November 30, 2018

AAUP Announces Investigation of Vermont Law School for Violations of Shared Governance

The AAUP has authorized an investigation into apparent departures from widely adopted standards of shared governance at Vermont Law School. Faculty members at the law school complained to the AAUP that the law school’s administration and governing board “restructured” the law school’s faculty by lowering salaries, reducing the number of full-time positions, and eliminating the tenured status of 14 of the 19 tenured faculty members without involving the faculty in the decision-making process. Affected faculty members were notified by a June 5, 2018, memorandum of their options under the restructuring plan. According to faculty sources, the memorandum presented 14 tenured professors with a stark choice: either surrender their full-time, tenured positions and faculty voting rights, sign an agreement containing a general and age-discrimination release along with strong nondisparagement and nondisclosure provisions, and accept a “restructured” appointment “option” at lower pay or have their appointments summarily terminated as of July 1, 2018, with immediate cessation of salary and benefits. Only five faculty members appear to have retained tenure at an institution with a reported enrollment of over 600 students; effectively, the existing tenure system and, with it, protections for academic freedom, have been eviscerated.

It appears that the “restructuring” process deviated from widely observed standards of academic decision making, including those mandated by the bylaws of the Association of American Law Schools. The only formal process, detailed in the June 5 memo, was devised solely by the administration, which failed to consult with the faculty as a whole about its plan for involuntarily restructuring the faculty.

The Statement on Government of Colleges and Universities, jointly formulated by the AAUP with the American Council on Education and the Association of Governing Boards of Universities and Colleges, rests on the premise that an “inescapable interdependence” exists in the relationship among governing board, administration, and faculty. This interdependence requires “adequate communication among these components and full opportunity for appropriate joint effort.” The Statement on Government also says that, for effective planning, “the broadest possible exchange of information and opinion should be the rule for communicating among the components of a college” and the faculty should be fully informed on all budgetary matters.

AAUP regulations derived from the statement require that the faculty, or a duly constituted subset, participates in any decision to declare a condition of financial exigency, makes the primary determination about where cuts are to occur and what positions are to be eliminated,
is afforded the opportunity to render a written assessment of the institution’s financial condition, and is provided all the necessary financial information.

AAUP investigating committees in the area of college and university governance are charged with inquiring into cases that appear to feature severe departures from AAUP-supported governance standards. Committees are composed of AAUP members from other institutions who have had no previous involvement in the matter. If the investigating committee’s published report finds that serious violations have occurred, the AAUP may place the institution on its sanction list, which informs the academic community and the public that conditions for academic governance at the institution are unsound.