

Academic Freedom and Tenure: Garland County Community College (Arkansas)¹

I. Introduction

On May 10, 1995, President Tom Spencer of Garland County Community College (GCCC) informed Ms. Brenda Walker, who was in her tenth year on the faculty as instructor in the radiography program, that he was relieving her of all duties and was recommending to the board of trustees that her appointment not be continued beyond June 30. Dean of Instruction Alan G. Hoffman had notified Ms. Walker on November 29, 1994, that her contract would not be renewed, but she was assured by administrative officers in January that no final decision had been made. On December 2, 1994, Dean Hoffman had notified Ms. Sarah Lawrence, who was in the middle of her first year as clinical instructor in the radiography program, that she would be dismissed effective December 30; she was relieved of her teaching duties effective immediately.

Garland County Community College, located just outside Hot Springs, Arkansas, is a public two-year institution established in 1973 to provide postsecondary educational opportunities to residents of the county and surrounding areas. Current enrollment is approximately 2,300 students. Roughly 44 percent attend full-time; 65 percent are female, 7 percent are minority, and 5 percent are dual-enrolled high school/college students. The average age of graduates is thirty. Because about 80 percent of the students work while attending college, many take advantage of early morning, evening, and weekend classes. During the 1994–95 academic year there were about fifty full-time members of the faculty, four of them in the radiography program (which had approximately twenty students in the first-year class and fifteen in the second-

year). Mr. Timothy Skaife has been director of the radiography program since July 1993. His immediate administrative superior, Ms. Susan Wallace, chair of the Health Sciences Division, assumed office that August. Dr. Spencer took office as GCCC president a year later in September 1994.

GCCC is accredited by the North Central Association of Colleges and Schools, and credit for most programs and courses satisfactorily completed at the college thus can transfer to other colleges and universities. Its radiography program is accredited by the American Medical Association's Joint Review Committee on Education in Radiologic Technology.

According to the *GCCC Catalog*:

The mission of Garland County Community College is to provide quality comprehensive postsecondary educational opportunities including academic, vocational, remediation, economic development and community services for the diverse needs of persons residing in Garland County, and, to a lesser degree, surrounding counties.

It is the mission and scope of Garland County Community College to contribute to the community's intellectual and cultural development, and to provide open access to higher educational opportunities for the residents of Garland County.

The GCCC board of trustees, elected by the voters of the county, has policy providing that all full-time personnel be evaluated annually. An oral presentation is to be made to the board each December, recommending or not recommending renewal of each contract.

II. The Cases of Brenda Walker and Sarah Lawrence

Ms. Brenda Walker received the associate of science degree in radiology technology from Midlands Technical College in South Carolina and the bachelor of arts in sociology from Henderson State University in Arkansas. She worked in various clinical settings before being appointed in 1985 to the GCCC faculty. She was active in the GCCC Faculty Council, serving as its secretary during the 1994–95 academic year.

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 Association's staff, and, as revised, with the concurrence of the investigating committee, was submitted to Committee A on Academic Freedom and Tenure. With the approval of Committee A it was subsequently sent to the faculty members at whose request the inquiry was conducted, to the administration of Garland County Community College, and to other persons concerned in the report. In the light of the responses received and with the editorial assistance of the Association's staff, this final report has been prepared for publication.

Ms. Sarah Lawrence was engaged as clinical instructor in the GCCC radiography program in May 1994. She had received two associate degrees from GCCC in 1985 and a third, that of associate of science in radiologic technology, in 1991. Prior to her appointment to the GCCC faculty, she had been a radiology technologist at the AMI National Park Medical Center in Hot Springs.

Ms. Walker received very good annual evaluations from her division chair and from the dean of instruction for each year through 1993. Student evaluations of her instruction were highly positive until the spring of 1994, and there were no student complaints against her until the summer of 1994. She worked well with the director of the radiography program until that person left in April 1993. She was appointed as interim director. She applied for the position of director, but it went instead to Mr. Timothy Skaife.

Under Mr. Skaife's leadership, Ms. Walker continued to serve as the program's clinical coordinator, a position she had held under the previous director, but she found herself less involved in the management of the program and more with scheduling and maintaining records. In May 1994, Ms. Walker told the division chair, Susan Wallace, that Mr. Skaife had been following her around constantly and had not been passing telephone messages on to her. Ms. Wallace then spoke to Mr. Skaife and, according to Ms. Walker, these problems ended. Ms. Walker subsequently told the undersigned investigating committee, however, that from then on Mr. Skaife would not talk to her when she approached him about problems at the clinical sites. On the other hand, Mr. Skaife told the investigating committee that Ms. Walker had failed to keep him informed. Dean Hoffman stated to the committee that in the late summer or fall of 1994 he told Mr. Skaife that he and Ms. Walker would have to work out their differences because communications problems and personality conflict were insufficient reasons for terminating her services. The deterioration of relations between Mr. Skaife and Ms. Walker had, however, become evident.

As noted above, Ms. Sarah Lawrence had been appointed to the faculty in May 1994. She received a twelve-month contract effective July 1. By late summer and continuing into the fall, there were complaints from students (one of whom brought a lawyer and threatened a lawsuit) against Ms. Lawrence and also Ms. Walker. Student complaints regarding Ms. Walker alleged that she was disorganized and behind schedule, that she overused visual aids, and that she could not answer all of their questions. Student complaints regarding Ms. Lawrence centered on what some characterized as military-like inspections regarding the wearing of jewelry and keeping long hair back at the clinical sites. Students also complained that they were receiving two or more conflicting sets of explanations of what was expected of them. By mid-fall there were also complaints from the clinical site staffs and from the medical director of the program that students were confused about what was expected of them at the clinical sites. In addition, Mr. Skaife complained that Ms. Walker continued to be uncommunicative and was unsupportive of his decisions. In a memorandum dated October 3, he informed the radiography faculty of cri-

teria for evaluation that called on them to "...demonstrate support for the program, program decisions, and program personnel [and] refrain from discussing displeasure with college or program decisions in a public forum."

In early November, the fifteen second-year students requested a meeting to convey dissatisfaction with the performance of Ms. Walker and Ms. Lawrence. Mr. Skaife, Ms. Wallace, and Dean Hoffman attended and listened. They have described the complaints as essentially the same as, but "somewhat more vitriolic" than, those conveyed earlier to Ms. Walker and Ms. Lawrence. They asked the students to put their complaints in writing, and all but a few of them did so. The GCCC administrators did not tell Ms. Walker or Ms. Lawrence of the student complaints made at this meeting, let alone provide either with an opportunity to respond, before taking the actions that are about to be described.

By letter of November 29, 1994, Dean Hoffman informed Ms. Walker that he could not at that time recommend to the president or the board that her contract be renewed. Rather,

the recommendation that will be made at the annual contract hearings will be to monitor your Spring 1995 semester through a specific performance contract...to determine if continued employment is advised.... You seem to be instructionally ineffective while conveying a negative attitude, as well as exhibiting an apparent lack of verbal and nonverbal support for the Radiography Program, program decisions, and the program director.... Also of concern is your perception of your role as clinical coordinator. This responsibility is to be carried out in 100 percent compliance with the program directives, methodology, etc., set by the Program Director, Mr. Skaife.... Substantial improvement in your attitude and behavior is required immediately. The performance contract...will help GCCC officials monitor your progress to determine whether you will be allowed to continue teaching through the Spring 1995 semester, or whether a recommendation will be made for renewal of your employment in fiscal year 1996.

The performance contract required that "students shall be treated with professional courtesy and respect at all times," that "grading criteria" be put in writing and "applied impartially," that students be provided upon request with an explanation for each grade awarded, that Ms. Walker "come to the didactic classes with an organized and prepared presentation," that "primarily self-study instructional approaches...should be avoided," and that she not discuss Mr. Skaife's directives with radiography students or hospital staff. Ms. Walker was further informed that during the spring semester there would be monthly unannounced classroom visitations and evaluations by Mr. Skaife, Ms. Wallace, and Dean Hoffman. Late in the spring Ms. Walker requested copies of the student complaints. The request was denied on grounds that Dean Hoffman had promised confidentiality to the students.

By letter of December 2, Dean Hoffman informed Ms. Lawrence that he would recommend to the GCCC board that her contract be terminated "at the end of the Fall 1994 Semester" and that she was suspended from any further teaching, although her pay would continue through the month of December. He wrote that numerous students had objected to her behavior and that neither Mr. Skaife nor Ms. Wallace had given her favorable evaluations. Ms. Wallace and President Spencer stated to the investigating committee that Ms. Lawrence was dismissed immediately in order to preserve the radiography program. They added that they saw a better chance for Ms. Walker to conform to the requirements of the "performance contract" if Ms. Lawrence was no longer there.

Informed that she had the right to appeal, Ms. Lawrence requested a hearing before the board. She had her choice, under board policy, of an open or a closed hearing. She asked for a closed hearing, which, under the Arkansas Freedom of Information Act, required a meeting in executive session that could not include attorneys or witnesses. Held on December 12, it lasted about thirty minutes. Ms. Lawrence told board members that the student complaints had not been brought to her attention when they occurred and that she had still not seen them. She said that she had followed instructions and tried to do a good job and still did not know what it was that she was supposed to have done wrong. President Spencer, however, stated that she had been counseled twice with regard to deficiencies in her performance. The board voted unanimously to uphold President Spencer's actions in the matter.

In early December, Ms. Lawrence and Ms. Walker sought assistance from the American Association of University Professors. The Association's staff wrote to President Spencer on December 19, expressing concern that Association-supported procedures had not been followed in effecting Ms. Lawrence's dismissal. In Ms. Walker's case, the staff pointed out that her decade of service entitled her under the 1940 *Statement of Principles on Academic Freedom and Tenure* to the protections that accrue with tenure. President Spencer, replying on January 4, 1995, professed GCCC's support for academic freedom while stating that GCCC "has not adopted the AAUP tenure system or its recommended procedures for faculty dismissal." He asserted that the dismissal of Ms. Lawrence had been in compliance with GCCC board policy and Arkansas law. With regard to Ms. Walker, he wrote that "no final action has been taken regarding offering her a new contract for the 1995/96 year" and that appropriate GCCC policies had been and would be followed. Writing to the AAUP staff on January 12, Ms. Walker stated that "it is obvious to me that the hostile environment has accelerated this week to the point where it has affected the student/instructor relationship." The scrutiny "by faculty and students...interferes with my instructional ability."

The January 27 edition of the GCCC student newspaper, *The Laker*, reported that Ms. Lawrence had been dismissed and Ms. Walker was not recommended for reappointment but "has been given a statement of expectations and will be recommended if the

expectations are met by the end of the semester."

During the 1995 spring semester, President Spencer, Dean Hoffman, Ms. Wallace, and Mr. Skaife met in early February and again in early March with Ms. Walker to counsel her on improving her teaching techniques and her interactions with Mr. Skaife and other radiography program staff. Each month Mr. Skaife, Ms. Wallace, and Dean Hoffman visited her classes unannounced and filled out evaluation reports designed especially for this purpose. They reported satisfactory performance in most of the ten listed categories but noted occasional difficulties with using class time as scheduled, summarizing important points at the end of class, clearing up confusion evidenced by student questions, and relying excessively upon slide presentations that the students found boring. Ms. Walker subsequently stated to the investigating committee that the unannounced classroom visitations, and the fact that the students knew her continuance as a faculty member was on the line, reduced her effectiveness as a teacher.

On April 18, Dean Hoffman, concurring in recommendations received from Ms. Wallace and from Mr. Skaife, recommended to President Spencer that Ms. Walker "not be rehired." On May 10, after semester grades had been turned in, President Spencer informed Ms. Walker that he would recommend to the board that her services be terminated upon the expiration of her contract on June 30. "The reasons for this recommendation are instructional ineffectiveness and inadequate communication and cooperation with other program staff and program leadership," he wrote. In order to "avoid interrupting instruction ongoing on June 30," he relieved her of further instructional responsibilities. On May 24 the GCCC board voted approval of the termination.

On June 28 the board heard Ms. Walker's appeal. She had requested an open hearing and thus was able to call witnesses and arrange to be represented by an attorney, but she did neither. Five days before the hearing, she was given copies of the student complaints against her. As shown in a transcript of the hearing, Ms. Walker based her appeal primarily on not having received the six months of notice of termination required by GCCC board policy. She stated that she had nine years of satisfactory service with good student, peer, and administrative evaluations. She said that the copies of the student complaints had come too late for her to respond effectively to them. President Spencer asserted that Ms. Walker's teaching ineffectiveness and her failure to communicate sufficiently with others in the radiography program, especially the program director and staff at the clinical sites, constituted sufficient cause for dismissal. He stated that she had been warned and had been counseled, yet the student complaints against her teaching were, as a full group, the most negative he had ever seen.² The hearing lasted about twenty-five minutes. Then, after deliberating for about ten

² Dean Hoffman and Ms. Wallace subsequently stated to the Association's investigating committee that weakness in teaching was the cause for the action against Ms. Walker, that her problem in communicating effectively with her program director would not in itself have been sufficient cause.

minutes, the board voted to uphold the decision of the previous month to terminate Ms. Walker's appointment as of June 30.

The Association's staff had written to President Spencer on May 25, it wrote again on August 23, and it subsequently talked with him by telephone, emphasizing severe shortcomings in the handling of the Walker and the Lawrence cases and urging corrective action. With no such action forthcoming, the Association's general secretary authorized an investigation, and President Spencer was so informed by letter of November 27, 1995. The undersigned investigating committee visited the campus of GCCC on January 22 and 23, 1996. It received full cooperation from the administration, for which the committee members are most grateful. The committee was able to meet with all of the persons who are named in this report.

III. The Issues

The investigating committee has made no substantive assessment of the competence of Ms. Walker or Ms. Lawrence as teachers at Garland County Community College. Any such assessment should be made, once lack of competence is alleged, by an elected body of faculty peers before whom a hearing of record has been held. There are, however, significant issues of procedure with which the investigating committee is concerned.

A. Tenure and Dismissal Proceedings

1. *The Walker Case.* Ms. Walker was completing her tenth year on the GCCC faculty when action was taken to terminate her services. According to the 1940 *Statement of Principles on Academic Freedom and Tenure*, jointly authored by AAUP and the Association of American Colleges, retention on the faculty beyond the permissible maximum of seven years of probationary service brings with it indefinite tenure and attendant procedural safeguards regarding dismissal for cause. These safeguards, amplified in the complementary joint 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, call for demonstration of adequacy of cause, in a hearing of record before an elected body of faculty peers, prior to any action to dismiss. The applicable GCCC board policy refers to a probationary period of three years, during which time a faculty member's services can be terminated without demonstration of cause. The investigating committee infers from this language that after the three years cause needs to be demonstrated. The board policy further provides opportunity for a hearing before the board prior to a decision on termination.

Upon President Spencer's recommendation, the board of trustees effectively dismissed Ms. Walker, with salary payment to continue for another month, prior to any hearing on the matter. The hearing that occurred did not involve demonstration of cause but was rather in the form of an appeal by the faculty member with rebuttal by the president. It was not a hearing by a faculty committee but rather one by the same body that had approved the dismissal and would now simply uphold its previous action. The

investigating committee finds that in dismissing Ms. Walker the GCCC administration and board of trustees did not afford basic safeguards of academic due process as set forth in the 1940 *Statement of Principles* and the 1958 *Statement on Procedural Standards*.

2. *The Lawrence Case.* The provisions for academic due process in the 1940 *Statement of Principles* and the 1958 *Statement on Procedural Standards* apply not only to dismissal for cause of a faculty member with tenure, but also to dismissal of a faculty member on term appointment before that appointment expires. Ms. Lawrence held a term appointment that was to run through June 1995, and she was dismissed effective at the end of December 1994. Accordingly, under Association-supported standards, she too should have been afforded the aforementioned safeguards of academic due process. She did not receive them, however. As with Ms. Walker, Ms. Lawrence was effectively dismissed without any prior demonstration of cause or opportunity for a faculty hearing.

The investigating committee finds that the GCCC administration and board of trustees acted in disregard of the provisions for academic due process in the 1940 and 1958 *Statements* when dismissing Ms. Lawrence.

B. Suspension

The 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings* allows for suspension before the completion of proceedings "only if immediate harm to the faculty member or others is threatened by the faculty member's continuance." Both Ms. Lawrence and Ms. Walker, upon being notified (respectively on December 2, 1994, and May 10, 1995) by the administration of its intention to dismiss them, were relieved of further teaching duties effective immediately. The GCCC board policy, providing no criteria for suspension from teaching, simply states that "the president may suspend any employee with pay pending termination proceedings by the board of trustees."

Ms. Lawrence was suspended from teaching before the fall semester had concluded and was told that her "remaining assignments will be at the discretion of Mr. Skaife and as needed to put closure on this semester's activities." In Ms. Walker's case, the spring semester had ended and she was told that any further teaching assignment would entail an interruption in ongoing instruction because of the expiration of her contract on June 30.

Withholding a new teaching assignment in Ms. Walker's case does not seem unreasonable to the investigating committee, if one leaves aside the issue of the need for her June 30 departure. In Ms. Lawrence's case, the investigating committee is unaware of anything in the perceived problems with her performance that would rise to the level of "immediate harm." The committee accordingly finds that the GCCC administration acted in disregard of the applicable provision of the 1958 *Statement on Procedural Standards* in suspending Ms. Lawrence from teaching.

C. Severance Salary

1. *The Walker Case.* According to the 1940 *Statement of Principles*

on *Academic Freedom and Tenure*, "teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution." Ms. Walker, then in her tenth year of service, is to be viewed as having had a "continuous appointment" (indefinite tenure) under the 1940 *Statement of Principles*, and no one has suggested that her dismissal involved moral turpitude. The GCCC board policy has no provision for severance salary in the event of dismissal. The policy does call for notice prior to January 1 "if a full-time contractual employee is to be terminated at the end of a contract period for any reason."

The investigating committee considers Ms. Walker's case to be one of dismissal from an appointment carrying indefinite tenure and thus cannot characterize it, as has been done on occasion by the GCCC administration, as merely nonrenewal of the contract that had been issued to her for the 1994–95 academic year. Even if her case were to be viewed as one of nonrenewal of appointment, however, the only written notice that she received prior to the GCCC policy's January 1 date—Dean Hoffman's letter of November 29—was effectively rescinded by the administration's January statements that the final decision would be deferred until the spring, when it would be seen whether there had been improvement in performance. It was only on April 18 that Dean Hoffman sent a *recommendation* for termination of Ms. Walker's services to President Spencer, and it was only on May 10 that President Spencer notified Ms. Walker that he was making such a recommendation to the board of trustees. The board approved that recommendation on May 24, and it upheld its decision to dismiss her after hearing her appeal on June 28. Payment of salary to her ceased on June 30. It can be argued whether the 1940 *Statement's* "notification of dismissal" in her case occurred on May 24 or June 28, and thus whether, with salary payment ceasing as of June 30, the severance salary she received was for five weeks or for two days. In either event, the investigating committee finds, the payment was severely inadequate when measured against the standard of one year enunciated in the 1940 *Statement of Principles*.³

2. *The Lawrence Case.* For faculty members dismissed prior to March 1 in their first year of probationary service, the Association calls, in Regulation 8 of its *Recommended Institutional Regulations on Academic Freedom and Tenure*, for at least three months of notice or terminal salary. On December 2, 1994, Dean Hoffman

³ Commenting on a draft text of this report sent to him prior to publication, President Spencer stated that Ms. Walker knew that in December the board had "adopted a motion which did not reemploy her." Nonetheless, the president recounted, in January Ms. Walker was assured that "the situation was not irretrievable and that if we worked together she might later be recommended for reemployment for 1995–96." According to President Spencer, "it should be to the college's credit that we worked to try to salvage the situation until near the end of the spring term rather than those salvage efforts being interpreted as meaning she had received no earlier notice."

notified Ms. Lawrence, who was in her first year of service, that a recommendation to dismiss her was being presented to the board with payment of salary to cease as of the end of that month. On December 12, after hearing her appeal, the board approved her dismissal with salary to continue through December 31. She thus received less than three weeks of severance salary. The investigating committee accordingly finds that the GCCC administration and board departed significantly from the Association-recommended standard of three months in this regard.

IV. Conclusions

1. In dismissing Ms. Sarah Lawrence and Ms. Brenda Walker, the administration and the board of trustees of Garland County Community College did not afford them basic safeguards of academic due process as called for in the 1940 *Statement of Principles on Academic Freedom and Tenure* and the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.

2. In suspending Ms. Lawrence from teaching, without discernible threat of immediate harm, prior to a hearing and a resulting board decision to dismiss her, the Garland County Community College administration acted in disregard of the applicable provision of the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.

3. The severance salary afforded Ms. Walker and Ms. Lawrence by the Garland County Community College administration and board of trustees was insufficient under the board's stated policy and was seriously inadequate when measured against the applicable provisions respectively of the 1940 *Statement of Principles on Academic Freedom and Tenure* and the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*. This was especially true in the case of Ms. Walker, who received, at best, five weeks of terminal salary after ten years of service.

JUDITH F. GENTRY (History), University of Southwestern Louisiana, *Chair*

DAVID E. ROGERS (English), Valencia Community College

Investigating Committee

Committee A on Academic Freedom and Tenure has by vote authorized publication of this report in *Academe: Bulletin of the AAUP*.

ROBERT M. O'NEIL (Law), University of Virginia, *Chair*

Members: ROBERT A. GORMAN (Law), University of Pennsylvania; MARY W. GRAY (Mathematics), American University; JEFFREY HALPERN (Anthropology), Rider University; THOMAS L. HASKELL (History), Rice University; DENISE TANGUAY HOYER

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