

# ACADEMIC FREEDOM AND TENURE: NICHOLLS STATE UNIVERSITY (LOUISIANA)<sup>1</sup>

## I. Introduction

This report concerns notification by the Nicholls State University administration to Ms. Maureen Watson that it was terminating her services in May 2007, one day prior to the expiration of her twelfth consecutive annual appointment as a full-time faculty member in the Department of Mathematics and Computer Science.

Nicholls State University, a comprehensive, regional institution serving south-central Louisiana, was founded in 1948 as Francis T. Nicholls Junior College of Louisiana State University. In 1956, Nicholls was separated from Louisiana State University by an act of the Louisiana legislature and began operating as Francis T. Nicholls State College. It granted its first bachelor's degrees in 1958. Another act of the state legislature, in 1970, changed the name of the college to Nicholls State University, and in 1974 it joined the newly formed University of Louisiana system. Governed by a fifteen-member board of supervisors and led during the events of concern by system president Dr. Sally Clausen, the university system has seven universities under its authority, in addition to Nicholls State: Grambling State University, Louisiana Tech University, McNeese State University, Northwestern State University, Southeastern Louisiana University, University of Louisiana at Lafayette, and University of Louisiana at Monroe.<sup>2</sup> The eight together enroll over 84,000 students.

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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, the report was subsequently sent to the faculty member at whose request the investigation was conducted, to the administration of Nicholls State University, and to other persons directly concerned in the report. In light of the responses received, and with the editorial assistance of the staff, this final report has been prepared for publication.

2. Dr. Clausen became Louisiana's commissioner of higher education in July 2008.

Named after a Confederate general who served two terms as governor of Louisiana, the institution is located in Thibodaux, the heart of "Cajun Country," approximately fifty miles southwest of New Orleans and sixty miles southeast of Baton Rouge, on a 210-acre campus that was once the site of an antebellum plantation. During the 2007–08 academic year, the university had nearly three hundred full-time instructional faculty. It enrolled approximately 4,900 full-time and 1,200 part-time undergraduate students and 650 graduate students. Ninety-five percent of the student body comes from Louisiana. The university has been accredited by the Southern Association of Colleges and Schools since 1964.

Dr. Stephen T. Hulbert, the institution's fourth president, has served in that capacity since 2003. He has a doctoral degree in education from the State University of New York at Albany. He previously served as chancellor of the University of Montana–Western and as commissioner of higher education under the Rhode Island Board of Governors of Higher Education.

## II. The Case of Ms. Maureen Watson

Ms. Maureen Watson earned her master's degree in applied mathematics from Nicholls State University in 1996, after having completed her undergraduate work there in 1989. She joined the Nicholls faculty in 1995 as a full-time lecturer in the mathematics department and was promoted to the rank of instructor in 1999. Over the years she routinely taught introductory and intermediate mathematics and statistics courses, and was active on several department and university committees.

On May 18, 2007, Ms. Watson was called to a meeting with department head Scott Beslin, who informed her that she would not be offered an appointment for the 2007–08 academic year. According to Ms. Watson, Professor Beslin told her that she was not being retained because of budgetary constraints and a concern expressed in a Southern Association of Colleges and Schools report regarding an excessive number of Nicholls graduates teaching mathematics in the department.<sup>3</sup>

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3. Professor Beslin, in comments on a draft text of this report sent to him prior to publication, stated that he recalled having "said only that perhaps these were reasons."

Seeking confirmation of the reasons for the decision, Ms. Watson wrote to President Hulbert on June 25 to request an explanation. Replying on July 10, the president stated that “[w]ithin the University of Louisiana System, and more specifically, at Nicholls State University, an appointment at the instructor rank carries no obligation for, or promise of[,] renewal”; that the university is not required to provide a reason for nonrenewal; and further, that it is “institutional practice not to provide a reason when appointments are not renewed.” Ms. Watson, knowing that the Nicholls *Policy and Procedure Manual* (Section 2.10.3.3) did not provide for an appeal of non-reappointment for faculty serving under renewable terms, did not seek to appeal.

In discussing her situation with the AAUP staff, Ms. Watson referred to three matters that, she speculated, might have led to the administration’s decision. The first involved a confrontation that spring with a foreign student on an athletic scholarship who refused to stop working on a quiz at the appointed time despite Ms. Watson’s repeated instructions to do so. After she informed the student that he would receive a zero for his failure to comply with her directions, he finally stopped work and placed the quiz on top of the pile of quizzes on her desk. She then tore his quiz in half and placed it back on the pile. He uttered a loud remark, which she did not quite hear, but which she construed as threatening. She had the student removed from the class by the campus police. The incident led to a meeting attended by the student, Ms. Watson, department head Beslin, the academic athletic adviser, and the foreign student liaison, with discussion about whether the student could return to class and had access to an appeals process if denied readmission. The student was ultimately moved to another class, but Ms. Watson reports having remained concerned about a lack of administrative support for her actions. In subsequent correspondence with Association staff, President Hulbert stated that he did not recall the incident as having been a factor in the nonretention of Ms. Watson. The mere fact that the president knew about the incident, and that it occurred earlier that same semester when notification was issued to her, does, however, suggest to the undersigned investigating committee that it brought unfavorable attention at a bad time for Ms. Watson.

A second incident mentioned by Ms. Watson, her declining to sign student attendance forms for the financial aid office in cases where the students had not met her minimum attendance requirement, does not appear to the investigating committee to have played a role in the decision against retaining her.

The third matter mentioned by Ms. Watson, the most compelling to the investigating committee, arose in fall 2006 when department head Beslin informed the mathematics faculty that the administration, because it had become concerned that too many students were failing courses, had compiled information regarding individual instructor pass-failure rates. Of particular interest to the administration were the low pass rates of students taking college algebra and, apparently to a lesser degree, first-year English courses. With limited provisions for exemption, Nicholls undergraduates are required to complete college algebra with a grade of “C” or better as part of the general education core. The administration’s interest in individual pass-failure rates therefore involved a significant number of the mathematics faculty. As this report discusses below, the question of who among the members of the administration actually reviewed this information brought inconsistent responses from the administrators with whom the investigating committee met.

Following the department head’s announcement that individual pass-failure rates had been collected, Ms. Watson recounted frequent discussion of the need to improve student retention; faculty members from both mathematics and English were asked by administrators to attend meetings and workshops to help faculty improve pass rates; and faculty members stated that they began to feel increasing pressure to pass more students in order to improve their course statistics. Faculty members interviewed by the investigating committee said they considered the administration’s approach to the student retention issue during this period to be “threatening” and “intimidating.”

In this period of heightened anxiety about student retention, Ms. Watson reports that department head Beslin began formal peer review, an initiative she recalls his saying was “to protect” the faculty. On a number of occasions, she reports, Professor Beslin reiterated his desire “to protect” the faculty, who became curious as to why they might need his protection. According to Ms. Watson, however, Professor Beslin did not discuss his concerns in any detail with the mathematics faculty.

After a member of the English faculty informed department colleagues that she had received her pass-failure rates in writing from her department head, and, further, that the dean of arts and sciences, Badiollah Asrabadi, had referred to a need to improve pass-failure rates by December 2006, several members of the English and mathematics departments, including Ms. Watson, met with the provost, Carroll Falcon, to seek an explanation for the administration’s aggressive approach to grading practices. At this meeting, Ms. Watson recalls, the provost

reassured faculty that the administration's attention to failure rates was not cause for alarm and that they would not be evaluated for retention on that basis. Her concerns unabated, Ms. Watson accepted the department head's offer to review the administration's data on her pass-failure rates. Ms. Watson reports that her failure rates in college algebra courses were higher than she would have wished but that she felt comfortable that her expectations for her students were appropriate and justifiable. A review of Ms. Watson's final grades for students who completed her college algebra courses in the three academic semesters before the termination of her services, those for which the investigating committee has complete grading records, reveals the average rate of students receiving "F" grades to be 61 percent. (The committee was informed, however, that Nicholls administrators included in faculty pass-failure rates the number of students who withdrew from classes during the term, regardless of whether or not the withdrawals were related to the students' academic performance. When Ms. Watson's final grades for the semesters under consideration above include students who withdrew from her college algebra classes before the end of the term, the recalculated failure rate for the three semesters increases to an average of 81 percent.) The investigating committee understands that Ms. Watson's rate of 61 percent "F" grades for college algebra was matched by a newer member of the department who happened also to be a Nicholls graduate and was also notified of the termination of his services but did not seek the Association's assistance. Faculty members who were interviewed said that the failure rates of the two were the highest in the department. Whether Ms. Watson should be faulted or commended for her grading is an issue to be discussed below.

As will be explained later, the investigating committee met on April 7, 2008, with President Hulbert and jointly with Provost Falcon; Dean Asrabadi; department head Beslin; and the director of human resources, John Ford. It met separately with President Hulbert accompanied by Provost Falcon. The committee was unable to get clear and consistent information from them about whether pass-failure rates of individual instructors had been collected and, if they were collected, who had reviewed them. The administrators who met as a group acknowledged only that the statistics were data that could be gathered from various university offices. President Hulbert, however, stated to the committee that he had "personally" reviewed the pass-failure rates of individual instructors.

According to Ms. Watson and to other mathematics faculty interviewed by the investigating committee, overall student retention in college algebra had declined in

recent years for reasons beyond the control of the faculty. The most significant factor was a decision by the Louisiana Board of Regents to lower the allowed American College Testing (ACT) score to enroll in college algebra from 21 to 18, a score that had previously placed many Nicholls students in remedial courses designed to prepare them for college algebra. Further, faculty members reported that low student class attendance in college algebra courses was widespread at Nicholls and inevitably contributed to low pass rates. Although the Nicholls policy manual states that classroom teachers are to have attendance policies and are to communicate those policies to their students, Ms. Watson reports that, at least in the case of non-tenure-track instructors, mathematics faculty members believed that they did not have the authority to drop students from their courses for nonattendance.<sup>4</sup>

Upon reviewing her pass-failure statistics with her department head in fall 2006, Ms. Watson asked the institutional research department to compile the data on her students' performance in their subsequent mathematics courses, a measure of student achievement showing a high pass rate, which she believed to be a more reliable indicator of teaching effectiveness than the administration's statistics. She shared her findings with Professor Beslin and gave him a copy of the information, at his request. The investigating committee has not learned of any further discussion of the matter between them during that academic year or of any indication from Professor Beslin to Ms. Watson that her position was in jeopardy because of her low student pass rates in college algebra. After receiving notification of termination, Ms. Watson reports, Professor Beslin told her that, at a meeting with the administration to discuss her appointment status prior to her being notified, he had presented the data she had supplied to him. The investigating committee finds it worthy of note that, in taking the data to the meeting, Professor Beslin presumably had reason to believe that the information would be relevant to the discussion of Ms. Watson's future status at Nicholls State University.

Ms. Watson reports that, at the meeting with Professor Beslin in which she was notified of the termination of her service and in subsequent communication with him, she sensed that the decision to release her was upsetting to him and he seemed unlikely to have been responsible for it. She had been both a student

4. The investigating committee has been informed that Nicholls instituted new attendance requirements for all college algebra students in the 2007–08 academic year and that overall retention rates in college algebra have improved as a result.

and colleague of Professor Beslin, she had received faculty ratings of “meritorious” from him in his evaluation of her teaching and service, and they had maintained a consistently cordial relationship over the years. Still, in its meeting with the Nicholls administrators, the investigating committee was told that recommendations concerning faculty retention are made at the department level and that department head Beslin had initiated the recommendation to terminate Ms. Watson’s services. Professor Beslin himself did not deny that he had initiated the action. Ms. Watson’s sense of the matter, however, is supported by the other faculty members interviewed and by a former administrator. They report having been informed by Professor Beslin that he had received a directive from higher administration to dismiss Ms. Watson and that he had had “no recourse” in the matter. Several members of the mathematics faculty report that Professor Beslin told them that he had threatened to resign his position as department head over the administration’s action to terminate her services and was told that his resignation would not result in a reversal of the decision.<sup>5</sup> On the other hand, a former mathematics department head at Nicholls, Professor Don Bardwell, remarked to the investigating committee that, during his twenty-one years as head, the administration outside the department never insisted that he take action against a department member.

### III. The Association’s Involvement

Ms. Watson sought assistance from the American Association of University Professors in June 2007 following the May 18 meeting when she learned from her department head that she was being denied further appointment. After reviewing documents she sent over the course of the summer, the AAUP staff wrote to President Hulbert on September 10, 2007, setting forth concerns about departures from Association-supported standards relating to tenure and due process. The letter noted the provisions of the 1940 *Statement of Principles on Academic Freedom and Tenure* entitling Ms. Watson to the protections of tenure because of the length of her full-time faculty service at Nicholls State. Even if she were not recognized as entitled to the safeguards of tenure, the letter stated, she was entitled under the Association’s *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty*

5. Professor Beslin characterizes these reported remarks by mathematics faculty colleagues as “hearsay,” which “cannot be taken as accurate.”

*Appointments* to a statement of reasons for the decision and to opportunity to appeal. The staff’s letter also addressed the lateness of notice afforded Ms. Watson, finding it especially troublesome that the university’s *Policy and Procedure Manual* “makes no provision for notice to faculty serving on renewable term contracts.” The letter closed by urging that a resolution of the case include severance salary for one year as compensation for lack of notice.

President Hulbert replied with a September 19 letter stating that “Ms. Watson’s employment at the University was at the rank of instructor on a fixed-term appointment. Her appointment letter, which she signed as accepting, specified a beginning and ending date. As such she was not covered by the provisions you cite that would have called for ‘at least a year of notice after two or more years of service at the institution.’” He stated further that the notification was consistent with the policies of Nicholls State University and the board of supervisors for the University of Louisiana system. The staff wrote again to the president on September 27, noting that its concern was not with adherence to the institution’s stated policies but rather with adherence to applicable Association-supported standards. The letter closed by again recommending corrective action.

Upon receiving additional information from Ms. Watson concerning positive evaluations of her professional work, and with regard to newly advertised positions in the mathematics department, the staff wrote again to President Hulbert on November 8. The letter took issue with the purported reasons, budgetary constraints and the many Nicholls graduates teaching mathematics, for the termination decision that Professor Beslin had conveyed orally to Ms. Watson at their meeting on May 18, 2007. The letter stated:

We have also learned of a recent university employment advertisement seeking four new instructors for the mathematics department, and learned that more than half of the current faculty members in the department are Nicholls graduates. In light of the evaluations she received and what was apparently told to Ms. Watson about the reasons for the termination decision, and in the absence of her having had the opportunity to appeal the decision, we question whether there was a legitimate academic reason for the action against her.

In a November 16 reply, President Hulbert reiterated that the administration’s action was consistent with institutional policies. Responding on November 30, the

staff stated that the action against Ms. Watson presented the case of a faculty member who

has been appointed and then reappointed eleven times despite provisions in successive annual letters stating that further appointment is not expected, who has served with favorable assessments of her performance long beyond any reasonable period of probation, and who the next to the last day of her appointment is informed orally that she will not be receiving further appointments.

With Ms. Watson's having by then informed the AAUP staff that she had obtained another position and had no wish to return to Nicholls because of the manner in which she had been treated, the staff's November 30 letter informed the president that provision of a year's salary would be sufficient for the staff to recommend that she accept it as a resolution of her case, although the AAUP's policy concerns would still call for corrective action. It advised him that, absent remedial steps, a formal AAUP investigation would "in all likelihood be authorized." A December 18 response from President Hulbert to the staff's November 20 letter indicated no change in his position.

Following receipt from Ms. Watson of her account of the March 5, 2007, classroom incident involving the foreign student, the staff wrote a January 9, 2008, letter to the president requesting his comments on "whether and to what extent the incident may have been a factor in the [nonreappointment] decision." The letter also pointed out that Ms. Watson, who the staff had learned had been scheduled to teach a summer 2007 course that was subsequently taught by another instructor, should at least be paid what she would have received for the summer course, whatever the outcome of other issues. In a February 6 response the president again reiterated his earlier position, and stated with regard to summer teaching that

it should be noted that faculty members employed on a nine-month academic year basis have no guarantee of summer employment, and final decisions on who teaches a class are made after the classes are determined to be adequately filled. Thus, there was no assurance of summer session employment for Ms. Watson.

As noted earlier in this report, the president stated with respect to the March 2007 classroom incident that he was not aware it "was considered in the nonreappointment decision, but nevertheless, no reason was provided for the action."

A February 22 letter from the staff advised the president that, in the absence of a resolution of the issues of con-

cern, the Association's general secretary had authorized the appointment of an ad hoc investigating committee; the letter provided him with the names of the committee's members. By letter of March 3, the staff proposed April 6 and 7, 2008, as dates for the committee's visit to Thibodaux and expressed hope that the president and other administrative officers would meet with the committee. Provost Falcon responded in a March 14 letter that the president and several other members of the administration would be meeting with them.

On April 6, the investigating committee met separately with Ms. Watson and with former faculty colleagues, and on April 7 it held meetings with President Hulbert and with other members of the administration. The committee is grateful to all parties for the cooperation it received.

#### IV. Issues of Concern

Issues of concern the investigating committee identified include protections for faculty members on renewable term appointments, adequacy of due process, adequacy of notice, and the possible cause of Ms. Watson's dismissal.

##### A. TENURE, THE NONTENURE TRACK, AND "DE FACTO TENURE"

Under Section 2.9.1 of the Nicholls State University *Policy and Procedure Manual*, which incorporates policy of the board of supervisors for the University of Louisiana, only faculty members with the rank of assistant professor or higher can be considered for tenure. Ms. Watson held the rank of instructor and, under the manual's Section 2.9.3.2.2, would not ordinarily be considered for promotion to an assistant professorship because she lacked a terminal degree. Thus, under institution and system rules, Ms. Watson was not deemed eligible for tenure. The 1940 *Statement of Principles on Academic Freedom and Tenure*, however, calls for a maximum period of probation not to exceed seven years of full-time service, irrespective of rank, with service beyond the probationary period constituting permanent or continuous tenure. In amplification of this position, the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure* provide, in Regulation 1b, that, "[w]ith the exception of special appointments clearly limited to a brief association with the institution, . . . all full-time faculty appointments are of two kinds: (1) probationary appointments; (2) appointments with continuous tenure." The Association accordingly asserts that faculty members, upon continuance of full-time service beyond the maximum probationary period, are entitled under the 1940 *Statement* to the protections of academic due process that accrue with tenure.

Ms. Watson, while serving at Nicholls State University as a lecturer and then an instructor, was completing her twelfth year of full-time teaching at the university, well beyond any reasonable period of probation, when she was notified that she would not be retained beyond that academic year. The investigating committee finds that she was entitled under the 1940 *Statement* to the protections of tenure, and that the involuntary termination of her services thus constituted a dismissal for cause.

While the stated Nicholls policies would seem to provide non-tenure-track members of the faculty with abundant reason for feeling vulnerable, the investigating committee in its meetings with them sensed that they felt relatively secure about their careers at the institution, at least until the administration's action against Ms. Watson. Nicholls State University, particularly in the areas of mathematics and English, has long engaged significant numbers of non-tenure-track faculty members to teach general education or other introductory courses. During the academic year in which Ms. Watson received notice of the termination of her services, more than 60 percent of faculty appointments in mathematics were non-tenure-track appointments. According to the faculty members interviewed by the investigating committee, neither the non-tenure-track members nor the others in their department consider their affiliations with the university to be temporary or short term.

Nicholls policy does stipulate that an appointment without tenure "carries no assurance of reappointment" and that "persons on term contracts . . . should not expect reappointment." Those interviewed reported, however, that, until the action against Ms. Watson, term appointees in mathematics and English generally expected their appointments to be renewed. Members of the Department of Mathematics and Computer Science include some who have served continuously for over twenty years on renewable term appointments. Although written contracts, for tenured and probationary as well as for non-tenure-track faculty, are not formally issued until the beginning of the academic year, non-tenure-track faculty members retain their offices over the summer months and typically know in the spring what their teaching schedules for the upcoming fall semester will be. The general Nicholls practice of retaining non-tenure-track faculty for many years, with implicit expectation of annual renewal, is certainly inconsistent with a stated assertion that these appointments are temporary or short term in nature.

#### B. ADEQUACY OF DUE PROCESS

With the investigating committee having found that the action against Ms. Watson was a dismissal for cause of a

faculty member with tenure rights, at issue is the adequacy of the academic due process afforded her. The applicable Association-supported standards are set forth in the 1940 *Statement of Principles* (a joint document of the AAUP and the Association of American Colleges, now the Association of American Colleges and Universities), the complementary joint 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, and, in more detail, in Regulations 5 and 6 of the Association's *Recommended Institutional Regulations*. Basic elements of academic due process required under these procedures are that the administration provides a statement of charges in reasonable particularity and that it bears the burden of demonstrating, in an adjudicative hearing of record before a body of faculty peers, cause for dismissal or other major sanction. The investigating committee finds that the Nicholls administration dismissed Ms. Watson without having afforded academic due process as called for in the 1940 *Statement of Principles* and derivative Association-supported procedural standards.

The provisions on dismissal for cause in the Nicholls *Policy and Procedure Manual* (Section 1.14.3) comport in many respects with the Association-supported standards, but they apply only when seeking to terminate the services of tenured faculty members or "term or probationary contract faculty in mid-contract." The administration, adhering to stated Nicholls policies, considered its action against Ms. Watson to be the non-renewal of a fixed term of appointment. Were the investigating committee to accept this interpretation of Ms. Watson's status, which it does not, applicable procedures would be those included in the Association's *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*. This document entitles the faculty member notified of nonreappointment to a statement of the reasons for the decision upon request and to opportunity for appeal to a faculty body. As was recounted in Section III of this report, Ms. Watson requested the reasons in a letter to President Hulbert, who replied that it was not the university's practice to provide them, and she did not attempt to appeal the notification because the Nicholls *Policy and Procedure Manual* specifies that a nonreappointment "may not be appealed."

#### C. ADEQUACY OF NOTICE

The 1940 *Statement of Principles*, in all cases of dismissal not involving moral turpitude, calls for a year of notice or severance salary. The Association's *Standards for Notice of Nonreappointment*, applicable to all

full-time faculty on renewable term appointments, call for three months of notice for those in their first year, six months for those in their second year, and twelve months thereafter. The Nicholls *Policy and Procedure Manual* is consistent with the AAUP-supported standards regarding notification of faculty members who are probationary for tenure. With regard to instructors on fixed-term appointments, however, the manual specifies that they are not covered by the standards for notice.

Not being required to provide notice, however, need not prevent its being provided. While President Hulbert referred to a long-standing practice against providing reasons for nonreappointment, the professor who headed the mathematics department for over two decades, Don Bardwell, told the investigating committee that four or five cases of nonreappointment occurred during that entire time, some involving faculty members probationary for tenure and some not, and in all these cases a year of notice was afforded. Ms. Watson, however, did not receive the year of notice to which she was entitled under the 1940 *Statement*, derivative AAUP-recommended notice standards, and the Nicholls policies for tenured and for probationary faculty, notice that would be in keeping with past practice in the mathematics department. Rather, on May 18, 2007, one day before her existing appointment expired, her department head revealed to her that the next day would be her last as a Nicholls faculty member. The Nicholls administrative officers, who were not forthcoming in telling the investigating committee who among them initiated the action against Ms. Watson, were equally unforthcoming in providing an explanation of why it took until the end of her appointment to notify her that the appointment was terminal. The investigating committee finds that the notice provided Ms. Watson was egregiously inadequate.

#### D. POSSIBLE CAUSES FOR DISMISSAL

While the investigating committee almost from the outset of its work was strongly inclined to view the administration's cause for dismissing Ms. Watson to be its displeasure with her grading, the committee endeavored to rule out other possibilities.

Ms. Watson has stated that department head Beslin, in notifying her that she was being released, referred to budgetary constraints and an excessive number of Nicholls graduates who were teaching in the department. An advertisement for two full-time mathematics instructors had been placed only a month before she was notified, however, and advertisements for four additional instructor positions in mathematics appeared the following fall. As for the claim that the department had too many

Nicholls graduates, for the following academic year thirteen of twenty-three faculty members teaching in the department had received their undergraduate and graduate degrees from Nicholls, with five of the thirteen having joined the faculty after Ms. Watson began in 1995.

The investigating committee was alert to the possibility that some unrevealed aspects of Ms. Watson's overall performance, her grading aside, might have engendered concern. If so, it was a well-kept secret, because the committee encountered no evidence that anyone in her department or in the Nicholls administration had ever questioned her competence or diligence. Her performance evaluations, conducted annually by the department head and dean during her twelve years of service, consistently received the highest rating, "meritorious." Her former colleagues whom the committee interviewed described her as an excellent instructor who maintained high but reasonable standards for her students. More than one referred to her standards as "admirable," especially in light of the declining preparation of the college algebra students in recent years and the resulting tendency of some teachers to lower their standards. As noted earlier, statistics from the Nicholls office of institutional research show that students who succeeded in her classes had a high rate of success in subsequent mathematics courses.

The unexplained position taken by Ms. Watson's department head and her dean that she was no longer suitable for teaching at Nicholls State University did not deter them from praising her academic performance in letters of recommendation to assist her in continuing her career elsewhere. Department head Beslin wrote that she "genuinely cares whether her students are learning" and is "responsive to the needs of students." Dean Asrabadi described her as "a committed and competent educator." Professor Don Bardwell, the former department head who supervised Ms. Watson's performance during ten of her twelve years on the faculty, described her to the investigating committee as a fine teacher and an exemplary departmental citizen, someone he could not imagine identifying for dismissal. He said he did not know for a fact that her low student pass rate (which was not a consideration in faculty evaluations during his headship) was the reason for dismissing her, but he believed the decision must have been based on a narrow criterion in isolation from her overall record and substantial contributions.

The investigating committee, having considered other possible explanations for the Nicholls administration's decision to dismiss Ms. Watson and having found them implausible, is left with the conclusion (unless and until the administration comes forth with a more convincing

explanation) that the administration dismissed her because of the high percentage of failing grades she assigned to her students in the required college algebra course.

#### E. RAMIFICATIONS OF THE GRADING ISSUE FOR ACADEMIC FREEDOM

The Association's *Statement on Professional Ethics*, in calling upon faculty members "to ensure that their evaluations of students reflect each student's true merit," upholds not only the instructor's right but also his or her responsibility to assign grades that render an honest judgment of the student's academic performance. Committee A on Academic Freedom and Tenure, in its 1997 statement *The Assignment of Course Grades and Student Appeals*, refers to the assessment of student academic performance, resulting in the assignment of particular grades, as a faculty responsibility, with the instructor's authority in the matter "a direct corollary" of the "freedom in the classroom" ensured the instructor in the 1940 *Statement of Principles*. The *Nicholls Policy and Procedure Manual* if anything overstates the instructor's prerogatives in grading students, warning (in Section 2.7.1) that "[f]aculty members are not to be subject to or yield to pressure from anyone concerning grades. Any form of pressure is a violation of academic freedom."

A case report published by Committee A's authorization, "Academic Freedom and Tenure: Benedict College" (*Academe*, January–February 2005), deals with the college administration's dismissal of two professors on grounds of insubordination for having graded students "without adhering to an administration-imposed policy requiring first-year and sophomore students to be graded at least as much for effort as for academic performance." The report observes that those in the academic community who are troubled by grade inflation, far from condemning the two professors who insisted on grading on the basis of academic merit, would doubtless find their insistence admirable.

The dismissal of the Benedict College professors violated their academic freedom and worsened the climate for academic freedom at the institution. The same could be said for dismissing Maureen Watson at Nicholls State University, but with the major difference that at Benedict the professors chose to disregard what to them was an intrusive and ill-advised official administrative policy, while at Nicholls there was no stated policy on grading percentages in college algebra, and Ms. Watson was not accused of anything. If the Nicholls administrators perceived a serious problem with the strict grading by a senior instructor, one might have expected them to talk with her about it and see whether an accommodation could be reached.

The Nicholls administration's efforts to reduce failing grades seem to have been detrimental to the climate for academic freedom by causing faculty members in affected departments to believe that they did not have the right to assign grades based on their own knowledge and judgment. Ms. Watson exercised her own academic freedom by grading as she saw fit, despite the administration's pressure for a reduction in failing grades. Her dismissal, if the investigating committee's conclusion on the matter stands unrebutted by the administration, was therefore in violation of her academic freedom. The investigating committee commends her determination to grade according to her best professional assessment of the merits of student performance.

#### V. Conclusions

1. The administration of Nicholls State University, in dismissing Ms. Maureen Watson from the faculty after twelve years of continuous full-time service that it consistently evaluated as meritorious, denied her the protections of academic due process that accrue with continuous appointment as enunciated in the joint 1940 *Statement of Principles on Academic Freedom and Tenure* and derivative Association-supported policy documents. The administration declined to state cause for the action, or indeed state any reason that would account for it, and it did not afford her any opportunity for a hearing before an elected body of faculty peers or before any other Nicholls person or group.

2. Under the 1940 *Statement of Principles* and derivative Association-supported standards, Ms. Watson should have received at least one year of notice or severance salary. Even faculty members in their first year of service are entitled under these standards to three months of notice of termination or nonrenewal of appointment. The amount of notice the administration gave to Ms. Watson, a mere one day before the expiration of her existing appointment, was deplorably scant.

3. Ms. Watson's twelve years on the Nicholls State University faculty were served under renewable non-tenure-track appointments. The official university policies deny faculty members in this category key procedural protections available to faculty colleagues whose appointments are with tenure or probationary for tenure, such as reasons and opportunity for review in the event of nonreappointment and notice or severance salary if their services are terminated.

4. No plausible reason for the administration's dismissal of Ms. Watson can be ascertained other than its displeasure with her having assigned a large percentage of failing grades to her students in college algebra.



Dismissing her for that reason, assuming the reason remains un rebutted, violated her academic freedom. Her insistence on grading in accordance with her best professional judgment of a student's academic performance warranted not dismissal but commendation.<sup>6</sup>

REBECCA J. WILLIAMS (English),  
University of Central Arkansas, chair

CARL A. VENTRICE, JR. (Physics),  
Texas State University—San Marcos  
*Investigating Committee*

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

Chair: DAVID M. RABBAN (Law), University of Texas  
Members: RONALD M. ATLAS (Biology), University of Louisville; SHELDON KRIMSKY (Biomedical Ethics and Science Policy), Tufts University; SUSAN E. MEISENHELDER (English), California State University, San Bernardino; DAVID MONTGOMERY (History), Yale University; ADOLPH L. REED, JR. (Political Science), University of Pennsylvania; ANDREW T. ROSS (American Studies), New York University; ERNST BENJAMIN (Political Science), AAUP Washington office, ex officio; CARY NELSON (English), University of Illinois at Urbana-Champaign, ex officio; MARTHA S. WEST (Law), University of California, Davis, ex officio; JOAN E. BERTIN (Public Health), Columbia University, consultant; MATTHEW W. FINKIN (Law), University of Illinois at Urbana-Champaign, consultant; ROBERT A. GORMAN (Law), University of Pennsylvania, consultant; JEFFREY R. HALPERN (Anthropology), Rider University, consultant; ROBERT C. POST (Law), Yale University, consultant; LAWRENCE S. POSTON (English), University of Illinois at Chicago, consultant; GREGORY F. SCHOLTZ (English), Wartburg College, liaison from Assembly of State Conferences.

6. In his comments, made with President Hulbert's concurrence, on a prepublication text of this report, Provost Falcon reiterated that under Nicholls State and University of Louisiana system policies, full-time faculty members who are neither tenured nor probationary for tenure, regardless of how many years they have served, are not entitled to advance notice of nonretention, reasons for nonretention, or opportunity for appeal.

## Appendix

### THE CASE OF ASSISTANT PROFESSOR ANNE M. PARR

After the draft report from the investigating committee on the Watson case had been submitted to Committee A, Professor Parr brought her case to the Association's attention. With a bachelor's degree from Nicholls State University, thirteen years of experience teaching nutrition and food courses in Louisiana high schools, and then a master's degree from Louisiana State University, she began in 2003 on the Nicholls faculty, teaching in the university's Chef John Folse Culinary Institute.

The dean of the culinary institute abruptly left office in May 2006, and Provost Falcon appointed Professor Parr to the position of assistant dean while she continued with her teaching duties. A department colleague, whom she supported, was named acting dean. During the 2006–07 academic year, an international search for a permanent dean was conducted, with Professor Parr serving on the search committee. The committee provided the administration with the names of three finalists, but two of them proved to be unavailable. In October 2007, President Hulbert named Dr. Alton F. Doody to the position on an interim basis. According to Provost Falcon, the appointment had the search committee's support. Dean Doody, who is reported as owning or having owned several business enterprises in New Orleans, including restaurants, had not been an applicant for the deanship. He had at one time been a professor and program director at Ohio State University.

Early on, Dean Doody informed the culinary institute faculty, most of them industrial chefs by training, of plans he had to open an upscale restaurant on the premises of Thibodaux's Bayou Country Club that would provide a "hands-on experience" for students. Professor Parr reports the dean as having said that culinary institute faculty members would be in charge of the cooking and baking and would have an opportunity to become co-owners or partners. Students would work in the kitchen and wait on tables as part of their class requirements. Certain equipment belonging to the culinary institute could be used as well for restaurant purposes, and these items thus would not have to be purchased. Once word of Dean Doody's plans reached them, local restaurant owners, unsurprisingly, were reported as being far from enthusiastic about the prospect of competition from a new restaurant in the country club with the pricing advantages that would come from the state university's heavy support.

The culinary institute faculty was divided over whether to support the dean's venture, and Professor

Parr was prominent among the opponents. Because she was a board member of the Louisiana Restaurant Association's Bayou Region, she informed the dean that his project was presenting a conflict of interest for her and she did not wish to be involved with it until such time as it gained the support of the local restaurant owners. That spring, in her capacity as assistant dean, she filed the annual institute inventory report with the university's purchasing office, this time specifying missing items, and her information was forwarded to the audit director for the University of Louisiana system. She also complained about misuse of institute facilities, double payment to some faculty members, and a faculty member's failure to disclose outside employment. These allegations led to a May 14 meeting with Provost Falcon, at which she provided detailed oral accounts about Dean Doody's activities. President Hulbert later stated to the Association's staff that every allegation by Professor Parr was sent to the university's internal auditor for formal review.

As late as May 8, 2008, Dean Doody stated to Professor Parr in an e-mail, "[Y]ou are a valuable and hard working member of our group." He followed with two quite different letters, each dated May 19. The first informed her that her position as assistant dean was being discontinued and her committee assignments were being assumed by others. The second notified her that her teaching appointment would not be extended beyond the 2008–09 academic year. A memorandum dated May 21 from Provost Falcon informed her that the notice of nonreappointment had been issued on May 19 in order to comply with the University of Louisiana system requirement of one year of notice but the decision against reappointment "does not mean that the allegations expressed by you about Dr. Doody will be overlooked. You may be assured that each of these allegations and concerns will be fully addressed."

Professor Parr filed a grievance on July 14, stating that she was complaining against "retaliatory termination for following proper inventory reporting protocol despite contrary instructions from dean; gender discrimination; cronyism." The grievance committee met promptly on the matter, and it was prompt in formulating its report, which it submitted to President Hulbert. As of the end of July, the report was on the president's desk, with the president away but his return expected shortly.

The Association's staff wrote to President Hulbert about the Parr case on July 17, referring to Professor Parr's allegations of inappropriate and impermissible activities. "If Professor Parr's allegations remain unre-

butted and the decision against reappointment is not rescinded," the staff wrote, "it seems to us that a very serious issue of academic freedom becomes evident." The staff expressed keen interest in how the case would proceed with the grievance committee and said that meanwhile it would welcome any comments the president might wish to offer. President Hulbert, replying by letter of August 20, stated that the internal auditor's review of Professor Parr's allegations had continued to completion and that the result was being forwarded to the Audit Committee of the University of Louisiana system board of supervisors for final disposition. He made no mention of any response to the July report submitted to him by the faculty grievance committee. On August 26, however, President Hulbert wrote to Professor Parr that he had "exchanged correspondence" with the faculty grievance committee chair on the matter and the committee would send her a formal response. An August 27 memorandum, signed by the five committee members, informed Professor Parr of its decision that the issue of termination fell beyond the institution's official scope of grievance and therefore the faculty grievance committee had no jurisdiction in the matter and could not address it. ☞