

March 28, 2022

VIA ELECTRONIC MAIL

Ms. Monica Velazquez
General Counsel
Collin College
2200 West University Drive
McKinney, Texas 75071

Dear Ms. Velazquez:

Dr. Michael Phillips, a professor of history at Collin College with fifteen years of full-time service, has sought the assistance of the American Association of University Professors after receiving notice, on January 28, 2022, that his faculty appointment would not be renewed for the upcoming academic year. The nonrenewal letter did not provide reasons for the decision, but in a "Recommendation for Faculty Contract Extension" form issued on August 31, 2021, Associate Dean Chaelle O'Quin and Dean Kristen Streater had recommended that Professor Phillips's appointment not be renewed. As a basis for the recommendation, that form cited (a) "student complaints related to their perception of bias by Dr. Phillips' expression of his personal views in the learning environment, as evidenced by student evaluation comments and complaints" and (b) Professor Phillips's "ongoing failure to use the internal communication processes to address concerns he has with the organization's policies and protocols after multiple discussions and coaching."

This is not the first time the staff of the AAUP have had occasion to communicate with the Collin College administration on matters of academic freedom, tenure, and due process. On March 2, 2021, we wrote to President Neil Matkin to convey the Association's concerns regarding the administration's actions to terminate the appointments of Professors Suzanne Jones and Audra Heaslip, which appear to have been effected in violation of AAUP-supported procedural standards and in disregard of principles of academic freedom. On March 22, 2021, we sent a letter conveying

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additional concerns in the case of Professor Lora Burnett, whose appointment was nonrenewed without affordance of academic due process and for reasons apparently violative of her academic freedom. Having received no reply, we wrote President Matkin on May 1, 2021, to inform him that the AAUP's executive director had authorized an investigation into these cases. Copies of these communications are enclosed for your reference. Please note you are receiving this message because President Matkin requested in his May 18, 2021, reply that our future communications with the administration be directed to you.

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Our Association's interest in Professor Phillips's case stems from the same longstanding commitment to fundamental tenets of academic freedom, tenure, and due process that prompted the authorization of our investigation. These principles are set out in the enclosed 1940 *Statement of Principles on Academic Freedom and Tenure*, a document jointly formulated by the AAUP and the American Association of Colleges and Universities and endorsed by more than 250 scholarly societies and higher-education organizations.¹ Procedural standards derived from the 1940 *Statement* are set forth in the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure* (also enclosed).

Under the 1940 *Statement*, full-time faculty members whose length of service has exceeded the seven-year maximum period of probation have "permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age or under extraordinary circumstances because of financial exigencies." While we understand that Collin College does not grant appointments with indefinite tenure, the AAUP nevertheless regards Professor Phillips, like Professors Jones and Heaslip, as having attained de facto tenure through length of service. His fifteen years of full-time service at the college has far exceeded the seven-year maximum probationary period specified by the 1940 *Statement* or even what most members of the academic community would regard as a reasonable period of

¹ As we noted in our earlier letters and will note again below, the academic freedom sections of Collin College policy 043500 ("Employee Rights and Privileges – Employee Expression and Use of College Facilities") are largely based upon the 1940 *Statement*.

probation. As a result, we view the administration's actions against him not as a nonrenewal of a term appointment but as a dismissal from an indefinite one.²

AAUP-supported standards regarding the dismissal of a faculty member with indefinite tenure are set forth in Regulation 5 ("Dismissal Procedures") of the *Recommended Institutional Regulations*. Under Regulation 5, a faculty member subject to dismissal is entitled to an adjudicative hearing of record before an elected faculty body in which the burden of demonstrating adequate cause for dismissal rests with the administration. Regulation 5a also states that "[a]dequate cause for a dismissal will be related, directly and substantially, to the fitness of faculty members in their professional capacities as teachers or researchers" and that the standard of proof will be "clear and convincing evidence in the record considered as a whole" (Regulation 5c[8]).

As we noted in our earlier letters, the Collin College policy for contesting nonrenewals and dismissals for cause ("Employee Complaint Procedures – Pursuant to DGBA [Local]") is grossly deficient relative to the aforementioned standards. Full-time faculty members whose service has exceeded seven years are not afforded a hearing before an elected faculty body. Instead, they may file an appeal with an administrative hearing officer or a Resolution Review Panel consisting solely of administrators. In these proceedings, the administration does not carry the burden of proof, nor must it demonstrate that the grounds for dismissal are related to the faculty member's professional fitness.

Even more troubling are the ramifications for academic freedom posed by Professor Phillips's case. As Regulation 5a notes, "Dismissal will not be used to restrain faculty members in their exercise of academic freedom." Professor Phillips alleges that the administration's action against him was taken in response to his exercise of academic freedom, and the reasons cited in the August 31, 2021, nonrenewal recommendation appear to support his contention.

² Even if the action taken against Professor Phillips could be viewed as a nonrenewal rather than a termination, the notice issued to him was gravely deficient under generally accepted academic standards. Faculty members should be given at least twelve months' notice before the expiration of an appointment after more than two years of full-time service. See the enclosed *Standards for Notice of Nonreappointment*.

First, the administration's action seems to have been taken in disregard of Professor Phillip's academic freedom in the classroom. As noted above, his nonrenewal recommendation cites "student complaints related to their perception of bias by Professor Phillips' expression of his personal views in the learning environment, as evidenced by student evaluation comments and complaints." In a subsequent "Performance Improvement Plan," Associate Dean O'Quin expanded on this point under the general heading of "Lack of respect shown to students in Dr. Phillips' class." She declared that "student evaluations reveal Dr. Phillips demonstrated a pattern of classroom bias on controversial issues as discussed in his 2020-2021 Annual Appraisal." The specific nature of these student concerns is not stated; nor is there any indication that the administration attempted to determine whether these student perceptions were reasonable and whether they reflected on Professor Phillips's fitness for his position. In fact, in that same Annual Appraisal, Associate Dean O'Quin assigned a rating of "Meets the Expected Level of Performance" — the higher of the two ratings available — on every assessment item, including those related to instruction.

The 1940 *Statement* affirms that "teachers are entitled to freedom in the classroom in discussing their subject."³ That freedom to teach extends to the presentation of the instructor's own judgments on these matters in the course of instruction. As noted in the enclosed report *Freedom in the Classroom*, "if an instructor has formed an opinion on a controversial question in adherence to scholarly standards of professional care, it is as much an exercise of academic freedom to test those opinions before students as it is to present them to the public at large."

Second, the administration's action against Professor Phillips seems to have disregarded his academic freedom to engage in speech concerning matters of public interest or of institutional policy. The August 31 nonrenewal recommendation cites Professor Phillips's alleged "ongoing failure to use the internal communication processes to

³ Collin College's policy on employee expression mentioned above similarly notes that "[i]n the classroom, teaching faculty members have the freedom to discuss any controversial matter and to voice opinions within areas of their professional competence."

address concerns he has with the organization's policies and protocols after multiple discussions and coaching." The document refers to three incidents:⁴

- In August 2019, the administration issued Professor Phillips an "Employee Coaching Form" after he spoke to the *Washington Post* about issues of race in the Dallas area—an area of his scholarly expertise—following an apparently racially motivated mass shooting by a former Collin College student. Then Associate Dean Streater cited Professor Phillips's failure to follow President Matkin's "directive" to the faculty to refer press inquiries about the incident to the administration.
- In June 2020, then Dean Mary Barnes-Tilley summoned Professor Phillips for "informal coaching" in response to two posts he had made on his personal Facebook account in which he expressed his concerns about the college's plans for returning to campus during the COVID-19 pandemic.
- On August 27, 2021, four days before she signed the recommendation against renewal, Associate Dean O'Quin issued Professor Phillips an "Employee Discipline Form" in response to his social media post questioning Collin College's COVID-19 policies and sharing a photograph he had taken of a PowerPoint slide from Dr. O'Quin's presentation at a division meeting.

In each instance, Professor Phillips was reprimanded for speaking publicly on matters of public concern or the governance of his institution, and he was instructed (per the August 27, 2021, disciplinary form) to raise "future questions, concerns, or differences of opinion" through "internal communication channels, including Associate Dean, Dean, Provost, or otherwise as directed."

The 1940 *Statement* famously declares that when faculty members "speak or write as citizens, they should be free from institutional censorship or discipline."⁵ As the

⁴ Prior to these incidents, in August 2017, the Collin administration also placed a memo in Professor Phillips's personnel file for listing his Collin College affiliation and email address in an open letter he coauthored in the *Dallas Morning News* calling for the removal of Confederate statues in the Dallas area.

⁵ Once again, Collin College policy on employee expression closely follows the 1940 *Statement*:

Outside the classroom, faculty members are free from institutional censorship or discipline for exercising their rights as private citizens to express themselves freely on matters of public

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enclosed statement *On the Relationship of Faculty Governance to Academic Freedom* notes, that protection extends not only to their rights to speak as citizens on matters of public concern but also their rights to speak on “matters having to do with their institutions and its policies.” As that statement also observes, protecting academic freedom on campus requires that faculty speech will be subject to discipline only when it violates some central principle of professional ethics or calls into question the faculty member’s competence to perform their duties. However, that statement concludes,

It is the faculty—not trustees or administrators—who have the experience needed for assessing whether an instance of faculty speech constitutes a breach of a central principle of academic morality, and who have the expertise to form judgments of faculty competence or incompetence. As AAUP case reports have shown, to the extent that such decisions are not in the hands of the faculty, there is potential for, and at times the actuality of, administrative imposition of penalties on improper grounds.

This is the heart of our Association’s concern in Professor Phillips’s case, as in the cases that preceded his. The Collin College administration has terminated the services of faculty members in evident response to speech protected by the academic freedom rights essential for carrying out their professional obligations to discover and disseminate knowledge in service of the common good. In doing so, furthermore, the Collin College administration has not afforded those faculty members the fundamental elements of due process designed to protect these crucial rights. If the Collin administration believes that Professor Phillips’s actions constituted a breach of professional ethics or demonstrated professional incompetence, then we would urge it to follow the AAUP-supported procedural guidelines outlined in our letters by demonstrating adequate cause for dismissal in a hearing before an elected faculty body whose members have the expertise and independence to adjudicate the matter.

The information in our possession about Professor Phillips’s case has come to us primarily from him and from news reports, and we appreciate that you may have

concern, to associate with persons or groups as they so choose, and to participate in political or other kinds of activities.

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additional information that would contribute to our understanding of what has occurred. We would therefore, as always, welcome your comments. Assuming the essential accuracy of what we have recounted above and assuming that Professor Phillips is not reinstated to his appointment or afforded the above-cited due-process protections, the AAUP will incorporate Professor Phillips's case into its investigation of evident grave departures from principles and standards of academic freedom, tenure, and due process at Collin College.⁶

We look forward to your response.

Sincerely,



Mark Criley

Senior Program Officer

Department of Academic Freedom, Tenure, and Governance

Enclosures by email attachment

Cc: Dr. H. Neil Matkin, District President
Mr. Andrew Hardin, Chair, Board of Trustees
Dr. Mary Barnes-Tilley, Campus Provost, Plano Campus
Dr. Kristen Streater, Dean, Department of Academic Affairs, Plano Campus
Dr. Chaelle O'Quin, Associate Dean, Department of Academic Affairs, Plano Campus
Professor Roger Ward, President, Faculty Council
Professor Jeff Blodgett, President, Texas AAUP Conference
Professor Lora Burnett
Professor Suzanne Jones
Professor Michael Phillips

⁶ Shortly after our investigation was announced last May, several complainants decided, on the advice of their attorneys, to defer their participation because of their ongoing legal action against the university. As a result, our executive director temporarily suspended the investigation. One complainant—Professor Heaslip—has withdrawn her complaint, but the investigation of the cases—now including Professor Phillips, as well as Professors Jones and Burnett—will recommence.