
Academic Freedom and Tenure: St. Edward's University (Texas)¹

(OCTOBER 2018)

On January 9, 2018, Dr. Shannan Butler and Dr. Corinne Weisgerber, each a tenured associate professor with nearly twelve years of service at St. Edward's University, were summoned to a meeting with two administrators. To their surprise, they were handed letters when they arrived. Since their behavior, the letters alleged, "reflect[ed] a continued disrespect and disregard for the mission and goals of the university," their "employment [was] being terminated." They were immediately escorted from campus.

One month earlier, Dr. Katie E. Peterson, a tenure-track assistant professor in her fifth year of service to SEU, received a nonreappointment letter—to her surprise. It read in part: "In accord with St. Edward's current efforts to 'right size' the University, the current enrollment trends in the Teacher Education Program make it imperative that we reduce the number of faculty in Teacher Education. . . . I regret to inform you that you will not be reappointed for 2018–19. Your position as Assistant Professor of Reading in the School of Education will conclude May 18, 2018."

This report concerns the actions taken by the St. Edward's administration against Professors Butler, Weisgerber, and Peterson.

I. The Institution

St. Edward's University is a private, four-year institution affiliated with the Roman Catholic Church that traces its beginnings to 1877, when the Congregation of Holy Cross, an order of French missionaries, founded St. Edward's Academy on farmland south of Austin, Texas. St. Edward's received its charter as a college in 1885 and as a university in 1925, first began enrolling female students in 1966, and became fully coeducational in 1970. The university's accreditor is the Southern Association of Colleges and Schools Commission on Colleges. According to the National Center for Education Statistics, in fall 2017 SEU enrolled 4,447 students, all but 506 of them undergraduates; there were 192 full-time and 263 part-time faculty members. In its mission statement, St. Edward's describes itself as "an independent Catholic university that welcomes qualified students of all ages, backgrounds, and beliefs."

The institution's president, its twenty-third, is Dr. George E. Martin, who has been in office since 1999. Previously, Dr. Martin was vice president for academic affairs at what is now Saint Peter's University in New Jersey. During most of the period covered in this report, Sister Donna M. Jurick served as the institution's executive vice president and interim vice president for academic affairs. This position was one of several administrative posts held by Sister Donna during her thirty years at St. Edward's, beginning in 1988 when she was initially appointed vice president for academic affairs. Prior to her tenure at SEU, she had been president of what is now Trinity Washington University in Washington, DC. Sister Donna officially retired from St. Edward's on June 30, 2018, and was succeeded as chief academic officer

1. The text of this report was written in the first instance by the members of the investigating committee. In accordance with Association practice, the text was then edited by the staff and, as revised with the concurrence of the committee, was submitted to Committee A on Academic Freedom and Tenure. With the approval of Committee A, the report was subsequently sent to the faculty members at whose request the investigation was conducted, the administration and governing board of St. Edward's University, and other persons directly concerned. The final report has been prepared for publication in light of the responses received and with the editorial assistance of the staff.

by Dr. J. Andrew Prall, previously vice president for academic affairs at the University of Saint Francis in Indiana, whose new position as SEU provost began on July 1. An administrative officer who played a central role in the case of Professors Butler and Weisgerber was Dr. Sharon Nell, dean of the School of Humanities since 2012. The interim chair of the Department of Communication at the time of the action against Professors Butler and Weisgerber was Dr. Nell's associate dean, Dr. Richard Bautch, a professor of religious studies. The administrative officer playing a central role in the case of Professor Peterson was Dr. Glenda Ballard, who became dean of the School of Human Development and Education in fall 2016.

II. The Case of Professor Butler and Professor Weisgerber

The following sections present key facts regarding the action taken against Professors Butler and Weisgerber and their response to that action.

A. The Termination Letters

Professor Shannan Butler and Professor Corinne Weisgerber, a married couple, each of whom had earned a PhD in communication arts and sciences at Pennsylvania State University, joined the Department of Communication at St. Edward's University in 2006, became associate professors in 2012, and received tenure in 2013. According to all available information, during their eleven and a half years of service to the institution, they had become highly regarded members of the faculty, with exemplary records of teaching, scholarship, and service.

On January 9, 2018, Professors Butler and Weisgerber were summoned to a meeting with Sister Donna and Ms. Kimberly Van Savage, the human resources director, and handed virtually identical letters signed by Sister Donna notifying them that their "employment with the university is being terminated" for "just cause." As grounds for the action, the letters charged the two professors with "behavior toward . . . colleagues, department chair, and dean" that "reflects a continued disrespect and disregard for the mission and goals of the university," a basis for dismissal listed in section 2.8.4 ("Dismissal for Cause") of the St. Edward's University faculty manual.

According to the termination letters, the precipitating event occurred a month earlier, at a December 8, 2017, department meeting, at which, the letters stated, the two professors conducted themselves "in an unprofessional, intimidating, and bullying way

towards [their] colleagues and department leadership." The letters construed the incident as follows (quoting from the version addressed to Professor Weisgerber):

Toward the end of what had initially been a productive meeting, you began to question the future of the department, a topic that was not on the agenda. When Interim Chair Richard Bautch responded to the question, you and Dr. Butler singled out one person, the Interim Chair, in a discriminatory manner and attacked his personal judgement. When the Interim Chair asked you and Dr. Butler to return to the agenda, you disputed that you were singling him out or treating him unfairly. Even when other faculty members expressed support for the Interim Chair, you persisted and disregarded Dr. Bautch's request that you stop attempting to intimidate him.

The letters stated that, after the interim chair adjourned the "out of control" meeting, both professors remained in the room and "persisted in attempting to intimidate Dr. [Teri Lynn] Varner," the previous interim chair. The letters went on to say that department members who had left the meeting "heard shouting coming from the room," an indication of an alleged "unwillingness" on the part of the two professors "to engage colleagues in a productive manner."

The conduct displayed at the December 8 department meeting, the letters continued, was "neither an isolated incident [n]or [a] moment of indiscretion"; it was "instead . . . the latest instance in a continuing string of unprofessional and disruptive behavior dating back over a number of years" demonstrating "a continued disrespect and disregard for the mission and goals of the university."

As a "summary of the evidence," the letters cited purported prior examples of Professor Butler's and Professor Weisgerber's behavior over a one-and-a-half-year period that constituted this alleged "continuing string of unprofessional and disruptive behavior." In May 2016, the letters asserted, the two professors "launched an attack" on the decision to appoint Dr. Varner interim chair instead of Professor Butler. Without providing specific detail, the letters characterized the alleged attack as "including efforts which constituted harassment, bullying, and attempts at intimidation." The letters further asserted that at this juncture Professors Butler and Weisgerber "stopped participating as collegial members" of the department

and “began a campaign of disruption and disrespect for university decisions.”

On September 23, 2016, the letters stated, Dean Nell met with Professors Butler and Weisgerber to “address [their] behavior” in response to Professor Varner’s appointment as interim chair. To quote the letters, “Dean Nell clearly identified your behaviors, which were inconsistent with the university’s standards and expectations, and directed you to change your behavior and move forward in a manner that was respectful of university decisions and mission.”

In August 2017, according to the letters, Dean Nell placed into Professor Butler’s and Professor Weisgerber’s personnel files a letter concerning their allegedly “disruptive and unprofessional behavior.” This action, the letters charged, was taken in response to the two professors’ “efforts to disrupt, intimidate, and interfere with the Department’s meetings and activities through the 2016–17 academic year.”

The last examples of “unprofessional and disruptive behavior” alleged in both letters were “personal attacks against Dr. Bautch” during March and November 2017 department meetings and further instances of unspecified objectionable conduct by both professors toward Professor Varner at an April 2017 meeting, which, the letters stated, had to be “adjourned prematurely” because of Professor Butler’s and Professor Weisgerber’s “disruptive behavior.”

There are only a few differences between the two letters. Professor Butler, not Professor Weisgerber, was portrayed as having expressed an interest in becoming department chair and was charged with having “raised [his] voice” and “used profanity” in addressing Dean Nell during the September 23, 2016, meeting. Professor Butler’s letter contained a unique paragraph alleging that at the December 8 department meeting, he “repeatedly referred” to his membership on the Faculty Evaluation Committee (FEC) in a way that implied he “would or could use” that role “for personal retribution.” “Any inference [*sic*] that you or Dr. Weisberger would act in a retaliatory manner toward colleagues through your service on a body such as the FEC,” the letter admonished, “is entirely improper and undermines the integrity of the faculty review process.” And only Professor Weisgerber was accused of raising unwanted questions “about the future of the department” at the December 8 meeting.

After outlining these examples of alleged misconduct, the letters provided this summary: “It is the expectation of all faculty and staff at St. Edward’s to conduct themselves in a civil, collegial manner toward

colleagues. You have not fulfilled that expectation. Your behavior constitutes a pattern of intimidation, harassment, and bullying. This behavior is not acceptable, and you have been counseled repeatedly to correct this behavior. You have failed to make any meaningful changes, and your deliberate tactics derail meetings and their agendas, making collegial, fruitful, and productive meetings impossible with your participation.” In closing, the letters informed Professors Butler and Weisgerber of their right to appeal the termination of their appointments under provisions set out in section 2.8.8 (“Appeal of Separation Decisions”) of the faculty manual. As their appointments had already been terminated, the letters further specified, they were immediately suspended with pay and banned from campus until the appeal process concluded. If they chose not to appeal, the “termination[s] w[ould] become effectively immediately.” Professors Butler and Weisgerber report that Sister Donna and Ms. Van Savage declined to discuss the content of the letters with them, stating that the two faculty members would need to address the charges through the appeal process. Following the meeting, a campus security officer confiscated their keys and escorted them to their car.

B. Professor Butler’s and Professor Weisgerber’s Appeal Documents

On January 29, in accordance with the provisions of section 2.8.8 of the faculty manual, both faculty members submitted lengthy appeal documents to the president and an “ad hoc Faculty Review Committee.” These documents, which for obvious reasons had much in common, attempted to meet the burden of demonstrating that the action against them resulted from “unlawful bias, arbitrary or capricious decision-making, or a violation of procedures” in the faculty manual.

Their first line of argument was that the termination action violated four sections of the faculty manual: section 2.5.6.2, which describes the institution’s post-tenure review process; section 2.8.4, which lists the grounds for dismissal, including the grounds asserted in their case, “continued disregard for the mission and goals of the university”; section 2.9.2, which incorporates the AAUP’s 1940 *Statement of Principles on Academic Freedom and Tenure*; and section 2.5.4.5, which contains a procedure for annual faculty evaluation.

The action violated section 2.5.6.2 because, they stated, that section requires that “a tenured faculty

member be given a performance improvement plan and two years to correct any deficiencies before termination is considered.” Professors Butler and Weisgerber argued that they were afforded no such procedure and in fact had received no prior warning of their dismissals.

They argued that the terminations violated section 2.8.4 because “the termination letter does not offer specifics” related to the stated grounds for dismissal: conduct manifesting “continued disregard for the mission and goals of the university.”

The terminations violated section 2.9.2, they asserted, because the 1940 *Statement* “encompasses” AAUP-supported standards of academic due process governing dismissal, which they summarize as “(1) a statement of charges in reasonable particularity; (2) opportunity for a hearing before a faculty hearing body; (3) the right of counsel if desired; (4) the right to present evidence and to cross-examine; (5) record of the hearing; and (6) opportunity to appeal to the governing board.” They contended that when Dean Nell charged them with misconduct at the September 2016 meeting (also attended by Dr. Bautch), they received no answer when Professor Weisgerber “directly asked both Dean Nell and Dr. Bautch for any example of [their] behavior that would constitute bullying, harassment, or intimidation.” They also stated that for “more than a year” following that meeting, the two professors “sought clarification on these allegations,” reaching out for assistance to Dr. Bautch, Ms. Van Savage, and Sister Donna, but “were never given an explanation or specific examples of these allegations.” By “failing to make a statement of charges in reasonable particularity,” the administration, they asserted, violated the due-process rights implied in section 2.9.2. The administration also violated this section, they contended, because it failed to afford them a faculty hearing and because it dismissed them based on a charge not “related, directly and substantially,” to their “fitness . . . in their professional capacities as teachers or researchers,” citing the AAUP standard set out in Regulation 5a of the *Recommended Institutional Regulations on Academic Freedom and Tenure*. As evidence of the latter alleged violation, they claimed that, during the January 9 termination meeting, Sister Donna had “made it clear . . . that no one was calling into question [their] performance as teachers or researchers.”

The terminations violated section 2.5.4.5, they argued, because on August 31, 2017, a month after their 2016–17 annual performance reviews were

completed, Dean Nell inserted a page of new material into Professor Butler’s and Professor Weisgerber’s reviews (which were part of their personnel files) without notifying the two faculty members of those insertions, which they discovered only by accident. The page contained a version of the statements Dean Nell had read to them during the September 23, 2016, meeting at which she first charged them with bullying, harassing, and intimidating Professor Varner, the interim chair. Adding this material to their annual performance reviews, they argued, violated this section of the policy manual because (1) no evaluation by the dean is required in the second year of a three-year cycle and (2) the policy “requires the dean’s evaluation to ‘be forwarded to the faculty member.’”

The second line of argument employed in their appeal documents was that the entire action against them was arbitrary and capricious because it was not based on a “thorough investigation.” Such an investigation would have found, they asserted, a record of “positive performance reviews” that contradict the charges made in the termination letter and would have revealed that most of the charges alleged in the termination letter were “unfounded, general, and vague.”

With respect to performance reviews, both appeal documents cited the fact that, during their eleven and a half years of service at St. Edward’s University, neither of them had received a negative performance review by their chairs or been charged with “unprofessional behavior in any formal periodic reviews.” Additionally, they argued, during the period in which they were supposedly harassing, bullying, and intimidating their interim chair, Professor Varner, her department chair reviews consistently rated them highly in the category of service, which explicitly includes the criterion of collegiality.

With regard to the allegations in the termination letter, both appeal documents provided an extensive point-by-point rebuttal, with exhaustive documentation.

To cite a few examples, they stated that the claim that they had been “counseled repeatedly to correct [their] behavior is simply untrue.” They related that when they were called into the dean’s office on September 23, 2016, along with Associate Dean Bautch, Dean Nell read to them a prepared statement, which they wrote down as follows:

We are meeting to talk about issues in the department of communications. The first thing I want to talk about is the department chair nomination

survey from last spring. I don't want to hear any more about this. The survey is over. There is no secret about the survey, no conspiracy. It was decided we would include full-time faculty and non-tenure-track faculty in the survey because we wanted their perspective. The chair approved it, I approved it, the VPAA approved it. Dr. Varner will be interim chair. An external chair will be hired. No one owes you an explanation or apology for the way this was conducted. End of story. I don't want to hear anything else about this. The chair nomination survey has been alluded to as an election. It was not an election. It was a nomination.

At SEU we treat each other respectfully. You are to immediately cease actions in person or in writing that attempt to harass, intimidate, and bully Dr. Varner. If harassment, intimidation, and bullying continue, a letter will be placed in your permanent file.

Afterward, they reported, there was "no conversation." When asked to provide specific examples of the alleged behavior, the dean, they wrote, "simply said that she could not discuss it at that time." According to their accounts, the two faculty members reached out to human resources officers and Sister Donna after the meeting to ask for clarification of these charges against them but were unable to obtain it. They stated that this meeting was the only one that took place regarding these allegations and that they "never had another conversation with Dean Nell or any other administration officer regarding any unprofessional behavior."

The charge that they had bullied, harassed, and intimidated Professor Varner, they claimed, was "unfounded and untrue," and they documented several examples of their efforts to assist and encourage their former chair—from supporting her tenure bid to sharing their course materials for her use—as well as of their collegial relations throughout most of their time together at St. Edward's.

To the charge that both professors made "verbal attacks on Dr. Bautch" by "asking a question in a discriminatory manner" during the December 8, 2017, department meeting, they gave the following account of what happened (quoting Professor Weisgerber): "My colleagues present at that meeting can attest that I simply asked Dr. Bautch the following question: 'Do you think it is a good idea to put our department on pause for five years?'" (According to the minutes of

a March 31, 2017, department meeting, Dean Nell had informed the department's faculty that she would continue to keep the academic program review and other ongoing planning activities "on pause" until a permanent chair was hired, a decision originally imposed in 2013.) "I was concerned," she continued, "about the direction of our department and thought my question was professional in nature and substance. In no way could my question have been construed as a 'verbal attack.' Even so, Dr. Bautch thought the question was 'personal' so I immediately apologized to Dr. Bautch. . . . Outside that conversation, Dr. Bautch and I maintained a collegial conversation during that meeting, and I was never otherwise counseled about my behavior at that meeting. . . . The allegation that I made 'verbal attacks on Dr. Bautch' is untrue." As to the "shouting" heard coming from the room after the meeting, Professors Butler and Weisgerber stated that they had remained to ask Professor Varner to explain how she thought they had bullied, harassed, and intimidated her in spring 2016, an explanation they said they had been seeking for a year and a half. They received an explanation—Professor Weisgerber had sent "too many emails"—and acknowledged that there was shouting, but noted that they were not the shouters.

To the general charge of a lack of collegiality, Professors Butler and Weisgerber provided documents and letters of support from colleagues that "speak to [their] collegiality and active support and exemplification of all areas of the University mission."

Professor Butler emphatically denied the specific allegation that at the December 8, 2017, department meeting he "repeatedly referred" to his membership on the Faculty Evaluation Committee to suggest that he "would or could use" his membership "for personal retribution." He wrote, "Of all of the untruths, half-truths, and insinuations in what has been purported as a letter of termination for cause, this one truly does upset me. This single paragraph is a microcosm of this entire termination letter. The events described in this paragraph did not occur—would not occur—they are so foreign to me as to be laughable if they did not attempt to cause so much harm." What he claimed he had actually said at the December 8 meeting was that the communication faculty was ill served by letters from the school's personnel committee because they did not adequately explain to the university's Faculty Evaluation Committee how best to understand communication faculty members' creative work and publications. But "to insinuate in any way

that I would use my position as a form of retribution or in a retaliatory manner is absolutely untrue and extremely defamatory.”²

A final example of the many rebuttals in their appeal documents was the response to the termination letter's allegation that Professor Butler, in the September 23, 2016, meeting with Dean Nell, “raised [his] voice” and “used profanity.” Professor Butler wrote, “I was rattled and anxious from Dean Nell's baseless accusations and it made my finger shaky as I pointed at her. I did raise my voice a bit and said, . . . ‘This shit has got to stop.’” He continued, “Yes, I should have said ‘balderdash’ or something more creative, but I didn't. Corinne and I were being intimidated and bullied and it needed to stop. . . . I wish I hadn't said it, but I was being accused of harassment, bullying, and intimidation, and I think my choice of terms could have been a lot worse.”

C. Appeal to the Governing Board

On March 28, Professors Butler and Weisgerber received letters from President Martin, dated two days earlier, notifying them that the Faculty Review Committee, the membership of which has never been revealed to the appellants, had “found that ‘the university fulfilled its duty in reaching the decision [to terminate their appointments], following the procedures as outlined in the Faculty Manual’ and recommended ‘that the decision to terminate for cause be upheld.’”³ “I concur with the ad hoc Faculty Review

2. The undersigned committee learned in the course of its investigation that human resources office staff interviewed only a few members of the department regarding what transpired at the December 8 meeting.

3. The investigating committee asked multiple interviewees about the three members of the Faculty Review Committee. No one could name a single member. In writing to the president of the faculty senate afterward, the committee chair asked the following: “Your July 30 letter also describes the process by which the Senate Executive Committee, under your leadership, selected two of the three members of the Faculty Review Committee that considered Professor Butler's and Professor Weisgerber's appeals. At the time of this writing, the membership of the Faculty Review Committee remains unknown to the investigating committee as well as to Professors Butler and Weisgerber. Could you provide us with the names of the faculty who served, and inform us of the chair of the committee? *We do not intend to contact any of them; we simply wish to complete the factual record*” (emphasis added). The senate chair declined to divulge the committee's membership, explaining that she had “committed to keeping these names confidential and to protecting the anonymity of the two committee members we selected.” It is worth noting that there is no provision in the faculty

Committee's findings,” the president wrote. “Therefore, your appeal is denied.”

On April 30, pursuant to section 2.8.8.2 of the faculty manual, which provides that “[t]enured faculty may request a review of the president's decision by the Institutional Oversight and Academic Affairs Committee of the Board of Trustees,” Professors Butler and Weisgerber submitted a fourteen-page appeal document to that body. The document argued that the decision to terminate their appointments “violate[d] St. Edward's policies, the professors' contracts, minimum standards for protecting tenure rights, and the University's mission as a top liberal arts college.” It attempted to demonstrate that the “professors have earned their place as valued and tenured members” of the faculty, that “the charges against them are vague and unfounded,” and that the university had “denied [them] due process.” With respect to due process, it relied heavily on AAUP policy documents and the letters written by the AAUP's staff. It repeated the arguments made by Professors Butler and Weisgerber in their appeal documents regarding the university's having violated its own policies in taking action against them. It also contended that the “university violated due process” by treating the two professors as a couple. “Instead of evaluating the allegations against Professor Butler and Professor Weisgerber individually,” the document states, “the University has evaluated them as a couple. This kind of collective adjudication violates even the most basic understanding of due process.”

May 14 brought the news that the Institutional Oversight and Academic Affairs Committee had found as follows: “[T]he termination of your employment and appeal of the decision followed the procedures required by the Faculty Manual, and the decision to terminate your employment for just cause was not arbitrary or capricious, nor was the denial of your appeal of these decisions. Therefore, we affirm the decision of the President to uphold the termination of your employment.” “Under the terms of the Faculty Manual,” concluded committee chair Dr. Margaret E. Crahan, “the decision of this Committee is final.”

III. The Case of Professor Peterson

In their communications with the AAUP's staff, Professors Butler and Weisgerber had referred to other SEU faculty members whose situations might have

manual requiring confidentiality or anonymity regarding the Faculty Review Committee's membership.

implicated AAUP principles and standards, including several who they said had been involuntarily separated from service. One such faculty member was Professor Peterson, who first sought the advice and assistance of the staff on May 9.

As noted in the introduction to this report, Professor Peterson was a tenure-track assistant professor in her fifth year of service in the School of Human Development and Education when she received a letter dated December 11, 2017, from Sister Donna notifying her that her "position as Assistant Professor of Reading in the School of Education will conclude May 18, 2018."

In a conversation with the AAUP's staff, Professor Peterson said that her five years at St. Edward's had been "turbulent," especially since 2015, when she had filed a complaint with the human resources department about the behavior of an associate dean in the School of Human Development and Education who she claimed had subjected her and other female faculty members to what she called "weird pseudo-sexual comments." Although the administration had taken some action to curb his behavior, she said that it did not cease until he left the university in the 2017–18 academic year, requiring her to file additional complaints. She said that the new dean, Dr. Ballard, had made disparaging comments to her about her complaints and that led her to believe that the dean perceived her as a troublemaker and therefore a candidate for nonrenewal.

She also said that, despite the administration's invocation of financial constraints, all full-time faculty members received 2 percent across-the-board raises in the 2017–18 academic year; that enrollment in her classes had been good; and that, in fact, the courses normally assigned to her were being taught by others in fall 2018. She further informed the staff that she had originally been scheduled to stand for tenure in the 2017–18 academic year (pursuant to the university's tenure policy) but that the dean had prevented her from doing so.

The AAUP's staff informed Professor Peterson that, under AAUP-recommended standards, a tenure-track professor notified of nonrenewal in the fifth year of appointment was entitled to written reasons for the decision, the opportunity to appeal the decision to an elected faculty body, and at least a year of notice. The final two of the six AAUP letters to the SEU administration regarding the case of Professors Butler and Weisgerber introduced the case of Professor Peterson as an additional matter of Association concern.

IV. The Association's Involvement

The AAUP's staff wrote President Martin on February 1, 2018, to communicate the AAUP's concerns in the case of Professors Butler and Weisgerber. The staff's letter summarized what the AAUP considers to be the basic elements of academic due process. The staff's letter also conveyed specific concerns regarding issues of academic freedom evidently posed by the case, stressing that academic freedom, as widely understood in American higher education, included the right to express dissenting and critical views regarding one's institution, its policies, and its administration. In closing, the letter urged the immediate rescission of the action against the two faculty members, adding that if the administration still intended to effect their dismissals, it should afford them the AAUP-recommended procedures outlined in the staff's letter, noting that the faculty manual's silence regarding a particular procedure was not tantamount to its prohibition.

In a two-sentence reply of February 12, President Martin informed the staff that the administration would be following the procedures set down in the faculty manual. Responding on February 27, the AAUP's staff emphasized that those procedures were "severely deficient relative to normative standards of academic due process" and again summarized for the president the basic elements of that process. After pointing out that the president's letter did not dispute the facts as presented in the staff's initial letter, the staff again urged the administration to afford the two professors hearing procedures that comported with widely accepted academic standards governing dismissal for cause.

On April 13, having learned that the Faculty Review Committee had sustained the administration's decision to terminate Professor Butler's and Professor Weisgerber's appointments and that the only recourse left to them was an appeal to the governing board, the AAUP's staff addressed a letter to Mr. Graham "Hughes" Abell, chair of the board of trustees. After enumerating the serious procedural deficiencies that had marred the appeal process, the staff urged the board to afford Professors Butler and Weisgerber a hearing consistent with Regulation 6 ("Action by the Governing Board") of the *Recommended Institutional Regulations on Academic Freedom and Tenure*. In such a hearing they would "be presented with specific charges, could hear the specific evidence against them, [could] confront their accusers, and [could] rebut the charges." The burden of demonstrating adequate

cause, the staff further urged, should rest with the administration. The staff's letter concluded, "Given the severity of the departures from AAUP-supported standards thus far evident in this case and the apparent implications for academic freedom, the AAUP's staff would be strongly inclined to recommend . . . formal investigation, absent a resolution that reasonably comports with normative academic standards. In the meantime, we would be more than willing to assist in achieving such a resolution."

Having heard nothing further from the administration or the governing board and having learned of the May 14 decision of the board's Institutional Oversight and Academic Affairs Committee to sustain the dismissals, the AAUP's staff wrote President Martin on May 30 to inform him that the AAUP's executive director had authorized this investigation. The letter also informed the president that the investigating committee would be inquiring into the case of Professor Peterson, who, the letter stated, "has advised us that she received notice on December 11 of the nonrenewal of her appointment and was afforded no opportunity to contest the decision with a faculty review body."

This letter elicited a June 12 email reply from President Martin stating that the university's dismissal policy "was proposed by the St. Edward's University faculty, approved by the university's Board of Trustees, and included in the university's *Faculty Manual* in 1989." The process, he added, is "fair," "includes independent review by a faculty committee," "comports with principles of shared governance," and, "of course, . . . honors the policy on Academic Freedom included in [the] *Faculty Manual*." In its June 13 response, the AAUP's staff emphasized the Association's long-standing practice of opposing the imposition of policies and procedures that disregard Association standards, regardless of the degree of faculty involvement in their adoption.

With regard to the president's assertion that the institution honors principles of academic freedom, the staff wrote, "Our investigating committee will doubtless wish to hear more from you on that subject." After informing the president of the names of the members of the investigating committee and the dates of the investigation, the staff's letter closed by noting that the morning of the first day of the committee's visit had been set aside for a meeting with the administration.

Responding on July 3, President Martin wrote, "On behalf of the University, I must respectfully

decline your request to meet with administrative officers of the University." Reiterating the points made in his previous letter, he stated that the staff's response "discounted the relevance of the University's standards and system of shared governance to the AAUP investigation." "In light of your position," he concluded, "and the fact that the University does not consider it appropriate to discuss individual employment matters, I do not believe a meeting would be fruitful." In its reply of July 10, the Association's staff urged President Martin to reconsider, stressing that the "investigating committee will wish to hear from [him] and [his] administrative colleagues in person" regarding his stated position that the actions against the three professors comported with principles of academic freedom and shared governance. President Martin did not respond.

During its visit to Austin on August 3 and 4, the undersigned committee interviewed fifteen current and former SEU faculty members. Prior to its visit, the committee had received unsolicited letters regarding the cases from three St. Edward's faculty members. Subsequent to its visit, the committee chair, acting on behalf of the committee, contacted ten additional individuals, including seven administrative officers, by email to invite them to provide answers to specific questions that emerged during the interviews as well as to submit "any [general] statement" they "might wish to make" regarding the cases of Professors Butler, Weisgerber, and Peterson. Ms. Van Savage did not respond. Mr. Abell, Sister Donna, Dr. Ballard, Dr. Nell, and Dr. Bautch each acknowledged receipt of the chair's message but declined to answer any questions. The only substantive responses came from President Martin, the faculty senate president, and two of Professor Peterson's colleagues in the School of Human Development and Education.

V. The Issues of Concern

The sections that follow address procedural and substantive issues in the case of Professors Butler and Weisgerber, procedural and substantive issues in the case of Professor Peterson, academic freedom concerns in the cases of all three professors, the climate for academic freedom, and the climate for academic governance.

A. Procedural and Substantive Concerns in the Case of Professors Butler and Weisgerber

Under AAUP-recommended standards, a tenured faculty member can be dismissed for cause only

following an adjudicative hearing of record before a duly constituted faculty body in which the burden of demonstrating adequate cause rests with the administration. These procedural standards are set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure*, the complementary 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, and, more elaborately, in Regulations 5 and 6 of the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure*. Among these standards the following are the most basic:

- Adequate cause for a dismissal will be related, directly and substantially, to the fitness of faculty members in their professional capacities as teachers or researchers.
- A dismissal . . . will be preceded by a statement of charges, and the individual concerned will have the right to be heard initially by the elected faculty hearing committee.
- During the proceedings the faculty member will be permitted to have an academic adviser and counsel of the faculty member's choice.
- A verbatim record of the hearing or hearings will be taken, and a copy will be made available to the faculty member.
- The burden of proof that adequate cause exists rests with the institution and will be satisfied only by clear and convincing evidence in the record considered as a whole.
- The faculty member and the administration will have the right to confront and cross-examine all witnesses.
- If dismissal or other severe sanction is recommended, . . . the governing board . . . will provide opportunity for argument, written or oral or both, by the principals at the hearing or by their representatives.

In his correspondence with the AAUP's staff and the investigating committee, President Martin has never asserted that his administration afforded Professors Butler and Weisgerber these procedural rights. He has instead insisted on the appropriateness of following the dismissal policy in the institution's faculty manual. That policy, however, is highly deficient relative to the above-cited standards, as the AAUP's staff repeatedly pointed out to him. Instead of affording faculty members a hearing prior to dismissal, the SEU dismissal policy allows for faculty members to be dismissed without any procedure and, if they wish, to file an appeal of their already effective

dismissals. Instead of assigning the responsibility for demonstrating adequate cause for dismissal to the administration, the appeal process requires faculty members to assume the burden of proving that the action against them involved "unlawful bias, arbitrary or capricious decision-making or a violation of procedures required by this Faculty Manual," a high bar indeed to have to surpass. Instead of a faculty-elected body conducting a hearing, an "ad hoc Faculty Review Committee" formed in part by the president reviews the written appeals. The faculty manual is silent on such key standards as the necessity of relating cause to professional fitness, the requirement of a specific statement of charges, and the right to call and confront witnesses.

In an email message to the chair of this investigating committee, President Martin defended the reliance on the institution's severely inadequate dismissal policy as follows: "As I have stated in earlier correspondence with [the AAUP's staff], the decisions regarding Professors Shannan Butler, Corrine Weisgerber, and Katie Peterson accord with the policies of the St. Edward's faculty manual. The policies are fair, long-standing (since 1989), originated as a proposal of the Faculty Senate approved by the Board of Trustees, and comport with the principles of shared governance."

With respect to the president's assertion that the policies in question were in part the product of faculty governance, the investigating committee would point out that whether the AAUP intervenes in a case depends entirely on whether the actions evident in the case depart from core Association-supported principles and standards. That the institution's faculty may have, for whatever reasons, been complicit in the adoption of policies and procedures that disregard those principles and standards is unfortunate but largely irrelevant. As noted in the 1980 report of an investigation at Olivet College,

the Association, with its longstanding interest in the implementation of a widely accepted body of academic common law, does not refrain from interest in a particular case merely because a faculty, when it has been effectively denied free choice or when it has taken a perhaps mistaken or narrowly prudential view of its own immediate welfare, has acquiesced in the imposition of policies and procedures which do not conform to Association standards. The Association does not acquiesce in the internal procedures of

an institution when those procedures contravene Association standards. Nor, indeed, is the Association's primary obligation to the interests of the affected faculty member. Its responsibility lies first and foremost in the defense of standards of academic freedom and tenure which it has been chiefly responsible for promulgating over half a century, a period in which those standards have been incorporated into the regulations and prevailing practices of colleges and universities across the country.

In addition to rejecting the notion that faculty participation in formulating policies should inoculate those policies against AAUP intervention, the investigating committee rejects the president's assertion that the decisions to dismiss Professors Butler and Weisgerber "accord with the policies of the St. Edward's *Faculty Manual*." We base this conclusion on the evidence from Professor Butler's and Professor Weisgerber's appeal documents presented earlier in this report. To repeat one example, neither Professor Butler nor Professor Weisgerber was "given a performance improvement plan and two years to correct any deficiencies before termination is considered," as is required for tenured faculty members under section 2.5.6.2 of the faculty manual. To repeat another, Dean Nell's insertion of a page of new material into Professor Butler's and Professor Weisgerber's reviews, without the knowledge of the faculty members, violated section 2.5.4.5 of the faculty manual requiring the dean's evaluation to "be forwarded to the faculty member."

The committee also rejects President Martin's characterization of the university's processes and policies as "fair," since they enabled the following to take place: two tenured faculty members were, without warning, summarily removed from their positions and banned from campus; the unsubstantiated allegations against them were leveled in writing by the provost, who was not in attendance at any of the meetings referenced in the letters; the faculty members were not afforded academic advisers or counsel, did not have the right to confront or cross-examine witnesses, and bore the burden of proving that adequate cause did not exist; no record of the Faculty Review Committee, the membership of which remains a secret, was made available to them (or, to the investigating committee's knowledge, actually exists); and, ultimately, the faculty members were summarily dismissed for reasons entirely unrelated to their fitness as teachers and

researchers. This process cannot, by any measure, be characterized as "fair."

In light of the foregoing analysis, which is based on the voluminous information cited in previous sections of this report—including the two professors' detailed and comprehensive appeal documents—the investigating committee concludes that the administration violated multiple university policies in dismissing Professors Butler and Weisgerber. The committee, furthermore, concurs in the professors' criticisms of the process. Neither of them was afforded even the full extent of the severely deficient procedural protections required by the faculty manual, let alone those recommended by the AAUP. In the absence of a single piece of firsthand evidence in support of any of the claims made against them in their termination letters—including the allegation that they manifested antagonism toward the university's mission—the committee finds that Professors Butler and Weisgerber were treated arbitrarily and capriciously. It further judges the administration's stated grounds for the faculty members' dismissal to be grossly inadequate, especially in view of the professors' claim that Sister Donna told them, in the termination meeting, that "no one was calling into question [their] performance as teachers or researchers." Finally, and most relevant to the purpose of this investigation, the action against Professors Butler and Weisgerber flagrantly disregarded the procedural standards set forth in the 1940 *Statement of Principles* and derivative AAUP documents.

B. Procedural and Substantive Concerns in the Case of Professor Peterson

AAUP-supported standards governing procedures related to the nonrenewal of tenure-track appointments are set forth in Regulations 2c, 2e, 2f, 2g, and 10 of the *Recommended Institutional Regulations*. Under Regulation 2c, full-time faculty members in their fifth year of service (as Professor Peterson was) are entitled to twelve months of notice—in other words, a "terminal year" in which to seek another appointment. Regulations 2e and 2f specify that faculty members notified of the nonrenewal of their appointments "will be informed of that decision in writing by the body or individual making the decision" and will have the right to a written statement of the reasons for the decision, if requested. Regulation 2g affords affected faculty members the right to ask an elected faculty committee to review the nonrenewal decision if the faculty members allege that it

resulted from a lack of “adequate consideration.”⁴ Under Regulation 10, if faculty members allege that the nonrenewal decision was based on considerations that violated their academic freedom, they are entitled to review by an elected faculty body, and, if they can make a prima facie case of an academic freedom violation, to an adjudicative proceeding before a faculty hearing body, in which the burden of proof rests with those who made the nonrenewal decision.

The relevant provisions in section 2.8.3 (“Non-reappointment of Probationary Faculty”) of the SEU faculty manual are terribly inadequate compared to these standards. For one, they made it possible for Professor Peterson to be notified of her nonrenewal merely five months before her position would “conclude,” rather than to be afforded the terminal year to which she was entitled under AAUP-supported standards. In addition, they do not require an explanation—in writing or otherwise—of the reasons for a nonrenewal decision in cases involving faculty members with fewer than five years of service to the university. Finally, the appeal option afforded tenure-track faculty members is the same as that afforded tenured faculty members, with the single difference that, in cases of nonreappointment, there can be no further appeal to the governing board. In other words, at St. Edward’s a probationary faculty member notified of nonreappointment has only two rights: to a simple written notice of nonrenewal and to an appeal (through the president) to a three-person ad hoc Faculty Review Committee, one member of which is appointed by the president.

Because the university’s policies are so deficient in relation to AAUP-recommended standards, it gives the committee no comfort that the administration adhered to them in its action against Professor Peterson. To the contrary, the committee finds it deeply troubling that a tenure-track faculty member at SEU can be afforded even fewer procedural rights than what Professor Peterson was afforded, in that nothing in the faculty

manual stipulates that she had to be given the reasons for her nonrenewal. Under SEU’s remarkably inadequate procedures, tenure-track faculty members come awfully close, in the committee’s judgment, to being at-will employees.

The reason Professor Peterson was in fact given for her nonreappointment also raises substantive concerns about her case. As noted earlier, Professor Peterson’s notice of nonrenewal cited “current efforts to ‘right size’ the university,” and she informed the AAUP’s staff that, in the meeting in which she was handed her nonrenewal letter, she was told by Sister Donna that “financial exigency” was the reason for her nonrenewal. Yet the nonrenewal letter cites the action as having been made pursuant to section 2.8.3 of the faculty manual (“Non-reappointment of Probationary Faculty”) and does not cite the university’s financial exigency policy (section 2.8.7.2). As far as the committee is aware, the governing board had not declared that the university was in a condition of financial exigency, nor had the administration followed any of the other steps outlined in the faculty manual that are supposed to precede terminations and nonrenewals because of financial exigency, much less the policies and procedures recommended by the AAUP in Regulation 4c (Financial Exigency) of the *Recommended Institutional Regulations*.

C. Academic Freedom Concerns in the Cases of All Three Professors

In light of the foregoing analysis, the committee is left to wonder about the real reasons not only for Professor Peterson’s nonrenewal but also for the dismissals of Professor Butler and Professor Weisgerber. The available evidence immediately points to at least one common element among the cases: the three faculty members’ criticism of administrative decisions and actions.

One interviewee confirmed this characteristic of Professors Butler and Weisgerber: “They’re seen as squeaky wheels—first in line to complain when things are bad.” This person quickly added, “But that’s no reason to get rid of faculty, especially tenured faculty.” The committee concurs. As the Association’s 1994 statement *On the Relationship of Faculty Governance to Academic Freedom* points out, “[T]he academic freedom of faculty members includes the freedom to express their views (1) on academic matters in the classroom and in the conduct of research, (2) *on matters having to do with their institution and its policies*, and (3) on issues of public interest generally, and to

4. According to the AAUP’s *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*, adequate consideration in a reappointment or tenure review “refers essentially to procedural rather than substantive issues: Was the decision conscientiously arrived at? Was all available evidence bearing on the relevant performance of the candidate sought out and considered? Was there adequate deliberation by the department over the import of the evidence in light of the relevant standards? Were irrelevant and improper standards excluded from consideration? Was the decision a bona fide exercise of professional academic judgment?”

do so even if their views are in conflict with one or another received wisdom” (emphasis added).

The investigating committee concludes, based on the totality of the evidence, that what the administration deemed “misconduct” on the part of Professors Butler and Weisgerber was nothing more than persistent and conscientious questioning of administrative decisions. The language in their dismissal letters is revelatory: the two professors’ “manner . . . was disrespectful of university decisions,” they conducted “a campaign of disruption and disrespect for university decisions,” and their administrative superiors had directed them to “move forward in a manner which was respectful of university decisions.” From the committee’s perspective, “university” appears to have been synonymous with “administration.”

An interviewee stated the following: “When you have faculty members who are strong and will ask a question at a meeting, not attacking, but just asking why we’re doing something, those are the folks I’ve seen leave [the institution].” Although this person was not describing Professors Butler and Weisgerber, the committee believes the description fits them. The available evidence forces us to the conclusion that, in direct contravention of Regulation 5, the dismissals of Professors Butler and Weisgerber were “used to restrain [these] faculty members in their exercise of academic freedom,” specifically on matters having to do with the university and its policies.

In addition, the available evidence indicates that Professor Peterson’s nonrenewal was used as a means to the same end. As already indicated, Professor Peterson questioned the reason provided for her nonreappointment. In a May 11 email message to the AAUP’s staff, she provided the following chronology to support her belief that other unacknowledged factors may have played a role:

October 2015: The associate dean made inappropriate comments about my body in front of the chair at the time. He also gave me a lollipop and leered at me as I unwrapped it and put it in my mouth. On another occasion he offered me candy and said, “You can have some of my sugar any time.” The incidents involving me sparked an HR investigation where several other women came forward. HR informed me that they told the associate dean not to hand out candy any more.

Spring 2016: The associate dean requested to be placed on the School Committee, which was an organization in the School of Education charged

with evaluating faculty files. I asked that he be removed from that committee, which he was.

Two Weeks Later: I found that all faculty in the School of Ed. had lollipops taped to notes that said “Happy Teacher Appreciation Day.” I received one of two notes that was printed in color and noted that the lollipop in my box was the only one that was wet (had been unwrapped and re-wrapped—was oozing sticky goop). I have pictures of all of this. After this the associate dean was removed from his position and his office was moved across campus. However, he still taught in the same building as I and continued to use proximity threats and bullying techniques to threaten and intimidate me, including sitting outside of my office waiting to go into HR when there was an open waiting area inside. This continued until he retired in Spring 2017.

In the fall of 2016 the new dean [Dr. Ballard] started. The former associate dean took her to lunch. Dean Ballard reported later to me that over lunch he had explained that he was “not a bad guy” and that she had told him that “little girls” from this generation didn’t have to deal with that kind of behavior. But she generally dismissed the idea that there was even an issue.

May 2017: I asked my dean to sign paperwork so that I could go up for tenure and promotion.

August 2017: My dean told me that she’d lost the paperwork and “dropped the ball” and that I could go up the following year.

Fall of 2017: The dean gave me a lower rating than what was deserved on my performance evaluation. She later admitted that she was wrong about the score, but said that she’d “prayed about it” and that she wasn’t going to change it.

Also, Fall 2017: The dean rehired the former associate dean to do administrative work in an admin’s office while she was out of the office. In that role, he had access to keys and files. I requested that he not be allowed back into that kind of role.

December 2017: I was told that my contract wouldn’t be renewed due to financial exigency with no right to appeal.

The investigating committee confirmed this chronology of events, both in person with Professor Peterson and through a thorough review of relevant

documentation, including email messages, screen shots, and pictures.

The timeline above suggests a *prima facie* case that the decision not to renew Professor Peterson's appointment was based on considerations that violated her academic freedom. Specifically, the committee deems it credible that Professor Peterson's resistance to alleged harassment on the part of an associate dean led Dean Ballard to perceive her as a troublemaker and therefore a candidate for removal. Professor Peterson's colleagues in the School of Human Development and Education—one of whom witnessed the associate dean's inappropriate conduct—confirmed this view. One informed the committee, "I do think the dean's deteriorated relationship with Dr. Peterson made it far easier to take the easiest way out in terms of reducing faculty size—fire her based on seniority/probationary status."

D. Climate for Academic Freedom and Tenure

According to faculty sources, the climate for academic freedom at St. Edward's has been deteriorating for a number of years and now appears to be at its lowest point. It is characterized, above all else, by fear.

One longtime faculty member volunteered the following as we settled in for the interview: "I was scared to come here today. When I got out of the car in the parking lot, I literally looked over my shoulders to see who might see me."⁵ Fear was a disturbingly common theme during the committee's interviews. When asked about the climate for academic freedom at SEU, Professor Peterson, for example, replied without hesitation: "Fear. If you go to HR it's like a death sentence. Fear. And just anger. People are angry about what happened. People came up to me all spring and they were angry. And they said, 'Message received.'" Later in the interview, she said, "I think everybody's afraid of President Martin, and I think everybody was afraid of [Sister] Donna."

Another longtime faculty member, when asked about the climate for academic freedom at SEU, offered this: "It's become phenomenally more problematic. I have been shocked at the actual, real fear that has been manifested even by long-standing faculty over the last five years. I would say the last five years have seen a noticeable decline [in the climate for academic freedom]." This person added that there

is a "palpable" feeling of "menace" on campus, "in terms of anything an administrator might perceive as criticism of the university." Another veteran faculty member took a longer view of the problematic climate for academic freedom: "The poor climate predates me. Today, in this room, is the first time this university has been held to account in twenty-five years. Period. That's the level of fear and intimidation at this school."

The expression of fear became so common that the members of the committee began asking interviewees whether they felt safe in meeting with us. One long-serving faculty member answered indirectly: "I have an exit strategy. I want to be around for five more years and then retire. After what happened to Corinne and Shannan, I was terrified. . . . I'm so sick and tired of the whole hypocrisy of being at a university whose mission is social justice. This has been going on for a long time."

In an attempt to probe further into the conditions for academic freedom at SEU, the committee explored with interviewees the meaning of tenure at the university. Here, the responses were also uniform. One faculty member put it plainly: "Tenure is a joke. It's a joke. It really is." Multiple interviewees asserted that "tenure doesn't mean anything" at St. Edward's.

This apparently widespread belief is likely the reason no one volunteered the view that the security of tenure at SEU had been weakened by the summary dismissals of two tenured faculty members. Tenure at SEU—such as it is—evidently did not mean much before Professors Butler and Weisgerber were dismissed. One faculty member explained why: "Functionally, you can continue working at SEU in a faculty position without going up for tenure, so it doesn't have the force of necessity if you want to maintain your position that it does at most other universities. So, in that sense maybe the effect of [tenure] is a little weaker than it would be elsewhere." As another interviewee explained, SEU lacks an "up or out" system in which a faculty member, after a probationary period, is either granted tenure or receives a terminal appointment. This person said, "Tenure is not tenure at SEU. Tenure is not up or out. It's voluntary; it's basically a promotion between associate and full professor. It doesn't come with the guarantees of tenure, like the academic freedom component [or] the extra bar for having to give reasons for dismissal . . . [T]he only thing [tenure] affords you is a bump in pay—a pretty small one. It's not the tenure in the Redbook for sure." Another interviewee explained

5. It is worth noting that the interviews were held off campus in a hotel conference room.

that Sister Donna often remarked to faculty members that St. Edward's has a "de facto system" of tenure. In light of the circumstances of Professor Butler's and Professor Weisgerber's summary dismissals, the committee questions the existence even of de facto tenure at the university, let alone a tenure system consistent with the 1940 *Statement of Principles on Academic Freedom and Tenure*.

The security of tenure is all the more important at an institution like St. Edward's, which interviewees described as having a "toxic" or "hostile" environment. Regrettably, the university's virtually nonexistent tenure system does not provide such security. The result is an abysmal climate for the exercise of academic freedom, particularly in the course of participation in institutional governance.

E. Climate for Faculty Governance

Measured against the principles set forth in the AAUP's *Statement on Government of Colleges and Universities*, the current climate for faculty governance at St. Edward's is dreadful. Several faculty members provided the committee with historical context. One put it this way: "This used to be a faculty-governed university. It is not anymore. The faculty senate is a shadow of what it was thirty years ago." Another asserted that "faculty governance is captive to the administration," adding that "long-standing senior faculty feel the heat of the administration on their back." A third faculty member simply told the committee: "There's no shared governance. None. Nada." A fourth explained that "SEU is a command and control organization. It goes from the board on down. Faculty governance plays a 5 percent role—*de minimis*." The very real result of this common perception is that fewer and fewer faculty members are involved in governance. As an interviewee said, "I just put my head down and do my job."

One faculty member offered to the committee that "shared governance is not so much shared anymore. It's more top-down. And it's partly faculty's fault. The senate is very weak." Regarding the role of the senate, or "collegium," specifically, another faculty member reported that "the collegium is totally captive to [the] administration." Yet another, when asked about the reputation of the senate, said, "It doesn't enjoy a whole lot of respect and never did from the administration." A current member of the senate observed that "we're supposed to represent the faculty's interest. We haven't discussed anything of substance regarding due process at all. [We're told by the administration,]

'No, we can't talk about that [because] it's confidential.' It's this culture of conformity, compliance, just go along to get along." This interviewee also pointed out that the senate executive committee is under no obligation to inform the senate of the membership of the Faculty Review Committee—an example, in this person's view, of a lack of accountability on the part of the faculty's elected leaders. A former president of the senate also expressed frustration over the relationship between the senate and the administration: "We'd pass a lot of stuff unanimously in the senate and it would go up [to the administration] and then disappear. No answers."

A faculty senate that is weak—either in perception or in reality—is not the only factor that has evidently contributed to the erosion of faculty governance at St. Edward's. The school deans represent another. Like many other small private colleges and universities, SEU has seen a shift over the last several decades from academic deans who came from the faculty to deans who were hired from another institution. One longtime faculty member explained that SEU's deans "arrived with little knowledge of the institution, little if any allegiance to the faculty, and little willingness to stay the course." Another asserted that "new deans were hired to clean house and get rid of any faculty members who questioned decisions, questioned authority, stood up to the new rules of faculty participation." The result, this person continued, was that "we've dropped like flies." The high degree of turnover among the academic deans has wreaked havoc on faculty governance. One faculty member with whom we spoke had participated in nine dean searches and described the situation over the last decade as "longevity at the top [with President Martin and Sister Donna] and musical chairs below." The "inevitable result," this person went on, is "constant turmoil."

Faculty members interviewed by the investigating committee reported that senior-level administrators and the governing board have also been impediments to faculty governance, at least since 2013. The committee learned of unilateral program and school closures by the administration, unexplained vetoes of faculty senate legislation, and dismissals of faculty members other than the three who are the subject of this report, all during the last five years. The president, according to all the people with whom we spoke about him, is "disconnected" from the faculty, to use a term we heard repeatedly. Our interviewees were unanimous in the perception that President Martin left his chief academic officers

to “run the show.” When asked about the relationship between the president and the faculty, another interviewee said, “There’s a gap. It’s a distance. [President Martin] is very remote. I’ve never seen a college president more remote from the faculty than George. He’s on the surface very friendly, very affable, but questions have to be written in advance, and he has to approve them.” The latter observation was in reference to President Martin’s once-a-year visit with the faculty, before which questions need to be submitted to him and approved by him; many interviewees pointed to this particular practice as both inconsistent with traditional shared governance at SEU and insulting to the faculty.

It was clear to the committee that St. Edward’s, like so many other small institutions, has seen a great deal of structural and cultural change over a relatively short period of time. Equally clear was that much of the change has been driven by the administration and that a large segment of the faculty feels that its voice has not mattered. The administration’s recent actions against three respected and dedicated faculty members have only made the relationship between the administration and the faculty significantly worse, for they further alienated the faculty from the institution so many of them told the committee they “used to love.” As one faculty member lamented, “This place has lost its soul, and I feel like I’m losing mine.”

VI. Conclusions

1. In dismissing Professor Butler and Professor Weisgerber, the administration of St. Edward’s University violated basic tenets of the joint 1940 *Statement of Principles on Academic Freedom and Tenure* and derivative procedural standards set forth in the *Recommended Institutional Regulations on Academic Freedom and Tenure*. In so doing, the administration also violated policies contained in the university’s faculty manual.
2. The dismissals of Professor Butler and Professor Weisgerber appear to have been the direct result of their persistent outspokenness about administrative decisions and actions, both in their department and at the school and university levels. Absent affordance of a faculty hearing consistent with Regulation 5 of the *Recommended Institutional Regulations*, the claim that their dismissals were effected for impermissible reasons remains rebutted.
3. In not renewing the tenure-track appointment of Professor Peterson, the administration fol-

lowed the university’s policies as set forth in the faculty manual. However, these policies are so egregiously deficient when compared with Regulation 2 of the *Recommended Institutional Regulations* that all tenure-track faculty members at St. Edward’s are vulnerable to the same type of unilateral and arbitrary administrative action as that taken against Professor Peterson.

4. Professor Peterson has credibly alleged that the decision not to renew her appointment was, to an extent, the consequence of her having lodged complaints of sexual harassment against an associate dean and thus based on considerations that violated her academic freedom. Since she was not afforded an opportunity to contest the nonrenewal decision through a procedure consistent with Regulation 10 of the *Recommended Institutional Regulations*, that allegation stands unrefuted.
5. Current conditions for both academic freedom and faculty governance at St. Edward’s University are abysmal. The administration’s heavy-handedness, the university’s so-called de facto tenure system, and the faculty senate’s weakness, among other factors, have combined to create widespread fear and demoralization among the faculty.⁶ ■

6. President Martin, along with the other administrative officers named in this report and the present and immediate past chair of the university’s board of trustees, received a draft text of the report with an invitation for corrections and comments. None of these individuals accepted this invitation. On September 21, the deadline for submitting a response, President Martin did, however, post the following statement, titled “AAUP update,” on his Facebook Workplace page: “As some of you know, the American Association of University Professors (AAUP) has circulated a draft report in response to their August 3–4th visit to review the complaints of Professors Butler, Weisgerber, and Peterson. The content of the draft letter [sic] is disappointing, but I will withhold judgment or response until the final report is published. You can be assured that when the final report becomes public, I will share a response with the university community.”

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MICHAEL DECESARE (Sociology)

Merrimack College, *chair*

ALLISON BUSKIRK-COHEN (Psychology)

Delaware Valley University

MARK CRILEY (Philosophy)

Illinois Wesleyan University

Investigating Committee

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; **WALTER BENN MICHAELS** (English), University of Illinois at Chicago; **ROBERT C. POST** (Law), Yale University; **JENNIFER H. RUTH** (Film Studies), Portland State University; **JOAN WALLACH SCOTT** (History), Institute for Advanced Study; **DONNA YOUNG** (Law), Albany Law School; **RUDY H. FICHTENBAUM** (Economics), Wright State University, *ex officio*; **RISA L. LIEBERWITZ** (Law), Cornell University, *ex officio*; **JULIE M. SCHMID** (English), AAUP Washington Office, *ex officio*; **IRENE T. MULVEY** (Mathematics), Fairfield University, *liaison from the Assembly of State Conferences*