

COLLEGE AND UNIVERSITY GOVERNANCE: UNIVERSITY OF AKRON

The report of the investigating committee concerns actions by the governing board and administration of the University of Akron to terminate the appointments of ninety-seven full-time faculty members, in July 2020, after invoking the “force majeure” provision in the collective bargaining agreement and thus nullifying the reduction-in-force provisions in the collective bargaining agreement, a decision later upheld in arbitration.

While the investigating committee did not contest the administration’s adherence to the collective bargaining agreement or the legality of the decision to invoke force majeure, it reiterated the AAUP’s long-standing opposition to “force majeure,” “act of God,” “extraordinary circumstances,” and similar escape-clause provisions in faculty handbooks and collective bargaining agreements as unnecessary and pernicious. The investigating committee noted that such provisions, when invoked, obviate AAUP-supported principles and standards by permitting a governing board and administration facing a real or ostensible financial emergency to nullify any existing policies that involve the faculty in decision-making during a layoff and that protect academic freedom, tenure, and due process.

The committee found that the governing board and administration, by invoking force majeure and terminating the appointments of almost one hundred full-time faculty members, disregarded the governance standards set forth in the *Statement on Government of College and Universities* and provisions of Regulation 4c of the *Recommended Institutional Regulations on Academic Freedom and Tenure*: no elected faculty governance body participated in the decision that led to the decision to terminate faculty appointments; the faculty did not have an opportunity to make a written assessment of the institution’s financial condition; the faculty did not participate in deciding whether, and if so where, appointment terminations would occur; faculty members in affected programs were not provided at least thirty days to respond to notice that their programs were to be discontinued; affected faculty members were not afforded a faculty hearing to contest the terminations; the administration did not take tenured status into account in choosing appointments for termination; the administration did not make every effort to find other suitable positions within the university for affected faculty members; and the administration did not provide affected faculty members with severance salary.

In response to the AAUP staff’s request for comment on the draft text of this report, the UA administration and Akron-AAUP submitted a joint letter announcing “significant developments at the University of Akron” that, the letter states, “bear on the contents” of this report.

The first development was the ratification of a new six-year collective bargaining agreement between the chapter and the administration. However, as the investigating committee’s report notes, the new collective bargaining agreement, while removing the phrase “such as force majeure” from its retrenchment article, retains the rest of the language, which permits the administration—when the board and administration deem circumstances to be “catastrophic”—to set aside the CBA’s already weak provisions governing termination of appointments because of financial exigency.

The second development was the successful negotiation of a Memorandum of Understanding (MOU) between the chapter and administration on shared governance. “We believe,” the joint letter concludes, that “this MOU represents a good faith effort to set the University on the right course, . . . which we believe can only be achieved through meaningful shared governance.”

The MOU includes procedures designed to ensure that Akron-AAUP is regularly provided with the same financial information provided to the board of trustees; that the faculty senate, through its Program Review Committee, plays a significant role in decisions on resource allocation to existing and new academic programs; that the faculty in academic units subject to reorganization will be allowed to vote on proposals for such changes; and that these proposals are subject to further review and action by the senate’s Academic Policies Committee and the entire faculty senate.

In the light of these stated improvements in conditions for academic governance at the University of Akron, attested to by the UA administration and by Akron-AAUP, the Committee on College and University Governance makes no recommendation to the AAUP’s governing Council regarding the imposition of a sanction on the institution. However, the committee remains deeply concerned about the continued presence in the collective-bargaining agreement of language equivalent to the technically deleted “force majeure.”