faculty

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6. As noted in section 2 of this report, the RPI administration did attempt to respond to the clinical faculty. In fall 2007, in the aftermath of the faculty vote to restore the senate, President Jackson appointed a special advisory committee of clinical faculty members. And, according to the scoping committee's report, some clinical faculty members were pleased with the advisory committee's accomplishments, for example, in regularizing and clarifying some fringe benefits. But this administrative effort, however well intentioned, occurred in the context of denying representation to the clinical faculty on other faculty governance bodies. Moreover, by substituting administrative appointment for faculty election, the effort also bore the marks of previous attempts by the RPI administration to insert itself into faculty governance.

members in governance. In so doing, they acted in accordance with the standards set forth in the AAUP's statement on *Contingent Appointments and the Academic Profession*, the *Joint Statement on Faculty Status of College and University Librarians*, and the AAU's *Non-Tenure-Track Faculty Report*. In rejecting their efforts, the administration and board of trustees of RPI have departed from these standards.

Finally, in a passage already quoted several times in this report, the *Statement on Government* asserts the basic principle that "[f]aculty status and related matters are primarily a faculty responsibility. . . . The governing board and president should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail." The governance crisis at RPI was triggered by the faculty's voting overwhelmingly in favor of including the clinical faculty among those members of the academic community eligible to participate in senate elections and to serve on senate committees. In declining to "concur with the faculty judgment" on this question of faculty status—and, as demonstrated previously, failing to provide a compelling rationale—RPI's administration and board of trustees have departed from a fundamental principle of shared academic governance.

#### 4. *A note on academic freedom at Rensselaer.*

A faculty member raised with President Jackson the question of the impact of the governance crisis on academic freedom when she met with the faculty on March 19, 2008, in what was reported as a very tense meeting. According to another faculty member's notes from that meeting, President Jackson, in responding to that question, observed that "defining academic freedom is difficult, because if you ask 100 people what it means, you will get 100 answers." She went on to mention that the board was more interested in preserving RPI from attacks from outside forces than in debating about academic freedom. She reportedly added, "There has been devolution of what academic freedom means to cover what anybody feels it is. This board has not talked about academic freedom and doesn't necessarily see the discussion as focused on academic freedom." President Jackson's response to the issue of academic freedom as a feature of faculty governance, if accurately reported, suggests a lack of appreciation for the faculty's academic freedom to voice opinions about institutional as well as scholarly and curricular matters.

During its visit, the investigating committee learned of worrisome indications that Rensselaer's current

administration has acted in ways that may have created a chilly climate for faculty dissent. Faculty members interviewed by the committee noted two specific sources of unease about their academic freedom under current conditions at RPI.

First, in an e-mail message of September 24, 2007, the provost wrote the tenure-line faculty to notify them that “members of [the RPI] community are relaying information and communications from inside Rensselaer to outside agencies and organizations. Importantly, communications shared through [RPI’s] email systems are being shared with external groups.” He cited a letter to the administration from the AAUP staff and a complaint from an unnamed RPI community member about being quoted in a newspaper article without having spoken to the reporter. In closing his message, Provost Palazzo wrote, “I encourage you to consider that any thoughts shared through our email communications could be transmitted to the outside world and used for purposes other than the author might intend.”

Such administrative cautions run counter to best practices in the academy. The report on *Academic Freedom and Electronic Communications*, issued in 2004 by the AAUP’s Committee A on Academic Freedom and Tenure, warns that vague prohibitions against using campus e-mail under such rubrics as “only official university business” not only impose a rule that has “a distressing lack of precision” but also constitute “the inherent invitation to selective use of such a standard by an administration anxious to impose substantive constraints on faculty activity.”

A second academic freedom concern arose from RPI’s emphasis on conflicts of interest, especially as defined in a document issued in 2009 by Rensselaer’s Department of Human Resources under the title “Conflict of Interest/Conflict of Commitment.” An institution as engaged in sponsored research as is RPI must set clear rules about conflicts of interest. In doing so, however, it must also tread carefully in the area of academic freedom. Indeed, a preamble to RPI’s policy on conflict of interest declares: “We cherish and preserve the princip[les] of academic freedom. Promoting secrecy harms the progress of science and diminishes the role of the institute as an impartial and credible resource.” Despite this affirmation of academic freedom, some faculty members singled out as troubling the specific provision that forbids “[e]ngaging in the unauthorized use or dissemination of confidential, privileged, or proprietary information obtained as a result of your employment at the Institute.”

Under normal circumstances, this admonition about conflict of interest could perhaps have been ignored, but the investigating committee was told that it seemed threatening in the context of earlier administrative warnings that faculty members should watch what they say and to whom they say it. More specifically, the board in its March 1, 2008, resolution had already issued a set of guidelines that applied the conflict-of-interest rule to the faculty’s eligibility to participate in governance: “No faculty member may serve in the faculty governance body who is involved in a grievance or a legal proceeding against the University, or *who has a conflict of interest with the University*” (emphasis added). Faculty members were mystified by this latter proviso and concerned about its potential bearing on the exercise of their governance rights.

While the investigating committee’s interviews with faculty members suggest that vague warnings and prohibitions may have cast a pall on governance discussions at RPI, the documents available to the investigating committee show that many RPI faculty members have continued to comment vigorously on the suspension of the faculty senate without obviously damaging their careers or programs, though at least one faculty member declined to meet with the investigating committee because of a professed fear of retribution. The investigating committee has not found specific violations of academic freedom in the governance crisis at Rensselaer, but it would note the following formulation from the Association’s statement *On the Relationship of Faculty Governance to Academic Freedom*: “The protection of the academic freedom of faculty members in addressing issues of institutional governance is a prerequisite for the practice of governance unhampered by fear of retribution.” The investigating committee is not assured by what it has seen that the administration and governing board at RPI are fully committed to this principle.

## V. Conclusion

The AAUP investigating committee submits that in rejecting the faculty senate’s recommendation to grant voting rights to the clinical faculty and in suspending the senate and replacing it with a “transitional” form of faculty governance, the administration of Rensselaer Polytechnic Institute contravened basic principles of shared academic governance as set forth in the *Statement on Government of Colleges and Universities*.

The primary grounds for finding that RPI’s board and administration have violated AAUP-supported

principles and standards relating to shared governance is their having unilaterally closed down the faculty senate, thereby violating the very constitution that they had approved and hitherto followed. The unilateral suspension of a duly constituted faculty senate by an institution's governing board or administration is a prima facie violation of shared governance. While an extraordinary situation may conceivably arise where such a suspension could be legitimate, certainly no such situations existed at RPI.

The closing down of the faculty senate was not simply an abrogation of the board-approved senate constitution; it was also an attack on precedent, established procedures, and other requisites for effective shared governance. This previously quoted passage from the *Statement on Government* enunciates the requirements for an appropriate faculty role in academic governance:

Agencies for faculty participation in the government of the college or university should be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty. The structure and procedures for faculty participation should be designed, approved, and established by joint action of the components of the institution. Faculty representatives should be selected by the faculty according to procedures determined by the faculty.

The first two sentences of this passage call for the existence of a university-level faculty governance structure, the third sentence specifies its establishment by joint action, and the fourth sentence specifies that the faculty should decide how it chooses its representatives to the governance structure. The faculty senate at RPI had met these criteria. The suspension of that senate by the board and the administration disregarded the joint-action standard. The ensuing "transitional structure" was not established by joint action, and transitional committee members have not been chosen by faculty-determined methods. Thus, the transitional structure has failed in multiple ways to meet AAUP-recommended governance standards and has left RPI without a legitimate faculty governance structure.

A critical issue remains: In all the campus discussion about this matter over the last several years, there was never a meeting between representatives of the board and the faculty senate, even though the faculty on multiple occasions had demonstrated a willingness to seek middle ground regarding the issues in contention. As of this writing, Rensselaer continues to operate without an independent, self-determining body of faculty

governance, and, without such a body, neither the faculty nor the board has a constitutional mechanism for compromise.<sup>7</sup> ■

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7. Commenting on a draft of this report sent to the principal parties prior to publication, RPI general counsel Carletta wrote as follows:

While the report contains several factual errors, many relevant omissions, and much speculative comment, which may easily have influenced the erroneous conclusions reached, it remains the position of Rensselaer (as stated in our letters to the AAUP dated September 24, 2007, February 3, 2010, February 11, 2010, and April 12, 2010) that the Institute has never recognized the role of the AAUP in what we regard as an internal issue and, therefore, will offer no specific comments on the report.

Since we have previously shared with the AAUP our continuing commitment to our Faculty to continue Rensselaer's dedication to shared governance and a strong, well-entrenched tenured and tenure-track faculty, I am pleased to advise you that a committee involving our Provost and elected faculty leaders is moving to draft what it views to be a report that will contain a plan acceptable to both Rensselaer's Board of Trustees as well as its Faculty.

The officers of the RPI AAUP chapter provided the following response to Mr. Carletta's letter:

The Rensselaer faculty is strongly united with the administration and the board of trustees in our dedication to shared governance. All of us hope to restore the amicable relations and continuing dialogue that characterized our productive interactions in times past. In recent years, the faculty has made three unsuccessful attempts to return to a constitutionally sanctioned governance structure. The report of the AAUP investigative committee carefully describes and documents these efforts, offering an accurate, trenchant analysis of our situation. We look forward to the response of the Faculty Governance Recommendation Committee to the evidence, analysis, and recommendations contained in the report. We applaud our colleagues' willingness to craft a document that will pave the way for the restoration of shared governance on this campus under conditions agreeable to the faculty, the administration, and the board of trustees.

MARY A. BURGAN (English)  
Indiana University, *chair*

ADRIANNA KEZAR (Higher Education)  
University of Southern California

MARY C. POTTER (Brain and Cognitive Sciences)  
Massachusetts Institute of Technology

DUANE STORTI (Mechanical Engineering)  
University of Washington

*Investigating Committee*

The Committee on College and University Governance  
has by vote authorized publication of this report.

Chair: LARRY G. GERBER (History), Auburn University

Members: LENORE A. BEAKY (English), LaGuardia  
Community College, City University of New York;  
JEFFREY A. BUTTS (Biology), Appalachian State  
University; IRENE T. MULVEY (Mathematics), Fairfield  
University; DIANE C. ZANNONI (Economics), Trinity  
College; CARY R. NELSON (English), University of Illinois  
at Urbana-Champaign, *ex officio*; GARY D. RHOADES  
(Higher Education), AAUP Washington Office, *ex officio*;  
MARY A. BURGAN\* (English), Washington, DC, consult-  
ant; PURIFICACIÓN MARTÍNEZ (Hispanic Studies), East  
Carolina University, liaison from the Assembly of State  
Conferences; DAVID T. WITT (Family and Consumer  
Services), University of Akron, liaison from the Collective  
Bargaining Congress.

\*Did not participate in the vote.