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SUMMER 2019

BULLETIN

of the American Association of University Professors



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BULLETIN

OF THE AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS

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Academic Freedom and Tenure: St. Edward's University (Texas)¹

(OCTOBER 2018)

On January 9, 2018, Dr. Shannan Butler and Dr. Corinne Weisgerber, each a tenured associate professor with nearly twelve years of service at St. Edward's University, were summoned to a meeting with two administrators. To their surprise, they were handed letters when they arrived. Since their behavior, the letters alleged, "reflect[ed] a continued disrespect and disregard for the mission and goals of the university," their "employment [was] being terminated." They were immediately escorted from campus.

One month earlier, Dr. Katie E. Peterson, a tenure-track assistant professor in her fifth year of service to SEU, received a nonreappointment letter—to her surprise. It read in part: "In accord with St. Edward's current efforts to 'right size' the University, the current enrollment trends in the Teacher Education Program make it imperative that we reduce the number of faculty in Teacher Education. . . . I regret to inform you that you will not be reappointed for 2018–19. Your position as Assistant Professor of Reading in the School of Education will conclude May 18, 2018."

This report concerns the actions taken by the St. Edward's administration against Professors Butler, Weisgerber, and Peterson.

I. The Institution

St. Edward's University is a private, four-year institution affiliated with the Roman Catholic Church that traces its beginnings to 1877, when the Congregation of Holy Cross, an order of French missionaries, founded St. Edward's Academy on farmland south of Austin, Texas. St. Edward's received its charter as a college in 1885 and as a university in 1925, first began enrolling female students in 1966, and became fully coeducational in 1970. The university's accreditor is the Southern Association of Colleges and Schools Commission on Colleges. According to the National Center for Education Statistics, in fall 2017 SEU enrolled 4,447 students, all but 506 of them undergraduates; there were 192 full-time and 263 part-time faculty members. In its mission statement, St. Edward's describes itself as "an independent Catholic university that welcomes qualified students of all ages, backgrounds, and beliefs."

The institution's president, its twenty-third, is Dr. George E. Martin, who has been in office since 1999. Previously, Dr. Martin was vice president for academic affairs at what is now Saint Peter's University in New Jersey. During most of the period covered in this report, Sister Donna M. Jurick served as the institution's executive vice president and interim vice president for academic affairs. This position was one of several administrative posts held by Sister Donna during her thirty years at St. Edward's, beginning in 1988 when she was initially appointed vice president for academic affairs. Prior to her tenure at SEU, she had been president of what is now Trinity Washington University in Washington, DC. Sister Donna officially retired from St. Edward's on June 30, 2018, and was succeeded as chief academic officer

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 staff and, as revised with the concurrence of the 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 members at whose request the investigation was conducted, the administration and governing board of St. Edward's University, and other persons directly concerned. The final report has been prepared for publication in light of the responses received and with the editorial assistance of the staff.

by Dr. J. Andrew Prall, previously vice president for academic affairs at the University of Saint Francis in Indiana, whose new position as SEU provost began on July 1. An administrative officer who played a central role in the case of Professors Butler and Weisgerber was Dr. Sharon Nell, dean of the School of Humanities since 2012. The interim chair of the Department of Communication at the time of the action against Professors Butler and Weisgerber was Dr. Nell's associate dean, Dr. Richard Bautch, a professor of religious studies. The administrative officer playing a central role in the case of Professor Peterson was Dr. Glenda Ballard, who became dean of the School of Human Development and Education in fall 2016.

II. The Case of Professor Butler and Professor Weisgerber

The following sections present key facts regarding the action taken against Professors Butler and Weisgerber and their response to that action.

A. The Termination Letters

Professor Shannan Butler and Professor Corinne Weisgerber, a married couple, each of whom had earned a PhD in communication arts and sciences at Pennsylvania State University, joined the Department of Communication at St. Edward's University in 2006, became associate professors in 2012, and received tenure in 2013. According to all available information, during their eleven and a half years of service to the institution, they had become highly regarded members of the faculty, with exemplary records of teaching, scholarship, and service.

On January 9, 2018, Professors Butler and Weisgerber were summoned to a meeting with Sister Donna and Ms. Kimberly Van Savage, the human resources director, and handed virtually identical letters signed by Sister Donna notifying them that their "employment with the university is being terminated" for "just cause." As grounds for the action, the letters charged the two professors with "behavior toward . . . colleagues, department chair, and dean" that "reflects a continued disrespect and disregard for the mission and goals of the university," a basis for dismissal listed in section 2.8.4 ("Dismissal for Cause") of the St. Edward's University faculty manual.

According to the termination letters, the precipitating event occurred a month earlier, at a December 8, 2017, department meeting, at which, the letters stated, the two professors conducted themselves "in an unprofessional, intimidating, and bullying way

towards [their] colleagues and department leadership." The letters construed the incident as follows (quoting from the version addressed to Professor Weisgerber):

Toward the end of what had initially been a productive meeting, you began to question the future of the department, a topic that was not on the agenda. When Interim Chair Richard Bautch responded to the question, you and Dr. Butler singled out one person, the Interim Chair, in a discriminatory manner and attacked his personal judgement. When the Interim Chair asked you and Dr. Butler to return to the agenda, you disputed that you were singling him out or treating him unfairly. Even when other faculty members expressed support for the Interim Chair, you persisted and disregarded Dr. Bautch's request that you stop attempting to intimidate him.

The letters stated that, after the interim chair adjourned the "out of control" meeting, both professors remained in the room and "persisted in attempting to intimidate Dr. [Teri Lynn] Varner," the previous interim chair. The letters went on to say that department members who had left the meeting "heard shouting coming from the room," an indication of an alleged "unwillingness" on the part of the two professors "to engage colleagues in a productive manner."

The conduct displayed at the December 8 department meeting, the letters continued, was "neither an isolated incident [n]or [a] moment of indiscretion"; it was "instead . . . the latest instance in a continuing string of unprofessional and disruptive behavior dating back over a number of years" demonstrating "a continued disrespect and disregard for the mission and goals of the university."

As a "summary of the evidence," the letters cited purported prior examples of Professor Butler's and Professor Weisgerber's behavior over a one-and-a-half-year period that constituted this alleged "continuing string of unprofessional and disruptive behavior." In May 2016, the letters asserted, the two professors "launched an attack" on the decision to appoint Dr. Varner interim chair instead of Professor Butler. Without providing specific detail, the letters characterized the alleged attack as "including efforts which constituted harassment, bullying, and attempts at intimidation." The letters further asserted that at this juncture Professors Butler and Weisgerber "stopped participating as collegial members" of the department

and “began a campaign of disruption and disrespect for university decisions.”

On September 23, 2016, the letters stated, Dean Nell met with Professors Butler and Weisgerber to “address [their] behavior” in response to Professor Varner’s appointment as interim chair. To quote the letters, “Dean Nell clearly identified your behaviors, which were inconsistent with the university’s standards and expectations, and directed you to change your behavior and move forward in a manner that was respectful of university decisions and mission.”

In August 2017, according to the letters, Dean Nell placed into Professor Butler’s and Professor Weisgerber’s personnel files a letter concerning their allegedly “disruptive and unprofessional behavior.” This action, the letters charged, was taken in response to the two professors’ “efforts to disrupt, intimidate, and interfere with the Department’s meetings and activities through the 2016–17 academic year.”

The last examples of “unprofessional and disruptive behavior” alleged in both letters were “personal attacks against Dr. Bautch” during March and November 2017 department meetings and further instances of unspecified objectionable conduct by both professors toward Professor Varner at an April 2017 meeting, which, the letters stated, had to be “adjourned prematurely” because of Professor Butler’s and Professor Weisgerber’s “disruptive behavior.”

There are only a few differences between the two letters. Professor Butler, not Professor Weisgerber, was portrayed as having expressed an interest in becoming department chair and was charged with having “raised [his] voice” and “used profanity” in addressing Dean Nell during the September 23, 2016, meeting. Professor Butler’s letter contained a unique paragraph alleging that at the December 8 department meeting, he “repeatedly referred” to his membership on the Faculty Evaluation Committee (FEC) in a way that implied he “would or could use” that role “for personal retribution.” “Any inference [*sic*] that you or Dr. Weisberger would act in a retaliatory manner toward colleagues through your service on a body such as the FEC,” the letter admonished, “is entirely improper and undermines the integrity of the faculty review process.” And only Professor Weisgerber was accused of raising unwanted questions “about the future of the department” at the December 8 meeting.

After outlining these examples of alleged misconduct, the letters provided this summary: “It is the expectation of all faculty and staff at St. Edward’s to conduct themselves in a civil, collegial manner toward

colleagues. You have not fulfilled that expectation. Your behavior constitutes a pattern of intimidation, harassment, and bullying. This behavior is not acceptable, and you have been counseled repeatedly to correct this behavior. You have failed to make any meaningful changes, and your deliberate tactics derail meetings and their agendas, making collegial, fruitful, and productive meetings impossible with your participation.” In closing, the letters informed Professors Butler and Weisgerber of their right to appeal the termination of their appointments under provisions set out in section 2.8.8 (“Appeal of Separation Decisions”) of the faculty manual. As their appointments had already been terminated, the letters further specified, they were immediately suspended with pay and banned from campus until the appeal process concluded. If they chose not to appeal, the “termination[s] w[ould] become effectively immediately.” Professors Butler and Weisgerber report that Sister Donna and Ms. Van Savage declined to discuss the content of the letters with them, stating that the two faculty members would need to address the charges through the appeal process. Following the meeting, a campus security officer confiscated their keys and escorted them to their car.

B. Professor Butler’s and Professor Weisgerber’s Appeal Documents

On January 29, in accordance with the provisions of section 2.8.8 of the faculty manual, both faculty members submitted lengthy appeal documents to the president and an “ad hoc Faculty Review Committee.” These documents, which for obvious reasons had much in common, attempted to meet the burden of demonstrating that the action against them resulted from “unlawful bias, arbitrary or capricious decision-making, or a violation of procedures” in the faculty manual.

Their first line of argument was that the termination action violated four sections of the faculty manual: section 2.5.6.2, which describes the institution’s post-tenure review process; section 2.8.4, which lists the grounds for dismissal, including the grounds asserted in their case, “continued disregard for the mission and goals of the university”; section 2.9.2, which incorporates the AAUP’s 1940 *Statement of Principles on Academic Freedom and Tenure*; and section 2.5.4.5, which contains a procedure for annual faculty evaluation.

The action violated section 2.5.6.2 because, they stated, that section requires that “a tenured faculty

member be given a performance improvement plan and two years to correct any deficiencies before termination is considered." Professors Butler and Weisgerber argued that they were afforded no such procedure and in fact had received no prior warning of their dismissals.

They argued that the terminations violated section 2.8.4 because "the termination letter does not offer specifics" related to the stated grounds for dismissal: conduct manifesting "continued disregard for the mission and goals of the university."

The terminations violated section 2.9.2, they asserted, because the 1940 *Statement* "encompasses" AAUP-supported standards of academic due process governing dismissal, which they summarize as "(1) a statement of charges in reasonable particularity; (2) opportunity for a hearing before a faculty hearing body; (3) the right of counsel if desired; (4) the right to present evidence and to cross-examine; (5) record of the hearing; and (6) opportunity to appeal to the governing board." They contended that when Dean Nell charged them with misconduct at the September 2016 meeting (also attended by Dr. Bautch), they received no answer when Professor Weisgerber "directly asked both Dean Nell and Dr. Bautch for any example of [their] behavior that would constitute bullying, harassment, or intimidation." They also stated that for "more than a year" following that meeting, the two professors "sought clarification on these allegations," reaching out for assistance to Dr. Bautch, Ms. Van Savage, and Sister Donna, but "were never given an explanation or specific examples of these allegations." By "failing to make a statement of charges in reasonable particularity," the administration, they asserted, violated the due-process rights implied in section 2.9.2. The administration also violated this section, they contended, because it failed to afford them a faculty hearing and because it dismissed them based on a charge not "related, directly and substantially," to their "fitness . . . in their professional capacities as teachers or researchers," citing the AAUP standard set out in Regulation 5a of the *Recommended Institutional Regulations on Academic Freedom and Tenure*. As evidence of the latter alleged violation, they claimed that, during the January 9 termination meeting, Sister Donna had "made it clear . . . that no one was calling into question [their] performance as teachers or researchers."

The terminations violated section 2.5.4.5, they argued, because on August 31, 2017, a month after their 2016–17 annual performance reviews were

completed, Dean Nell inserted a page of new material into Professor Butler's and Professor Weisgerber's reviews (which were part of their personnel files) without notifying the two faculty members of those insertions, which they discovered only by accident. The page contained a version of the statements Dean Nell had read to them during the September 23, 2016, meeting at which she first charged them with bullying, harassing, and intimidating Professor Varner, the interim chair. Adding this material to their annual performance reviews, they argued, violated this section of the policy manual because (1) no evaluation by the dean is required in the second year of a three-year cycle and (2) the policy "requires the dean's evaluation to 'be forwarded to the faculty member.'"

The second line of argument employed in their appeal documents was that the entire action against them was arbitrary and capricious because it was not based on a "thorough investigation." Such an investigation would have found, they asserted, a record of "positive performance reviews" that contradict the charges made in the termination letter and would have revealed that most of the charges alleged in the termination letter were "unfounded, general, and vague."

With respect to performance reviews, both appeal documents cited the fact that, during their eleven and a half years of service at St. Edward's University, neither of them had received a negative performance review by their chairs or been charged with "unprofessional behavior in any formal periodic reviews." Additionally, they argued, during the period in which they were supposedly harassing, bullying, and intimidating their interim chair, Professor Varner, her department chair reviews consistently rated them highly in the category of service, which explicitly includes the criterion of collegiality.

With regard to the allegations in the termination letter, both appeal documents provided an extensive point-by-point rebuttal, with exhaustive documentation.

To cite a few examples, they stated that the claim that they had been "counseled repeatedly to correct [their] behavior is simply untrue." They related that when they were called into the dean's office on September 23, 2016, along with Associate Dean Bautch, Dean Nell read to them a prepared statement, which they wrote down as follows:

We are meeting to talk about issues in the department of communications. The first thing I want to talk about is the department chair nomination

survey from last spring. I don't want to hear any more about this. The survey is over. There is no secret about the survey, no conspiracy. It was decided we would include full-time faculty and non-tenure-track faculty in the survey because we wanted their perspective. The chair approved it, I approved it, the VPAA approved it. Dr. Varner will be interim chair. An external chair will be hired. No one owes you an explanation or apology for the way this was conducted. End of story. I don't want to hear anything else about this. The chair nomination survey has been alluded to as an election. It was not an election. It was a nomination.

At SEU we treat each other respectfully. You are to immediately cease actions in person or in writing that attempt to harass, intimidate, and bully Dr. Varner. If harassment, intimidation, and bullying continue, a letter will be placed in your permanent file.

Afterward, they reported, there was "no conversation." When asked to provide specific examples of the alleged behavior, the dean, they wrote, "simply said that she could not discuss it at that time." According to their accounts, the two faculty members reached out to human resources officers and Sister Donna after the meeting to ask for clarification of these charges against them but were unable to obtain it. They stated that this meeting was the only one that took place regarding these allegations and that they "never had another conversation with Dean Nell or any other administration officer regarding any unprofessional behavior."

The charge that they had bullied, harassed, and intimidated Professor Varner, they claimed, was "unfounded and untrue," and they documented several examples of their efforts to assist and encourage their former chair—from supporting her tenure bid to sharing their course materials for her use—as well as of their collegial relations throughout most of their time together at St. Edward's.

To the charge that both professors made "verbal attacks on Dr. Bautch" by "asking a question in a discriminatory manner" during the December 8, 2017, department meeting, they gave the following account of what happened (quoting Professor Weisgerber): "My colleagues present at that meeting can attest that I simply asked Dr. Bautch the following question: 'Do you think it is a good idea to put our department on pause for five years?'" (According to the minutes of

a March 31, 2017, department meeting, Dean Nell had informed the department's faculty that she would continue to keep the academic program review and other ongoing planning activities "on pause" until a permanent chair was hired, a decision originally imposed in 2013.) "I was concerned," she continued, "about the direction of our department and thought my question was professional in nature and substance. In no way could my question have been construed as a 'verbal attack.' Even so, Dr. Bautch thought the question was 'personal' so I immediately apologized to Dr. Bautch. . . . Outside that conversation, Dr. Bautch and I maintained a collegial conversation during that meeting, and I was never otherwise counseled about my behavior at that meeting. . . . The allegation that I made 'verbal attacks on Dr. Bautch' is untrue." As to the "shouting" heard coming from the room after the meeting, Professors Butler and Weisgerber stated that they had remained to ask Professor Varner to explain how she thought they had bullied, harassed, and intimidated her in spring 2016, an explanation they said they had been seeking for a year and a half. They received an explanation—Professor Weisgerber had sent "too many emails"—and acknowledged that there was shouting, but noted that they were not the shouters.

To the general charge of a lack of collegiality, Professors Butler and Weisgerber provided documents and letters of support from colleagues that "speak to [their] collegiality and active support and exemplification of all areas of the University mission."

Professor Butler emphatically denied the specific allegation that at the December 8, 2017, department meeting he "repeatedly referred" to his membership on the Faculty Evaluation Committee to suggest that he "would or could use" his membership "for personal retribution." He wrote, "Of all of the untruths, half-truths, and insinuations in what has been purported as a letter of termination for cause, this one truly does upset me. This single paragraph is a microcosm of this entire termination letter. The events described in this paragraph did not occur—would not occur—they are so foreign to me as to be laughable if they did not attempt to cause so much harm." What he claimed he had actually said at the December 8 meeting was that the communication faculty was ill served by letters from the school's personnel committee because they did not adequately explain to the university's Faculty Evaluation Committee how best to understand communication faculty members' creative work and publications. But "to insinuate in any way

that I would use my position as a form of retribution or in a retaliatory manner is absolutely untrue and extremely defamatory.”²

A final example of the many rebuttals in their appeal documents was the response to the termination letter's allegation that Professor Butler, in the September 23, 2016, meeting with Dean Nell, “raised [his] voice” and “used profanity.” Professor Butler wrote, “I was rattled and anxious from Dean Nell's baseless accusations and it made my finger shaky as I pointed at her. I did raise my voice a bit and said, . . . ‘This shit has got to stop.’” He continued, “Yes, I should have said ‘balderdash’ or something more creative, but I didn’t. Corinne and I were being intimidated and bullied and it needed to stop. . . . I wish I hadn’t said it, but I was being accused of harassment, bullying, and intimidation, and I think my choice of terms could have been a lot worse.”

C. Appeal to the Governing Board

On March 28, Professors Butler and Weisgerber received letters from President Martin, dated two days earlier, notifying them that the Faculty Review Committee, the membership of which has never been revealed to the appellants, had “found that ‘the university fulfilled its duty in reaching the decision [to terminate their appointments], following the procedures as outlined in the Faculty Manual’ and recommended ‘that the decision to terminate for cause be upheld.’”³ “I concur with the ad hoc Faculty Review

Committee's findings,” the president wrote. “Therefore, your appeal is denied.”

On April 30, pursuant to section 2.8.8.2 of the faculty manual, which provides that “[t]enured faculty may request a review of the president's decision by the Institutional Oversight and Academic Affairs Committee of the Board of Trustees,” Professors Butler and Weisgerber submitted a fourteen-page appeal document to that body. The document argued that the decision to terminate their appointments “violate[d] St. Edward's policies, the professors' contracts, minimum standards for protecting tenure rights, and the University's mission as a top liberal arts college.” It attempted to demonstrate that the “professors have earned their place as valued and tenured members” of the faculty, that “the charges against them are vague and unfounded,” and that the university had “denied [them] due process.” With respect to due process, it relied heavily on AAUP policy documents and the letters written by the AAUP's staff. It repeated the arguments made by Professors Butler and Weisgerber in their appeal documents regarding the university's having violated its own policies in taking action against them. It also contended that the “university violated due process” by treating the two professors as a couple. “Instead of evaluating the allegations against Professor Butler and Professor Weisgerber individually,” the document states, “the University has evaluated them as a couple. This kind of collective adjudication violates even the most basic understanding of due process.”

May 14 brought the news that the Institutional Oversight and Academic Affairs Committee had found as follows: “[T]he termination of your employment and appeal of the decision followed the procedures required by the Faculty Manual, and the decision to terminate your employment for just cause was not arbitrary or capricious, nor was the denial of your appeal of these decisions. Therefore, we affirm the decision of the President to uphold the termination of your employment.” “Under the terms of the Faculty Manual,” concluded committee chair Dr. Margaret E. Crahan, “the decision of this Committee is final.”

III. The Case of Professor Peterson

In their communications with the AAUP's staff, Professors Butler and Weisgerber had referred to other SEU faculty members whose situations might have

2. The undersigned committee learned in the course of its investigation that human resources office staff interviewed only a few members of the department regarding what transpired at the December 8 meeting.

3. The investigating committee asked multiple interviewees about the three members of the Faculty Review Committee. No one could name a single member. In writing to the president of the faculty senate afterward, the committee chair asked the following: “Your July 30 letter also describes the process by which the Senate Executive Committee, under your leadership, selected two of the three members of the Faculty Review Committee that considered Professor Butler's and Professor Weisgerber's appeals. At the time of this writing, the membership of the Faculty Review Committee remains unknown to the investigating committee as well as to Professors Butler and Weisgerber. Could you provide us with the names of the faculty who served, and inform us of the chair of the committee? *We do not intend to contact any of them; we simply wish to complete the factual record*” (emphasis added). The senate chair declined to divulge the committee's membership, explaining that she had “committed to keeping these names confidential and to protecting the anonymity of the two committee members we selected.” It is worth noting that there is no provision in the faculty

manual requiring confidentiality or anonymity regarding the Faculty Review Committee's membership.

implicated AAUP principles and standards, including several who they said had been involuntarily separated from service. One such faculty member was Professor Peterson, who first sought the advice and assistance of the staff on May 9.

As noted in the introduction to this report, Professor Peterson was a tenure-track assistant professor in her fifth year of service in the School of Human Development and Education when she received a letter dated December 11, 2017, from Sister Donna notifying her that her “position as Assistant Professor of Reading in the School of Education will conclude May 18, 2018.”

In a conversation with the AAUP's staff, Professor Peterson said that her five years at St. Edward's had been “turbulent,” especially since 2015, when she had filed a complaint with the human resources department about the behavior of an associate dean in the School of Human Development and Education who she claimed had subjected her and other female faculty members to what she called “weird pseudo-sexual comments.” Although the administration had taken some action to curb his behavior, she said that it did not cease until he left the university in the 2017–18 academic year, requiring her to file additional complaints. She said that the new dean, Dr. Ballard, had made disparaging comments to her about her complaints and that led her to believe that the dean perceived her as a troublemaker and therefore a candidate for nonrenewal.

She also said that, despite the administration's invocation of financial constraints, all full-time faculty members received 2 percent across-the-board raises in the 2017–18 academic year; that enrollment in her classes had been good; and that, in fact, the courses normally assigned to her were being taught by others in fall 2018. She further informed the staff that she had originally been scheduled to stand for tenure in the 2017–18 academic year (pursuant to the university's tenure policy) but that the dean had prevented her from doing so.

The AAUP's staff informed Professor Peterson that, under AAUP-recommended standards, a tenure-track professor notified of nonrenewal in the fifth year of appointment was entitled to written reasons for the decision, the opportunity to appeal the decision to an elected faculty body, and at least a year of notice. The final two of the six AAUP letters to the SEU administration regarding the case of Professors Butler and Weisgerber introduced the case of Professor Peterson as an additional matter of Association concern.

IV. The Association's Involvement

The AAUP's staff wrote President Martin on February 1, 2018, to communicate the AAUP's concerns in the case of Professors Butler and Weisgerber. The staff's letter summarized what the AAUP considers to be the basic elements of academic due process. The staff's letter also conveyed specific concerns regarding issues of academic freedom evidently posed by the case, stressing that academic freedom, as widely understood in American higher education, included the right to express dissenting and critical views regarding one's institution, its policies, and its administration. In closing, the letter urged the immediate rescission of the action against the two faculty members, adding that if the administration still intended to effect their dismissals, it should afford them the AAUP-recommended procedures outlined in the staff's letter, noting that the faculty manual's silence regarding a particular procedure was not tantamount to its prohibition.

In a two-sentence reply of February 12, President Martin informed the staff that the administration would be following the procedures set down in the faculty manual. Responding on February 27, the AAUP's staff emphasized that those procedures were “severely deficient relative to normative standards of academic due process” and again summarized for the president the basic elements of that process. After pointing out that the president's letter did not dispute the facts as presented in the staff's initial letter, the staff again urged the administration to afford the two professors hearing procedures that comported with widely accepted academic standards governing dismissal for cause.

On April 13, having learned that the Faculty Review Committee had sustained the administration's decision to terminate Professor Butler's and Professor Weisgerber's appointments and that the only recourse left to them was an appeal to the governing board, the AAUP's staff addressed a letter to Mr. Graham “Hughes” Abell, chair of the board of trustees. After enumerating the serious procedural deficiencies that had marred the appeal process, the staff urged the board to afford Professors Butler and Weisgerber a hearing consistent with Regulation 6 (“Action by the Governing Board”) of the *Recommended Institutional Regulations on Academic Freedom and Tenure*. In such a hearing they would “be presented with specific charges, could hear the specific evidence against them, [could] confront their accusers, and [could] rebut the charges.” The burden of demonstrating adequate

cause, the staff further urged, should rest with the administration. The staff's letter concluded, "Given the severity of the departures from AAUP-supported standards thus far evident in this case and the apparent implications for academic freedom, the AAUP's staff would be strongly inclined to recommend . . . formal investigation, absent a resolution that reasonably comports with normative academic standards. In the meantime, we would be more than willing to assist in achieving such a resolution."

Having heard nothing further from the administration or the governing board and having learned of the May 14 decision of the board's Institutional Oversight and Academic Affairs Committee to sustain the dismissals, the AAUP's staff wrote President Martin on May 30 to inform him that the AAUP's executive director had authorized this investigation. The letter also informed the president that the investigating committee would be inquiring into the case of Professor Peterson, who, the letter stated, "has advised us that she received notice on December 11 of the nonrenewal of her appointment and was afforded no opportunity to contest the decision with a faculty review body."

This letter elicited a June 12 email reply from President Martin stating that the university's dismissal policy "was proposed by the St. Edward's University faculty, approved by the university's Board of Trustees, and included in the university's *Faculty Manual* in 1989." The process, he added, is "fair," "includes independent review by a faculty committee," "comports with principles of shared governance," and, "of course, . . . honors the policy on Academic Freedom included in [the] *Faculty Manual*." In its June 13 response, the AAUP's staff emphasized the Association's long-standing practice of opposing the imposition of policies and procedures that disregard Association standards, regardless of the degree of faculty involvement in their adoption.

With regard to the president's assertion that the institution honors principles of academic freedom, the staff wrote, "Our investigating committee will doubtless wish to hear more from you on that subject." After informing the president of the names of the members of the investigating committee and the dates of the investigation, the staff's letter closed by noting that the morning of the first day of the committee's visit had been set aside for a meeting with the administration.

Responding on July 3, President Martin wrote, "On behalf of the University, I must respectfully

decline your request to meet with administrative officers of the University." Reiterating the points made in his previous letter, he stated that the staff's response "discounted the relevance of the University's standards and system of shared governance to the AAUP investigation." "In light of your position," he concluded, "and the fact that the University does not consider it appropriate to discuss individual employment matters, I do not believe a meeting would be fruitful." In its reply of July 10, the Association's staff urged President Martin to reconsider, stressing that the "investigating committee will wish to hear from [him] and [his] administrative colleagues in person" regarding his stated position that the actions against the three professors comported with principles of academic freedom and shared governance. President Martin did not respond.

During its visit to Austin on August 3 and 4, the undersigned committee interviewed fifteen current and former SEU faculty members. Prior to its visit, the committee had received unsolicited letters regarding the cases from three St. Edward's faculty members. Subsequent to its visit, the committee chair, acting on behalf of the committee, contacted ten additional individuals, including seven administrative officers, by email to invite them to provide answers to specific questions that emerged during the interviews as well as to submit "any [general] statement" they "might wish to make" regarding the cases of Professors Butler, Weisgerber, and Peterson. Ms. Van Savage did not respond. Mr. Abell, Sister Donna, Dr. Ballard, Dr. Nell, and Dr. Bautch each acknowledged receipt of the chair's message but declined to answer any questions. The only substantive responses came from President Martin, the faculty senate president, and two of Professor Peterson's colleagues in the School of Human Development and Education.

V. The Issues of Concern

The sections that follow address procedural and substantive issues in the case of Professors Butler and Weisgerber, procedural and substantive issues in the case of Professor Peterson, academic freedom concerns in the cases of all three professors, the climate for academic freedom, and the climate for academic governance.

A. Procedural and Substantive Concerns in the Case of Professors Butler and Weisgerber

Under AAUP-recommended standards, a tenured faculty member can be dismissed for cause only

following an adjudicative hearing of record before a duly constituted faculty body in which the burden of demonstrating adequate cause rests with the administration. These procedural standards are set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure*, the complementary 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, and, more elaborately, in Regulations 5 and 6 of the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure*. Among these standards the following are the most basic:

- Adequate cause for a dismissal will be related, directly and substantially, to the fitness of faculty members in their professional capacities as teachers or researchers.
- A dismissal . . . will be preceded by a statement of charges, and the individual concerned will have the right to be heard initially by the elected faculty hearing committee.
- During the proceedings the faculty member will be permitted to have an academic adviser and counsel of the faculty member's choice.
- A verbatim record of the hearing or hearings will be taken, and a copy will be made available to the faculty member.
- The burden of proof that adequate cause exists rests with the institution and will be satisfied only by clear and convincing evidence in the record considered as a whole.
- The faculty member and the administration will have the right to confront and cross-examine all witnesses.
- If dismissal or other severe sanction is recommended, . . . the governing board . . . will provide opportunity for argument, written or oral or both, by the principals at the hearing or by their representatives.

In his correspondence with the AAUP's staff and the investigating committee, President Martin has never asserted that his administration afforded Professors Butler and Weisgerber these procedural rights. He has instead insisted on the appropriateness of following the dismissal policy in the institution's faculty manual. That policy, however, is highly deficient relative to the above-cited standards, as the AAUP's staff repeatedly pointed out to him. Instead of affording faculty members a hearing prior to dismissal, the SEU dismissal policy allows for faculty members to be dismissed without any procedure and, if they wish, to file an appeal of their already effective

dismissals. Instead of assigning the responsibility for demonstrating adequate cause for dismissal to the administration, the appeal process requires faculty members to assume the burden of proving that the action against them involved "unlawful bias, arbitrary or capricious decision-making or a violation of procedures required by this Faculty Manual," a high bar indeed to have to surpass. Instead of a faculty-elected body conducting a hearing, an "ad hoc Faculty Review Committee" formed in part by the president reviews the written appeals. The faculty manual is silent on such key standards as the necessity of relating cause to professional fitness, the requirement of a specific statement of charges, and the right to call and confront witnesses.

In an email message to the chair of this investigating committee, President Martin defended the reliance on the institution's severely inadequate dismissal policy as follows: "As I have stated in earlier correspondence with [the AAUP's staff], the decisions regarding Professors Shannan Butler, Corrine Weisgerber, and Katie Peterson accord with the policies of the St. Edward's faculty manual. The policies are fair, long-standing (since 1989), originated as a proposal of the Faculty Senate approved by the Board of Trustees, and comport with the principles of shared governance."

With respect to the president's assertion that the policies in question were in part the product of faculty governance, the investigating committee would point out that whether the AAUP intervenes in a case depends entirely on whether the actions evident in the case depart from core Association-supported principles and standards. That the institution's faculty may have, for whatever reasons, been complicit in the adoption of policies and procedures that disregard those principles and standards is unfortunate but largely irrelevant. As noted in the 1980 report of an investigation at Olivet College,

the Association, with its longstanding interest in the implementation of a widely accepted body of academic common law, does not refrain from interest in a particular case merely because a faculty, when it has been effectively denied free choice or when it has taken a perhaps mistaken or narrowly prudential view of its own immediate welfare, has acquiesced in the imposition of policies and procedures which do not conform to Association standards. The Association does not acquiesce in the internal procedures of

an institution when those procedures contravene Association standards. Nor, indeed, is the Association's primary obligation to the interests of the affected faculty member. Its responsibility lies first and foremost in the defense of standards of academic freedom and tenure which it has been chiefly responsible for promulgating over half a century, a period in which those standards have been incorporated into the regulations and prevailing practices of colleges and universities across the country.

In addition to rejecting the notion that faculty participation in formulating policies should inoculate those policies against AAUP intervention, the investigating committee rejects the president's assertion that the decisions to dismiss Professors Butler and Weisgerber "accord with the policies of the St. Edward's *Faculty Manual*." We base this conclusion on the evidence from Professor Butler's and Professor Weisgerber's appeal documents presented earlier in this report. To repeat one example, neither Professor Butler nor Professor Weisgerber was "given a performance improvement plan and two years to correct any deficiencies before termination is considered," as is required for tenured faculty members under section 2.5.6.2 of the faculty manual. To repeat another, Dean Nell's insertion of a page of new material into Professor Butler's and Professor Weisgerber's reviews, without the knowledge of the faculty members, violated section 2.5.4.5 of the faculty manual requiring the dean's evaluation to "be forwarded to the faculty member."

The committee also rejects President Martin's characterization of the university's processes and policies as "fair," since they enabled the following to take place: two tenured faculty members were, without warning, summarily removed from their positions and banned from campus; the unsubstantiated allegations against them were leveled in writing by the provost, who was not in attendance at any of the meetings referenced in the letters; the faculty members were not afforded academic advisers or counsel, did not have the right to confront or cross-examine witnesses, and bore the burden of proving that adequate cause did not exist; no record of the Faculty Review Committee, the membership of which remains a secret, was made available to them (or, to the investigating committee's knowledge, actually exists); and, ultimately, the faculty members were summarily dismissed for reasons entirely unrelated to their fitness as teachers and

researchers. This process cannot, by any measure, be characterized as "fair."

In light of the foregoing analysis, which is based on the voluminous information cited in previous sections of this report—including the two professors' detailed and comprehensive appeal documents—the investigating committee concludes that the administration violated multiple university policies in dismissing Professors Butler and Weisgerber. The committee, furthermore, concurs in the professors' criticisms of the process. Neither of them was afforded even the full extent of the severely deficient procedural protections required by the faculty manual, let alone those recommended by the AAUP. In the absence of a single piece of firsthand evidence in support of any of the claims made against them in their termination letters—including the allegation that they manifested antagonism toward the university's mission—the committee finds that Professors Butler and Weisgerber were treated arbitrarily and capriciously. It further judges the administration's stated grounds for the faculty members' dismissal to be grossly inadequate, especially in view of the professors' claim that Sister Donna told them, in the termination meeting, that "no one was calling into question [their] performance as teachers or researchers." Finally, and most relevant to the purpose of this investigation, the action against Professors Butler and Weisgerber flagrantly disregarded the procedural standards set forth in the 1940 *Statement of Principles* and derivative AAUP documents.

B. Procedural and Substantive Concerns in the Case of Professor Peterson

AAUP-supported standards governing procedures related to the nonrenewal of tenure-track appointments are set forth in Regulations 2c, 2e, 2f, 2g, and 10 of the *Recommended Institutional Regulations*. Under Regulation 2c, full-time faculty members in their fifth year of service (as Professor Peterson was) are entitled to twelve months of notice—in other words, a "terminal year" in which to seek another appointment. Regulations 2e and 2f specify that faculty members notified of the nonrenewal of their appointments "will be informed of that decision in writing by the body or individual making the decision" and will have the right to a written statement of the reasons for the decision, if requested. Regulation 2g affords affected faculty members the right to ask an elected faculty committee to review the nonrenewal decision if the faculty members allege that it

resulted from a lack of “adequate consideration.”⁴ Under Regulation 10, if faculty members allege that the nonrenewal decision was based on considerations that violated their academic freedom, they are entitled to review by an elected faculty body, and, if they can make a prima facie case of an academic freedom violation, to an adjudicative proceeding before a faculty hearing body, in which the burden of proof rests with those who made the nonrenewal decision.

The relevant provisions in section 2.8.3 (“Non-reappointment of Probationary Faculty”) of the SEU faculty manual are terribly inadequate compared to these standards. For one, they made it possible for Professor Peterson to be notified of her nonrenewal merely five months before her position would “conclude,” rather than to be afforded the terminal year to which she was entitled under AAUP-supported standards. In addition, they do not require an explanation—in writing or otherwise—of the reasons for a nonrenewal decision in cases involving faculty members with fewer than five years of service to the university. Finally, the appeal option afforded tenure-track faculty members is the same as that afforded tenured faculty members, with the single difference that, in cases of nonreappointment, there can be no further appeal to the governing board. In other words, at St. Edward's a probationary faculty member notified of nonreappointment has only two rights: to a simple written notice of nonrenewal and to an appeal (through the president) to a three-person ad hoc Faculty Review Committee, one member of which is appointed by the president.

Because the university's policies are so deficient in relation to AAUP-recommended standards, it gives the committee no comfort that the administration adhered to them in its action against Professor Peterson. To the contrary, the committee finds it deeply troubling that a tenure-track faculty member at SEU can be afforded even fewer procedural rights than what Professor Peterson was afforded, in that nothing in the faculty

manual stipulates that she had to be given the reasons for her nonrenewal. Under SEU's remarkably inadequate procedures, tenure-track faculty members come awfully close, in the committee's judgment, to being at-will employees.

The reason Professor Peterson was in fact given for her nonreappointment also raises substantive concerns about her case. As noted earlier, Professor Peterson's notice of nonrenewal cited “current efforts to ‘right size’ the university,” and she informed the AAUP's staff that, in the meeting in which she was handed her nonrenewal letter, she was told by Sister Donna that “financial exigency” was the reason for her nonrenewal. Yet the nonrenewal letter cites the action as having been made pursuant to section 2.8.3 of the faculty manual (“Non-reappointment of Probationary Faculty”) and does not cite the university's financial exigency policy (section 2.8.7.2). As far as the committee is aware, the governing board had not declared that the university was in a condition of financial exigency, nor had the administration followed any of the other steps outlined in the faculty manual that are supposed to precede terminations and nonrenewals because of financial exigency, much less the policies and procedures recommended by the AAUP in Regulation 4c (Financial Exigency) of the *Recommended Institutional Regulations*.

C. Academic Freedom Concerns in the Cases of All Three Professors

In light of the foregoing analysis, the committee is left to wonder about the real reasons not only for Professor Peterson's nonrenewal but also for the dismissals of Professor Butler and Professor Weisgerber. The available evidence immediately points to at least one common element among the cases: the three faculty members' criticism of administrative decisions and actions.

One interviewee confirmed this characteristic of Professors Butler and Weisgerber: “They're seen as squeaky wheels—first in line to complain when things are bad.” This person quickly added, “But that's no reason to get rid of faculty, especially tenured faculty.” The committee concurs. As the Association's 1994 statement *On the Relationship of Faculty Governance to Academic Freedom* points out, “[T]he academic freedom of faculty members includes the freedom to express their views (1) on academic matters in the classroom and in the conduct of research, (2) *on matters having to do with their institution and its policies*, and (3) on issues of public interest generally, and to

4. According to the AAUP's *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*, adequate consideration in a reappointment or tenure review “refers essentially to procedural rather than substantive issues: Was the decision conscientiously arrived at? Was all available evidence bearing on the relevant performance of the candidate sought out and considered? Was there adequate deliberation by the department over the import of the evidence in light of the relevant standards? Were irrelevant and improper standards excluded from consideration? Was the decision a bona fide exercise of professional academic judgment?”

do so even if their views are in conflict with one or another received wisdom" (emphasis added).

The investigating committee concludes, based on the totality of the evidence, that what the administration deemed "misconduct" on the part of Professors Butler and Weisgerber was nothing more than persistent and conscientious questioning of administrative decisions. The language in their dismissal letters is revelatory: the two professors' "manner . . . was disrespectful of university decisions," they conducted "a campaign of disruption and disrespect for university decisions," and their administrative superiors had directed them to "move forward in a manner which was respectful of university decisions." From the committee's perspective, "university" appears to have been synonymous with "administration."

An interviewee stated the following: "When you have faculty members who are strong and will ask a question at a meeting, not attacking, but just asking why we're doing something, those are the folks I've seen leave [the institution]." Although this person was not describing Professors Butler and Weisgerber, the committee believes the description fits them. The available evidence forces us to the conclusion that, in direct contravention of Regulation 5, the dismissals of Professors Butler and Weisgerber were "used to restrain [these] faculty members in their exercise of academic freedom," specifically on matters having to do with the university and its policies.

In addition, the available evidence indicates that Professor Peterson's nonrenewal was used as a means to the same end. As already indicated, Professor Peterson questioned the reason provided for her nonreappointment. In a May 11 email message to the AAUP's staff, she provided the following chronology to support her belief that other unacknowledged factors may have played a role:

October 2015: The associate dean made inappropriate comments about my body in front of the chair at the time. He also gave me a lollipop and leered at me as I unwrapped it and put it in my mouth. On another occasion he offered me candy and said, "You can have some of my sugar any time." The incidents involving me sparked an HR investigation where several other women came forward. HR informed me that they told the associate dean not to hand out candy any more.

Spring 2016: The associate dean requested to be placed on the School Committee, which was an organization in the School of Education charged

with evaluating faculty files. I asked that he be removed from that committee, which he was.

Two Weeks Later: I found that all faculty in the School of Ed. had lollipops taped to notes that said "Happy Teacher Appreciation Day." I received one of two notes that was printed in color and noted that the lollipop in my box was the only one that was wet (had been unwrapped and re-wrapped—was oozing sticky goop). I have pictures of all of this. After this the associate dean was removed from his position and his office was moved across campus. However, he still taught in the same building as I and continued to use proximity threats and bullying techniques to threaten and intimidate me, including sitting outside of my office waiting to go into HR when there was an open waiting area inside. This continued until he retired in Spring 2017.

In the fall of 2016 the new dean [Dr. Ballard] started. The former associate dean took her to lunch. Dean Ballard reported later to me that over lunch he had explained that he was "not a bad guy" and that she had told him that "little girls" from this generation didn't have to deal with that kind of behavior. But she generally dismissed the idea that there was even an issue.

May 2017: I asked my dean to sign paperwork so that I could go up for tenure and promotion.

August 2017: My dean told me that she'd lost the paperwork and "dropped the ball" and that I could go up the following year.

Fall of 2017: The dean gave me a lower rating than what was deserved on my performance evaluation. She later admitted that she was wrong about the score, but said that she'd "prayed about it" and that she wasn't going to change it.

Also, Fall 2017: The dean rehired the former associate dean to do administrative work in an admin's office while she was out of the office. In that role, he had access to keys and files. I requested that he not be allowed back into that kind of role.

December 2017: I was told that my contract wouldn't be renewed due to financial exigency with no right to appeal.

The investigating committee confirmed this chronology of events, both in person with Professor Peterson and through a thorough review of relevant

documentation, including email messages, screen shots, and pictures.

The timeline above suggests a *prima facie* case that the decision not to renew Professor Peterson's appointment was based on considerations that violated her academic freedom. Specifically, the committee deems it credible that Professor Peterson's resistance to alleged harassment on the part of an associate dean led Dean Ballard to perceive her as a troublemaker and therefore a candidate for removal. Professor Peterson's colleagues in the School of Human Development and Education—one of whom witnessed the associate dean's inappropriate conduct—confirmed this view. One informed the committee, "I do think the dean's deteriorated relationship with Dr. Peterson made it far easier to take the easiest way out in terms of reducing faculty size—fire her based on seniority/probationary status."

D. Climate for Academic Freedom and Tenure

According to faculty sources, the climate for academic freedom at St. Edward's has been deteriorating for a number of years and now appears to be at its lowest point. It is characterized, above all else, by fear.

One longtime faculty member volunteered the following as we settled in for the interview: "I was scared to come here today. When I got out of the car in the parking lot, I literally looked over my shoulders to see who might see me."⁵ Fear was a disturbingly common theme during the committee's interviews. When asked about the climate for academic freedom at SEU, Professor Peterson, for example, replied without hesitation: "Fear. If you go to HR it's like a death sentence. Fear. And just anger. People are angry about what happened. People came up to me all spring and they were angry. And they said, 'Message received.'" Later in the interview, she said, "I think everybody's afraid of President Martin, and I think everybody was afraid of [Sister] Donna."

Another longtime faculty member, when asked about the climate for academic freedom at SEU, offered this: "It's become phenomenally more problematic. I have been shocked at the actual, real fear that has been manifested even by long-standing faculty over the last five years. I would say the last five years have seen a noticeable decline [in the climate for academic freedom]." This person added that there

is a "palpable" feeling of "menace" on campus, "in terms of anything an administrator might perceive as criticism of the university." Another veteran faculty member took a longer view of the problematic climate for academic freedom: "The poor climate predates me. Today, in this room, is the first time this university has been held to account in twenty-five years. Period. That's the level of fear and intimidation at this school."

The expression of fear became so common that the members of the committee began asking interviewees whether they felt safe in meeting with us. One long-serving faculty member answered indirectly: "I have an exit strategy. I want to be around for five more years and then retire. After what happened to Corinne and Shannan, I was terrified. . . . I'm so sick and tired of the whole hypocrisy of being at a university whose mission is social justice. This has been going on for a long time."

In an attempt to probe further into the conditions for academic freedom at SEU, the committee explored with interviewees the meaning of tenure at the university. Here, the responses were also uniform. One faculty member put it plainly: "Tenure is a joke. It's a joke. It really is." Multiple interviewees asserted that "tenure doesn't mean anything" at St. Edward's.

This apparently widespread belief is likely the reason no one volunteered the view that the security of tenure at SEU had been weakened by the summary dismissals of two tenured faculty members. Tenure at SEU—such as it is—evidently did not mean much before Professors Butler and Weisgerber were dismissed. One faculty member explained why: "Functionally, you can continue working at SEU in a faculty position without going up for tenure, so it doesn't have the force of necessity if you want to maintain your position that it does at most other universities. So, in that sense maybe the effect of [tenure] is a little weaker than it would be elsewhere." As another interviewee explained, SEU lacks an "up or out" system in which a faculty member, after a probationary period, is either granted tenure or receives a terminal appointment. This person said, "Tenure is not tenure at SEU. Tenure is not up or out. It's voluntary; it's basically a promotion between associate and full professor. It doesn't come with the guarantees of tenure, like the academic freedom component [or] the extra bar for having to give reasons for dismissal . . . [T]he only thing [tenure] affords you is a bump in pay—a pretty small one. It's not the tenure in the Redbook for sure." Another interviewee explained

5. It is worth noting that the interviews were held off campus in a hotel conference room.

that Sister Donna often remarked to faculty members that St. Edward's has a "de facto system" of tenure. In light of the circumstances of Professor Butler's and Professor Weisgerber's summary dismissals, the committee questions the existence even of de facto tenure at the university, let alone a tenure system consistent with the 1940 *Statement of Principles on Academic Freedom and Tenure*.

The security of tenure is all the more important at an institution like St. Edward's, which interviewees described as having a "toxic" or "hostile" environment. Regrettably, the university's virtually nonexistent tenure system does not provide such security. The result is an abysmal climate for the exercise of academic freedom, particularly in the course of participation in institutional governance.

E. Climate for Faculty Governance

Measured against the principles set forth in the AAUP's *Statement on Government of Colleges and Universities*, the current climate for faculty governance at St. Edward's is dreadful. Several faculty members provided the committee with historical context. One put it this way: "This used to be a faculty-governed university. It is not anymore. The faculty senate is a shadow of what it was thirty years ago." Another asserted that "faculty governance is captive to the administration," adding that "long-standing senior faculty feel the heat of the administration on their back." A third faculty member simply told the committee: "There's no shared governance. None. Nada." A fourth explained that "SEU is a command and control organization. It goes from the board on down. Faculty governance plays a 5 percent role—*de minimis*." The very real result of this common perception is that fewer and fewer faculty members are involved in governance. As an interviewee said, "I just put my head down and do my job."

One faculty member offered to the committee that "shared governance is not so much shared anymore. It's more top-down. And it's partly faculty's fault. The senate is very weak." Regarding the role of the senate, or "collegium," specifically, another faculty member reported that "the collegium is totally captive to [the] administration." Yet another, when asked about the reputation of the senate, said, "It doesn't enjoy a whole lot of respect and never did from the administration." A current member of the senate observed that "we're supposed to represent the faculty's interest. We haven't discussed anything of substance regarding due process at all. [We're told by the administration,]

'No, we can't talk about that [because] it's confidential.' It's this culture of conformity, compliance, just go along to get along." This interviewee also pointed out that the senate executive committee is under no obligation to inform the senate of the membership of the Faculty Review Committee—an example, in this person's view, of a lack of accountability on the part of the faculty's elected leaders. A former president of the senate also expressed frustration over the relationship between the senate and the administration: "We'd pass a lot of stuff unanimously in the senate and it would go up [to the administration] and then disappear. No answers."

A faculty senate that is weak—either in perception or in reality—is not the only factor that has evidently contributed to the erosion of faculty governance at St. Edward's. The school deans represent another. Like many other small private colleges and universities, SEU has seen a shift over the last several decades from academic deans who came from the faculty to deans who were hired from another institution. One longtime faculty member explained that SEU's deans "arrived with little knowledge of the institution, little if any allegiance to the faculty, and little willingness to stay the course." Another asserted that "new deans were hired to clean house and get rid of any faculty members who questioned decisions, questioned authority, stood up to the new rules of faculty participation." The result, this person continued, was that "we've dropped like flies." The high degree of turnover among the academic deans has wreaked havoc on faculty governance. One faculty member with whom we spoke had participated in nine dean searches and described the situation over the last decade as "longevity at the top [with President Martin and Sister Donna] and musical chairs below." The "inevitable result," this person went on, is "constant turmoil."

Faculty members interviewed by the investigating committee reported that senior-level administrators and the governing board have also been impediments to faculty governance, at least since 2013. The committee learned of unilateral program and school closures by the administration, unexplained vetoes of faculty senate legislation, and dismissals of faculty members other than the three who are the subject of this report, all during the last five years. The president, according to all the people with whom we spoke about him, is "disconnected" from the faculty, to use a term we heard repeatedly. Our interviewees were unanimous in the perception that President Martin left his chief academic officers

to “run the show.” When asked about the relationship between the president and the faculty, another interviewee said, “There’s a gap. It’s a distance. [President Martin] is very remote. I’ve never seen a college president more remote from the faculty than George. He’s on the surface very friendly, very affable, but questions have to be written in advance, and he has to approve them.” The latter observation was in reference to President Martin’s once-a-year visit with the faculty, before which questions need to be submitted to him and approved by him; many interviewees pointed to this particular practice as both inconsistent with traditional shared governance at SEU and insulting to the faculty.

It was clear to the committee that St. Edward’s, like so many other small institutions, has seen a great deal of structural and cultural change over a relatively short period of time. Equally clear was that much of the change has been driven by the administration and that a large segment of the faculty feels that its voice has not mattered. The administration’s recent actions against three respected and dedicated faculty members have only made the relationship between the administration and the faculty significantly worse, for they further alienated the faculty from the institution so many of them told the committee they “used to love.” As one faculty member lamented, “This place has lost its soul, and I feel like I’m losing mine.”

VI. Conclusions

1. In dismissing Professor Butler and Professor Weisgerber, the administration of St. Edward’s University violated basic tenets of the joint 1940 *Statement of Principles on Academic Freedom and Tenure* and derivative procedural standards set forth in the *Recommended Institutional Regulations on Academic Freedom and Tenure*. In so doing, the administration also violated policies contained in the university’s faculty manual.
2. The dismissals of Professor Butler and Professor Weisgerber appear to have been the direct result of their persistent outspokenness about administrative decisions and actions, both in their department and at the school and university levels. Absent affordance of a faculty hearing consistent with Regulation 5 of the *Recommended Institutional Regulations*, the claim that their dismissals were effected for impermissible reasons remains un rebutted.
3. In not renewing the tenure-track appointment of Professor Peterson, the administration fol-

lowed the university’s policies as set forth in the faculty manual. However, these policies are so egregiously deficient when compared with Regulation 2 of the *Recommended Institutional Regulations* that all tenure-track faculty members at St. Edward’s are vulnerable to the same type of unilateral and arbitrary administrative action as that taken against Professor Peterson.

4. Professor Peterson has credibly alleged that the decision not to renew her appointment was, to an extent, the consequence of her having lodged complaints of sexual harassment against an associate dean and thus based on considerations that violated her academic freedom. Since she was not afforded an opportunity to contest the nonrenewal decision through a procedure consistent with Regulation 10 of the *Recommended Institutional Regulations*, that allegation stands unrefuted.
5. Current conditions for both academic freedom and faculty governance at St. Edward’s University are abysmal. The administration’s heavy-handedness, the university’s so-called de facto tenure system, and the faculty senate’s weakness, among other factors, have combined to create widespread fear and demoralization among the faculty.⁶ ■

6. President Martin, along with the other administrative officers named in this report and the present and immediate past chair of the university’s board of trustees, received a draft text of the report with an invitation for corrections and comments. None of these individuals accepted this invitation. On September 21, the deadline for submitting a response, President Martin did, however, post the following statement, titled “AAUP update,” on his Facebook Workplace page: “As some of you know, the American Association of University Professors (AAUP) has circulated a draft report in response to their August 3–4th visit to review the complaints of Professors Butler, Weisgerber, and Peterson. The content of the draft letter [sic] is disappointing, but I will withhold judgment or response until the final report is published. You can be assured that when the final report becomes public, I will share a response with the university community.”

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MICHAEL DECESARE (Sociology)

Merrimack College, *chair*

ALLISON BUSKIRK-COHEN (Psychology)

Delaware Valley University

MARK CRILEY (Philosophy)

Illinois Wesleyan University

Investigating Committee

Committee A on Academic Freedom and Tenure has by vote authorized publication of this report on the AAUP website and in the *Bulletin of the American Association of University Professors*.

Chair: **HENRY REICHMAN** (History), California State University, East Bay

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Academic Freedom and Tenure: Nunez Community College (Louisiana)¹

(FEBRUARY 2019)

This report concerns actions taken in spring 2018 by the administration of Nunez Community College to terminate the services of Professor Richard Schmitt following his twenty-second year on the faculty. These actions were taken in apparent violation of his academic freedom and without affordance of the protections of academic due process to which he was entitled as the result of having obtained *de facto* tenure at the institution through length of full-time service.

I. The Institution

Elaine P. Nunez Community College, located in Chalmette, Louisiana, was established in 1992 when the Louisiana legislature merged Elaine P. Nunez Technical Institute and St. Bernard Parish Community College. The institution is named after the wife of Samuel B. Nunez Jr., who served as president of the Louisiana State Senate from 1982 to 1988 and from 1990 to 1996. According to the National Center for Education Statistics, NCC enrolls approximately 2,600 students, who pursue certificates and associate's degrees. Its faculty consists of forty-six full-time and fifty-four part-time instructors.

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 submitted to the administration, to the subject faculty member, and to other persons concerned in the report. The administration of Nunez Community College did not respond to the invitation to provide comments on the draft. 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.

In 1999, control of the institution was transferred to the Board of Supervisors for the Louisiana Community and Technical College System, which serves as its governing board. NCC abolished its tenure system at that time, apparently in order to conform with the system's practice not to grant tenure to its faculty members. The institution's official regulations continue to provide separate dismissal procedures for faculty members whose tenured status was grandfathered.

NCC's current chief executive, Dr. Tina Tinney, was appointed as chancellor in early 2018. She had most recently been vice chancellor of strategic initiatives and external affairs at Northshore Technical Community College in Lacombe, Louisiana. The chief academic officer is Ms. Tonia Loria, interim vice chancellor of academic affairs.

II. The Case of Professor Richard Schmitt

Mr. Richard A. Schmitt Jr. had been a full-time faculty member at NCC since 1996, beginning as an instructor and rising through the ranks to associate professor of English. In 2018, Professor Schmitt served as program manager for general studies, a position in which he was responsible for preparing reports on student learning outcomes to be submitted to the college's regional accreditor, the Southern Association of Colleges and Schools Commission on Colleges (SACS). Professor Schmitt alleges that disagreements with the administration over concerns he had raised about those accreditation reports were the reason for his subsequent dismissal.

In 2017, NCC underwent SACS reaccreditation, in the course of which the accreditor found that the institution had failed to document student success or

demonstrate improvements and changes it had made to programs to increase student success rates. SACS therefore imposed additional monitoring reports to demonstrate compliance with accreditation criteria. The arrival of the new chancellor in early 2018 was overshadowed by the impending deadline for the submission of these reports. Professor Schmitt's disagreements with the administration over the information compiled for the reports involved, in addition to the chancellor and the interim vice chancellor, two other administrative officers, Mr. Lenny Unbehagen, dean of planning and institutional effectiveness, and Dr. Donalyn Lott, an institutional assessment and compliance officer.²

In a meeting with program managers, including Professor Schmitt, in January 2018, Chancellor Tinney announced the retention of Dr. Lott as a consultant to assist with the compilation of the monitoring reports. On February 2, Dr. Lott sent Professor Schmitt a newly designed form that was to be used to report the assessment of "program student learning outcomes," after which she met with program managers to give them instructions for changes to be made to previous documents. Professor Schmitt has recounted an altercation between him and Dr. Lott two weeks later, when in a meeting she offered "suggestions" on how to alter the 2015–16 form. He took exception to these suggestions and informed her that he would not "fabricate" information.

The disagreements over the veracity of the monitoring reports came to a head on February 28 when Professor Schmitt sent an email message to Chancellor Tinney, Vice Chancellor Loria, Dean Unbehagen, and Dr. Lott. Professor Schmitt complained that documents that he had prepared for the monitoring report had been excluded from the material to be submitted to SACS. Professor Schmitt wrote, "I am left to conclude that either my work was so unsatisfactory that it did not merit a review or that there's more going on behind these curtains than I am given access to, such that what I am producing with honesty and integrity does not suit our aims." He then asked a series of questions: "Can we garner a consistent view about what we want the GS [General Studies] forms to read like? Does anything regarding what we want smack of unethical production? Am I the best person to perform this task, or am I a name to put on the forms?" He

went on, "If the first answer is yes, and the second no, and you wish me to move forward with my work on these items, we are in concord, and I can have new and improved (revised) documents for Friday. If not, I suggest we expeditiously recruit a colleague better suited for the requirements of this task."

Responding later that evening, Chancellor Tinney took strong exception to Professor Schmitt's statements, writing, "At no time have I ever endorsed or requested that anyone create, fabricate, or produce dishonest information that lacks integrity." Regarding Professor Schmitt's question about "unethical production," Chancellor Tinney responded, "Again, I find this question offensive. I have asked for commitment and dedication to the task but at no point suggested 'unethical production,' nor would [I] condone that approach." She concluded by accepting Professor Schmitt's resignation as program manager, citing his "level of frustration with the process" and his "repeated erroneous interpretation" of the administration's actions. "We simply do not have the luxury of time," she wrote, "in working through this process to debate action items requested as the intention is simply to be successful in our goal, not cause or endorse dissension." Based on the tone of the chancellor's response, Professor Schmitt feared that his faculty appointment might be in jeopardy.

Three weeks later, Professor Schmitt discovered that the completed documents to be sent to SACS as part of the monitoring reports contained information that he had refused to include. Nonetheless, he was listed as the author of these documents. He subsequently sent another email message to the administration, asking for his name to be removed from the documents because he had "had very little to do with" their "final production." He added that he sought "neither credit nor accountability for reports that bear only [a] vague resemblance to the documents" he had drafted. The following week the chancellor denied his request.

On May 18, 2018, Professor Schmitt was informed during a conference call with Chancellor Tinney, Vice Chancellor Loria, and Mr. Richard Greene, the director of human resources, that his appointment would not be renewed for the following year. According to Professor Schmitt, the chancellor reportedly stated that the reason for the decision was that Professor Schmitt and the institution were "not a good fit." On the same day, in confirming the decision by letter, she stated, "As an 'at-will' employee who is an unclassified non-tenured faculty employee, your contract is

2. The following account is based on a fifty-page timeline with documentary evidence that Professor Schmitt provided to the Association's staff.

subject to renewal on an annual basis.” The letter did not mention any reason for the decision. The NCC employee handbook contains provisions for notifying faculty members of their nonreappointment and their dismissal for cause. In neither case is the affected faculty member afforded an opportunity for a hearing or an appeal.

On June 1, 2018, Professor Schmitt submitted to the chancellor a written appeal of his nonreappointment in which he alleged that the reason for her decision was their disagreement over the above-cited accreditation reports. When he did not receive a response, he sent the letter again by email a few days later. The chancellor’s email response of June 15 is quoted here in full:

I received your letter of June 6, 2018, while I was out of the office and am no[w] just able to respond. As you were informed during our telephone conference and in the letter of non-renewal, you were an at-will employee. As stated in the LCTCS’s Employment Relationship for Employees Policy, as an at-will employee, there is no assurance of reappointment, promotion, or tenure.

Serving as Chancellor of Nunez makes it my responsibility to access [*sic*] all needs of the college when making decisions. Those decisions include determining what personnel actions must be taken including non-renewal of contracts.

That evaluative process resulted in my discretionary, unpleasant decision not to renew your contract for the 2018–2019 year. Non-reappointment is not a reflection of your work record or behavior. Nor does it diminish the past contributions you have made to the college. Your time and service to the college is appreciated.

Professor Schmitt subsequently received a response from SACS stating that a complaint he had filed following his dismissal concerning the material submitted to SACS contained “insufficient actionable evidence” and that, as a consequence, the accreditor had completed its review.

III. The Association’s Involvement

On June 19, having been approached by Professor Schmitt for advice and assistance, the AAUP’s staff wrote to Chancellor Tinney to convey the Association’s concerns regarding the administration’s action to terminate the services of a veteran faculty member without the affordance of any due process, adding that an additional matter of serious concern for the Association

was that the action against Professor Schmitt may have been taken in violation of his academic freedom. On July 12, the chancellor, citing applicable institutional regulations, responded to the staff that “no matter his longevity or advancement in rank, Mr. Schmitt was always an at-will employee. There was never any type of tenure, actual or implied, associated with his employment. As an at-will employee, he was totally free, as was the College as his employer, to end the employer-employee relationship at any time with or without cause. Nunez chose to do so and provided him notice of non-renewal of his annual contract.”

By letter of July 20, 2018, the staff responded that, “although the administration’s action may have accorded with the employee handbook, it did not accord with normative academic standards.” The letter further stated that, “given the severity of the departures from AAUP-supported procedural standards thus far evident in this case and the apparent implications for academic freedom, the AAUP’s staff intends to recommend it for formal investigation absent a resolution that reasonably comports with” AAUP-recommended standards. On August 28, the staff informed the chancellor of the authorization of this investigation. On September 6, the chancellor replied that since “the AAUP has no official relationship with our College or its governing System as it relates to certification or accreditation” nor “any type of contractual relationship with our College or its governing system governing employment of our faculty,” “we are under no obligation to participate in your review.”

The investigating committee conducted interviews in the New Orleans area on October 12, 2018. Despite the Association’s efforts to reach out to those at the college who might have shed light on the circumstances of Professor Schmitt’s case, only one individual in addition to Professor Schmitt agreed to meet with the committee. As noted earlier, the NCC administration declined the offer to meet and did not permit the committee to conduct interviews on campus. Nevertheless, the investigating committee believes that it has sufficient information on which to base the conclusions reached in this report.

IV. Issues

The following appear to be the most salient issues presented by Professor Schmitt’s case.

A. Tenure

According to the joint 1940 *Statement of Principles on Academic Freedom and Tenure*, “[a]fter the

expiration of a probationary period, teachers or investigators should have permanent or continuous tenure,” and “the probationary period should not exceed seven years.” Professor Schmitt had been serving on a full-time basis at NCC for twenty-two years at the time of the sudden termination of his services.³ Thus, the administration’s action amounts to a unilateral abrogation of his continuous tenure.

The NCC administration maintains that Professor Schmitt was an at-will employee under the institution’s policy and under state law and that the chancellor was within her rights not to renew his appointment at her discretion. Even if this is an accurate description of law and policy, it is nonetheless a violation of the 1940 *Statement*, which was formulated jointly by the AAUP and the Association of American Colleges and Universities and has been endorsed by more than 250 scholarly and educational organizations. The administration’s abrupt termination of Professor Schmitt’s appointment, without stated cause, after more than twenty years of service, was effected with gross disregard for the protections of academic due process to which he was entitled based on the length of his service and, given the circumstances of the case, very plausibly in violation of his academic freedom.

B. De Facto Tenure

The matter of Professor Schmitt’s de facto tenure warrants some emphasis and explanation. As noted earlier in this report, the college lacks a tenure system. Instructors are therefore appointed on contracts the duration of which is at most one year. Instructors who remain at NCC for many years, such as Professor Schmitt, have undergone repeated annual contract renewals. This is a common practice nationwide: even at institutions that have a tenure system, non-tenure-track faculty members are often employed on this sort of renewable short-term basis.

Despite its unfortunate ubiquity, this type of employment practice nevertheless violates the widely accepted academic standards codified by the 1940 *Statement*, which famously asserts, “Tenure is a means to certain ends; specifically: (1) freedom of

teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.”

On the basis of the provisions of the 1940 *Statement* cited in the previous section, the Association recognizes only two kinds of full-time faculty appointments: probationary appointments and appointments with continuous tenure. The single exception is “special appointments clearly limited to a brief association with the institution.” The reason for these standards is clear: without them, institutions are free to employ their faculty members in a state of semipermanent contingency, which is antithetical to the flourishing of faculty and students and to the academic health of the institution.

Professor Schmitt’s employment at NCC constituted much more than “a brief association with the institution.” Given the length of his full-time service, well beyond what most observers would consider to be a reasonable period of probation, and his apparently satisfactory fulfillment of his various professional obligations during that period, the Association regards his appointment at NCC as in fact one with indefinite tenure, regardless of how the college classified it. He accordingly could be dismissed only for cause or as a result of institutional financial exigency or of program closures for educational reasons. Under AAUP-recommended standards, each of these situations carries with it requirements about procedures and notice periods; none of these conditions was met in this case. Indeed, the administration has explicitly disclaimed the existence of any cause for dismissal: in her email message of June 15 to Professor Schmitt, quoted above, Chancellor Tinney wrote, “Non-reappointment is not a reflection of your work record or behavior.”

C. At-Will Status

Chancellor Tinney’s representation of Professor Schmitt’s employment status deserves additional comment. In her nonreappointment letter of May 18, the chancellor characterized Professor Schmitt as “an ‘at-will’ employee who is an unclassified non-tenured faculty employee.” The Association has long held that at-will employment status is incompatible with sound academic practice. As the investigating

3. The lone interruption in Professor Schmitt’s employment at NCC came during the fall 2005 semester, when the institution was temporarily shuttered in the wake of Hurricane Katrina. Professor Schmitt moved from Louisiana to Texas in the aftermath of the hurricane, but he resumed working at the college when it reopened in 2006.

committee in the report on the University of the Cumberlands put it,

[e]mployment-at-will contracts are by definition inimical to academic freedom and academic due process, because their contractual provisions permit infringements on what academic freedom is designed to protect. Since faculty members under at-will contracts serve at the administration's pleasure, their services can be terminated at any point because an administrator objects to any aspect of their academic performance, communications as a citizen, or positions on academic governance—or simply to their personalities. Should this happen, these faculty members have no recourse, since the conditions of their appointment leave them without the procedural safeguards of academic due process. Moreover, the mere presence of at-will conditions has a chilling effect on the exercise of academic freedom. Faculty members placed at constant risk of losing their position by incurring the displeasure of the administration must always be on guard against doing so.

Finally, even though the NCC employee handbook states that nontenured faculty appointments carry no presumption of reappointment, it does stipulate that nonreappointment decisions should follow a review process:

An appointment carries no assurance of reappointment, promotion, or tenure. Reappointments are made solely at the discretion of the institution with the approval of the Board. The non-reappointment of a faculty member does not necessarily reflect on the faculty member's work record or behavior. The determination to reappoint, or not to reappoint, should be based upon a review by the dean of the division, and/or the vice chancellor for academic affairs, and/or the chancellor of the college of the specific conditions relating to the position. Unless an appointment is of a temporary nature for a fixed term, notice that a non-tenured faculty appointment is not to be renewed shall be given to the faculty member in advance of the expiration of the appointment.

It is possible that, in reaching its decision to terminate Professor Schmitt's services, the administration undertook the sort of prior review prescribed in this policy. If it did, Professor Schmitt was not informed of its occurrence or its outcome.

D. Academic Due Process

NCC afforded Professor Schmitt no due process when it terminated his services. No cause for dismissal was stated and no dismissal hearing was held. Professor Schmitt reports that Chancellor Tinney told him in conversation that he was no longer "a good fit" for the institution, but in writing the administration declined to provide even this level of vague, question-begging justification.

On a procedural level, due-process protections exist in order to address the obvious potential for abuse that dismissal powers carry with them. On a substantive level, academic due process recognizes that administrators are not qualified to make such judgments unilaterally.

E. Academic Freedom

The circumstances of the nonrenewal of Professor Schmitt's appointment weigh strongly in favor of a conclusion that the NCC administration violated his academic freedom. Specifically, given the potential retaliatory motivation surrounding its action to terminate his services, it seems highly plausible that the administration's action was taken in violation of his academic freedom to speak on institutional matters without fear of reprisal.

As detailed in the timeline of events described above, NCC was under severe time pressure to provide a report on student learning outcomes to its accreditor on penalty of losing its accreditation. As program manager, Professor Schmitt was responsible for providing student learning outcome data from the relevant years. In many cases, the relevant outcomes apparently had not been tracked, with the result that the requisite data were missing. At the heart of Professor Schmitt's dispute with the administration was his refusal to reconstruct those data from student academic performance in a manner that he perceived as tantamount to fabrication. Circumstantial evidence that the administration may have tried to reconstruct the relevant data comes from Professor Schmitt, who reported that, after his falling out with the accreditation committee, he encountered Dean Unbehagen removing boxes of files from his office without having requested permission to do so or having given prior notice that he needed the files or intended to collect them. Professor Schmitt told the investigating committee that it "felt like breaking and entering."

The administration's refusal to speak with the investigating committee leaves us with many unanswered questions. For instance, we do not know

whether the new administration sought a waiver or reprieve from its accreditor for the years in which data had apparently not been kept under the prior administration. In other words, we do not know whether the administration attempted to deal forthrightly with SACS about the missing data and was rebuffed in its request or whether the data reconstruction project in which Professor Schmitt was allegedly asked to participate was a first-resort initiative of the Tinney administration.

Whatever the answers to the above questions may be, the administration was clearly displeased with Professor Schmitt's noncompliance with its instructions. In exercising his right to speak out critically on institutional matters with which he was directly involved, Professor Schmitt appears to have incurred the displeasure of his administrative superiors. As he later put it to the investigating committee, "I think I challenged authority in a way I should not have."

The administration, for its part, has offered no counternarrative to challenge the strong appearance of retaliation against Professor Schmitt. It has cited no instructional deficiency or any other issue relating to his fitness as an instructor. Instead, it has opted to say nothing, holding fast to the proposition that it has no obligation whatsoever to justify its action to terminate Professor Schmitt's services. While this silence may be a wise move for purposes of limiting the institution's potential legal liability, it is inimical to widely accepted academic standards.

In the context of somewhat different circumstances from those under investigation here—addressing the mid-semester dismissal of an adjunct faculty member—the AAUP committee investigating the case of Mr. Nathaniel Bork at the Community College of Aurora wrote: "A canner administration might have let Mr. Bork finish the semester and then have declined to renew his contract. Insofar as this could have been done for exactly the reasons that appear to have motivated the CCA administration's summary mid-semester dismissal of Mr. Bork, it would have constituted just as severe a violation of academic freedom. But the administration would have enjoyed the plausible deniability afforded by policies and procedures that enshrine arbitrary nonrenewal of appointments for adjunct faculty members." The NCC administration clearly chose a strategy of plausible deniability. The facts of the case, however, gravely undermine the plausibility of the administration's denial. Most plausible of all is that the administration's action against Professor Schmitt was a retaliatory measure that violated his academic freedom.

V. Conclusions

1. Under the 1940 *Statement of Principles on Academic Freedom and Tenure*, Professor Schmitt was entitled to the due-process protections that accrue with tenure through length of full-time service. The action of the administration of Nunez Community College to terminate his services without having afforded him any procedural rights was therefore tantamount to a summary dismissal in flagrant disregard of the basic tenets of the 1940 *Statement*.
2. In the absence of any stated cause for the administration's actions and on the basis of the available information, the investigating committee is left to conclude that the termination of Professor Schmitt's services was a retaliatory measure taken in violation of his academic freedom. ■

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Investigating Committee

Committee A on Academic Freedom and Tenure has by vote authorized publication of this report on the AAUP website and in the *Bulletin of the American Association of University Professors*.

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College and University Governance: Maricopa Community Colleges (Arizona)¹

(MARCH 2019)

This report concerns issues of academic governance stemming from the actions of the governing board of the Maricopa County Community College District to terminate the “meet-and-confer” provision of the residential faculty policies manual and to mandate the later repeal of the entire manual. For four decades, the faculty and administration had utilized the meet-and-confer process as a mechanism for establishing institutional policies related to faculty matters and for making recommendations to the board on salary and budgetary matters. The residential faculty policies manual contains policies and procedures relating to the full-time faculty, including provisions defining the faculty’s participation in governance.

I. The Institution and Its Governance

The Maricopa County Community College District (MCCCD) consists of ten colleges serving Maricopa County in Arizona, which includes the city of Phoenix. The district was founded as Maricopa County Junior College District in 1963 and received its current name in 1971. The constituent colleges are Chandler-Gilbert Community College, Estrella Mountain Community College, GateWay Community College, Glendale

Community College, Mesa Community College, Paradise Valley Community College, Phoenix College, Rio Salado College, Scottsdale Community College, and South Mountain Community College. Some of the colleges, including Phoenix College, founded as Phoenix Junior College in 1920, predate the founding of the district. Each of the ten colleges is accredited separately by the Higher Learning Commission (HLC). According to data from the National Center for Education Statistics, the ten colleges enroll about 120,000 students and have a combined faculty consisting of about 1,400 full-time and 4,300 part-time instructors. The institution identifies its mission as providing “access to higher education for diverse students and communities,” with a “focus on learning through University Transfer Education, General Education, Developmental Education, Workforce Development, Student Development Services, Continuing Education, Civic Responsibility, [and] Global Engagement.”

The district’s governing board consists of seven directly elected members, five representing electoral districts and two elected at large. During the period covered in this report, the board president was Mr. Laurin Hendrix, who was elected to that position in 2017. According to the district’s website, Mr. Hendrix, “over the past 30 years, . . . has owned and managed businesses specializing in auto repair, manufacturing, home construction, land development, retail sales, import/exports, business consulting, legal services, and banking.” From 2008 to 2010, Mr. Hendrix was a Republican member of the Arizona House of Representatives.

The chief administrative officer at the district level is the chancellor, currently Dr. Maria Harper-Marinick, who has served in that position since 2016

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 the Committee on College and University Governance. With that committee’s approval, it was subsequently submitted to the administration, to the Maricopa Community Colleges Faculty Association, 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.

and who had served as the district's executive vice chancellor and provost prior to her appointment as chancellor. Each college is led by a president.

The Maricopa Community Colleges Faculty Association (FA) is a voluntary labor organization that for more than thirty-five years had represented the interests of all "residential faculty," the term used at MCCCDC for full-time tenured and tenure-track faculty members. The FA is incorporated as a 501(c)(5) labor organization, and about 70 percent of the eligible faculty are members. The elected officers are a president (as of this writing, Professor John Schampel), president-elect (Professor Keith Heffner), and immediate past president (Professor Mike Mitchell). The FA has a political action committee and, in 2007, created the Maricopa Colleges Faculty Foundation.

Each college elects a faculty senate, the representative faculty body at the college level. The senate constitution and a "college plan" define the system of faculty governance at each college. The faculty senate president of each of the ten colleges represents his or her senate on the Faculty Executive Council (FEC), which is the governing body of the FA. Additional voting FEC representatives are assigned to a college in proportion to the number of FA members at that college. According to the FA constitution, a primary purpose of the FEC is "[t]o serve as the representative of the Faculty Association and College Faculty Senates to the District Administration and Governing Board in matters of shared governance." The FEC had appointed representatives on all major district committees and councils, including the Chancellor's Executive Council, Maricopa Leadership Team, Faculty Professional Growth Committee, Employee Benefits Advisory Committee, Maricopa Integrated Risk and Assessment project, and district hiring committees. Prior to the changes that are the subject of this investigation, the administration had routinely asked the FEC to provide advice or name representatives for district initiatives. It simultaneously served as the primary district-level representative faculty governance body and the governing body of the FA.

The now-repealed residential faculty policies manual (RFP) contained a range of policy statements on such topics as terms and conditions of employment; academic freedom, shared governance, and professional ethics; appointment practices; sabbatical leaves; professional growth projects; accountability and professional responsibility; grievances; mediation; intellectual property rights; office space; and mail. The RFP also contained detailed workload and

reassigned time policies, including reassigned time for service as senate presidents and as officers of the FEC. In addition to these policies, the manual specified a "residential/adjunct faculty ratio," which was the maximum percentage of courses taught by adjunct faculty members at each college.

The state of Arizona has not enacted enabling legislation that permits collective bargaining by public-sector employees. Thus, although the FA is incorporated as a labor organization, it is not a collective bargaining agent in the normal sense of the term, and the RFP, in compliance with Arizona law, identified the FA as "the nonexclusive representative of the MCCCDC Residential Faculty." For the past four decades, the faculty and administration negotiated changes to the RFP through the meet-and-confer process, described in the RFP as "a process of deliberation between the Chancellor and [the] Faculty Association, including Residential Faculty who are not members of the Faculty Association, for the purpose of articulating agreement regarding change with respect to responsibilities, wages, governance, benefits, and all other terms and conditions of Residential Faculty employment." The meet-and-confer process has a specific legal status in Arizona: according to a 2006 Arizona attorney general opinion, it "is merely a means to provide information to . . . management on employment and personnel issues and to aid in informed governmental decision-making." The attorney general's opinion also holds that a public entity in Arizona does not "have the power to engage in collective bargaining resulting in binding agreements because its authority to set wages and employment conditions is delegated to it by the Legislature, and this use of collective bargaining in public employment would constitute an unlawful delegation of legislative authority." Under the approved policy set forth in the RFP, the faculty and administration "recognized . . . that it is desirable, in order to establish the terms and conditions governing employment, for representatives to meet and confer, in good faith, about policies affecting responsibilities and benefits pertaining to Residential Faculty employment." Thus, meet-and-confer is described in the attorney general's opinion as a voluntary process, and both the faculty and the RFP recognized not only that the governing board had final authority in decision-making but also that meet-and-confer had been a mutually desirable process.

In practice, meet-and-confer comprised a yearlong process in which problems or issues to be resolved were identified in the fall, relevant data were collected,

and options for solutions were discussed in a “mutual gains” negotiation setting. A meet-and-confer team represented the FA during the process. The process required reciprocal understanding, trust, and transparency. Depending on the complexity of the matters under consideration, the meet-and-confer process could be lengthy because of the consensus building that it required; yet it was the consensus that marked the success of the process. Approved policies or changes to policies that resulted from the meet-and-confer process were traditionally forwarded to the chancellor, who then sent them to the governing board with a recommendation. The governing board had the final authority over the approval and adoption of those recommendations.

Again, meet-and-confer is not collective bargaining. In collective bargaining, parties are required to negotiate in good faith on certain terms and conditions of employment, and unions serve as exclusive bargaining agents on behalf of bargaining unit members. Collective bargaining is a process governed by state and local labor laws and regulations. Meet-and-confer, on the other hand, is governed by standards and rules mutually agreed to by the parties involved and set forth in policies such as the ones contained in the RFP.

In addition to the specific role of the FA in negotiating changes to the RFP, the faculty had previously participated in governance at the college and district levels in a variety of ways. According to policies set forth in the RFP, the faculty participated in decisions concerning faculty reappointment and tenure (called “appointive status”) through college-level peer assistance and review committees. Faculty members serving on such committees at a given institution were appointed by the respective senate president. Also specified in the RFP was the mechanism for faculty participation in the district budget-development process, which occurred through the FEC’s appointment of faculty members to serve on the Chancellor’s Financial Advisory Council.

Faculty participation in district-level curricular decision-making continues to occur through the District Curriculum Committee, an entity of the district that is separate from the FEC. The voting members of the District Curriculum Committee are the vice presidents of academic affairs of each institution and faculty representatives who serve as curriculum development facilitators at each institution. Curriculum development facilitators, at least in some of the colleges, are selected jointly by vice

presidents for academic affairs and senate presidents, following nominations and interviews of candidates.

II. The Actions under Investigation

The primary action under investigation in this report is the governing board’s adoption of a resolution, at a February 27, 2018, meeting, that immediately terminated the meet-and-confer provision of the RFP, terminated the RFP as of October 31, 2018, and directed Chancellor Harper-Marinick to oversee the creation of a new RFP, to be presented for approval at the October meeting of the governing board. The resolution was adopted by a vote of four to three. According to the resolution, the new RFP could not contain a meet-and-confer provision and should create “a process of faculty policy development that recognizes the Governing Board as the final approval authority for all policy matters and that also recognizes the valuable contribution that faculty can provide in the development of policies that pertain to the residential faculty’s essential mission of teaching and learning, not including aspects related to compensation, benefits, accountability, and organizational operations.”

Additionally, last-minute amendments, which, contrary to standard board practice, were passed at their first reading, immediately eliminated any reassigned time for faculty members who served on the FEC or were involved in the meet-and-confer process and reiterated an Arizona statute that “prohibits employees of Maricopa County from engaging in fundraising activities for a Political Action Committee while on duty.” The obvious intent of the resolution was to eliminate not only the forty-year-old practice of meet-and-confer but also any governance structures and practices that supported it. As both the resolution and the amendment originated with Mr. Hendrix, they have been referred to as the “Hendrix resolution” and “Hendrix amendment,” respectively.

According to faculty members whom the investigating committee interviewed, prior to the February 27, 2018, resolution, governance at MCCCCD had been an effective and productive process for more than forty years, albeit with the tensions inherent in a system that requires groups that may have different agendas to come together in order to find common ground.

According to both Dr. Karla Fisher, the MCCCCD provost, and Ms. Leslie Kyman Cooper, the district’s general counsel, who met with the investigating committee as representatives of the administration, the

governing board did not bring any concerns regarding governance to the attention of the administration prior to adopting the resolution. The provost further indicated that she had “no idea” of the basis for the board’s decision. Members of the faculty also said that no problems with governance were brought to their attention and no advice was sought from the faculty. In their view, everyone was blindsided by the governing board’s action.

A. The Governing Board’s Rationale

Although the board’s resolution itself opened with four acknowledgments—of the essential nature of the faculty to the district’s mission, the value of the principle of academic freedom, the necessity of collaboration and cooperation between the administration and the faculty, and the board’s own authority and responsibility in approval of faculty-related policies—none of these was offered as a rationale for abolishing meet-and-confer. The stated rationale for the resolution when it first appeared as an item on the board meeting’s agenda was the following: “Streamlining and simplifying the residential faculty policy development process, while still allowing for faculty input, will allow changes to be accomplished more quickly and reduce the amount of valuable resources devoted to policy development while not inhibiting decision-making by the District’s Administration or Governing Board.” However, as noted above, the board had informed neither the administration nor the faculty of any concerns with respect to “the residential faculty policy development process” prior to adopting the resolution.

At a meeting in the FA office on February 8, several weeks prior to the board meeting at which the resolution was adopted, board president Hendrix confirmed to FA president Mitchell that the board intended to terminate meet-and-confer. According to faculty sources, Mr. Hendrix conveyed no rationale. Professor Mitchell attempted unsuccessfully to dissuade Mr. Hendrix, to arrange for consultation and discussion, and to slow the process. According to Professor Mitchell, Mr. Hendrix was ambiguous about the timing, suggesting that a vote on terminating meet-and-confer was several months away, and stated that the RFP would not be changed extensively. Mr. Hendrix called for a special governing board meeting on February 20 at which the faculty would have time to explain the benefits of meet-and-confer. Under board policy, the president is authorized to call a special meeting “only when

it is necessary for the Board to conduct business of an immediate and unanticipated nature, with circumstances that require its attention before the next regularly scheduled Board meeting.” Board policy also requires that an item have a first reading, with no action taken until the following meeting. However, the special meeting ostensibly called to solicit faculty and public opinion was also used for the first reading. As a result, instead of a month, only one week passed between the first reading and board action on the resolution.

The meeting was open to the public, and the account that follows is based on reports from faculty members who attended it. At the meeting, Mr. Hendrix proposed what he called the “Hendrix amendment,” described above, to his “Hendrix resolution.” The only speaker on the Hendrix amendment was Mr. Hendrix himself. Speaking in support of his amendment, Mr. Hendrix read from two email messages. He read one paragraph from a message sent by the chair of the FA’s political action committee announcing plans to raise money “to support candidates for the governing board who share our student-centered values of higher education.” He then read from another email message identified only as being from an FA member, who wrote to colleagues that “[t]he board and chancellor have unilaterally decided to do away with the Residential Faculty Policies (RFP)—this means they can revoke our tenure, dismantle our Faculty Association (our union), and we no longer have shared governance.”

Mr. Hendrix asserted that the first email message was a violation of an Arizona statute that governs “use of county resources or employees to influence elections.” With regard to the second message, Mr. Hendrix conflated the sender’s referring to the FA as “our union” with the FA’s actually *being* a collective bargaining agent, which would be illegal in Arizona. In short, Mr. Hendrix used the email messages to convey the impression that faculty members had engaged in activities that were illegal, or at least improper, thus necessitating the “Hendrix amendment.”

In the investigating committee’s view, however, Mr. Hendrix’s statements regarding the two email messages mischaracterized both the law and the facts. With regard to the first message, documentation provided to the investigating committee shows that no “county resources” had been used, as the sender of the message and its recipients used their personal email accounts. Either deliberately or inadvertently, Mr. Hendrix provided incomplete or inaccurate

information about the email accounts employed. Moreover, when reading the statute, Mr. Hendrix omitted the following provision: “Nothing contained in this section shall be construed as denying the civil and political liberties of any employee as guaranteed by the United States and Arizona Constitutions.”² Regarding the second message, as this report has noted, the FA, contrary to Mr. Hendrix’s implication, is not a union in the normal sense, and meet-and-confer is not collective bargaining, as explicitly stated in both the RFP and the Arizona attorney general’s 2006 opinion on meet-and-confer. In suggesting that meet-and-confer is in fact illegal collective bargaining, Mr. Hendrix was either seriously misinformed or dissembling.

In short, the board president’s stated justifications for eliminating meet-and-confer were based on incorrect legal premises and incorrect interpretations of Arizona law. The FA is not an exclusive bargaining agent, and the FA does not engage in collective bargaining. As late as April 2018, Ms. Johanna Haver, a member of the governing board, repeated this mischaracterization in an op-ed in the *Arizona Republic*: “[Meet-and-confer] imposes collective bargaining on administrative decisions.” This statement is inaccurate according to both the long-standing terms of the RFP and state law.

Other rationales for eliminating meet-and-confer were offered during the special governing board meeting on February 20. For example, Ms. Haver suggested, anecdotally, that there was a problem with faculty “accountability.” Ms. Tracy Livingston, another board member, anecdotally referred to another setting in which she said meet-and-confer “did not work.” Without providing a definition of the term, Ms. Livingston also spoke negatively of a “faculty-centric” culture. Mr. Hendrix added that he objected to the negative characterizations of the resolution that he had heard or seen in the media.

Significantly, however, no one interviewed by the investigating committee could point to an instance in which a member of the governing board identified demonstrable and documented problems that the

resolution was designed to address, and the record does not contain any such instance. Nor did the board explain in any detail how the resolution would improve teaching and learning or how it would support the mission of MCCCCD.

B. The Darbut Report as Motivation

A document titled “Organizational Change at Maricopa Community Colleges: A Position Paper” that circulated among MCCCCD faculty and staff members in April 2017 appears to have served as a primary source for the board’s resolution. This self-described “blueprint to transform the institution” was written by Mr. Jeffrey N. Darbut, a vice president of administrative services at Mesa Community College, one of the ten MCCCCD institutions. In the foreword, Mr. Darbut explains that the many estimates presented in his report, such as the savings that would accrue as a result of the proposed course of action, were “directionally correct” and that he had consulted faculty and staff members for the report “over a beer.” The foreword ends by appealing to the chancellor and governing board and emphasizing that they have the power to implement his “transformational blueprint.” Following an analysis of what he identifies as the MCCCCD’s strengths, weaknesses, opportunities, and threats, Mr. Darbut enumerates twenty-nine initiatives he says will “transform” the institution.

The report first suggests replacing the current mission statement with one that is “more focused,” thereby eliminating between \$3 million and \$10 million in costs associated with “unimportant” programs and initiatives. The report proposes the following as a new MCCCCD mission statement: “prepar[ing] individuals to succeed in life by providing affordable access to high quality career education delivered in an innovative learning environment.”

The similarities between the February 27 governing board resolution and certain initiatives proposed in the Darbut report are obvious. One recommendation observes that “key to the creation of a student-centric organization is the repeal of the RFP manual and replacing it.” The report does not explain what makes an organization “student-centric” or how repealing the RFP would achieve this goal. Additional recommendations include converting faculty appointments to “‘at-will’ employment contract[s],” because “tenure is no longer in the best interests of students,” and eliminating the “‘shared governance’ clause,” because “there is no generally accepted definition [of shared governance], which

2. It should be noted that the FA political action committee is a “non-partisan, non-ideological organization committed to supporting the Maricopa Community Colleges’ ongoing mission to provide high-quality post-secondary education to support the social and economic development of Maricopa County and the state of Arizona” and that it has certain rights, including the right to endorse candidates in local, county, or state elections when there is a specific interest for the FA.

leads to conflict.” The report adds, “Faculty should participate with management, but not initiate or stop initiatives.” One recommendation that faculty found to be a particularly egregious departure from AAUP-supported academic governance principles was to “create a curriculum process that is led by management,” a process in which the “faculty participates” but which the faculty does not “direct.”

Many of the other twenty-seven initiatives in the Darbut report were subsequently adopted by the board as well, including the termination of some athletic programs and of a meet-and-confer-type process for staff. Based on these outcomes and the circumstances discussed in this report, the investigating committee concludes that Mr. Darbut’s self-described “transformational blueprint” either generated or exacerbated concerns on the part of various governing board members, which over the course of the following year led to passage of the board’s February 27, 2018, resolution.

Why would a vice president of administrative services at one of the colleges take it upon himself to draft a “transformational blueprint”? Why would a document created by a college-level vice president be driving the actions of the district governing board? Who authorized the document and to whom had it been sent? Faculty members were asking these and other questions in early 2017. On April 20, 2017, the president of Mesa Community College, where Mr. Darbut is employed, apparently felt it necessary to send a message to the faculty and staff disavowing the report, writing, “This is not the Chancellor’s nor my report or plan. I did not commission, authorize, endorse, or approve the report.” When interviewed by the investigating committee, Provost Fisher was unable to clarify completely how and when the Darbut report reached the administration, and the general counsel reported only that a recent board resolution allows anyone to “talk to any Governing Board member about anything.”

As each of the ten college faculty senates was discussing the Darbut report and the process by which it was created and distributed, Mr. Darbut emailed Ms. Jean McGrath, a member of the governing board, asking her to clarify that she had requested the report from him. (The FA obtained the message through an open records request.) McGrath acknowledged that she had indeed done so in an April 28, 2017, email message to Chancellor Harper-Marinick. Thus, Mr. Darbut had produced the report at the behest of a member of the governing board and, in doing so, had

bypassed the district-level administration, including the chief academic officer and the chancellor. The genesis of the report was later confirmed by Ms. Haver in an email message to the faculty. She defended Ms. McGrath’s action in the following terms:

We still live in a free country. A board member was impressed with Mr. Darbut’s ideas for improving the district while in a conversation with him several months ago. Therefore, she requested that he write down his suggestions and send them to her. He complied. When she told me about his manuscript, I wrote to him myself through the district email server, although I had not yet met him, and asked him to send me a copy. He did that. I do not know whether anyone else read his manuscript. I found it interesting at the time and then put it aside.

Ms. Haver’s downplaying the significance of Ms. McGrath’s role in soliciting the Darbut report is contradicted by other communications between Mr. Darbut and Ms. McGrath in 2017, also obtained by the FA through an open-records request. For example, on August 24, 2017, Mr. Darbut forwarded to Ms. McGrath an email message originally sent by the classified staff council president to all classified staff informing them that the governing board eliminated all reassigned time for classified staff council officers and representatives. She commented, “We hope to do the same for the professors union. We plan to wait a bit though. Right now we are going after meet and confer.” She added, “Sometimes it is fun to be the most unpopular person on campus.”

C. Political Aspirations of Board Members as Motivation

As the previously quoted email message, as well as other previously quoted correspondence, suggests, the actions of key board members appear to have been politically motivated. On February 13, 2018, Mr. Darbut forwarded to Ms. McGrath an email message that the FA president had sent to faculty members alerting them to the fact that the governing board president had confirmed that the board would consider a vote to end the meet-and-confer process. In the message, the FA president stated his concerns that no prior consultation with the faculty had taken place and that the action appeared to have been motivated by partisan ideology. He further engaged FA members in mobilization and communication efforts to challenge the board’s actions. Ms. McGrath responded

to Mr. Darbut with thanks, stating, “I talk about this when I am addressing groups and I am getting applauded for eliminating a public employees’ union.”

It should be noted that during this period, Ms. McGrath, a former Republican member of the Arizona House of Representatives, was running for reelection to the governing board and that Mr. Darbut was her campaign treasurer. Under a “Keeping Promises” link on her campaign website, Ms. McGrath listed as a fulfilled promise, “2016 – sponsored a study, ‘Organizational Change at Maricopa Colleges,’ to improve student graduation rates and promote cost efficiencies.” Also, under the “Keeping Promises” link, Ms. McGrath lists “2018 – voted with majority to eliminate collective bargaining with the faculty union.”

In another instance, Mr. Hendrix expressed antipathy toward the FA in response to an email message he had received from FA president Mike Mitchell, who had asked about the order of items on the governing board’s February 27 meeting agenda. In his response, dated February 22, Mr. Hendrix wrote,

The fear-mongering with the distribution of falsehoods might be beneficial to increasing union membership and for collecting donations but I don’t think that it is or will be beneficial to the individual faculty membership. At this point, this email is between you and I. We both know the truth and the facts. *I am disappointed that the tax payers pay full time people to disseminate nonfactual information to the faculty.* Those individuals are intended to be a conduit of factual information and opinions between the faculty and the administration. It is my assumption that the faculty association will take credit for solving or lessening the crisis that it dreamed up. A clear indication that most problems can be lessened or solved with more union membership and more donations to the union. I assume that your leadership has thought this through thoroughly. (Emphasis added.)

The italicized statement from this email message, coupled with the remarks made by Mr. Hendrix at the two February governing board meetings about Maricopa’s “paying individuals to fundraise,” connect the board’s elimination of paid reassigned time for various FA members with those members’ speech, of which, to judge from Mr. Hendrix’s February message quoted above, Mr. Hendrix disapproved. Mr. Hendrix apparently alluded to the political aspirations

of certain board members in his February 8 meeting with FA president Mike Mitchell. The circumstances strongly suggest that the last minute “Hendrix amendment” immediately revoking all paid reassigned time was retaliatory.

Further political motivations seem evident in email messages between Mr. Hendrix and the chancellor, also obtained through FA open-records requests. On January 28, 2018, Mr. Hendrix wrote to Chancellor Harper-Marinick, “State Republican convention was yesterday. This is election year. Republicans are impressed with the conservative direction of MCCCCD. Frankly, I was surprised by the comments.” He continued, “Let’s talk tomorrow but I’d like to 1) consider a letter from the board or district to the governor thanking him for considering bills but making clear that Maricopa does not need state funds at this time, 2) remove meet and confer immediately, 3) have a draft of a new faculty manual in 30 days with a goal of final approval in 60 days.” In the next paragraph, he remarked, “Until I attended the county and state conventions, I didn’t realize how many people are watching and paying attention to us. People are beginning to believe that MCCCCD may be moving in a moderate as opposed to a progressive direction.”

A public-records request revealed that on February 19, 2018, Mr. Hendrix filed to be a candidate in the Republican primary for the Arizona House of Representatives. Mr. Hendrix, as noted earlier, had served in the Arizona House of Representatives from 2009 to 2011; he lost the Republican primary in 2011. The timing of his filing, sufficiently close to the governing board’s actions that are the subject of this report, points to political motivations for his resolution and amendment.³

III. Events Following the Abolition of Meet-and-Confer

As a result of the governing board’s actions on February 27, 2018, a system of governance at MCCCCD that provided a meaningful role to the faculty in matters other than teaching and learning at the district level ceased to exist.

A. The Immediate Aftermath

Prior to the termination of meet-and-confer, the FEC—the primary representative faculty governance

3. In May, it was reported that although Mr. Hendrix had collected enough signatures to run for either the Arizona House or the Arizona Senate, he had decided not to do so.

body—had seats on every major committee and council, including the Chancellor’s Executive Council and major district hiring committees, and met monthly with the chancellor and all of the vice chancellors. Prior to February 27, the administration would have asked the FEC to represent the faculty on any important initiative. All of these structures for faculty participation in institutional governance were eliminated in one fell swoop. FEC leadership reported that, after a final meeting with the chancellor and other district administrative leaders on the morning of February 28, the district administration suspended all formal communication with the FEC. The governing board’s action had abruptly and effectively silenced the official, formal representative faculty voice.

Additionally, on February 28, Provost Fisher sent an email message to the ten college presidents, informing them as follows: “Per the resolution, Senate Presidents and Representatives must be dutiful in avoiding any FEC- or Faculty Association-related work or conversations during business hours.” When asked by the investigating committee about this apparent prohibition on governance-related speech in the workplace in evident violation of academic freedom, the provost described her February 28 email message as having been sent in the “turbulent wake” of the resolution’s passage and as having been intended to provide a “foursquare” to the faculty, apparently meaning that if faculty members observed these guidelines, they would be safe.

The provost’s characterization of her email message is at odds with the faculty’s understanding. Faculty members told the investigating committee that they considered the prohibition on FEC- or FA-related work or conversations “during business hours” as their “current operational directive.” Moreover, the directive has not been rescinded, nor has the administration made any attempt at clarification. As a result, faculty members say that they are being extremely cautious about using district resources for FA business—including district computers, district email accounts, or district wireless networks. They describe sending FA-related email messages only outside “hours of accountability,” that is, before 6:00 a.m. or after 3:55 p.m. One faculty member reported carrying two phones at all times in order to avoid running afoul of the prohibition against using district resources for FA business. Thus, the directive appears to have had a chilling effect on speech regarding matters of institutional policy or action.

B. The Faculty Academic Senate

With the role of the FEC in institutional governance having been eliminated and the RFP scheduled to be terminated by October 31, 2018, the administration began considering replacements for these bodies, eventually creating a new body called the Faculty Academic Senate (FAS). The circumstances have posed a difficult dilemma for faculty members. They can refuse to participate in a process they consider illegitimate and face the prospect of having new policies and procedures unilaterally imposed on them, or, in order to minimize damage and maintain some sense of control over or knowledge of the process, they can participate in it, arguably making them complicit in eroding the faculty’s long-standing role in institutional governance.

The faculty, collectively, has been pursuing two tracks: participating in task forces and new committees while continuing to work toward having the governing board’s resolution rescinded. The faculty senates of each of the ten colleges adopted resolutions opposing the board’s actions and asking for the immediate reestablishment of meet-and-confer. The FEC, through its attorney, filed a notice of claim against the governing board and the chancellor, which is required by state law before a lawsuit against the state or one of its subdivisions can be filed. Faculty members also filed complaints with the Higher Learning Commission, the institution’s regional accrediting agency.

Chancellor Harper-Marinick, in reply to the HLC’s request for the administration’s response to these complaints, wrote on March 20 to inform the accreditor of the creation of the district-level FAS, on which the ten faculty senate presidents would serve. She went on to describe the FAS as “work[ing] alongside the other district councils, effectively preserving [the] faculty’s role in participatory governance while extricating or de-coupling faculty association business from senate work.” However, the administration had not informed the faculty of the establishment of this body. The faculty first learned of the FAS only on March 30, when Provost Fisher told the ten faculty senate presidents in an email message that the FAS would “ensure your voices are heard at the district level.”

Faculty members whom the investigating committee interviewed stated that while they believed that the FAS lacked legitimacy because it was unilaterally established by the administration, they nevertheless were participating in its creation, since it served as the only available mechanism for faculty involvement in district-level governance. They described it as “a seat

at a table, but not shared governance.” The process by which governance documents for the FAS were being created and approved, like the process described below for replacing the RFP, was improvised—producing confusion and conflict.

C. The Process for Replacing the RFP

The language of the governing board’s resolution directing the chancellor to oversee the creation of a new RFP imposed certain conditions. In addition to eliminating meet-and-confer, the resolution created a new process for faculty policy development, which recognized the board as the final authority; acknowledged the valuable contribution the faculty provides in the essential mission of teaching and learning; and excluded the faculty from involvement in decisions related to compensation, benefits, accountability, and organizational operations. With meet-and-confer unilaterally and abruptly terminated, the process to create a replacement for the RFP was completely unmoored from any existing procedures: faculty members reported that the administration created groups unilaterally and called them together without a clear charge or even an agenda, and the work done by these groups often vanished without any follow-up.

As a first step in the process for replacing the RFP, Chancellor Harper-Marinick unilaterally created an ad hoc committee. Without specifying a nomination procedure, she asked the college presidents, rather than the faculty senates, to submit names of potential faculty representatives to serve on the committee. She then selected faculty representatives from the presidents’ nominees; added administration representatives, including staff members from the legal and human resources departments; and appointed Provost Fisher as chair. The chancellor reportedly excluded any members of the former meet-and-confer team from service on the ad hoc committee. Faculty members stated that they believed that the provost was working in good faith with them, despite the improvisatory nature of the process.

According to faculty members, the chancellor did not provide a clear charge to the newly formed committee. At its first meeting on March 28, with no agenda having been provided, faculty members inquired about the committee’s purpose. Some faculty members assumed that they would be creating the new RFP, but they learned that their task was instead to create a process to replace meet-and-confer. Once that process was established, the administration informed them, a new group would convene to employ the new

process to create a replacement for the RFP. Although the committee took up its assigned task, Provost Fisher informed committee members at their second meeting that it would be their last. Faculty representatives on the committee reported to the investigating committee that by this point the group had managed to agree only on a “common mental model,” much of it existing on a whiteboard, which the provost indicated she would forward to the chancellor.

Despite the provost’s announcement, the committee did meet at least two more times, and at a subsequent meeting, faculty members saw—for the first time and only as it was projected onto a screen—a flow chart for the process of policy development that the administration would present to the governing board. The provost explained that the chart was deliberately vague in order to prevent the board from micromanaging the process and that once the board approved the flow chart, the committee would reconvene and fill in the blanks. When faculty members objected that many significant items from the “common mental model” did not appear on the flow chart, the provost offered only the explanation that “the chancellor didn’t approve.” The board subsequently approved the flow chart; the committee never saw it again.

Provost Fisher invited the ad hoc committee to a final meeting on July 24, 2018, ostensibly to “close the loop” by letting committee members know how the plan had moved forward. During earlier meetings, one of the four subgroups of the committee had begun working on new language for the RFP. The faculty representatives on the committee did not believe that the subgroup should have been working on a new RFP, since such an undertaking was decidedly not a charge of the committee. So they were surprised to learn that the administration had sent the subgroup’s document, without its having been approved by the entire committee, “as a starting point” to the human resources and legal departments and that the two departments had returned a revised version. The administration informed the faculty representatives that it was now their turn to review the document by August 1, when the administration planned to return it to the two departments.

The human resources and legal departments had made significant changes to the document. The board’s resolution had called for excluding from the faculty’s purview “aspects related to compensation, benefits, accountability, and organization operations.” The human resources and legal departments, however, interpreted this language to mean that the new RFP

could include items related only to teaching and learning, which resulted in a dramatic restriction of subjects to be allowed in the RFP—a turn of events that alarmed the faculty representatives. In addition, the work done by the faculty members on the ad hoc committee was never acknowledged or incorporated into the final document. When in September the administration established a Faculty Academic Policy Recommendation Team as a replacement for meet-and-confer, that group received a document described as “the RFP from HR and Legal.”

In an October 12 email message, Provost Fisher attempted to address faculty objections to the administration’s interpretation of the governing board’s resolution. She wrote,

We are well aware that these are not necessarily the only academic policies in existence or eventually needed. . . . The process developed by the Ad Hoc Task Force and approved by the Board in June says that new faculty policies and policy revisions are to be recommended to the Team by any Senior Council. Faculty Academic Senate has provided a list of other policies they want the Team to consider, which I believe are derived from the original work by the Ad Hoc Task Force. Other senior councils may also have policies to recommend to the Team. We will have time prior to June 30 (end of the extended RFP) to work on additional policies once we complete the policies faculty and administrators agree must be included.

It appears, therefore, that the administration had removed four decades worth of mutually agreed-upon policies and that it would consider, on a case-by-case basis, whether to restore a discarded policy only if someone brought it to the administration’s attention. The flow chart attributed to the ad hoc committee would be used to develop policies on matters related only to the “residential faculty’s essential mission of teaching and learning.” On these matters alone, the governing board would solicit faculty opinion prior to the board’s decision. On all other matters, a board decision would occur after “comment and notice opportunities to stakeholders, in the same manner as staff.” Of particular note are the items that do not relate to teaching and learning, since many of these are matters for which the faculty should have primary responsibility under principles of academic governance supported by the AAUP. Yet at MCCC, the faculty will have only comment and notice opportunities on

recruitment and selection of faculty members, faculty load reassignments, visitation of faculty members during class, faculty evaluation plans, teaching load, suspension of a faculty member, credit for prior experience, assessment, ratio of full-time to adjunct faculty members, evaluation of administrators, and participation in the budget process.

The reality of how the board-mandated process of replacing the RFP is developing is starkly at odds with comments made by Ms. Haver less than twenty-four hours prior to the adoption of the board resolution. On the morning of February 27, a faculty member emailed her to comment on the value of the RFP as a document that articulates agreed-upon policy and to point out that the board already has ultimate approval authority over changes to the RFP, implying that a unilateral rejection of these mutual agreements would be completely unwarranted. Ms. Haver responded almost immediately, writing, “The change [to the RFP] would only alter Meet and Confer—in that the chancellor would be the ultimate person to make a decision. In other words, the faculty association would be consulted but no longer be allowed to veto what [the chancellor] is trying to accomplish. *90% of the RFP would stay the same.*” (Emphasis added.) On that same morning, responding to another faculty member with a similar message, Mrs. Haver wrote, “Only about 10% of the RFP will change and that is the Meet and Confer element ONLY. The rest will remain the same.”

IV. Issues of Concern

In the view of the investigating committee, the actions described above involve serious departures from AAUP-recommended principles and standards.

A. The Abolition of Structures of Faculty Governance

Widely accepted principles and standards of academic governance are set forth in the *Statement on Government of Colleges and Universities*, jointly formulated in 1966 by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges. According to the *Statement on Government*, “[a]gencies for faculty participation in the government of the college or university should be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty. The structure and procedures for faculty participation should be designed, approved, and established by joint

action of the components of the institution.” With the passage of the February 27, 2018, resolution, the MCCCCD governing board abruptly and unilaterally abolished most of the “structures and procedures for faculty participation” in the institution’s governance system, thereby silencing the official representative faculty voice.⁴

The governing board’s resolution obliterated MCCCCD’s most important structures of faculty governance before replacement structures had even been discussed. As a result, attempts by the administration and the faculty to work together to determine a way to carry on the institution’s mission proceeded with no clarity and little direction. Four decades of collegial joint effort that had led to exemplary procedures of genuine and effective shared governance were set aside. As noted earlier in this report, the most credible explanation for the board’s actions is partisan ideology and political ambition on the part of individual board members. The harm done to the institution by this action has yet to be fully realized, since the current RFP has been extended through June 30, 2019, but the effective removal of institutionalized faculty participation from all decision-making not regarded by the human resources and legal departments as wholly related to “teaching and learning” will undoubtedly result in MCCCCD’s having difficulty attracting and retaining highly qualified faculty members, with inevitable adverse effects on student learning.

Events that have unfolded in the aftermath of the resolution’s passage are even more troubling. The unsystematic and even chaotic attempt to draft a new RFP appears to be shifting into an attempt to isolate items defined by the administration as “teaching and learning” as the only areas of institutional decision-making in which the faculty will be permitted to participate, in contravention of widely observed governance standards. As the *Statement on Government* asserts, “the variety and complexity of tasks performed by an institution of higher learning produce an inescapable interdependence among governing board, administration, faculty, and others. This interdependence demands full opportunity for joint planning and effort.” While, given institutional differences,

this “joint planning and effort” can manifest itself in a variety of ways, “two general conclusions . . . seem clearly warranted.” First, “important areas of action involve at one time or another the initiating capacity and decision-making participation of all the institutional components.” In other words, no important institutional decisions should be made without meaningful faculty involvement. Second, “differences in the weight of each voice, from one point to the next, should be determined by reference to the responsibility of each component for the particular matter at hand.” Because the faculty, as the *Statement* goes on to explain, has “primary responsibility” for all matters related to the academic mission of the institution, the faculty should play a primary role in all decisions relating to academic matters.

The replacement for the RFP envisioned by MCCCCD’s legal and human resources offices divides policies into two categories: those defined by the legal and human resources department as related to teaching and learning and those defined by the two departments as not related to teaching and learning. Though the board has final approval over the policies in the first category, it “is expressly allowing faculty input [in those areas], prior to its approval.” Policies in the second category are “board approved after comment and notice opportunities to stakeholders, in the same manner as the staff.” These constraints prevent the faculty from fulfilling its “primary responsibility,” as defined by the *Statement on Government*, for decisions related to “curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process.” They also prevent the faculty from participating through consultation, not mere notification, in other important areas of institutional decision-making for which the faculty does not bear primary responsibility but in which it would customarily be meaningfully involved.

The outlook for shared governance at MCCCCD is not promising. Administrators seem emboldened to act unilaterally, dismissing the faculty’s expertise and appropriate decision-making role. Faculty members whom the investigating committee interviewed reported that one college president directed the faculty to remove all mention of the FA from the college plan. Faculty members also reported that the district administration was aligning the college plans for the ten colleges in the system, and that this initiative was well under way and taking place without the faculty’s knowledge, much less its participation.

4. Because the FA is incorporated as an independent entity, the board’s action did not abolish the FEC; it excluded the FEC from the governance structure. As a result, this case differs from those AAUP-investigated governance cases in which the faculty senates were actually abolished—Idaho State University and Rensselaer Polytechnic Institute.

B. The Governing Board's Failure to Exercise Self-Limitation

According to the *Statement on Government*, “[t]he governing board of an institution of higher education, while maintaining a general overview, entrusts the conduct of the administration to the administrative officers—the president and the deans—and the conduct of teaching and research to the faculty. The board should undertake appropriate self-limitation.”

The investigating committee found abundant evidence that the board, in adopting the February 27 resolution to eliminate the meet-and-confer process and replace the RFP, failed to exercise “appropriate self-limitation,” even if it did act within its legal rights as the body with ultimate oversight authority. Over the last four decades, prior governing boards of MCCCCD have delegated administrative matters to the administration and matters that fall under the faculty’s purview to the faculty. This practice became embodied in the policies and procedures of the RFP. In representing the FA as a collective bargaining agent and insisting, incorrectly, that this decades-old organization was not a legally cognizable entity, the current governing board unilaterally introduced unnecessary and perhaps irreparable chaos and harm into an effectively functioning system.

A governing board has a special obligation to sustain and enhance the institution. As the *Statement on Government* asserts, “[w]here public law calls for the election of governing board members, means should be found to ensure the nomination of fully suited persons, and the electorate should be informed of the relevant criteria for board membership.” This standard raises the question of how and by whom intervention can take place if a board acts irresponsibly. Guidance and instruction in best practices for governing boards are available from the Association of Governing Boards as well as from the American Association of Community Colleges. Even though many members of the MCCCCD governing board appear to have limited experience in higher education, the board has, to the best of the investigating committee’s knowledge, not chosen to pursue any kind training for its members. In a letter of November 28 to Chancellor Harper-Marinick, the HLC responded to the complaints it had received related to the governing board’s resolution and raised questions “as to the Board’s commitment to working to meet the expectations outlined in the Criteria for Accreditation.” The HLC’s letter also admonished both the chancellor and the board regarding their proper governance roles:

It is critical to remember that it is not the role of the Board members to engage in operations at each of the system’s institutions. That is why you are the Chancellor and each of the colleges have presidents, administrators, faculty, and staff. There is a marked difference between governance oversight and operations. It is essential to maintain this clear demarcation.

Moreover, a strong board acts as a unified group of leaders, displacing individual agendas and actions. It can only lead to confusion and a loss of credibility for the institution if individual trustees advance agendas with legislators or the public that conflict with overall board decisions. . . . Board governance that is not unified and supportive of the leadership creates distractions that may negatively impact students—your most important stakeholders. HLC encourages you to continue board training and implement measurable efforts to overcome any ongoing issues in this regard.

The letter informed Chancellor Harper-Marinick that, given the HLC’s concerns, the accreditor would “conduct a special area of focus as part of its next Comprehensive Evaluation of an accredited MCCCCD institution.”

C. The Administration’s Dereliction of Duty

According to the *Statement on Government*, it is incumbent upon the chief administrative officer of the institution, which in the case of MCCCCD is the chancellor, “to ensure that faculty views, including dissenting views, are presented to the board in those areas and on those issues where responsibilities are shared. Similarly, the faculty should be informed of the views of the board and the administration on like issues.” At times, the chancellor is a translator. The board’s actions, which should come from its perspective of supporting and improving the educational institution and its reputation, must be explained to the faculty. Very often, the faculty’s perspective and, almost always, the differences between a business and a nonprofit higher education enterprise must be explained to board members. In the matters under investigation at MCCCCD, the administration’s silence was deafening. As a result, this committee regards the MCCCCD administration as entirely complicit in the demise of academic governance at the institution. At the February 27 meeting, just prior to the vote on the resolution, the governing board called upon

Chancellor Harper-Marinick for comment. She replied that it would be “inappropriate to comment on the resolution” and then went on to read a prepared statement on her commitment to shared governance and the faculty.

Chancellor Harper-Marinick publicly chose not to provide an opinion on a resolution that would effectively eliminate faculty governance at MCCC. In the view of this committee, that decision was a profound dereliction of her duty as chief administrative officer of an educational institution. It was her responsibility to inform the board of the implications of its actions and, in particular, of how its actions would affect the district. Moreover, given that board meetings are public forums—broadcast live and available for viewing for the entire community—it was her obligation to provide the public with her views regarding the board’s actions. The most credible explanation for her inaction is that she feared that speaking out against the board would jeopardize her position. She may have felt particularly vulnerable under this governing board, since it was reported that one of its first major actions under Mr. Hendrix, in June 2017, was to rescind the authority delegated to the chancellor to approve changes to the RFP. The fact remains, however, that the chancellor had the responsibility, under principles and standards of academic governance, to help educate the board, and the institution depended on her, as chief administrative officer, to fulfill that responsibility with honesty, integrity, and courage. Chancellor Harper-Marinick had served in the administration at MCCC for nearly twenty-five years. Surely, her opinions were valuable and informed—and vitally necessary for the board to fulfill its oversight responsibilities. By choosing not to participate, she gave the board the impression that they had nothing to learn as members of the MCCC governing board. This seems very far from the truth.

In addition to the impact on the faculty, it is worth noting that the board’s actions will severely constrain the administration’s ability to carry out its duties. Approved policies in the RFP and the meet-and-confer process were the means by which the administration worked collegially with the faculty and thus benefited the entire institution.

Chancellor Harper-Marinick professed her commitment to the faculty and to shared governance numerous times following the actions that are the subject of this report. However, her words were never followed by concrete actions and were usually

accompanied by the assertion that the board acted within its rights. In her March 20, 2018, letter responding to the HLC’s expression of concern, the chancellor also affirmed her commitment to “participatory governance,” but the only concrete evidence she provided for this commitment was how quickly she found alternative duties for the faculty members whose paid reassigned time was abruptly revoked. In an August 20 letter responding to the AAUP, General Counsel Cooper wrote that Chancellor Harper-Marinick has “demonstrated her support for shared governance.” This investigation found scant evidence of such support.

D. The Exclusion of Certain Faculty Members from Governance

The AAUP’s position on the right of all faculty members to participate in academic governance is stated succinctly in a 2012 report, *The Inclusion in Governance of Faculty Members Holding Contingent Appointments*. Among its six recommendations is the following: “Eligibility for voting and holding office in institutional governance bodies should be the same for all faculty regardless of full- or part-time status.”

During the investigation, the committee became aware that the governance system, even before the adoption of the governing board’s resolution, did not allow for full participation of all faculty members in governance and thus did not fully comport with AAUP-supported governance standards. As noted earlier in this report, membership on the FEC is restricted to members of the FA, and only full-time tenure-track and tenured faculty members (“residential faculty”) are eligible to join the FA. It is important to point out that the exclusion from participation in governance of part-time faculty members and of residential faculty members who are not members of the FA was not originally cited by the governing board as a rationale for its actions, and any indications that this issue was a matter of concern to the board or the administration only became evident long after the board meeting on February 27. Although the exclusion of part-time faculty members and of non-FA residential faculty members from governance is thus not directly related to the actions under investigation by this committee, it represents an important departure from AAUP-supported standards.

The opportunity for part-time faculty members to participate fully in governance differs among the colleges in the district. The investigating committee was

informed that, on one campus with an administration open to organized adjunct faculty members, adjunct faculty activists were able to form a committee to address local adjunct faculty concerns. Adjunct faculty members who spoke with the investigating committee expressed disappointment that residential faculty members appear to insist on maintaining a division between the groups. Most disconcerting to the investigating committee were reports that the adjunct faculty members' primary source of information about institutional activities was the newspaper. According to information provided to the investigating committee, faculty members on contingent appointments oppose the actions of the governing board as being completely antithetical to the mission of the institution, but they also report that the residential faculty have kept them in the dark regarding governance issues, failed to consult them, and neglected to inform them about the residential faculty's positions. In the aftermath of the board's resolutions, the adjunct faculty continues to be completely excluded from membership on the FAS and the Faculty Academic Policy Recommendation Team.

E. The Climate for Academic Freedom

It is difficult to make a general assessment of the climate for academic freedom at MCCCCD, since there are ten distinct and separately accredited colleges in the system. As many faculty members from various colleges noted to the investigating committee, the climate for academic freedom and shared governance depends on the individual college. At the district level, however, academic freedom is severely constrained. Faculty members are still operating under the provost's directive to avoid "any FEC- or Faculty Association related-work or conversations during business hours." Restricting conversations about governance is antithetical to academic freedom and suppresses any semblance of faculty governance.

Also, at the district level, an exchange of email messages between two members of the governing board provides an example of at least some board members' indifference to principles of academic freedom. In this exchange, obtained by the FA through an open-records request, one board member expressed concern about an academic field trip called "Cultural Bridges," a four-night tour over spring break regularly led by a faculty member and usually involving about fifty students. That board member was particularly troubled that one of the speakers on the tour, whose topic was Islamophobia, represented the Council on American-Islamic Relations, a nonprofit civil rights

and advocacy group. The board member suggested in the exchange that in the future the board should review and approve "trips such as this," writing, "We could accomplish more if we didn't waste money on liberal causes such as [this] trip." The second board member, in response, noted that her thirteen-year-old grandson had a Muslim teacher and offered to consult the boy in order to "ask him how that has worked out." The first board member vowed not to approve funding for the college that hosted the field trip until the tour was no longer offered. Reportedly, this vow was honored.

V. Conclusions

1. In terminating the meet-and-confer process and repealing the residential faculty policies manual, the governing board of the Maricopa County Community College District acted in disregard of the *Statement on Government of Colleges and Universities*, which provides that "the structure and procedures for faculty participation" in institutional governance "should be designed, approved, and established by joint action of the components of the institution."
2. By removing robust governance structures with no plan for replacement, the MCCCCD board plunged the conduct of governance at the institution into chaos. While this chaos was entirely the result of the ill-considered board actions, the senior administration simultaneously abdicated its appropriate leadership role by failing to engage the issues publicly and by passively acquiescing in the board's unwarranted actions.
3. The investigating committee was unable to find any evidence to suggest that the board acted in the best interests of the institution. Instead, the evidence strongly suggests that the board's intervention was an engineered performance of political theater motivated by partisan ideology and political ambition. The governing board's resolution should be seen for what it is: union busting—or more precisely, deliberately mischaracterizing the Faculty Association as a collective bargaining agent and then destroying it and, with it, all vestiges of a once-effective system of shared academic governance at MCCCCD.

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IRENE T. MULVEY (Mathematics)
Fairfield University, *chair*

BETHANY CARSON (English)
Santa Fe Community College

EMILY M. S. HOUE (Law)
University of Cincinnati

Investigating Committee

The Committee on College and University Governance has by vote authorized publication of this report on the AAUP website and in the *Bulletin of the American Association of University Professors*.

Chair: **MICHAEL DECESARE** (Sociology), Merrimack College

Members: **RACHEL IDA BUFF** (History), University of Wisconsin–Milwaukee; **ALLISON BUSKIRK-COHEN** (Psychology), Delaware Valley University; **PHILIP COLE** (Physics), Lamar University; **RUBEN GARCIA** (Law), University of Nevada, Las Vegas; **PIPPA HOLLOWAY** (History), Middle Tennessee State University; **SUSAN JAROSI** (Art History and Women’s and Gender Studies), Hamilton College; **JULIA SCHLECK** (English), University of Nebraska–Lincoln; **RUDY H. FICHTENBAUM** (Economics), Wright State University, *ex officio*; **NOELEN MCILVENNA** (History), Wright State University, *liaison from the AAUP Collective Bargaining Congress*; **BRIAN TURNER** (Political Science), Randolph-Macon College, *liaison from the Assembly of State Conferences*

Addendum

Following the visit of the investigating committee, the Association continued to monitor governance developments at Maricopa Community Colleges. In January, soon after the Association’s staff sent a prepublication draft of this report to the principal parties, events at the institution took a welcome turn.

On November 6, 2018, three new members to the district governing board were elected. In January, a majority of the new governing board called for a special meeting to elect new officers, even though Mr. Hendrix’s term as board president had not yet expired. Speaking to the *Arizona Republic*, Mr. Hendrix observed that the ideology of the board majority had shifted in the recent election, “going from a board with shared conservative views less inclined to support labor unions, to one with a more liberal stance,” adding, “In all likelihood, the direction will change again in 2020.”

At the January 15 special meeting, Mr. Hendrix announced his resignation as president, and the governing board elected Dr. Linda Thor, president emeritus of Rio Salado College, one of the district’s colleges, to succeed him. Among the first actions of the board’s new leadership was to propose the following resolution:

- a. The resolution approved by the MCCCCD Governing Board on February 27, 2018 regard-

ing policies governing residential faculty is rescinded upon this Resolution’s final adoption by the current Governing Board.

- b. The action approved by the MCCCCD Governing Board on June 26, 2018 regarding a process for creating policies governing residential faculty is rescinded upon this Resolution’s final adoption by the current Governing Board.
- c. A Faculty Administration Collaboration Team (FACT), which is the recognized body for Faculty agreement development, shall be constituted, comprised of two members appointed by the Faculty Executive Council, two members appointed by the Adjunct Faculty Association, and two administrators appointed by the Chancellor, and further, that the Residential Faculty Policies be renamed the Faculty Agreement to better reflect the work being done.
- d. The Residential Faculty Policies dated July 1, 2017 are extended beyond its termination date of June 30, 2018, to June 30, 2019, unless extended further by action of the Governing Board.
- e. The Faculty Administration Collaboration Team (FACT) shall propose to the Governing Board for consideration within 90 days of this

Resolution's adoption a Faculty Agreement that is informed by the current Residential Faculty Policies and includes new language relating to adjunct faculty.

The resolution was adopted by a vote of five to one. Mr. Hendrix did not attend the meeting.

On the following day, Professor Schampel informed the members of the FA by email of what had transpired. He pointed specifically to the vote of new board member Kathleen Winn, a Republican, in favor of the resolution, which he regarded as evidence that restoring shared governance is not "a partisan issue, as it has been characterized by certain other Board members," adding, "Additionally, as was further demonstrated in tonight's Board discussion, the role of the Board, the Faculty, the Staff, and the Administration is not partisan, but always focused on the betterment of the District and the students we all serve." His message concluded, "In recognition of the Board's vote, in a standing-room-only Rio Conference Center packed with faculty and staff, the Board received a cheering standing ovation. We could not have gotten this far without the support of all our Faculty Association members and our Staff colleagues. The work has just now begun. We will keep you informed of all future developments."

In January, Mr. Darbut announced that he would retire, effective February 2019.⁵ ■

5. Having received the prepublication draft of this report, not containing the addendum, with an invitation for comment and corrections, General Counsel Cooper submitted a letter conveying the administration's comments, which the staff took into account in preparing the final version of this report. The letter recounted the recent action of the governing board summarized in the addendum and noted that the administration took the view that it had addressed many of the concerns the Association had raised in this report, "including Faculty selection of its own representatives, faculty participation in creation of faculty policies, and the role of adjunct faculty." The letter did raise several objections, as follows:

With respect to the remainder of the report, the District administration is not in a position to comment on many of the facts stated therein, and in any event, we do not see our role as commenting on every potential factual inaccuracy. However, there are a few points that merit comment. First, we must remind you that the District is a political subdivision of the State of Arizona and that Arizona state law sets out the responsibilities of the Governing Board, which include its responsibility to set policy. The role of shared governance is of course a matter of policy. Second, labeling the Chancellor as derelict in her response to the Board's sudden substantial changes to long-standing policies that

mandated specific action in short time is, at the very least, not informed by a fair review of the relevant facts.

Given that the Board has just suddenly reversed direction, however, and that the FACT process will be underway by the time the AAUP receives this report, we do not see the purpose of pursuing this issue. Nor do we see the utility of correcting other factual inaccuracies, although we do note that the report's description of the development of the faculty policy process is not accurate. We also want to note that the Chancellor recently arranged for a full day of training by the Association of Governing Boards on board governance, as well as training by the General Counsel in matters related to Arizona state law. All Board members participated in this training.

Regarding alleged inaccuracies in the "description of the development of the faculty policy process," the Association would have been willing to consider corrections had the administration identified any such inaccuracies in detail. Comments received from members of the faculty did not identify any inaccuracies in the report's description of the development of that process.

College and University Governance: Vermont Law School¹

(MAY 2019)

This report concerns issues of academic governance stemming from the actions taken in spring 2018 by the administration of the Vermont Law School to “restructure” the law school’s faculty by lowering salaries, reducing the number of full-time positions, and eliminating the tenured status of fourteen of the nineteen tenured faculty members without meaningfully involving the faculty in the decision-making process.

I. Context: The Status of Legal Education

Historically, law schools have tended to manage and govern themselves somewhat independently from the universities of which they are a part and thus have been shielded from many of the massive changes in the administration and culture of higher education during the past two decades. When the 2008 economic crisis brought about a decrease in legal opportunities, a subsequent precipitous drop in enrollments forced law school administrations to adopt the tuition- and revenue-driven models that are now so ubiquitous in higher education. These models typically require individual colleges to generate increased revenues each year in order to secure their budgets for the following year, as failure to increase revenue in any given year

results in a decreased budget for the following year or the placement of the unit in deficit status.

For colleges and universities, increasing revenue generally depends on increasing enrollments, obtaining more grant funding, and identifying other “revenue streams.” In law schools, these revenue streams take many forms, including development and implementation of non-juris doctor programs aimed at international students, online courses and programs, and various topical certificate programs designed for nonlegal professionals. Most law schools do not wish to increase their traditional juris doctor enrollments (and cannot practically do so) beyond pre-2012 levels, making it particularly difficult to balance their books in accord with the requirements of their university administrations.

This challenge became even more difficult when, with applications at record lows, law schools began to compete for higher-quality students through tuition discounting—a phenomenon already widespread in the undergraduate context. Law schools began to offer not only larger scholarships to admitted students, but more scholarships to more students. This created a buyer’s market for students, who could then use a scholarship offer at one school to bargain for larger scholarships at other, usually higher-ranked, schools to which they had been admitted. This trend in discounting required many law schools, especially public institutions or those lacking hefty endowments, to lean heavily on their universities to subsidize their efforts to attract the best students, lest they lose the strongest admittees, often to lower-ranked schools offering more generous scholarships. The national trend in law school tuition discounting turned the world of law school admissions upside down; it remains one of the

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 AAUP’s staff and, as revised with the concurrence of the investigating committee, was submitted to the Committee on College and University Governance. With that committee’s approval, it was distributed to the principal parties for comment and corrections of fact. 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.

biggest factors in the declining financial health of law schools that once were considered cash cows for their affiliated universities. In legal education, as in higher education more generally, the trend has not abated, and there is little reason to think that it will do so in the near future.

Law schools that are not part of a larger university face different and in some instances even greater challenges, in that they are more directly accountable to their governing boards, alumni, faculty, staff, students, and, of course, the public at large. Independent law schools across the country thus continue to struggle not only with how to grow but also with how to sustain their JD and other programs in ways that will best serve their students and the legal profession. In their commitments to the public good and with the challenges they face in fulfilling those commitments, free-standing law schools are similar to other higher education institutions. As is often the case with law schools, however, they are simply a little late to the game.

II. The Institution and Its Governance

Vermont Law School, located in rural South Royalton, is a private, not-for-profit law school, not affiliated with a university. During the 2017–18 academic year in which the events of concern occurred, VLS enrolled approximately 630 full-time students, most of them in the JD program, who were taught by approximately 120 part- and full-time faculty members, including nineteen upon whom tenured status had been conferred years ago. As of this writing, the faculty is made up of thirty-seven full-time faculty members, nine regular part-time faculty members, and seventy-one adjunct faculty members, who serve on both part- and full-time appointments.² Only five faculty members retain tenure.

VLS was established in 1972 and fully accredited by 1978. It is Vermont's only legal education institution and is nationally recognized for its environmental law program. Accredited by the council of the Section of Legal Education and Admissions to the Bar of the American Bar Association (ABA) and, since 1978, by the New England Association of Schools and Colleges,

VLS describes its mission as enabling students to “attain outstanding professional skills and high ethical values with which to serve as lawyers and environmental and other professionals in an increasingly technological and interdependent global society.”

Mr. Thomas J. P. McHenry, the ninth president and dean of VLS, has served in that capacity since summer 2017.³ Prior to accepting his appointment at VLS, Dean McHenry was a partner in the law firm of Gibson Dunn in Los Angeles, California, and also served as a visiting professor of government at Claremont McKenna College, where he taught environmental law. Dean McHenry received his BA from Yale College, his MFS from the Yale School of Forestry and Environmental Studies, and his JD from New York University School of Law. He succeeded Dean Marc Mihaly, who resigned after a five-year term. VLS is governed by a twenty-four-member board of trustees chaired since October 2018 by attorney and VLS alumna Colleen Connor.

The board can comprise up to thirty-two members serving in staggered four-year terms. Two student trustees are elected annually in the spring, and two alumni trustees are elected biennially. Several nonvoting representatives also sit on the board, including an annually elected faculty representative, a staff representative, and “trustees emeritae/i.” Because VLS is an independent law school, the board also includes “corporate officers” of VLS—the chair, vice chair, dean, secretary, and treasurer. All officers, except the dean, serve one-year terms. Of the corporate officers, only the chair, vice chair, and dean have voting privileges.

The VLS administration comprises the dean, vice president for finance, director of human resources, vice dean for students, associate dean for student affairs and diversity, vice dean for faculty, associate dean for the Environmental Law Center, associate dean for academic affairs, vice president for enrollment and marketing, and vice president for alumni relations and development. Historically, tenured, tenure-track, and non-tenure-track faculty members have served in many of these full-time administrative positions, without having to relinquish their faculty status.

VLS does not have a faculty senate. Pursuant to the faculty bylaws set forth in the faculty handbook, the institution-wide governance body is the faculty

2. Regular part-time time faculty members are “appointed to the faculty by the Dean after a national search, review by the faculty, and recommendation to the Dean by the faculty” and are eligible to vote under section II.A, article 1.3, of the faculty bylaws. Adjunct faculty members, mainly career attorneys who teach part time, are sometimes appointed locally and are not eligible to vote.

3. “President and dean” is a joint title stemming from the fact that the law school is unaffiliated with a university. Chief administrative officers holding this title are usually referred to only by the title “dean,” as is the case at VLS and throughout this report.

meeting, for which a quorum is constituted by a majority of the full- and part-time voting faculty.⁴ The dean presides over the meeting. Under article 1 of the bylaws, the voting faculty consists of

1. The President and Dean (hereinafter the Dean);
2. Full- or part-time employees who have been appointed to the faculty by the Dean after a national search, review by the faculty, and recommendation to the Dean by the faculty, including individuals participating in the phased retirement program, . . . and
3. Full- or part-time employees who have been appointed to the faculty and who have been granted the right to vote by an affirmative vote of two-thirds of the voting faculty present and voting at a properly noticed meeting of the faculty at which a quorum of the voting faculty is present.

These voting provisions are unusual in that voting privileges are not restricted to tenured or tenure-track faculty members alone, as they are at most law schools. As of this writing, twenty-five of the thirty-seven full-time faculty members and two of the part-time faculty members have voting privileges. The twenty-seven voting members of the faculty thus represent 117 total faculty members, which amounts to a 23 percent enfranchisement. Curiously, nonvoting members of the faculty are eligible to serve on both appointed and elected committees. A nonvoting member of the faculty may, for instance, be elected by the faculty to serve as the faculty representative to the board but may not vote at faculty meetings; as a consequence, nonvoting faculty members nominated for elected committees may not vote for their own appointments.

The faculty handbook further states, “The faculty conducts policy and planning work of the law school through standing and ad hoc committees.” The standing committees relevant to the events discussed in this report are described below.

- The Dean’s Advisory Committee (DAC) is made up of four elected faculty members and the vice dean for academic affairs (ex officio).

4. The version of the faculty handbook cited throughout this report is the edition “amended through October 2013” and “corrected through September 3, 2014.” The administration circulated a revised edition to the faculty in November 2018, after most of the events detailed in this report had occurred.

At all relevant times, one of the three elected faculty members of the DAC was a nonvoting faculty member, and only one was a tenured faculty member.

- The Tenure and Retention (T&R) Committee is made up of the entire tenured faculty and the dean (ex officio). According to the faculty handbook, the purpose of the T&R Committee is to “make recommendations to the faculty and Dean regarding policies for faculty retention, promotion, and tenure; to evaluate progress of faculty under tenure criteria; to make recommendations to the Dean regarding re-appointments and to the Dean and Trustees regarding reappointments without term.” Thus, the T&R Committee historically has been charged broadly with periodic review of tenured and tenure-track as well as non-tenure-track faculty members and with formulating recommendations to the administration based on its assessments; the committee does not, however, review adjunct faculty members. At all relevant times, Professor Peter Teachout, a member of the faculty since 1975 and a tenured faculty member since 1979, served as chair of the T&R Committee. In at least one instance in the recent past, the T&R Committee recommended terminating the appointment of a nontenured faculty member. In so doing, it applied the handbook’s dismissal policy, which expressly follows the procedures set forth in the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.
- The Curriculum Committee is made up of appointed faculty members and students as well as the vice dean for academic affairs (ex officio). Its purpose is to “manage the development of, and modifications to, the school’s academic programs and courses, including . . . studying and making recommendations to the faculty on specific curricular matters, and other tasks assigned to it by the faculty or Vice Dean for Academic Affairs.”
- The Joint Advisory Committee on Budget (JACOB) is an eight-member committee with only two faculty members, both appointed, one of whom is the faculty representative to the board.

III. The Events of Concern

What follows is a chronological account of the events leading up to the actions that are the subject of this investigation and report.

A. The Institution's Financial Condition

Since at least 2012, VLS has experienced significant financial difficulties, resulting in part from the national crisis in legal education previously described. However, some of the difficulties, though exacerbated by the national crisis, are attributable to the institution's unique mission. VLS prides itself on its environmental law program, which for more than forty years has produced some of the nation's finest environmental lawyers and policy makers. Because VLS attracts a distinct type of service-oriented student, most of its graduates dedicate their professional lives to public service, rather than pursue lucrative careers in large law firms or in corporate practice. As a result, alumni support has not translated into a large endowment that would enable the law school to weather the crisis in legal education.

With financial difficulties mounting in 2012 and 2013 and the law school drawing on its reserves in order to pursue a board-authorized strategic plan, then dean Mihaly offered buyout packages to both tenured and full-time nontenured faculty members. A small handful volunteered to accept the buyouts, agreeing to forego their existing terms of appointment, which in some cases meant relinquishing tenure. Each faculty member was rehired on an individually negotiated basis to teach courses of mutual interest and need, but at a greatly reduced salary. The 2012–13 buyout program, by all accounts, did little to alleviate VLS's financial difficulties. The school continued to reduce expenditures through the elimination of faculty and staff positions, salary freezes, and major reductions in health and retirement benefits. Efforts to increase revenue involved strategic initiatives, themselves requiring significant expenditure of reserves, to increase enrollments through expanded recruitment, marketing and outreach efforts, new program development, increased fundraising, and restructuring a \$15 million loan from the US Department of Agriculture. The expanded recruitment effort appears to have increased the size of entering first-year classes, from approximately 140 students in fall 2016 to approximately 160 in 2017 and approximately 190 in 2018. However, during this time, law school applications began to rebound nationally, so it is difficult to determine whether the growth in enrollment can be linked

to these expanded recruitment efforts. The increase in tuition discounting, however, must be taken into account in calculating the actual impact of these improved enrollment numbers on the school's financial condition.

B. Financial Crisis: July 2017 through mid-May 2018

When Dean Mihaly stepped down from his administrative position to return to the faculty on July 1, 2017, he wrote a farewell message to the law school's donors, presumably based on the above-discussed efforts, in which he characterized the institution's financial condition as follows: "I am most pleased that VLS has reached a stable fiscal situation after weathering the decline in JD enrollment of the past years. At the same time as we reduced expenses, we invested in new revenue-generating activities and increased our admissions and communications capabilities. The result is a second year of balanced budgets without increases in tuition and what appears as of this writing to be an increase in enrollment for the 2017–18 academic year for the JD, the master's, and the LLM programs."

Only a few months later, at the October 2017 faculty meeting, Dean Mihaly's successor, Dean McHenry, presented to the faculty a markedly different assessment of the school's financial condition. At that meeting, according to faculty accounts, he stated that the law school would need to take immediate measures to address a budget deficit so severe that it threatened the institution's very existence.

Three facts relating to what was communicated at the October 2017 faculty meeting warrant further discussion. First, according to the many interviews the investigating committee conducted, most faculty members present at the October meeting were stunned by the report of the institution's dire financial condition. Though many of them were well aware of earlier financial difficulties, they believed, based on the former dean's account, that the situation had improved and that the institution was now in relatively good financial shape. However, other faculty members experienced in dealing with the school's budget and finances, either because they had served as administrators or because they had been members of key committees, were less surprised by the new dean's report. They attributed the discrepancy between the two deans' accounts both to the likely effect of an increase in tuition discounting that had brought in the larger entering class in fall 2017 and to differing interpretations of the financial data and different

approaches to addressing and communicating what those data meant.⁵ By all accounts, however, most faculty members understood after the October 2017 meeting that changes were coming and that sacrifices would have to be made to improve the law school's precarious financial condition.

Second, almost every faculty member interviewed who was not serving in an administrative capacity reported that the possibility of *involuntary* terminations of faculty appointments was not raised until late spring 2018. During his interview, Dean McHenry, however, maintained that the administration had made it clear to the faculty from the outset, presumably beginning with the October 2017 faculty meeting, that involuntary terminations were a possibility. Yet, in his August 22, 2018, letter to the AAUP's staff, the dean stated, "Before a course leading to involuntary cuts was pursued, faculty members were provided the opportunity to make individual alterations to their status, such as reducing their course loads or transitioning to part-time status at reduced salaries," a statement that appears to contradict his assertion that the faculty was indeed made aware of this drastic possibility early in the 2017–18 academic year.

Third, while the VLS administration did not publicly declare that VLS was in a state of financial exigency, it made clear at the October 2017 faculty meeting and thereafter that for all intents and purposes such was in fact the case, even if the administration and board chose not to issue a formal declaration.⁶

5. In a written response to a prepublication draft of this report, VLS professor John Echeverria disputed the former dean's assessment of the institution's financial condition, as well as the suggestion that Dean McHenry might have misrepresented it in fall 2017:

The school's PF 990's [Internal Revenue Service Form 990-PF] confirm that in both the years 2015 and 2016 the school suffered significant operating losses. In addition, contrary to the projections alluded to by the outgoing administration, as Dean McHenry announced to the faculty in October 2017, the school faced further losses in 2017 due to a combination of a higher than expected tuition discount rate and modest (but nonetheless financially significant) shortfall in the number of matriculating students. There is no question the school faced a financial exigency in 2017, and there is no factual basis for suggesting that an exigency might not have existed or that it was somehow manufactured for ulterior purposes.

6. While VLS did not publicly declare that a state of financial exigency existed, the administration was certainly successful in communicating the narrative of the school's dire financial straits. And it proceeded to assume the existence of such a condition as the basis for "programmatic and faculty restructuring." To a person, the faculty members

Following the October 2017 faculty meeting and throughout the spring 2018 semester, Dean McHenry convened several special faculty meetings, in addition to regularly scheduled ones, to present budgetary information. At these meetings, that information was often projected on slides filled with spreadsheets—as was also done at the October meeting—but faculty members present were not provided with paper or digital copies for the stated reason of keeping such information confidential. As it became increasingly clear to many faculty members that the financial situation was so severe that it threatened the institution's very existence, Dean McHenry announced at a special February 15, 2018, faculty meeting that the board had passed a resolution at its February 10 meeting requiring the administration to present it with a balanced budget by May 11.

In addition to the special faculty meetings, the Dean's Advisory Committee (DAC)—which then included three voting faculty members (one tenured and two untenured), one nonvoting faculty member, and the head librarian—was dispatched to conduct smaller "focus group" meetings with faculty members, as well as "office hours" for those preferring one-on-one meetings.

At these faculty and DAC meetings, faculty members reported that they were asked to suggest possible measures that could be taken to reduce the deficit and to indicate their willingness to accept large salary cuts or take early retirement. At any given time during this period, many faculty members proposed and circulated ideas about balancing the 2019 budget, both formally in the larger faculty meetings and in the smaller DAC meetings and informally among themselves. Several faculty members also individually submitted formal written suggestions or proposals directly to the dean or to Mr. Sean Nolon, the vice dean of faculty, and some met with administrators to discuss their proposals. Throughout this period, the administration continued its efforts to persuade

interviewed by the committee registered the seriousness of the situation and expressed their deep concern for the school's future. The committee was troubled to learn that, despite the claims of dire financial straits, during the 2018 fiscal year VLS continued to invest a significant sum in its strategic plan, increased spending in the areas of "technology" and "marketing and administration," and authorized salary increases for faculty members at the lower end of the salary scale. Such expenditures during supposed financially exigent circumstances raise the question as to whether terminating tenured faculty appointments was more a matter of preference than necessity.

faculty members to take early retirement or to accept salary and teaching-load reductions. Some faculty members expressed willingness to do so.

By spring 2018, one measure appeared to emerge as the most viable, according to many faculty members the committee interviewed: deep across-the-board salary reductions for all members of the faculty. Nevertheless, in April 2018, with many proposals still on the table, the administration began discussions with the faculty about criteria to apply to a “restructuring” process, the details of which were not specified. At a special April 19 faculty meeting, Dean McHenry presented a budget report that included details on “Programmatic Restructuring Criteria” and “Faculty Restructuring Criteria.” The programmatic criteria included relationship to VLS mission, JD, and master’s programs; integration with overall curriculum and student involvement; fostering critical-thinking skills; bar passage rates; grant or tuition funding; student enrollment and interest; student employment; and alumni relations and recruitment. The faculty criteria reflected the three already-established criteria for awarding of tenure—teaching, scholarship, and service—and also incorporated the programmatic criteria. By most faculty members’ accounts, however, no one mentioned the possibility of involuntary restructuring.

Significantly, during the period between October 2017 and mid-February 2018, a number of governance processes did not occur. Faculty members were not provided—and by some accounts, did not ask to see—VLS’s financial statements for the preceding five years, which would have enabled them to determine whether the institution was in fact in a state of financial exigency. The T&R Committee was not consulted about possible faculty restructuring. The Curriculum Committee was not consulted about possible programmatic restructuring. No special or ad hoc committee was formed or elected to express the faculty’s collective position on these important matters. Instead, the DAC was employed to gather information from individual faculty members about what they were willing to do and to transmit that information to the dean and other members of the administration. With regard to the numerous suggestions and proposals that members of the faculty had already conveyed to the administration, no committee—not even the DAC—was asked to compile, analyze, or present these ideas to the full faculty for review, discussion, vetting, or vote. As a result, the faculty itself never took a collective position on addressing the financial crisis. Many faculty members who had submitted ideas to the dean reported that

the administration either dismissed their ideas or did not respond to them at all. Nor did the administration itself ever make a public presentation of the many ideas offered and indicate its reasons for rejecting them. Similarly, although faculty members were asked to provide the administration at faculty and DAC meetings with recommendations about the criteria to be considered in the voluntary restructuring process, the administration did not inform them whether it was considering their recommendations, and the faculty played no collective or even individual role in analyzing, assessing, or, most important, approving these criteria. By all accounts, faculty members and the DAC were still discussing options and proposals into the late spring, leaving very little time for a faculty governance process to take place before the budget was due to the board.

C. Involuntary Restructuring Plan and Implementation: May 2018

At the May 11 board meeting, the dean informed the trustees of the administration’s plan to reduce the number of faculty positions and received approval to proceed.⁷ Neither the faculty meeting nor the T&R Committee, the committee formally responsible for reviewing faculty appointments and reappointments, were involved in the review process that identified the faculty members whose positions would be restructured.

Faculty members we interviewed reported that the administration did not disclose its plan to address the financial crisis until the May faculty meeting, which took place shortly after the board meeting. According to faculty accounts, the dean stated at this meeting that faculty members would be informed individually of their status under the plan at upcoming individual performance review meetings. Since most faculty members still assumed that the major component of the plan would be substantial reductions

7. In a written response to a prepublication draft of this report, Professor Teachout noted that, according to board members with whom he spoke, the board approved a “general plan put forth by the administration to make significant economic cuts” but left it to the administration “to determine the particular form of implementation.” Board members also told him that the board was “not informed of, or asked to approve, the decision to implement the cuts by stripping fourteen out of nineteen faculty members of the tenured faculty of tenure.” Professor Teachout concluded that regardless of the board’s prior knowledge of the administration’s intentions, “it acquiesced in the administration’s actions after the fact, and apparently approved of the way the dean handled the matter at a retreat in late August 2018.”

in pay, many continued to believe that they would be informed of salary reductions at these meetings. Faculty members were also told that the forms they had traditionally used for their end-of-year reports would now also include questions relating to the criteria that had been presented to them at the April 19 special faculty meeting. Several faculty members reported that when the dean was asked at this meeting whether tenure would be considered as part of the decision-making process, he replied, without providing details, that it would.⁸

The investigating committee was told that many faculty members who attended the May meeting were shocked by the administration's plan to terminate faculty appointments through restructuring. Other faculty members the committee interviewed stated that they had expected cuts to occur and expressed surprise that their colleagues had not. While the investigating committee was initially perplexed by these very different responses, it eventually became evident that they were the result of the administration's failure to communicate formally the details of its plan at any time. As a result, outside of faculty and DAC meetings, individual faculty members were left to speculate among themselves—and in some instances, with various administrators in private or informal meetings—about what options the administration was seriously considering to keep the school open.

In May and early June performance review meetings, the dean and other administrators informed fourteen tenured faculty members of the termination of their appointments, effective July 1, 2018. These faculty members were given a memorandum dated June 5, which reported a projected \$1.1 to \$2.3 million budget deficit in the 2019 fiscal year and described the administration's decision-making process to "restructure" the law school faculty as a "series of difficult decisions taken only to avoid closing the school during FY19 and only after significant consultation with trustees, faculty and other stakeholders." According to this memorandum, the administration had concluded as a result of this process that faculty salary reductions were not enough to reduce the budget deficit and that "the remaining savings would need to come from the involuntary restructuring of

faculty positions." The memorandum described how the administration had developed "programmatic goals" and "instructional models," had "measured the number of faculty needed under the models," had "consulted with other academic institutions," and had then proceeded to evaluate each faculty member's relative merit according to criteria it had developed. With the necessary board approvals in place and the announcement at the faculty meeting having been made, members of the administration then "met to select the faculty members who would remain to teach the envisioned curriculum."

At the performance review meetings, the administration presented the fourteen affected faculty members with a range of choices, in different combinations. Some were given a list of three "restructured faculty options" that they might select in lieu of having their appointments terminated outright on July 1. These options consisted of a variety of short-term appointments with reduced teaching and service responsibilities. All required faculty members to relinquish their tenured status and faculty voting rights, sign a general and age-discrimination release, and agree to nondisclosure and nondisparagement provisions. A few faculty members who rejected the first three options were offered a fourth "option"—termination of appointment effective July 1 with "no further teaching, service or scholarship obligations" and "no title, office, library or other faculty privileges." A few other faculty members were given a variation of option four—termination of appointment on July 1 but with health-care benefits through the end of 2018 if they signed the releases and the nondisclosure and nondisparagement agreements. Thirteen faculty members signed an agreement. Only one of the affected faculty members, Professor Craig Pease, refused, and his appointment therefore terminated on July 1.

The affected faculty members had the opportunity to appeal the adverse decisions under a process established by the administration specifically for this purpose. The Faculty Restructuring Appeals Panel consisted of the three nontenured faculty members originally elected by the faculty to serve as members of the DAC, now repurposed as an ad hoc appeals body. The scope of review, also determined by the administration and described in its document titled "Appeals Process for Programmatic Restructuring Decisions," was as follows: "The Review Panel's charge is not to make an independent determination of the merits of any case, but to determine whether the administration fairly considered, in accordance with the stated

8. Professor Teachout noted in his written response to the draft that the dean later explained to him that the administration, in making the decisions to eliminate tenured faculty appointments, had been, in the dean's words, "agnostic toward tenure." Professor Teachout inferred from the dean's remark that "tenured status had been irrelevant."

criteria, the relevant information regarding appellant's circumstances as they relate to the decision to restructure based on the future programmatic needs of Vermont Law School."

The criteria set forth in this memorandum mirrored the substance of the questions that had appeared on the new end-of-the-year performance review forms that faculty members had completed in preparation for their individual meetings with Dean McHenry. In filling out these forms, faculty members focused only on their 2017–18 academic year performance, rather than on their entire careers, since they were unaware that the administration would use their responses to terminate their tenured appointments based on relative merit. In short, the faculty members identified for involuntary restructuring were not afforded a career review by their faculty peers, the type of review stipulated in VLS policy documents for major faculty personnel decisions.

Among the criteria used to evaluate the relative merit of the faculty members, as described in Dean McHenry's June 5 memorandum, were "professionalism," quality and quantity of scholarship, and "impact on VLS's National reputation." Notably, the teaching, scholarship, and service criteria set forth in the memorandum (and at the April 19 presentation) reflected the very same criteria that the T&R Committee had traditionally employed in making its decisions to recommend tenure. Yet the T&R Committee, with its long-standing institutional jurisdiction over such matters, was never consulted during the decision-making process by which tenured faculty were selected for appointment termination based on the stated criteria.

D. Faculty Response to the Restructuring Plan

On June 12, Dean McHenry met with the T&R Committee at the committee's request. Chair Teachout, writing to the dean on behalf of the committee in a memorandum of the same date, acknowledged the law school's precarious economic situation and described the main purpose of the meeting as "to provide an opportunity to explore jointly alternative or modified approaches that may help achieve the same basic economic ends without resorting to measures which needlessly disrespect the contributions made by long-serving members of the tenured faculty to the Vermont Law School and threaten the institution of tenure itself." While praising the dean for "being open and transparent in outlining the general situation in meetings with the faculty prior to announcement of the

implementation plan," the memorandum was far less sanguine about the "implementation phase," which it characterized as follows:

The decisions made, the process utilized in making the decisions, the impact of those decisions on particular faculty, the availability of forums in which concerns about the implementation could be openly and freely discussed by faculty, all of that which has transpired in implementation has been obscured in darkness and secrecy. The process of implementation has been the antithesis of transparency. Long-tenured faculty are scared and frightened to discuss with each other and with other colleagues on the faculty what has happened lest they be threatened with immediate eviction on July 1st, summarily stripped of tenure, office, salary, and medical benefits.

The T&R Committee's memorandum questioned whether the administration's "draconian approach" to the tenured faculty was necessary to achieve financial stability and whether "the rationale of 'financial exigency' [was] being used to clean house of expensive tenured faculty members in order to be able to replace those removed with lower cost new hires." The memorandum proposed the voluntary buyout model as an alternative approach that "would not cost the school a penny more to implement." The memorandum also objected to the composition of the hearing committee on grounds that it lacked tenured members. Appended was a list of questions for the administration concerning the law school's financial situation, its unwillingness to share financial documents, and the composition of the appeals panel. The committee proposed to conduct a faculty election to select a tenured faculty member to serve on the panel. In the end, no such vote took place, and the administration provided no financial documents, beyond the slides projected at faculty meetings, to support its claims.

IV. Issues of Concern

The investigating committee has identified the following issues as the most salient posed by this case.

A. The Absence of Joint Effort and Meaningful Consultation

The VLS administration asserts that the course of action it undertook during the 2017–18 academic year—which ultimately resulted in the detenuing and disenfranchisement of fourteen of nineteen tenured faculty members—constituted a "consultative"

restructuring process that comported with AAUP-recommended standards of academic governance.

These standards are articulated in the Association's foundational 1966 *Statement on Government of Colleges and Universities*, formulated in cooperation with the American Council on Education and the Association of Governing Boards of Universities and Colleges. As an underlying premise, the *Statement on Government* posits an "inescapable interdependence" among governing board, administration, and faculty that calls for "adequate communication among these components, and full opportunity for appropriate joint effort." With regard to the internal operations of the institution, the statement asserts that "effective planning demands that the broadest possible exchange of information and opinion should be the rule for communicating among the components of a college and that the faculty should be fully informed on all budgetary matters." The statement also recommends that "[a]gencies for faculty participation in the government of the college or university . . . be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty." The AAUP's statement *The Role of the Faculty in Budgetary and Salary Matters*, which derives its recommendations from principles articulated in the *Statement on Government*, further provides that, when institutions experience major threats to their continued financial support, "the faculty, employing accepted standards of due process, should assume primary responsibility for determining the status of individual faculty members." When the overall budget for teaching and research is reduced, "the faculty should be given the opportunity to minimize the hardship to its individual members by careful examination of whatever alternatives to termination of services are feasible."⁹ The

9. The council of the ABA's Section of Legal Education and Admissions to the Bar has promulgated governance standards with which law schools must comply in order to receive and maintain accreditation. While the ABA standards are not directly at issue here, they are certainly relevant. Standard 201 of the *2018–2019 ABA Standards and Rules of Procedure for Approval of Law Schools* speaks directly to "Law School Governance":

- (a) The dean and the faculty shall have the primary responsibility and authority for planning, implementing, and administering the program of legal education of the law school, including curriculum, methods of instruction and evaluation, admissions policies and procedures, and academic standards.

VLS administration has argued that it communicated often with faculty members, keeping them regularly informed about what it considered to be "arguably financially exigent circumstances." It has also asserted that it repeatedly solicited suggestions from faculty about addressing the deficit. These efforts, it believes, amounted to a sufficient level of faculty consultation, thereby rendering governance-based critiques of its actions inaccurate.

The investigating committee received ample evidence regarding the administration's concerted efforts to communicate with faculty members in order to solicit their ideas about and reactions to various expenditure-reducing scenarios. Those facts were corroborated by almost every individual interviewed and by documents provided by the administration. But absent from the administration's approach was the fundamental understanding that shared governance requires far more than merely providing information to faculty members and inviting their perspectives before making a decision. At no time during spring 2018, when the administration presented various expenditure-reducing proposals for discussion, did the administration afford the faculty—as a body—the opportunity to make a recommendation or take a vote to record its position. This absence of meaningful faculty consultation excluded the faculty as a collective body from the decision-making process regarding the nature and scope of the budget cuts, the termination of tenured faculty appointments, and the assessment of the effects of reductions on academic programs and curriculum.

As the *Statement on Government* makes clear, "important areas of action involve . . . the initiating

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- (b) The dean and the faculty shall recommend the selection, retention, promotion, and tenure (or granting of security of position) of members of the faculty.
- (c) The dean and the faculty shall each have a significant role in determining educational policy. . . .
- (e) A law school that is not part of a university shall be governed by a board with responsibility and authority for ensuring operation of the law school in compliance with the Standards.

Further, Standard 202, "Resources for the Program," makes it clear that a law school whose "current and anticipated . . . financial condition" is expected to have a "negative and material effect on the school's ability to operate in compliance with the Standards or to carry out its program of legal education" is *not* in compliance with the standards. Notably, the relevant ABA standards on law school governance refer to the "dean" and the "faculty" coequally, giving each "primary responsibility and authority" for all aspects of the law school program, including the selection, hiring, retention, and promotion of faculty.

capacity and decision-making participation of all the institutional components,” the differences among them “determined by reference to the responsibility of each component for the particular matter at hand.” The faculty has “primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process.” Given that the “particular matter at hand” was how budgetary conditions at VLS might affect faculty status, academic programs, teaching, and curriculum, the faculty should have been afforded primary responsibility in initiating proposals and making decisions. Furthermore, Regulation 4c (Financial Exigency) of the AAUP’s *Recommended Institutional Regulations on Academic Freedom and Tenure* unequivocally states that “the responsibility for identifying individuals whose appointments are to be terminated should be committed to a person or group designated or approved by the faculty.”

By acting unilaterally in the decisions involving the elimination of fourteen tenured appointments, the administration—with the approval of the board of trustees—effectively undermined the authority of the faculty in important areas of its primary responsibility, most egregiously in the determination of faculty status and in the oversight of teaching and curriculum, thereby violating generally accepted principles of academic governance.

There is very little disagreement among those the committee interviewed that throughout the first half of the 2017–18 academic year, Dean McHenry forthrightly communicated to the faculty that VLS was in financial distress because of the depletion of the school’s reserves. As discussed above, he made this clear not only at regular faculty meetings but also at several special faculty meetings scheduled solely for purposes of discussing the budget and soliciting ideas from faculty members for dealing with the crisis. The DAC also met with faculty members in small groups and individually for the same purposes. During these months of meetings and conversations, the administration consistently asked faculty members to consider voluntary retirement, but, by most accounts, few expressed interest in doing so. Most of the faculty members we interviewed, however, indicated that they were willing to take significant salary and course load reductions once they understood just how dire the situation was. Several faculty members also reported having sent email messages to the dean offering proposals and having made such proposals

at faculty meetings. It is unclear to the committee, however, whether or to what extent the administration seriously considered any of these proposals prior to its May 2018 announcement concerning the elimination of tenured faculty appointments.

Herein lie the committee’s concerns. Dean McHenry was, to a degree, transparent about the budget crisis. He projected sobering numbers to the faculty and communicated the severity of the school’s deficits at meeting after meeting throughout the academic year. Furthermore, he charged an elected faculty committee, the DAC, with acting as his intermediary with the faculty at large in soliciting ideas from faculty members about reducing expenditures. DAC members attempted to do so by scheduling special meetings and office hours, in part to give those who might not feel comfortable speaking up in larger faculty meetings an opportunity to share their thoughts in private. Nevertheless, DAC members reported to the investigating committee that while they were responsible for gathering information, they were not charged by the administration to perform any analysis or assessment of the viability of the ideas they received. Rather, they gathered information and passed that information on to Dean McHenry and members of the administration. Thus, the DAC, which was strictly an advisory body to the dean, did not serve as a faculty-authorized decision-making body in any real sense, as it made no analyses, assessments, or reports regarding the implementation of voluntary or involuntary faculty restructuring.

Significantly, aside from the DAC, no standing faculty committees were consulted about the restructuring process, even though such matters fell squarely within their purviews, as defined in the faculty handbook. The T&R Committee was never involved in meaningful consultation with the administration, notwithstanding its well-established practices and institutional knowledge relating to the status and retention of faculty personnel. Similarly, the Curriculum Committee, the stated responsibility of which is to “manage the development of, and modifications to, the school’s academic programs and courses, including . . . studying and making recommendations to the faculty on specific curricular matters, and other tasks assigned to it by the faculty or Vice Dean for Academic Affairs,” was not formally consulted in the decision-making process. In view of the asserted “programmatic” nature of the restructuring plan, the administration’s failure to consult formally with the Curriculum Committee appears to have been a curious oversight, to put it generously.

While the absence of meaningful faculty consultation is concerning enough, the investigating committee is also troubled by the appeals process that the administration implemented in late spring 2018. The administration points out that the panel tasked with reviewing such appeals was an “elected” faculty body in that its members were drawn from the elected faculty members of the DAC. However, the purpose of an election requirement for such an appeals body is to enable potentially affected faculty members to elect colleagues who they believe are most capable of fairly adjudicating difficult cases. This purpose was not served here, even though the appeals panel was appointed from an existing committee whose members had been elected, because neither the elected DAC faculty members nor the colleagues who elected them had ever contemplated at the time of their election that they would serve on a panel charged with reviewing appeals. Additionally, given the role of the DAC in gathering and soliciting information throughout the year and the fact that none of the DAC members tapped to serve on the appeals panel was a tenured or tenure-track faculty member, many of the affected faculty members were skeptical of whether the panel would or could fairly adjudicate any appeals.

It must be noted that several faculty members we interviewed, including some who appealed the elimination of their tenured appointments, reported that the appeals panel seemed to have taken its limited charge seriously and to have operated in good faith, and they commended its members for taking on a difficult task. To be sure, Professor Pease, whose termination was affirmed by the panel, was not among them. But it appears that the administration took no action either to comply with or even respond formally to the panel’s recommendations. Indeed, members of the appeals panel were never notified of the dean’s final decisions on cases they had reviewed, a lack of transparency that is antithetical to shared governance norms. Thus, it appears to the investigating committee that the appeals process was implemented more to give the appearance of due process than to actually provide any substantive remedy based on such a process.¹⁰

10. In his response to the prepublication draft, Professor Teachout stated, “This view is supported by comments made by the dean in my own personal interview. At that interview, the dean explained the so-called ‘appeals process’ that had been established, then went on to stress—I was surprised by his comment in this respect—that he was not concerned about any decisions or recommendations that the appeals panel might make, since he was completely free to disregard them.”

B. The Culture of Shared Governance at VLS

After conducting lengthy interviews with more than twenty faculty members and administrators, the committee became aware that while a form of shared governance has existed at VLS since its founding, it has not always been robustly practiced or fully understood. This is so even though most full-time faculty members—regardless of tenure status—serve on committees and are eligible to vote. The right to participate means little, however, when such participation contemplates, as it did in the case of the restructuring process, only the solicitation, compilation, and communication of data and not the analysis, assessment, and application of it to the crisis at hand by appropriate faculty bodies. Similarly, the right to vote means little if the voting faculty, as a body, does not actively participate in deciding essential matters—such as the future of the school, the retention of various faculty members, and program offerings—on which its input should presumably be desired and sought.

Shared governance, as envisioned in the relevant AAUP policy documents, not only actualizes the type of institutional joint effort so important to the academic enterprise but, ideally, also provides an institutional structure by which the faculty can act when facing difficult and unanticipated circumstances, such as those faced by the VLS faculty for many years. Established faculty committees and deliberative bodies are essential to creating that structure. If, however, those committees are unable to act decisively when it counts—either because of administrative fiat, the lack of institutional mechanisms by which to act, or their own sense of powerlessness, paralysis, or apathy—they may not be able to surmount the problems they face. We are not suggesting that the VLS faculty was apathetic about what was happening throughout the 2017–18 academic year. On the contrary, every single person we interviewed was genuinely committed to the mission and survival of the institution and proud to be a part of the VLS community. Our point is that the limited ways in which faculty committees and other governance structures have apparently operated historically at VLS—particularly in relation to the administration—prevented faculty members from acting more quickly and more meaningfully in response to the crisis at hand.

For example, that the T&R Committee did not take action until it was too late (in June 2018, after termination decisions had been made and communicated to specific faculty members, both tenured and nontenured) and that the Curriculum Committee

never asserted its authority at all speak to the less than optimal exercise of shared governance responsibilities that likely preceded Dean McHenry's arrival. Further, while almost everyone we interviewed testified to the strong sense of community, some noted that this sense of community is not equivalent to an effective structure for collaborative decision making.

The significance of this distinction—between the existence of a sense of community and the reality of meaningful collaboration—cannot be overstated. For a stand-alone law school that is the only law school in the state (and is, moreover, geographically isolated), the distinction takes on even more significance because there are no larger university norms to follow or nearby colleges with which to compare notes. In times of stability and growth, such independent institutions may be able to get by with simply doing things in an ad hoc fashion that works for them. But in times of uncertainty and crisis, a robust governance structure enables the faculty to act cooperatively and more effectively with the administration and governing board in guiding the institution through a crisis. Unfortunately, in the context of higher education, nothing demonstrates the need for a strong institutional structure of collaborative decision making—and not just long-standing accepted community practices—than the type of financial crisis faced by VLS and, unfortunately, by an increasing number of law schools nationwide.

It appears that this form of shared governance has not been part of the law school's culture, although certain aspects of shared governance have certainly been practiced there. That is, while faculty members seemed to have the strong impression that the VLS governance structure was democratic, that impression was primarily based on the fact that faculty members of different statuses had voting rights and participated actively in committee work and faculty meetings. This sort of democratic inclusiveness, however, is only a small part of shared governance. At the same time, it is problematic that the disenfranchisement of the large number of faculty members serving on contingent appointments does not allow for full participation of all faculty members in governance.

Notably, the administration ignored the compelling reasons for supporting a governance structure that would have allowed for meaningful faculty consultation. This apparent disregard for the importance of shared governance structures and for the faculty's legitimate role in joint decision making during a time of financial exigency (albeit undeclared) contributed

significantly to the downfall of tenure at VLS. Likewise, the faculty must shoulder some responsibility for neglecting to establish a governance structure of shared obligations that might have allowed for a more robust voice and greater protections in times of crisis. These factors, combined with the fact that Dean McHenry came to VLS from a corporate law practice—instead of from an academic institution with a strong culture of shared governance—helped create a perfect storm, precipitated by the financial crisis, that eventually led to the administration's unilateral action to revoke the tenure of three-quarters of its tenured faculty members through a process that, in the end, bore a striking resemblance to a corporate layoff.

C. Programmatic Restructuring

We would be remiss if we did not address the administration's assertion that the late spring termination and detenuing decisions were based on programmatic needs and priorities. First, if we accept that this was in fact the case, it troubles us deeply that three-quarters of the *tenured* faculty at VLS—or at any institution, for that matter—would be considered so nonessential to the school's core mission as to be expendable. Second, the information provided to us indicates that VLS's premier environmental law program has been and will continue to be severely diminished, as various faculty members have left or will soon leave as a result of the spring 2018 involuntary restructuring.

Additionally, the international law program at VLS, which in recent years has reportedly earned a reputation for excellence and drawn first-rate applicants, has been effectively dismantled, having lost many of its affiliated faculty members. Thus, it was difficult for this committee to understand how the faculty reductions actually served the school's programmatic needs, given the negative impact of the cuts on the very programs that are at the core of its mission.

Finally, we wish to reiterate how troubled we are by the administration's failure to involve faculty members meaningfully in a broad assessment of programs—assuming decisions to cut faculty positions actually took into account programmatic considerations—either through the Curriculum Committee or through some other, perhaps ad hoc, committee. Widely accepted standards of governance emphasize the primary role that the faculty plays in the planning and implementation of academic programs. Yet the committee found that the faculty was not asked to perform the most rudimentary programmatic analysis, even to save the law school.

These concerns have left us with many basic operational questions, questions that faculty members and administrators could have addressed had there been a truly collaborative decision-making process in place. For example, what will happen to students who enrolled at VLS specifically because of its environmental and international law programs? Once the short-term teaching appointments of various formerly tenured and long-term faculty members end, who will then be responsible for teaching core classes and leading and expanding those programs in a sustainable way? To our knowledge, many professors teaching on contingent appointments are filling in gaps left by last spring's reductions. This in itself is a troubling development, and it begs the question: How will the institution move forward, especially given legal accreditation standards that limit the number of adjunct faculty members teaching in any given program? Now that only five tenured faculty members remain at VLS, some of whom both teach and serve in an administrative capacity, how will they maintain and manage their historical governance roles in the face of the school's continuing financial struggles? And, in that connection, what roles will the nontenured faculty play in governance going forward? Perhaps most important, how will VLS ensure the academic freedom of its faculty, including the freedom to criticize the administration, when the protections of tenure apply to only a few? All of these questions, frequently brought to our attention by the many faculty members we interviewed, remain unanswered. But they are exactly the types of questions that meaningful consultation with the faculty, as contemplated by AAUP governance standards, was designed to raise and address.

D. The Board of Trustees

One final issue in relation to governance at VLS concerns the role of the board of trustees during the period in question. Beyond the resolutions it passed in 2018 charging Dean McHenry with balancing the budget and approving his proposed involuntary restructuring plan, the board appears to have played almost no role in the events leading up to the reduction in the number of full-time positions and the elimination of the tenured status of fourteen of the nineteen tenured faculty members. According to the *Statement on Governance*, the governing board of an institution "plays a central role in relating the likely needs of the future to predictable resources; it has the responsibility for husbanding the endowment; it is responsible for obtaining needed capital and operating

funds; and in the broadest sense of the term it should pay attention to personnel policy. In order to fulfill these duties, the board should be aided by, and may insist upon, the development of long-range planning by the administration and faculty."

In talking with some twenty faculty members and administrators, the investigating committee was struck by the marginal role the board appears to have played in stewarding the law school's financial resources in a time of crisis. In such situations, governing boards at the very least are usually called upon to ensure that the administration provides the faculty with complete data relating to the institution's financial position. The available information suggests that the board's only significant actions were to issue the resolutions dictating a balanced budget and approving the dean's restructuring plan.

E. Impact on Academic Freedom and Tenure

No faculty member we interviewed indicated that his or her academic freedom in teaching and research had been affected by the administration's actions.¹¹ Indeed, VLS has historically and consistently fostered a strong culture of academic freedom with regard to classroom teaching and research. The clinical faculty members in the environmental law program expressed particular appreciation for the administration's past support for the sometimes controversial positions clinics have taken in the course of litigation, noting that the administration has never pressured clinics to take different positions based, for example, on the interests of individual alumni or donors.

While many faculty members tend to think about academic freedom primarily in terms of classroom teaching and research, academic freedom also protects

11. In a written response to a prepublication draft of this report, Professor Pease noted that his "academic freedom of teaching and research has most certainly been harmed" by the actions of the VLS administration and board. He explained that he was unwilling to sign the nondisparagement agreement, in part, because "it would have restricted what [he] could say about VLS, both in public discourse and in private conversations." He further stated: "Any restriction on my ability to speak in public is in fact a restriction on my ability to teach and research. Public discussion of science [is] an integral part of my scientific research. More broadly, teaching is not something restricted to a formal classroom. Teaching also occurs when law school faculty participate in public debate and discussion. The attempt by VLS to restrict my public speech through the non-disparagement agreement was thus a direct assault on my ability to teach. The faculty members who signed a non-disparagement agreement are restricted in their ability to teach in the public arena."

faculty participation in institutional governance. As the AAUP's *Statement On the Relationship of Faculty Governance to Academic Freedom* asserts, academic freedom of faculty members includes "the freedom to express their views (1) on academic matters in the classroom and in the conduct of research, (2) on matters having to do with their institution and its policies, and (3) on issues of public interest generally, and to do so even if their views are in conflict with one or another received wisdom." A great majority of the faculty members we interviewed told us that the restructuring process—in both the voluntary and involuntary stages—severely hampered their willingness and ability to express themselves freely "on matters having to do with their institution and its policies." For example, because affected faculty members were required to sign nondisclosure and nondisparagement agreements as a condition of their restructured (short-term or part-time) appointments at VLS, they were prohibited from talking with one another (or anyone else) about the specific terms of their restructured status. This situation seeded an atmosphere of silence and fear, to the point where some faculty members, when asked by others in late spring 2018 about what courses they would be teaching the following year, declined to respond lest they be charged with violating their nondisclosure agreements or targeted for involuntary restructuring.

Most important, the administration terminated the appointment of a tenured faculty member and deprived an additional thirteen faculty members of their tenured status. Additionally, the administration employed assessments of each tenured faculty member's relative merit in selecting which faculty appointments to detenure—a process the AAUP has long considered tantamount to dismissal for cause—without affording the due-process protections that normally accompany tenured status: an adjudicative hearing of record before an elected faculty body in which the administration demonstrates adequate cause for dismissal. As the 1940 *Statement of Principles on Academic Freedom and Tenure* famously argues, tenure is instrumental for preserving academic freedom. In the name of involuntary restructuring, the administration and governing board at Vermont Law School, has nearly eliminated tenure and with it, the most effective means of protecting academic freedom. It remains to be seen whether faculty members will continue to experience a lack of constraint on their academic freedom in teaching and research when most of the faculty lack the protections of tenure. But clearly, the faculty's ability to assert its

governance rights in the face of further assaults has already been severely constrained.

V. Conclusion

Based on our investigation of the events that led to the detenuring of fourteen of the nineteen tenured faculty members in spring 2018, this investigating committee finds that the administration of Vermont Law School violated the standards set forth in the AAUP's *Statement on Government* and derivative Association documents and that unacceptable conditions of academic governance prevail at the institution. Contrary to the assertions of some administrators and faculty members, we did not consider this a "foregone conclusion" when we began our investigation. Indeed, we acknowledge that the administration did take many steps to comply minimally with certain Association-supported standards. It consistently asked faculty members for suggestions and made a compelling case for why some faculty members, for the good of the school, should volunteer for early retirement. We appreciate that Dean McHenry communicated the gravity of VLS's financial position early in the restructuring process. And we recognize that some remaining VLS faculty members still feel that they have the freedom to teach and research as they wish and that non-tenure-track faculty members have historically participated in shared governance at VLS.

But, as discussed earlier in this report, minimal compliance with a few AAUP standards does not by itself bring VLS into alignment with those standards. Asking faculty members for suggestions does not constitute meaningful consultation when the faculty is not given any opportunity to review, analyze, and assess the options, whether suggested by faculty members or not, and, ultimately, to affect decisions being made. Having access to data is not equivalent to being consulted about what those data mean and how they should be understood and addressed. A strong culture of academic freedom relating to classroom teaching and research is only one part of what constitutes academic freedom. And providing non-tenure-track faculty members some participatory rights does not necessarily translate to a strong culture of governance if faculty members with those rights are not afforded the opportunity to exercise them in ways that matter.

Finally, we must relate the two concerns that we have found most troubling about the VLS administration's failure to comport with AAUP-recommended standards of academic governance during the 2017–18 academic year: the significant erosion of trust within

the law school community during that time and the net effect on the institution of the events of that year. With regard to the former, and as we hope this report makes evident, the story of VLS during the period under investigation is one of eroding trust not only between a wide swath of faculty members and the administration but also among faculty members themselves. This erosion of trust stands in stark contrast to what we heard about the strong sense of community that had existed at VLS in the past. This breakdown of trust resulted not from the administration's failure to keep faculty members informed or solicit suggestions from them but from its failure to comprehend why providing data and asking for input do not, by themselves, constitute meaningful collaborative decision-making. A statement Dean McHenry made to a local newspaper reporter comparing faculty members to children "handled" by the administration reflects precisely the administration's approach: faculty members could be manipulated into thinking they were making decisions for themselves, when all along the grown-ups had made the decisions for them. This is the antithesis of shared governance.¹²

A view of the situation that accounts for the net effect on VLS of the events of 2017–18 is even more devastating. The administration eliminated the tenure of three-quarters of the school's tenured faculty members, making them essentially at-will employees; transferred the bulk of the teaching load to contingent faculty members; and radically reduced the size of the full-time core faculty. Put inelegantly, VLS laid off a majority of its most expensive faculty members and then outsourced the work they did to a much cheaper contingent labor force, with no intention, it seems, of looking back. Left in the dust pile of this type of corporate restructuring are the primary goals of higher education: to serve the common good and advance the progress of society through teaching and research, which goals are the very reason for academic freedom, tenure, and shared governance.

We wish to reiterate that every single person with whom we spoke in the course of our investigation expressed a commitment to Vermont Law School. Everyone was devastated by the events of last spring and the school's continuing difficulties. All of those we spoke with, and the members of this committee,

want to see VLS survive so that it can carry forward its mission to educate and train leading environmental lawyers, particularly in a time when they are so needed. Vermont Law School will be able to do so, however, only if it conforms not only to the letter of AAUP-supported standards, but to the animating spirit of the AAUP's commitment to shared governance, academic freedom, and the common good.¹³ ■

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EMILY M. S. HOUH (Law)
University of Cincinnati, *chair*

SUSAN JAROSI (Art History and Women's and Gender Studies)
Hamilton College

DEANNA WOOD (Library Science)
University of New Hampshire

Investigating Committee

The Committee on College and University Governance has by vote authorized publication of this report on the AAUP website and in the *Bulletin of the American Association of University Professors*.

Chair: **MICHAEL DECESARE** (Sociology), Merrimack College

Members: **RACHEL IDA BUFF** (History), University of Wisconsin–Milwaukee; **ALLISON BUSKIRK-COHEN** (Psychology), Delaware Valley University; **PHILIP COLE** (Physics), Lamar University; **RUBEN GARCIA** (Law), University of Nevada, Las Vegas; **PIPPA HOLLOWAY** (History), Middle Tennessee State University; **SUSAN JAROSI** (Art History and Women's and Gender Studies), Hamilton College; **JULIA SCHLECK** (English), University of Nebraska–Lincoln; **NOELEEN MCILVENNA** (History), Wright State University, *liaison from the AAUP-CBC*; **BRIAN TURNER** (Political Science), Randolph-Macon College, *liaison from the ASC*; **RUDY H. FICHTENBAUM** (Economics) Wright State University, *ex officio*

12. The local newspaper quoted the dean as follows: "The faculty . . . can't be, as a whole, in the position of deciding how people are restructured. It's like asking kids at a playground who is going to get the ball—it just doesn't work."

13. In response to a prepublication draft of this report, Dean McHenry submitted a sixteen-page response and numerous attachments marked *confidential*. Following further communication with the AAUP's staff, he submitted for publication the following statement.

Any suggestion that Vermont Law School engaged in reduction of its instructional budget, including restructuring faculty positions in the spring of 2018, without ongoing, extensive, and continuous involvement of the faculty is inaccurate. When a condition of financial

exigency was identified, and it became clear that the survival of the school was at stake, the administration explored, together with the faculty, all realistic alternatives to involuntary reductions in faculty positions, while at the same time preserving its premier environmental program. The AAUP report does not identify a single viable alternative that was presented to the administration by the faculty, or suggest one on its own. To the extent that the report notes lack of involvement by some portion of the tenured faculty, the report fails to highlight the administration's continued solicitation of input from the faculty, and the extent to which some faculty were not willing or did not choose to participate.

History: What really happened at Vermont Law School, as explained to the AAUP Committee in person on December 19, 2018, documented in a timeline, response to questions and documentation provided to the AAUP Committee on February 4, 2019, and further documented in a sixteen-page response and accompanying attachments provided to the AAUP by letter dated March 31, 2019, is the following:

The financial challenges of a private independent law school with a small endowment caught up with VLS in the fall of 2017. Enrollment and discount rates did not meet projections, strategic initiatives did not generate adequate anticipated revenue and the school could no longer sustain the deficit spending it had incurred annually for the past six years. Despite significant success in increasing enrollment, starting new programs, including nationally recognized online courses, and renegotiating debt service, the school's reserves were significantly depleted and another year of deficit spending at that level could have forced the school's closure. Most challenging was the projected deficit of more than \$2 million for FY19, and the years following. Audited financial information fully documenting the finances has been provided to the AAUP, and has not been contravened.

Immediate action was necessary to place the school on a sustainable path and preserve and grow its renowned environmental program. Over seven months, from the October 2018 Board of Trustees meeting through the May 2019 board meeting and commencement, the board, its Budget & Finance Committee, the school's senior leadership team consisting of five faculty members and four administrators, the staff and, most importantly, its faculty and especially its elected Dean's Advisory Committee, met, conferred, discussed and reviewed numerous options to address the financial challenges and ensure the survival of the school. All suggestions were solicited, and no option was left unexamined. Lacking the support of a larger university to rely on for funding, the school explored partnerships with other schools, including the University of Vermont, solicited donors for contributions, and explored funding from the State of Vermont—all without success.

In February 2018, the board passed a resolution requiring a balanced budget while also requiring the maintenance of educational quality and the school's premier environmental program. As the school had already reduced expenses in all other areas, the instructional budget would have to be reduced. At this time, the school was carrying a faculty more than twice as large as the faculty at many similarly-sized law schools. The administration approached the faculty, both collectively and individually, about voluntary restructuring. Very few faculty were willing to participate voluntarily in salary reductions

or position changes to allow the school to close the budget gap, despite the obvious conclusion that the failure of a voluntary approach ensured that involuntary action would have to be taken. It was abundantly clear that if viable alternatives were not identified, involuntary reductions to the instructional budget would have to be made.

Having exhausted all other options, the school took action in the form of a programmatic restructuring that has resulted in a close-to-balanced budget in FY19 and a projected balanced budget for FY20. We acknowledge that this process was, although necessary, a deeply painful experience the school hopes never to repeat.

The Faculty Were Informed and Meaningfully Engaged Through-
out: VLS provided the AAUP investigating committee with detailed information on the extensive measures taken to solicit the views and suggestions of the faculty, as well as the engagement of the Dean's Advisory Committee. The financial issues and proposed solutions were discussed in regular faculty meetings, special faculty meetings, and in the Dean's Advisory Committee open meetings with the faculty (the administration was present on an invitation-only basis to provide information). The administration presented various options to the faculty as a whole in these meetings, including projections detailing salary reductions and reductions in the number of faculty. Documents provided to the investigating committee demonstrate that a variety of options were presented and that responses and suggestions were solicited. The administration cannot be faulted because some faculty failed to engage in governance—that was their choice—as best evidenced by the fact that only one tenured faculty chose to serve on the Dean's Advisory Committee.

Once the magnitude of the needed budget cuts was clear and the board of trustees adopted the resolution for a balanced budget in early February 2018, the faculty was presented with several options for achieving the necessary budget cuts, which included an across-the-board salary decrease, voluntary changes in status leading to major reductions in the number of FTEs, or some combination thereof. It was obvious that insufficient acceptance of voluntary reductions, would have to lead to involuntary reductions to the instructional budget, including involuntary separations. The report acknowledges the "writing was on the wall," particularly after the board's mandate, announced in mid-February, that the budget be balanced for FY19.

VLS's Financial Situation Was Dire. Required Action and a Measure of Flexibility: VLS's extreme financial circumstances did not afford it the luxury of drawn-out decision-making or more generous severance offers than those provided to restructured faculty. It was essential to take prompt action and to tailor flexible solutions suited to VLS's particular circumstances. All reasonable alternatives were explored, as evidenced by the report's failure to identify—after extensive investigation, interviews, and review of audited financial information—any other viable solutions.

The report suggests that individual faculty proposed solutions to the administration that were never acknowledged or acted upon. However, the report provides no indication of what those overlooked ideas were or might have been, as the administration afforded numerous opportunities to faculty to offer suggestions and proposals. Nor does the report discuss whether any of these suggestions was even marginally realistic. The administration and the faculty elected

Dean's Advisory Committee eagerly solicited and considered every possible option short of involuntary restructuring, as the documentation provided to the investigating committee demonstrates.

The report[s] narrow focus on tenured faculty fails to acknowledge that the restructuring applied to all faculty at VLS; short and long-term contract faculty, grant-funded faculty, and clinical faculty as well as tenured. More than three quarters of the faculty of 60 were affected and administrator salaries were reduced, some by as much as 20%, and the dean's salary was reduced by 25%. Half-year severance payments were offered and as much flexibility as possible was provided to restructured faculty, many of whom are still teaching at the school.

At the time of the restructuring, there were approximately 60 faculty, less than one-third of whom were tenured. The other two-thirds of the faculty, as the report correctly points out, were granted committee and other significant leadership and administrative roles in running the school. More than 50 of the 60 faculty—80%—were impacted by the restructuring in position or salary or both.

VLS Has Maintained Its Environmental Program: VLS prioritized and maintained its flagship environmental program, which has been reinforced and certainly not diminished. Post-restructuring, VLS is offering essentially the same set of environmental law courses and will increase the number of environmental courses in the coming academic year. Its environmental offerings are the most comprehensive in the country, and will continue as such under the very capable leadership of its Environmental Law Center Director, Jennifer Rushlow.

VLS Has a Lean Administrative Team and Structure: The Report incorrectly states that VLS is top heavy with administrators. VLS in fact has a very lean administrative management team. Five of the administrators are full-time faculty (two vice-deans, two associate deans and the ELC director) who carry a half or greater than half teaching load. One administrator (the dean) is also teaching two classes this year. Two of these deans run academic centers in addition to their teaching and administrative responsibilities. The remaining four administrators are the vice presidents for fundraising and alumni affairs, marketing and admissions, the director of human resources, and chief financial officer. These are essential positions and functions often assumed by or run out of a central university, a resource unavailable to VLS or other independent law schools.

Two additional facts are important to stress. First, without a university to provide student services, the law school administration must provide all of the disability accommodation, counseling, and other student services usually provided by a central administration. Second, VLS is more than a JD granting law school. It offers numerous LLM degrees (environmental law, food and agriculture law and policy, energy regulation and law, and American legal studies), and four master's degrees (environmental law, food and agriculture law and policy, energy regulation, and restorative justice), and an accelerated JD program and numerous online course offerings.

The Board of Trustees was Actively Engaged: The board Budget & Finance Committee met monthly, reviewed detailed financial information and explored a variety of financial and budgeting options, which led to the board's February 2018 mandate for preparation of a balanced budget and sustainable financial model, its approval of the

restructuring plan in May 2018, and adoption of the revised budget in late June 2018.

It is unfortunate that the committee, and/or the AAUP, has chosen to further the personal agendas of a small minority of previously tenured faculty as part of a collective effort to protect tenure nationally, instead of focusing on the unique and compelling circumstances facing VLS in the FY18 academic year. In doing so, the AAUP is doing a disservice to higher education, by suggesting that even a thoughtful, deliberate and consultative programmatic restructuring process in an institution in financial exigency is improper. If the AAUP "want[s] to see VLS survive" as its report states, it will tell the whole story, accurately and fully.

The Assault on Gender and Gender Studies

(NOVEMBER 2018)

The following statement, prepared by a subcommittee of Committee A on Academic Freedom and Tenure and of the Committee on Women in the Academic Profession, was approved by both parent committees in November 2018.

On October 16, 2018, Hungarian prime minister Viktor Orbán issued a government decree effectively prohibiting gender studies courses in all universities in the country. Orbán's deputy Zsolt Semjén stated that gender studies "has no business [being taught] in universities," because it is "an ideology not a science." On October 21, the *New York Times* reported that the Trump administration may promulgate a new legal definition of gender under Title IX, the federal law prohibiting sex discrimination in federally funded education programs. As part of a broader attack on civil rights, gender would be narrowly defined as "a biological, immutable condition determined by genitalia at birth." The US Department of Health and Human Services (DHHS) seeks to codify gender as determined "on a biological basis that is clear, grounded in science, objective, and administrable." As the *New York Times* reports, the director of the DHHS Office for Civil Rights, Roger Severino, who has ties to Secretary of Education Betsy DeVos, has also written in the past about the "dangers" of "gender ideology." Both the Trump and the Orbán administrations insist upon a biological basis for gender that has been thoroughly discredited by over fifty years of feminist, trans, queer, and critical race research and by lived experience. These two administrations are not the only ones attacking so-called gender ideology. In Poland, Brazil, and Bulgaria, there have also been attempts to refute the scholarly consensus that gender identity is variable and mutable.

The AAUP's Committee A on Academic Freedom and Tenure and the Committee on Women in the

Academic Profession strongly condemn these efforts to restrict the legal meaning of gender to what are said to be its natural, immutable forms. Restrictions like those imposed in Hungary directly interfere with the academic freedom of researchers and teachers. Biologists, anthropologists, historians, and psychologists have repeatedly shown that definitions of sex and sexuality have varied over time and across cultures and political regimes. Some of their work suggests that state-enforced preservation of traditional gender roles is associated with authoritarian attempts to control social life and to promise security in troubled times by pledging to protect patriarchal family structures. Authoritarian efforts such as these can justify racial, class, and sexual policing that disciplines forms of kinship and homemaking—including same-sex, multi-generational, or other nonnormative households—that deviate from established nuclear family norms. Politicians and religious fundamentalists are neither scientists nor scholars. Their motives are ideological. It is they who are offering "gender ideology" by attempting to override the insights of serious scholars. By substituting their ideology for years of assiduous research, they impose their will in the name of a "science" that is without factual support. This is a cynical invocation of science for purely political ends.

In the 2016 report by this joint subcommittee, *The History, Uses, and Abuses of Title IX*, we wrote that a narrow focus on sexual injury can mask relations of inequity on and off campus and overshadow the prevalence of other conditions prohibited by Title IX, including uneven access to educational resources,

wage disparities, and inequitable representation across the university system. We called for sustained attention to how social identity markers like race, class, ability, gender identity, sexuality, and citizenship status might figure into occurrences and accusations of sex discrimination. We urged universities and colleges to foster and fund gender studies and other allied departments and disciplines—including African American studies, queer and trans studies, and ethnic studies—as essential sites for research into how differences are used to legitimize structures of power. These studies inquire into the sources of sex discrimination and potential means of addressing the structures of institutional misogyny and racism. Without such study, we argued, Title IX will be an ineffective instrument for ending cultures of discrimination based on sex.

The 2016 report condemned the gutting and diminishment of these programs that had occurred while the bureaucratic apparatus of Title IX continued to garner funding and expand. We now reiterate the necessity of robust gender studies (its research and curriculum) as essential to addressing the goals of Title IX: the elimination of discrimination in education. Attempts to fix the meaning of gender are not simply moves against the “special interests” of certain individuals, although trans, intersex, nonbinary, and gender nonconforming people—and especially poor people and people of color—will disproportionately suffer for it. There is also a potential threat to academic freedom: like attacks on climate science, the effort to establish a legal definition of gender as binary could lead to denying research funding to scholars and to impugning the value and validity of their scholarly work. Fixing the meaning of gender in this way may undermine the open-ended forms of inquiry that define research and teaching in a democracy. ■

Statement on Dual Enrollment

(JUNE 2019)

The following statement was approved by the Association's Committee on Community Colleges in June 2019.

Introduction

For several decades, higher education institutions have permitted exceptional high school juniors and seniors to enroll in introductory college courses. Initially targeted at select high school students, such “dual-enrollment” offerings (also referred to as dual-credit or concurrent-enrollment courses) have been dramatically broadened in recent years as institutions have established whole course sections of dual-enrollment instruction taught in high schools by high school teachers. Students may receive both college and high school credit or only college credit for these courses.

According to the Education Commission of the States, forty-eight out of fifty-one educational systems (in the fifty states and the District of Columbia) have dual-enrollment policies. Only Alaska, New Hampshire, and New York do not. And among the systems with dual-enrollment policies, only the District of Columbia and Hawaii require students to take dual-enrollment courses on college campuses. The other state systems allow students to take these courses on high school campuses or through the internet. Arkansas, Colorado, Indiana, Iowa, Michigan, Minnesota, New Mexico, Oregon, South Dakota, and Texas have opened dual-enrollment courses to ninth graders. Ohio has opened dual-enrollment courses to seventh graders, and Florida has opened them to sixth graders.

Proponents of dual-enrollment programs emphasize the benefits of an early introduction to the college environment. Students will face more challenging learning experiences, they say, and will be more motivated to earn a college degree. Budget issues also come into play, with proponents arguing that these offerings make college more affordable by decreasing time to graduation.

Standards, Governance, and Academic Freedom

Increasingly, K–12 and higher education administrators and state legislators establish dual-enrollment programs without input from elected faculty leaders, thus bypassing college and university governance structures. These programs are not attached to academic departments, where authority for curriculum and faculty hiring and evaluation resides. Financial considerations stemming from decreased enrollment too often predominate over pedagogical concerns.

It is imperative that faculty members maintain academic standards in dual-enrollment classes as weakened standards in these courses affect not only the higher education institution assigning credit for the coursework but also any other institutions that accept that academic credit.

Presenting college-level course material to students younger than eighteen, and even as young as twelve or thirteen, poses instructional challenges distinct from those that arise in traditional college instruction. Anecdotal evidence suggests that senior faculty members are less satisfied with the efficacy of dual-enrollment courses and thus less willing to teach them. As a result, untenured faculty members and high school teachers have been disproportionately assigned to teach these courses. Administrators tasked with expanding dual-enrollment programs exert undue influence on those junior faculty members, pressuring them to agree to requests from high schools regarding curriculum delivery. Faculty control over the curriculum is weakened further in courses taught online when high schools provide on-site aides and exam proctors without input from the faculty.

Governance and academic freedom sustain the integrity of the curriculum. Our departments, faculty senates, and faculty councils should be making the

decisions about course content and quality control. As the 1966 *Statement on Government of Colleges and Universities* observes, “The faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process.”

We present these comments, observations, and recommendations on the basis of an ongoing commitment to academic quality and the integrity of course offerings, the academic freedom of the classroom instructor, and the principles of shared governance.

Recommendations for Good Practice in Dual-Enrollment Instruction

We realize that dual-enrollment programs vary across the country and that some of the recommendations below will not apply in all cases. Nevertheless, we offer the following guidelines for the establishment and implementation of such offerings.

1. The higher education faculty, in accordance with AAUP-supported standards of academic governance, should be involved in the decision-making process when an institution decides to offer dual-enrollment instruction. Faculty members should meet regularly with state and national higher education officials to share their perspectives on the merits and demerits of dual-enrollment instruction.
2. Higher education faculty members designing and teaching dual-enrollment courses should determine the course materials, without interference or influence from high school staff, higher education administrators, government officials, or parents.
3. Faculty from the higher education institutions should choose instructors for dual-enrollment courses using established criteria and standards and without interference or influence from high school staff or parents. Faculty members teaching dual-enrollment courses (whether at the higher education institution, at a high school, or through the internet) should undergo the same peer evaluation process as all other faculty members at the higher education institution. Dual-enrollment instructors should enjoy the same employment rights afforded other faculty members at the college or university.
4. Higher education faculty members should use shared governance structures to advise higher education administrators on dual-enrollment programs. Informed and reasoned debate about the efficacy of dual enrollment is in the best interest of students. The institution’s faculty should recommend changes in or termination of these programs.
5. The higher education faculty should have a role in creating agreements between the institution offering dual-enrollment instruction and partnering high schools based on guidelines that shared governance bodies have established for such issues as textbooks and curriculum delivery, evaluation of student performance, and expected student conduct. The faculty should be involved in the annual review of the agreement or memorandum of understanding.
6. Faculty members at the institution of higher education allowing dual enrollment should inform high school administrators, students, and parents that regardless of extracurricular activities in which students may participate, dual-enrollment course standards are determined in accordance with the policies and practices of the higher education institution.
7. Higher education institutions should defer to their own faculty when structuring dual-enrollment offerings to ensure that the instruction is of college or university quality. The faculty at the higher education institution should determine the high school grade requirements necessary for admission into the dual-enrollment course. This is essential because appropriate social and cognitive development in students is necessary for them to succeed in college-level coursework.
8. Faculty should ensure that higher education institutions work with high schools to devise appropriate standards for accepting students into dual-enrollment courses while remaining sensitive to students’ socioeconomic circumstances. ■

The Annual Report on the Economic Status of the Profession, 2018–19

(MAY 2019)

This year's annual report provides an overview of the results of the 2018–19 AAUP Faculty Compensation Survey, which compiled data on more than 380,000 full-time faculty members at 952 colleges and universities, as well as improved data on pay and benefits for more than 64,000 part-time faculty members at more than 360 institutions. In addition, this year's report examines the changes in full-time faculty salaries and appointment types, with a particular focus on progress toward gender equity, in the ten years since the Great Recession. Finally, the report explores some of the improved data on part-time faculty pay.

Findings from This Year's Survey

On average, salaries for full-time faculty members were 2 percent higher in 2018–19 than in the preceding academic year. But with prices in the economy as a whole growing by 1.9 percent during this period, faculty salaries barely budged when adjusted for inflation. For full-time faculty members who remained employed at the same college or university between 2017–18 and 2018–19, the situation was somewhat more promising. These continuing faculty members earned average salary increases of 3.1 percent, with higher rates of increase for those who were assistant professors or instructors last year. Since the increases for continuing faculty include any salary raises those who were promoted may have received, the higher rates of increase among continuing faculty members are to be expected. But even among these full-time faculty members in relatively stable positions, the rates of salary increase are lower than last year.

The historical context for the full-time faculty salary change this year is presented in table A, which documents the trend over more than forty-five years. Table

A is divided into two halves, each providing a different way of looking at the change in full-time faculty salaries from the previous year.¹ The change in overall averages shown in the upper half of table A represents a comparison of two years of published average salaries for all institutions using faculty ranks, calculated from the “all categories combined” section of survey report table 1. The lower half of table A presents the average salary increase for continuing faculty members, those who remained at the same college or university from the previous year. The increases in this year's continuing faculty salaries are shown in greater detail in survey report table 2. Those increases include both promotions in rank and across-the-board increases.

Changes in average full-time faculty salaries this year were not uniform across all categories of colleges and universities, and the standard survey report tables that accompany this report enable a detailed examination of faculty pay by institutional type, faculty rank, and gender. Following are a few highlights from this year's results:

- Full-time faculty salaries vary by the type of institution as well as by faculty rank, as displayed in survey report table 1. For example, the average salary for a full professor at a private-independent doctoral university is nearly

1. This year's Table A includes several corrections of its counterpart in last year's published report. For the years 2014–15 through 2017–18, the upper half of table A has been revised to include the corrected data published in August 2018, as well as unpublished revisions from earlier years. In the lower half, the figures for 2016–17 to 2017–18 have been corrected to match those published in survey report table 2. The change in the consumer price index for 2016–17 to 2017–18 in both halves has also been corrected.

TABLE A

Percent Change in Average Nominal and Real Salaries for Institutions Reporting Comparable Data for Adjacent One-Year Periods, and Percent Change in the Consumer Price Index, 1971–72 to 2018–19

Adjacent One-Year Periods, and Percent Change in the Consumer Price Index, 1971-72 to 2018-19											Change in CPI-U
	Prof.	Assoc.	Asst.	Inst.	All Ranks	Prof.	Assoc.	Asst.	Inst.	All Ranks	
	NOMINAL TERMS					REAL TERMS					
ALL FACULTY											
1971-72 to 1973-74	9.7	9.6	9.1	8.8	9.4	-2.8	-2.9	-3.4	-3.7	-3.1	12.5
1973-74 to 1975-76	12.4	12.1	11.7	12.3	12.1	-7.7	-8.0	-8.4	-7.8	-8.0	20.1
1975-76 to 1977-78	10.1	10.4	10.2	10.4	10.2	-1.8	-1.5	-1.7	-1.5	-1.7	11.9
1977-78 to 1979-80	13.5	13.2	13.1	12.8	13.3	-10.0	-10.3	-10.4	-10.7	-10.2	23.5
1979-80 to 1981-82	18.6	18.0	18.7	17.5	18.5	-3.8	-4.4	-3.7	-4.9	-3.9	22.4
1981-82 to 1983-84	11.2	11.0	11.9	12.1	11.4	3.4	3.2	4.1	4.3	3.6	7.8
1983-84 to 1985-86	13.2	12.7	13.2	12.5	13.1	5.3	4.8	5.3	4.6	5.2	7.9
1985-86 to 1987-88	11.3	10.9	10.9	8.9	11.1	5.7	5.3	5.3	3.3	5.5	5.6
1987-88 to 1989-90	12.5	13.4	12.7	11.0	12.3	3.2	4.1	3.4	1.7	3.0	9.3
1989-90 to 1991-92	9.1	9.0	9.5	9.1	9.1	-0.3	-0.4	0.1	-0.3	-0.3	9.4
1991-92 to 1993-94	5.7	5.5	5.7	5.6	5.6	0.0	-0.2	0.0	-0.1	-0.1	5.7
1993-94 to 1995-96	6.6	6.4	6.0	6.2	6.4	1.3	1.1	0.7	0.9	1.1	5.3
1995-96 to 1997-99	6.5	6.2	5.2	5.8	6.3	1.5	1.2	0.2	0.8	1.3	5.0
1997-98 to 1999-00	8.3	7.6	7.4	6.6	7.3	4.0	3.3	3.1	2.3	3.0	4.3
1999-00 to 2001-02	8.6	7.7	9.2	7.8	7.3	3.6	2.7	4.2	2.8	2.3	5.0
2001-02 to 2003-04	5.8	5.1	6.1	4.2	5.1	1.5	0.8	1.8	-0.1	0.8	4.3
2003-04 to 2004-05	3.4	3.0	3.2	2.7	2.8	0.1	-0.3	-0.1	-0.6	-0.5	3.3
2004-05 to 2005-06	3.7	3.3	3.3	3.2	3.1	0.3	-0.1	-0.1	-0.2	-0.3	3.4
2005-06 to 2006-07	4.2	3.9	4.1	3.9	3.8	1.7	1.4	1.6	1.4	1.3	2.5
2006-07 to 2007-08	4.3	4.1	4.1	3.9	3.8	0.2	0.0	0.0	-0.2	-0.3	4.1
2007-08 to 2008-09	3.8	3.6	3.6	3.3	3.4	3.7	3.5	3.5	3.2	3.3	0.1
2008-09 to 2009-10	1.0	0.8	1.1	1.4	1.2	-1.7	-1.9	-1.6	-1.3	-1.5	2.7
2009-10 to 2010-11	1.4	1.2	1.5	0.9	1.4	-0.1	-0.3	0.0	-0.6	-0.1	1.5
2010-11 to 2011-12	2.2	1.6	2.1	1.7	1.8	-0.8	-1.4	-0.9	-1.3	-1.2	3.0
2011-12 to 2012-13	2.1	1.7	2.1	2.0	1.7	0.4	0.0	0.4	0.3	0.0	1.7
2012-13 to 2013-14	2.4	2.1	2.3	2.0	2.2	0.9	0.6	0.8	0.5	0.7	1.5
2013-14 to 2014-15	2.6	2.4	2.6	2.4	2.2	1.8	1.6	1.8	1.6	1.4	0.8
2014-15 to 2015-16	3.7	3.5	4.0	n.d.	4.0	3.0	2.8	3.3	n.d.	3.3	0.7
2015-16 to 2016-17	2.4	2.6	2.9	2.7	2.5	0.3	0.5	0.8	0.6	0.4	2.1
2016-17 to 2017-18	3.0	2.5	2.8	3.6	2.8	0.9	0.4	0.7	1.5	0.7	2.1
2017-18 to 2018-19	2.2	2.2	2.1	1.9	2.0	0.3	0.3	0.2	0.0	0.1	1.9
CONTINUING FACULTY											
1971-72 to 1973-74	10.4	12.4	12.8	13.7	11.9	-2.1	-0.1	0.3	1.2	-0.6	12.5
1973-74 to 1975-76	14.2	15.7	16.5	17.9	15.6	-5.9	-4.4	-3.6	-2.2	-4.5	20.1
1975-76 to 1977-78	12.5	13.2	13.5	13.7	13.0	0.6	1.3	1.6	1.8	1.1	11.9
1977-78 to 1979-80	15.2	16.3	17.4	18.0	16.1	-8.3	-7.2	-6.1	-5.5	-7.4	23.5
1979-80 to 1981-82	19.9	21.0	22.4	22.3	20.9	-2.5	-1.4	0.0	-0.1	-1.5	22.4
1981-82 to 1983-84	13.3	13.9	15.3	14.7	14.1	5.5	6.1	7.5	6.9	6.3	7.8
1983-84 to 1985-86	14.2	15.1	16.3	16.1	14.9	6.3	7.2	8.4	8.2	7.0	7.9
1985-86 to 1987-88	12.8	13.7	14.6	13.8	13.5	7.2	8.1	9.0	8.2	7.9	5.6
1987-88 to 1989-90	13.7	15.0	16.0	15.5	14.6	4.4	5.7	6.7	6.2	5.3	9.3
1989-90 to 1991-92	10.2	11.6	12.5	12.5	11.2	0.8	2.2	3.1	3.1	1.8	9.4
1991-92 to 1993-94	7.1	8.3	9.1	9.1	8.0	1.4	2.6	3.4	3.4	2.3	5.7
1993-94 to 1995-96	8.0	9.0	9.6	9.5	8.8	2.7	3.7	4.3	4.2	3.5	5.3
1995-96 to 1997-99	7.0	8.6	9.0	9.6	7.8	2.0	3.6	4.0	4.6	2.8	5.0
1997-98 to 1999-00	9.0	9.9	10.7	10.6	9.6	4.7	5.6	6.4	6.3	5.3	4.3
1999-00 to 2001-02	9.8	10.5	11.5	11.2	10.3	4.8	5.5	6.5	6.2	5.3	5.0
2001-02 to 2003-04	6.9	7.7	8.2	8.3	7.4	2.6	3.4	3.9	4.0	3.1	4.3
2003-04 to 2004-05	4.2	4.7	4.8	4.7	4.5	0.9	1.4	1.5	1.4	1.2	3.3
2004-05 to 2005-06	4.1	4.7	4.8	4.4	4.4	0.7	1.3	1.4	1.0	1.0	3.4
2005-06 to 2006-07	4.7	5.3	5.4	5.1	5.0	2.2	2.8	2.9	2.6	2.5	2.5
2006-07 to 2007-08	4.8	5.4	5.4	5.7	5.1	0.7	1.3	1.3	1.6	1.0	4.1
2007-08 to 2008-09	4.5	5.0	5.2	6.0	4.9	4.4	4.9	5.1	5.9	4.8	0.1
2008-09 to 2009-10	1.4	2.1	2.1	2.1	1.8	-1.3	-0.6	-0.6	-0.6	-0.9	2.7
2009-10 to 2010-11	2.2	2.7	2.8	2.3	2.5	0.7	1.2	1.3	0.8	1.0	1.5
2010-11 to 2011-12	2.7	3.1	3.3	3.2	2.9	-0.3	0.1	0.3	0.2	-0.1	3.0
2011-12 to 2012-13	2.9	3.4	3.5	3.6	3.2	1.2	1.7	1.8	1.9	1.5	1.7
2012-13 to 2013-14	3.0	3.5	3.7	3.6	3.4	1.5	2.0	2.2	2.1	1.9	1.5
2013-14 to 2014-15	3.2	3.7	3.8	3.8	3.7	2.4	2.9	3.0	3.0	2.9	0.8
2014-15 to 2015-16	2.9	3.7	3.8	4.3	3.4	2.2	3.0	3.1	3.6	2.7	0.7
2015-16 to 2016-17	2.7	3.3	3.6	3.6	3.0	0.6	1.2	1.5	1.5	0.9	2.1
2016-17 to 2017-18	2.9	3.4	3.5	3.6	3.3	0.8	1.3	1.4	1.5	1.2	2.1
2017-18 to 2018-19	2.7	3.3	3.4	3.7	3.1	0.8	1.4	1.5	1.8	1.2	1.9

Note: Salary increases for the years to 2003–04 are grouped in two-year intervals in order to present the full 1971–72 through current year series. Consumer Price Index for all Urban Consumers (CPI-U) from the US Bureau of Labor Statistics; change calculated from December to December. Nominal salary is measured in current dollars. The percent increase in real terms is the percent increase in nominal terms adjusted for the percent change in the CPI-U. Figures for All Faculty represent changes in salary levels from a given year to the next. Figures for Continuing Faculty represent the average salary change for faculty on staff at the same institution in both years over which the salary change is calculated. Figures for prior years have been recalculated using a consistent level of precision.

\$196,000, while an assistant professor at a religiously affiliated baccalaureate college is paid about \$61,000, on average.

- By comparing survey report table 1 from this year with that from 2017–18, we can see differences in the increases in average full-time faculty salary between different categories of institutions. The increase in overall average full-time salary was slightly higher at private colleges and universities (2.2 percent) than at public institutions (1.8 percent). The overall increase in average salary was higher at associate's, or community, colleges (3.3 percent) than at doctoral universities (2.1 percent) or baccalaureate colleges (1.4 percent). However, some of that difference may be attributable to changes in institutional participation in the survey between the years.
- Those individual full-time faculty members who remained at the same institution over two years ("continuing full-time faculty") saw greater salary increases, 3.1 percent on average, with higher rates of change at community colleges (3.6 percent) than at doctoral universities (3.2 percent). The full details are in survey report table 2.
- Salaries for women in full-time faculty positions continue to lag behind those paid to men. On average, women were paid 81.6 percent of the salaries of men during the 2018–19 academic year. The differences are attributable primarily to an unequal distribution of employment between men and women in terms of institutional type and faculty rank, as is documented in survey report tables 3 and 9. This year's report discusses changes in women's representation in the full-time faculty over the last ten years.
- The AAUP data also include summary tables on salaries for senior administrators: presidents, chief academic officers, and chief financial officers. As has been noted in previous years, salaries for presidents vastly exceed faculty salaries, with presidents paid three to four times the salary of even the most senior faculty members at their institutions, on average (survey report table 11). The median salary for a college president in 2018–19 ranged from just over \$200,000 at public community colleges to nearly \$700,000 at private-independent doctoral universities (survey report table 10).

A Great Recovery?

The Great Recession formally lasted from December 2007 to June 2009. However, the recession's effects on

full-time faculty salaries did not really take hold until the 2009–10 academic year. In this section we examine changes in average salary and in the composition of the full-time faculty, both in terms of tenure status and in terms of women's representation, in the ten years since the recession, by looking specifically at the institutions that submitted data for the AAUP survey in both 2008–09 and 2018–19.

The 2008–09 edition of this annual report, titled "On the Brink," noted the paradox in the full-time faculty salary data reported that year, before the recession's full impact was apparent: "After six years of stagnation, inflation-adjusted full-time faculty salaries are up on average for 2008–09 because inflation is running at its lowest rate in decades. Yet faculty members around the country—all of us, really—approach the coming year with trepidation. The systematic data we have been able to assemble do not reflect the ominous economic reality that is now confronting colleges and universities across the land."

Ten years later, what have been the lasting effects for higher education?

As table B indicates, 870 colleges and universities provided data across the ten-year interval, and the total number of full-time faculty members at these institutions increased by nearly 12 percent, from 329,497 to 367,982. The growth in full-time faculty members was greatest at doctoral universities, particularly in the private sector, and somewhat lower in public master's degree universities, private baccalaureate colleges, and public associate's degree colleges.

This overall growth in faculty numbers disguises significant variation, however, as depicted by the lower half of table B. While faculty counts grew at the majority of institutions, they decreased by at least 5 percent at more than one in five of them, and at another fifth of institutions the number of faculty members remained essentially unchanged. Among the seventy-four community colleges reporting data in both years, nearly as many showed a decrease in full-time faculty numbers as showed an increase.

And not all full-time faculty positions are created equal. Most of the growth in full-time faculty positions shown in table B was in non-tenure-track appointments, which grew from 10.1 percent of all full-time positions at these institutions in 2008–09 to 26.6 percent in 2018–19. (The number of tenured and tenure-track faculty members at these 870 institutions actually declined by 35 percent over the decade.) Figure 1 depicts the growth in non-tenure-track appointments by institutional category. The

TABLE B

Change in Number of Full-Time Faculty, by Category and Affiliation, 2008–09 to 2018–19

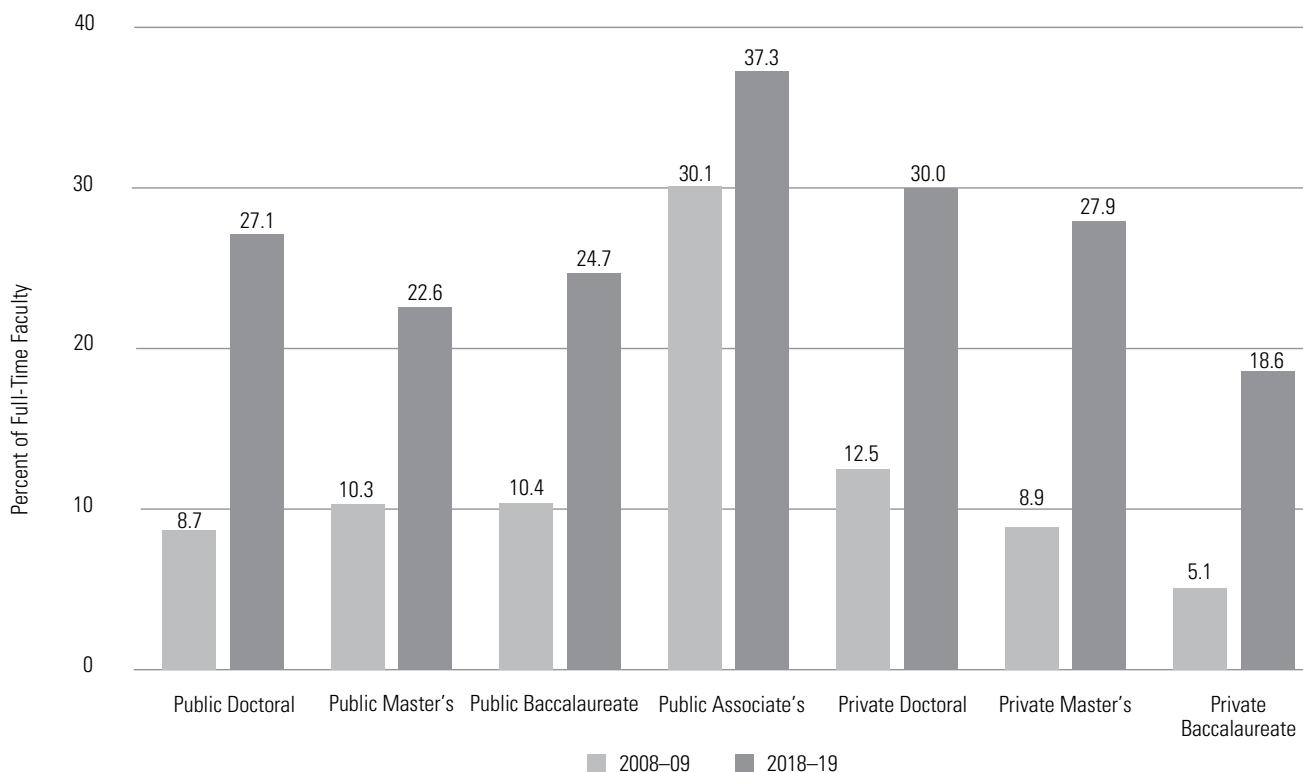
Count of Full-Time Faculty	Public				Private			
	Inst.	Total Full-Time Faculty 2008–09	Total Full-Time Faculty 2018–19	Percent Change	Inst.	Total Full-Time Faculty 2008–09	Total Full-Time Faculty 2018–19	Percent Change
Category I (Doctoral)	152	149,422	168,617	12.8	75	50,489	58,226	15.3
Category IIA (Master's)	172	61,287	66,546	8.6	186	31,632	34,845	10.2
Category IIB (Baccalaureate)	42	5,422	5,972	10.1	169	20,561	22,142	7.7
Category III/IV (Associate's)	74	10,684	11,634	8.9	0	0	0	n.d.
All institutions	440	226,815	252,769	11.4	430	102,682	115,213	12.2

Change, 2008–09 to 2018–19 (Percent of Institutions)	Public			Private		
	Increase	Decrease	Unchanged	Increase	Decrease	Unchanged
Category I (Doctoral)	69.1	13.2	17.8	80.0	9.3	10.7
Category IIA (Master's)	54.7	20.3	25.0	54.8	24.2	21.0
Category IIB (Baccalaureate)	52.4	33.3	14.3	53.8	24.3	21.9
Category III/IV (Associate's)	37.8	35.1	27.0	n.d.	n.d.	n.d.
All institutions	56.6	21.6	21.8	58.8	21.6	19.5

Notes: The table includes only institutions submitting data in both years, with adjustments for institutions that combined after 2008–09. Category is for the 2018–19 survey. "Increase" and "decrease" are changes of at least 5 percent.

Source: AAUP Faculty Compensation Survey.

FIGURE 1

Proportion of Full-Time Faculty Members Who Are Non-Tenure-Track, by Category and Affiliation, 2008–09 and 2018–19

Notes: The figure includes only institutions submitting data in both years, with adjustments for institutions that combined after 2008–09. Category is for the 2018–19 survey.

Source: AAUP Faculty Compensation Survey.

AAUP has been a leader in documenting the rise of non-tenure-track faculty appointments, both full- and part-time, over the last several decades. As the AAUP's 2018 data snapshot "Contingent Faculty in US Higher Ed" noted, "The percentage of instructional positions that is off the tenure track amounted to 73 percent in 2016, the latest year for which data are available." Figure 1 indicates that the shift toward non-tenure-track appointments within the full-time faculty has been dramatic at this large set of institutions in the decade since the Great Recession and has been particularly pronounced at doctoral universities.

What has been the impact of these shifts in appointment type on full-time faculty salaries? Table C presents decadal changes in average full-time faculty salaries for the continuing institutions that use faculty ranks. (The number of colleges not using ranks that responded to the 2018–19 survey is too small for meaningful analysis.) This table also shows a mixed pattern of increases and decreases across different institutional categories, when the 2008–09 salaries are adjusted to account for inflation.

Average salaries for full-time faculty members in doctoral universities increased over ten years at each of the three ranks in both the public and private

TABLE C
Change in Average Full-Time Faculty Salary, by Category, Affiliation, and Academic Rank, 2008–09 to 2018–19

	Public					Private				
	No. of Institutions	Avg. Salary 2008–09 (Current \$)	Avg. Salary 2008–09 (Real \$)	Avg. Salary 2018–19	Pct. Change (Real)	No. of Institutions	Avg. Salary 2008–09 (Current \$)	Avg. Salary 2008–09 (Real \$)	Avg. Salary 2018–19	Pct. Change (Real)
CATEGORY I (Doctoral)	152					75				
Professor		114,559	136,903	141,859	3.6		145,134	173,443	189,310	9.1
Associate Professor		79,660	95,198	96,909	1.8		92,861	110,973	115,960	4.5
Assistant Professor		67,660	80,857	84,308	4.3		78,834	94,211	102,006	8.3
CATEGORY IIA (Master's)	171					186				
Professor		88,853	106,184	101,182	-4.7		94,846	113,346	109,910	-3.0
Associate Professor		70,125	83,803	81,905	-2.3		71,588	85,551	84,386	-1.4
Assistant Professor		59,845	71,518	71,950	0.6		59,325	70,897	72,845	2.7
CATEGORY IIB (Baccalaureate)	42					169				
Professor		82,328	98,386	94,503	-3.9		95,476	114,099	109,274	-4.2
Associate Professor		66,997	80,064	78,312	-2.2		70,540	84,299	82,348	-2.3
Assistant Professor		57,457	68,663	66,894	-2.6		58,015	69,331	68,647	-1.0
CATEGORY III (Associate's)	68					0				
Professor		77,496	92,611	90,964	-1.8		n.d.	n.d.	n.d.	n.d.
Associate Professor		61,932	74,012	74,159	0.2		n.d.	n.d.	n.d.	n.d.
Assistant Professor		54,376	64,982	63,581	-2.2		n.d.	n.d.	n.d.	n.d.

Notes: The table includes only institutions with faculty ranks submitting data in both years, with adjustments for institutions that combined after 2008–09. Category is for the 2018–19 survey. "Real" average salary is adjusted by the change in the Consumer Price Index (CPI-U) from December 2008 to December 2018.

Source: AAUP Faculty Compensation Survey.

sectors, with somewhat greater increases at private doctoral universities. With a couple of exceptions, however, average salaries declined at all other categories of institutions after controlling for inflation. It is important to recognize that the AAUP does not collect data from individual faculty members, so the changes in salary, rank, and tenure status described in this report are changes in the aggregate composition of and average salary paid to the faculty in categories of institutions.

The steepest declines were at the full professor rank in both public and private institutions; such declines might be an indicator of senior faculty retirements, although the survey data available do not provide that level of detail.

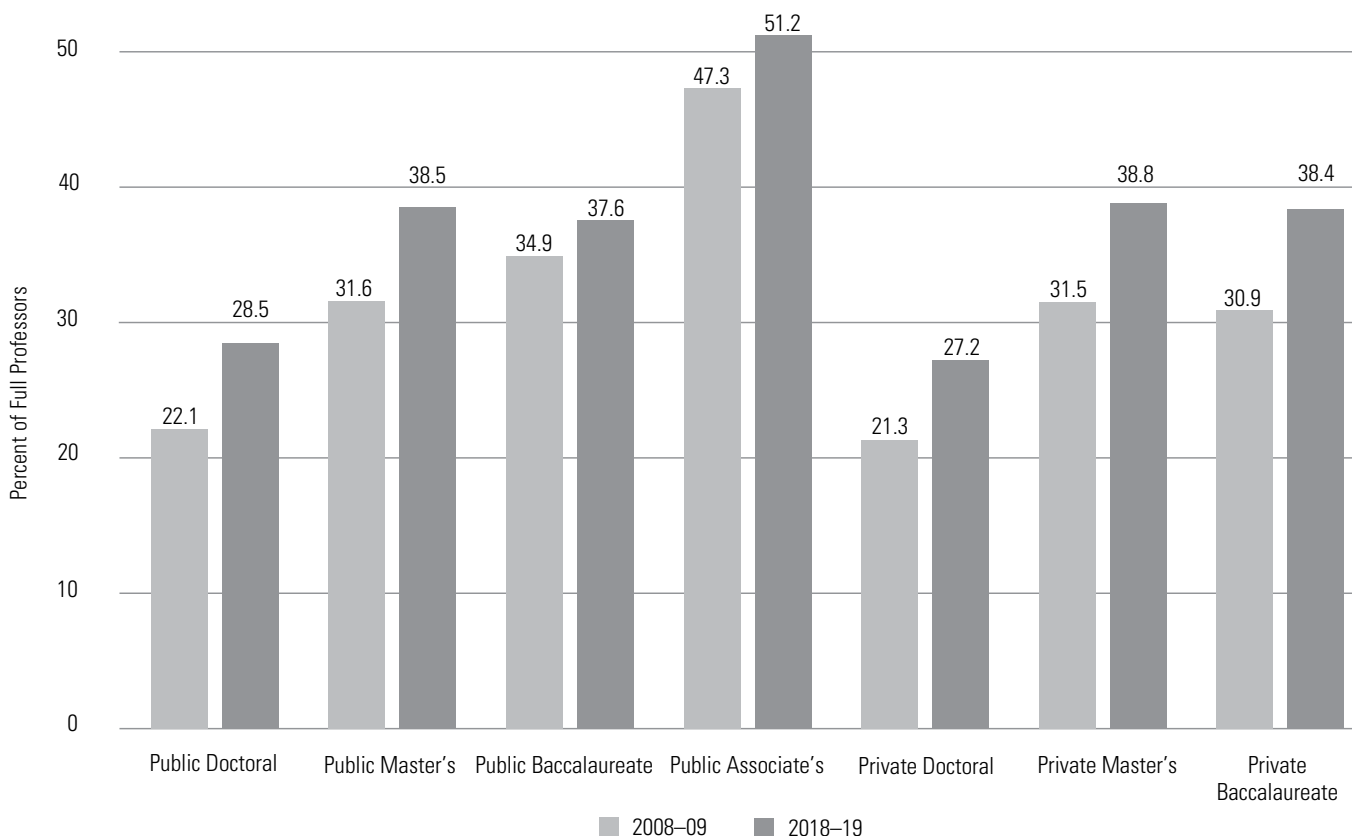
The Recession's Impact on Women Faculty

As noted above, salaries for women faculty members continue to lag behind those of men. On average, women in full-time faculty positions were paid 81.6 percent of the salaries of men in full-time positions during the 2018–19 academic year. That figure stood at 80.8 percent in the analogous table from 2008–09. The AAUP has been tracking gender differences in salary since the mid-1970s, and the progress toward equity has been exceedingly slow.

The aggregate difference in average full-time faculty salaries for women and men has many components: Women are less well represented at the research universities that pay the highest salaries, and they also continue to be underrepresented at the

FIGURE 2

Proportion of Full Professors Who Are Women, by Category and Affiliation, 2008–09 and 2018–19



Notes: The figure includes only institutions submitting data in both years, with adjustments for institutions that combined after 2008–09. Category is for the 2018–19 survey.

Source: AAUP Faculty Compensation Survey.

full professor rank (except in community colleges) at which salaries are highest. In addition, the disciplines in which women are most represented often pay lower salaries on average. Since the data for the AAUP survey are reported as institutional aggregates, we are not able to disentangle all of these components of the gender difference. However, looking at the changes across ten years, we can see evidence of several contradictory developments in the postrecession period.

Between 2008–09 and 2018–19, the total number (not shown here) of women in full-time faculty positions at the institutions reporting faculty by rank grew by a hefty 24.8 percent; the number of men in comparable positions at those same colleges and universities grew

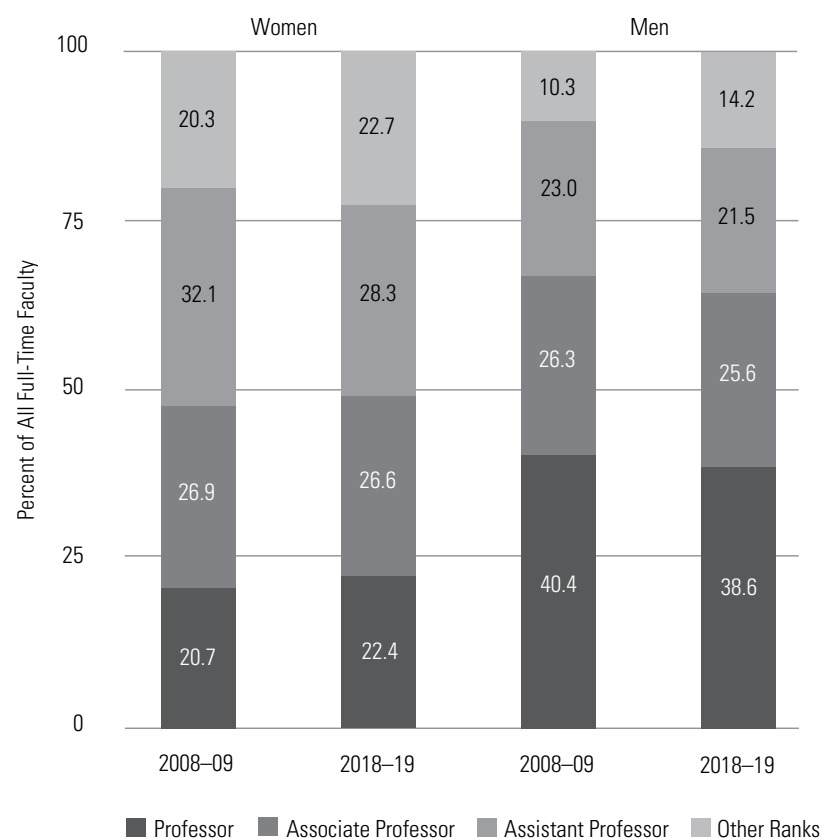
by 3.1 percent during the period. In fact, the growth in the number of women on the faculty outpaced that of men at each of the three professorial ranks and across all institutional categories. As a result, women now make up 44.8 percent of the full-time faculty at these colleges and universities, up from 40.1 percent in 2008–09.

At the same time, the growth in full-time non-tenure-track positions described in the previous section affected both women and men. We do not have the complete original data from the 2008–09 survey to allow a precise analysis by tenure status. An analysis of data on academic rank, which is highly correlated with tenure status (see survey report table 8), shows that the number of women in the predominantly non-tenure-track ranks of instructor and lecturer and in

unranked positions grew 39.5 percent in the postrecession decade—but the number of men in those positions grew even faster, at 43.1 percent. Growth in these ranks outpaced that in other ranks, with the number of men in the three predominantly tenure-line professorial ranks (professor, associate, and assistant) actually declining during the period. The number of women in the professorial ranks grew by 21 percent, with more growth in the predominantly tenured ranks of professor and associate professor.

What has been the net result of these multiple shifts in faculty composition over ten years? In the long movement toward gender equity, there is a difference between growing numbers and proportionate representation. For example, figure 2 depicts the progress toward equity at the full professor rank for this set of institutions over ten years. Women made up a larger proportion of full professors in 2018–19 than they did ten years previously, and that holds across all categories of institutions. The majority

FIGURE 3
Full-Time Faculty, by Gender and Academic Rank, 2008–09 and 2018–19



Note: The figure includes only institutions submitting data in both years, with adjustments for institutions that combined after 2008–09.

Source: AAUP Faculty Compensation Survey.

of full professors in community colleges are women, and women make up nearly 40 percent of professors in master's degree universities and baccalaureate colleges. They remain significantly underrepresented as full professors at doctoral universities, however. Because the categories of institutions that are approaching gender equity in terms of faculty appointments—community colleges and some baccalaureate colleges—employ fewer full-time faculty

members than the large public doctoral and master's universities, women continue to be underrepresented overall at the full professor rank.

Figure 3 presents the aggregate distribution of full-time faculty members by rank in all institutions that participated in the AAUP survey across the past decade, with the percentages calculated for all faculty members in each gender. (Ideally, the AAUP survey would acknowledge nonbinary gender options. That

TABLE D

Women's Average Full-Time Faculty Salary Compared to Men's, by Category and Academic Rank, 2008–09 and 2018–19

	No. of Institutions	2008–09			2018–19		
		Women	Men	Women (%)	Women	Men	Women (%)
<i>CATEGORY I (Doctoral)</i>	227						
Professor		113,593	125,586	90.5	143,142	160,166	89.4
Associate Professor		78,960	85,131	92.8	97,501	104,529	93.3
Assistant Professor		67,993	72,961	93.2	85,019	92,655	91.8
All Ranks Combined		75,627	97,075	77.9	95,397	120,160	79.4
<i>CATEGORY IIA (Master's)</i>	358						
Professor		87,886	91,688	95.9	101,804	107,214	95.0
Associate Professor		69,240	71,691	96.6	83,065	84,970	97.8
Assistant Professor		58,483	60,232	97.1	71,792	74,766	96.0
All Ranks Combined		64,978	72,981	89.0	78,244	86,473	90.5
<i>CATEGORY IIB (Baccalaureate)</i>	211						
Professor		89,601	94,627	94.7	105,232	108,069	97.4
Associate Professor		69,072	70,361	98.2	80,454	82,510	97.5
Assistant Professor		56,956	58,581	97.2	67,617	69,246	97.6
All Ranks Combined		66,159	74,277	89.1	78,957	86,390	91.4
<i>CATEGORY III (Associate's)</i>	68						
Professor		75,258	78,014	96.5	89,812	92,174	97.4
Associate Professor		60,111	62,758	95.8	73,392	75,152	97.7
Assistant Professor		53,478	54,573	98.0	63,277	63,696	99.3
All Ranks Combined		58,990	61,685	95.6	71,236	72,872	97.8
<i>ALL INSTITUTIONS</i>	864						
Professor		102,043	115,137	88.6	125,428	143,635	87.3
Associate Professor		74,346	79,683	93.3	90,625	96,570	93.8
Assistant Professor		63,716	67,303	94.7	79,207	84,821	93.4
All Ranks Combined		71,016	88,227	80.5	87,973	107,981	81.5

Notes: The table includes only institutions with faculty ranks submitting data in both years, with adjustments for institutions that combined after 2008–09. "All ranks combined" includes instructors, lecturers, and unranked faculty members.

Source: AAUP Faculty Compensation Survey.

would require changes in data collection and reporting from a large set of institutions, however, and would introduce the further challenge of representing a small category in a statistical analysis.) The proportion of women who are full professors increased only slightly over ten years, primarily because of their continuing underrepresentation at that rank in doctoral universities. As a consequence, even though the proportion of men at that rank declined over ten years, men continue to greatly outnumber women. The proportion of women who are associate or assistant professors declined slightly, as it did for men. (In terms of numbers rather than proportion, women's representation in those ranks grew and men's declined, a sign of some progress toward equity.) And the proportions of both men and women in predominantly non-tenure-track appointments increased, with women continuing to be overrepresented there.

In terms of average salary, the change during the post-recessionary period looks much the same for women as it does for men, and the pattern by type of institution follows that shown in table C: salaries increased faster than the rate of inflation in doctoral universities but declined in real terms at other institutions.

Table D helps illustrate the combined effect of all these shifts on salary equity. When women are in the same rank as their male colleagues and at the same type of institution, their average salaries approach equity. However, that comparison remained essentially unchanged over the ten-year period, and the remaining lag is highest (nearly 11 percent) for women full professors at doctoral universities, where both the salaries and the numbers of faculty are the highest. Bearing in mind the figure 3 distributions by rank for the two genders, we see that the "all ranks combined" row in each category shows a larger gap than that at any of the professorial ranks. And when we look at all categories of institutions combined in the bottom section of the table, we see the stubborn overall gender pay gap referenced above. (The bottom-line figures in table D differ slightly from those cited at the beginning of this section, as the table includes only a subset of the institutions responding in each year.)

In sum, the postrecessionary years have brought continued slow progress toward gender equity within the full-time faculty. Yet women remain underrepresented at the most senior and highest-paying posts, and their aggregate position has barely budged in ten years. A great deal of work remains in the quest for equity and inclusion in higher education.

Bringing Transparency to Part-Time Faculty Pay

Since 2015–16, the annual AAUP compensation report has collected and published data on part-time faculty pay. This year's report takes a new approach to those data, focusing on pay rates for part-time faculty members teaching a standard course section. For this year's report, more than 360 colleges and universities provided at least partial data on per-section pay and benefits for more than 64,000 part-time faculty members in the 2017–18 academic year. (Collecting data for the previous academic year enabled more institutions to respond.)

The part-time pay data are summarized in survey report table 14. Across all responding institutions, the average pay for a part-time faculty member teaching a three-credit course was \$3,894—but the pay rates spanned a huge range. The lowest average rates of pay were reported by religiously affiliated private baccalaureate colleges, at \$2,925, while religiously affiliated doctoral universities paid the highest rates, \$5,858 on average.

It is difficult to say whether pay for part-time faculty members is improving. The data summarized in table 14 are not comparable with data the AAUP collected in prior years, since those earlier data included only pay per part-time faculty member—a less useful measure of what these faculty colleagues are actually paid for their work than the per-course-section data reported this year. Although several other attempts have been made to collect and publish data on part-time faculty pay since the US Department of Education's National Study of Postsecondary Faculty was last conducted in 2004, none of the surveys has been comprehensive, and data from different surveys are not easily comparable. This year's AAUP Faculty Compensation Survey is the largest source for these data at present.

In addition to pay, the survey asked responding institutions whether they made a contribution to retirement plans or health insurance for part-time faculty members and what proportion of part-time faculty members were covered—all, some, or none. The results are in table E. Provision of retirement benefits is most frequent at community colleges, although the number of colleges providing data is small. The majority of other responding institutions do not make a retirement contribution for any part-time faculty members. An institutional contribution toward health insurance is much less common among the responding institutions, with 70 percent not making any contribution. Nearly half of doctoral universities make at least some health insurance contribution, but only a

TABLE E
Institutions Providing Part-Time Faculty Benefits, by Category, 2017–18

	No. of Institutions	Retirement Contribution for Part-Time Faculty (%)			Health Insurance Contribution for Part-Time Faculty (%)		
		All	Some	None	All	Some	None
Category I (Doctoral)	41	17.1	29.3	53.7	9.8	36.6	53.7
Category IIA (Master's)	142	6.3	23.9	69.7	2.1	22.5	75.4
Category IIB (Baccalaureate)	104	1.0	28.2	70.9	1.9	26.9	71.2
Category III/IV (Associate's)	35	22.9	45.7	31.4	0.0	34.3	65.7
All Institutions	322	7.8	28.3	63.9	2.8	27.0	70.2

Notes: The table includes only institutions submitting data on part-time faculty pay and benefits. The proportion of part-time faculty receiving benefits was reported only as all, some, or none for each institution.

Source: AAUP Faculty Compensation Survey.

few completed this survey item. (The survey did not ask whether part-time faculty members could buy in to an institutional health plan without an employer contribution.)

This year's report also includes a new institution-specific appendix III that lists minimum, maximum, and average pay rates per course section for part-time faculty members. Collecting these data is challenging, and the figures presented in this report undoubtedly include errors, despite the survey's rigorous procedures for validating data submitted by institutions.² Both the summary table and the appendix show a wide range between minimum and maximum pay rates. It is our hope that publication of these data may lead to further corrections where necessary. (The 2018–19 survey also included a section on pay for graduate student employees, revised from the format used in previous years. However, the data submitted for that survey element did not meet our quality standards and are not published with this year's report.)

The publication of appendix III represents an important step forward in efforts to shed light on part-time faculty pay and benefits. For decades, the AAUP has been advocating for improvements in the working conditions, economic security, and academic freedom of these faculty colleagues. Our intention in producing institution-specific

data is to make part-time faculty pay more transparent. We hope that the publication of these data will spur renewed advocacy for the majority of faculty members working on contingent appointments. ■

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This report was written by John W. Curtis, consultant for the 2018–19 AAUP Faculty Compensation survey. Complete details on tabulations not included here are available from the AAUP Research Office. This report is published under the auspices of the Committee on the Economic Status of the Profession.

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2. During the validation process, we asked institutional respondents to verify amounts that were unusually high or low; in many cases, we requested that validation more than once, and many respondents corrected their initial data submission to conform to the new data definitions for this year. Some of the remaining extremely low values have been removed from survey report table 14, as specified in that table's note, but the amounts reported in appendix III include validated responses with extreme values.

SURVEY REPORT TABLE 1

Average Full-Time Faculty Salary and Compensation, by Category, Affiliation, and Academic Rank, 2018–19 (Dollars)

Academic Rank	All Combined	Public	Private- Independent	Religiously Affiliated	All Combined	Public	Private- Independent	Religiously Affiliated
SALARY					COMPENSATION			
CATEGORY I (Doctoral)								
Professor	154,983	141,314	195,988	162,685	197,537	181,110	246,643	206,920
Associate	101,296	96,650	119,361	108,248	132,730	126,934	155,628	140,720
Assistant	87,954	84,062	104,889	93,322	115,266	110,916	135,519	117,746
Instructor	65,961	62,659	78,021	63,166	88,684	84,965	102,223	85,760
Lecturer	63,319	57,079	80,637	76,564	85,077	78,170	104,827	98,804
No Rank	82,443	68,999	100,581	88,480	107,984	90,961	131,667	113,301
All Combined	109,428	101,312	138,335	115,524	141,908	132,224	176,785	148,053
CATEGORY IIA (Master's)								
Professor	103,556	100,831	117,508	103,081	135,141	132,885	149,893	132,428
Associate	82,886	82,304	88,665	80,746	109,715	110,233	114,737	105,178
Assistant	71,874	71,534	76,267	70,144	95,374	96,787	97,752	90,144
Instructor	58,945	57,383	72,882	60,344	80,275	78,927	95,446	78,651
Lecturer	55,200	51,608	63,671	59,437	73,876	70,737	81,954	77,647
No Rank	59,627	56,796	71,958	60,503	82,420	79,256	94,337	80,976
All Combined	81,160	79,341	90,374	80,808	107,436	106,462	116,306	104,599
CATEGORY IIB (Baccalaureate)								
Professor	105,864	93,924	125,389	87,882	139,867	125,977	164,679	116,143
Associate	80,818	77,761	91,593	71,014	108,103	105,980	121,988	94,256
Assistant	67,545	66,516	75,208	61,127	89,584	92,227	98,951	79,076
Instructor	65,462	58,995	75,451	50,643	86,950	84,586	96,773	66,995
Lecturer	55,906	52,104	62,780	51,960	74,675	73,762	82,422	67,970
No Rank	65,947	45,442	71,122	54,977	85,797	62,039	91,832	61,796
All Combined	81,915	73,826	95,689	71,448	108,910	101,239	126,209	94,064
CATEGORY III (Associate's with Ranks)								
Professor	91,418	91,418	n.d.	n.d.	120,441	120,441	n.d.	n.d.
Associate	74,444	74,444	n.d.	n.d.	101,320	101,320	n.d.	n.d.
Assistant	63,868	63,868	n.d.	n.d.	89,934	89,934	n.d.	n.d.
Instructor	65,004	65,004	n.d.	n.d.	95,857	95,857	n.d.	n.d.
Lecturer	53,707	53,707	n.d.	n.d.	75,587	75,587	n.d.	n.d.
No Rank	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
All Combined	72,824	72,824	n.d.	n.d.	99,660	99,660	n.d.	n.d.
CATEGORY IV (Associate's without Ranks)								
No Rank	76,857	76,857	n.d.	n.d.	105,363	105,363	n.d.	n.d.
ALL CATEGORIES COMBINED EXCEPT IV								
Professor	136,506	128,230	172,033	119,040	175,535	165,693	218,042	153,556
Associate	93,133	91,202	105,964	86,651	122,812	120,729	138,491	113,430
Assistant	80,289	78,949	91,671	73,505	106,046	105,368	118,702	94,258
Instructor	63,931	61,017	77,111	60,739	86,442	83,412	100,980	80,825
Lecturer	59,919	55,251	74,061	63,504	80,621	75,923	96,285	82,883
No Rank	75,277	64,139	92,785	82,428	100,712	86,849	121,355	106,753
All Combined	98,088	93,366	121,175	89,418	128,417	123,136	155,823	116,001

Note: The table is based on 952 reporting institutions for salary and 932 for compensation. For definitions of categories, see Explanation of Statistical Data. N.d. = no data. There were too few private-independent and religiously affiliated institutions in categories III and IV to generate valid separate statistics. These institutions are included in the All Combined column, however.

SURVEY REPORT TABLE 2

Percent Change in Salary for Continuing Full-Time Faculty, by Category, Affiliation, and Academic Rank, 2017–18 to 2018–19

Academic Rank	All Combined	Public	Private-Independent	Religiously Affiliated
CHANGE FOR CONTINUING FACULTY				
<i>CATEGORY I (Doctoral)</i>				
Professor	2.8	2.7	3.2	2.8
Associate	3.4	3.3	4.0	3.2
Assistant	3.5	3.3	4.4	3.6
Instructor	3.6	3.7	3.3	3.4
All Combined	3.2	3.1	3.6	3.2
<i>CATEGORY IIA (Master's)</i>				
Professor	2.4	2.4	2.7	2.3
Associate	3.2	3.2	3.6	3.0
Assistant	3.2	3.2	3.5	3.1
Instructor	3.4	3.4	3.8	3.4
All Combined	3.0	3.0	3.3	2.8
<i>CATEGORY IIB (Baccalaureate)</i>				
Professor	2.5	2.4	2.8	2.0
Associate	3.1	2.8	3.6	2.7
Assistant	3.4	2.9	4.0	3.0
Instructor	3.3	2.5	3.4	3.7
All Combined	2.9	2.7	3.3	2.5
<i>CATEGORY III (Associate's with Ranks)</i>				
Professor	2.8	2.8	n.d.	n.d.
Associate	3.4	3.4	n.d.	n.d.
Assistant	4.1	4.1	n.d.	n.d.
Instructor	7.4	7.4	n.d.	n.d.
All Combined	3.6	3.6	n.d.	n.d.
<i>CATEGORY IV (Associate's without Ranks)</i>				
No Rank	4.1	4.1	n.d.	n.d.
<i>ALL CATEGORIES COMBINED EXCEPT IV</i>				
Professor	2.7	2.6	3.1	2.4
Associate	3.3	3.3	3.8	3.0
Assistant	3.4	3.3	4.1	3.2
Instructor	3.7	3.9	3.4	3.5
All Combined	3.1	3.1	3.5	2.9

Note: The table is based on 890 responding institutions reporting continuing faculty data. For definitions of categories, see Explanation of Statistical Data. N.d. = no data. There were too few private-independent and religiously affiliated institutions in categories III and IV to generate valid separate statistics. These institutions are included in the All Combined column, however. Rows labeled "All Combined" include lecturers and unranked faculty where reported. This table was corrected on April 24, 2019.

SURVEY REPORT TABLE 3

Average Full-Time Faculty Salary, by Gender, Category, Affiliation, and Academic Rank, 2018–19 (Dollars)

Academic Rank	All Combined	Public	Private- Independent	Religiously Affiliated	All Combined	Public	Private- Independent	Religiously Affiliated
MEN					WOMEN			
CATEGORY I (Doctoral)								
Professor	159,852	145,655	201,690	166,928	142,633	130,494	180,504	152,335
Associate	104,378	99,641	122,863	110,549	97,322	92,810	114,641	105,420
Assistant	92,473	88,167	110,327	98,575	83,264	79,848	98,693	88,391
Instructor	70,099	66,124	83,813	66,609	62,605	59,905	72,908	60,625
Lecturer	66,842	59,304	85,726	79,858	60,652	55,497	75,934	73,863
No Rank	87,919	73,739	104,658	94,021	77,710	65,373	96,787	82,615
All Combined	119,828	110,544	151,620	125,282	95,121	88,918	117,930	102,697
CATEGORY IIA (Master's)								
Professor	106,544	103,844	120,864	105,934	101,356	99,816	112,560	98,327
Associate	84,483	84,003	90,240	82,181	82,606	82,819	87,087	79,264
Assistant	74,216	74,280	78,484	71,405	71,069	70,970	74,599	69,241
Instructor	60,404	58,496	76,961	61,866	57,832	56,531	69,490	59,313
Lecturer	56,300	51,913	65,863	60,899	54,571	51,502	62,027	58,522
No Rank	66,266	64,741	75,398	63,310	62,976	62,005	69,531	58,531
All Combined	85,831	84,057	95,296	85,271	77,760	76,535	85,489	76,395
CATEGORY IIB (Baccalaureate)								
Professor	106,847	95,018	127,141	88,667	104,277	92,108	122,687	86,562
Associate	81,743	78,521	92,894	72,068	79,838	76,933	90,275	69,860
Assistant	68,550	67,728	76,183	61,898	66,735	65,467	74,424	60,532
Instructor	68,237	61,645	78,131	49,632	63,144	56,745	73,042	51,247
Lecturer	56,848	51,848	64,276	52,435	55,251	52,282	61,619	51,661
No Rank	66,004	48,156	71,042	51,813	65,894	42,322	71,195	56,785
All Combined	85,416	76,625	100,045	74,332	78,191	70,895	91,024	68,376
CATEGORY III (Associate's with Ranks)								
Professor	92,483	92,483	n.d.	n.d.	90,420	90,420	n.d.	n.d.
Associate	75,360	75,360	n.d.	n.d.	73,747	73,747	n.d.	n.d.
Assistant	63,853	63,853	n.d.	n.d.	63,881	63,881	n.d.	n.d.
Instructor	65,646	65,646	n.d.	n.d.	64,451	64,451	n.d.	n.d.
Lecturer	53,957	53,957	n.d.	n.d.	53,491	53,491	n.d.	n.d.
No Rank	42,390	42,390	n.d.	n.d.	53,315	53,315	n.d.	n.d.
All Combined	73,641	73,641	n.d.	n.d.	72,133	72,133	n.d.	n.d.
CATEGORY IV (Associate's without Ranks)								
No Rank	78,269	78,269	n.d.	n.d.	75,740	75,740	n.d.	n.d.
ALL CATEGORIES COMBINED EXCEPT IV								
Professor	142,693	133,786	179,924	123,743	124,527	117,966	154,531	110,185
Associate	96,080	94,130	109,580	88,693	90,165	88,441	101,699	84,403
Assistant	84,311	82,736	97,003	76,299	76,943	75,889	86,574	71,330
Instructor	67,262	63,709	82,423	63,061	61,270	58,894	72,451	59,122
Lecturer	62,570	56,871	78,429	66,119	58,040	54,160	70,308	61,709
No Rank	80,636	72,620	96,793	88,438	73,745	67,770	89,216	76,616
All Combined	107,120	101,590	133,448	96,249	87,389	83,840	105,013	81,924

Note: The table is based on 952 reporting institutions. For definitions of categories, see Explanation of Statistical Data. N.d. = no data. There were too few private-independent and religiously affiliated institutions in categories III and IV to generate valid separate statistics. These institutions are included in the All Combined column, however. This table was corrected on April 24, 2019.

SURVEY REPORT TABLE 4

Average Full-Time Faculty Salary, by Region, Category, and Academic Rank, 2018–19 (Dollars)

Academic Rank	Northeast		North Central		South			West	
	New England ^a	Middle Atlantic ^b	East North Central ^c	West North Central ^d	East South Central ^e	West South Central ^f	South Atlantic ^g	Mountain ^h	Pacific ⁱ
<i>CATEGORY I (Doctoral)</i>									
Professor	188,553	173,871	147,369	134,631	130,779	140,085	147,992	127,577	174,662
Associate	116,621	111,547	98,895	91,159	90,496	93,946	99,289	93,234	112,276
Assistant	100,261	93,212	88,026	81,138	77,220	85,326	86,178	80,198	97,943
Instructor	87,076	68,569	63,417	60,638	53,365	54,928	64,448	57,122	61,050
Lecturer	81,206	71,607	61,458	61,336	54,926	57,692	61,009	62,048	83,821
No Rank	66,388	101,520	63,430	48,246	95,948	57,556	85,702	39,568	79,298
All Combined	132,094	122,803	106,767	98,415	91,419	95,982	104,678	93,481	128,441
<i>CATEGORY IIA (Master's)</i>									
Professor	119,076	113,654	92,003	88,436	89,250	98,265	96,512	98,883	112,502
Associate	90,994	88,983	75,520	73,766	78,768	78,229	77,453	79,187	93,216
Assistant	78,381	74,160	68,300	63,076	63,435	68,573	68,404	69,352	82,030
Instructor	67,432	58,191	54,218	49,345	49,564	53,056	56,583	51,166	61,086
Lecturer	73,605	64,509	51,423	50,354	49,180	51,912	51,137	52,547	65,284
No Rank	79,945	69,664	49,908	55,428	59,484	57,766	54,706	55,475	82,320
All Combined	93,273	88,016	73,956	71,292	71,619	74,381	75,355	73,336	91,331
<i>CATEGORY IIB (Baccalaureate)</i>									
Professor	125,629	119,295	91,262	91,760	91,536	77,118	90,022	98,555	129,892
Associate	91,279	89,429	73,877	71,983	71,674	64,184	69,680	79,773	97,020
Assistant	77,230	73,859	62,864	61,492	60,591	57,400	60,309	64,620	77,612
Instructor	62,339	62,277	51,843	55,683	51,873	46,646	48,144	50,021	67,576
Lecturer	75,082	66,000	49,623	58,098	47,954	48,718	53,255	84,684	67,040
No Rank	68,025	75,808	42,305	58,292	83,385	n.d.	51,087	60,835	72,427
All Combined	96,691	89,409	73,582	73,691	72,226	64,819	69,800	77,676	102,739
<i>CATEGORY III (Associate's with Ranks)</i>									
Professor	73,633	103,556	84,270	73,642	72,138	90,981	93,590	70,799	97,099
Associate	57,989	85,076	66,994	63,809	58,755	68,898	77,340	63,066	84,516
Assistant	51,123	73,867	53,833	58,325	52,151	54,400	67,951	55,963	74,096
Instructor	51,212	53,126	46,941	54,461	47,257	45,118	57,862	51,013	62,505
Lecturer	n.d.	69,900	55,766	43,474	n.d.	42,152	n.d.	44,001	n.d.
No Rank	n.d.	37,142	n.d.	n.d.	n.d.	n.d.	n.d.	52,180	n.d.
All Combined	62,255	81,921	62,260	63,160	55,761	77,567	78,530	59,729	76,855
<i>CATEGORY IV (Associate's without Ranks)</i>									
No Rank	n.d.	n.d.	n.d.	60,741	55,233	60,022	76,137	52,419	96,242
<i>ALL CATEGORIES COMBINED EXCEPT IV</i>									
Professor	162,355	147,890	129,552	114,902	117,433	127,468	130,724	121,892	148,838
Associate	104,308	98,875	88,983	83,239	85,553	88,374	90,639	89,424	103,588
Assistant	89,155	82,661	78,319	72,236	72,315	79,575	78,412	76,683	89,403
Instructor	79,787	63,432	59,014	54,104	52,165	53,754	60,596	55,438	61,571
Lecturer	79,215	68,988	58,712	59,834	52,889	56,895	57,869	61,590	73,151
No Rank	70,300	95,227	56,254	49,812	62,735	57,642	81,718	50,683	80,891
All Combined	116,231	105,232	94,058	86,323	84,529	89,542	93,969	88,575	111,226

Note: The table is based on 952 reporting institutions. For definitions of categories, see Explanation of Statistical Data. N.d. = no data. This table was corrected on April 24, 2019.

^a Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

^b New Jersey, New York, and Pennsylvania.

^c Illinois, Indiana, Michigan, Ohio, and Wisconsin.

^d Iowa, Kansas, Minnesota, Missouri, Nebraska,

North Dakota, and South Dakota.

^e Alabama, Kentucky, Mississippi, and Tennessee.

^f Arkansas, Louisiana, Oklahoma, and Texas.

^g Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, Puerto Rico, South Carolina,

Virgin Islands, Virginia, and West Virginia.

^h Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming.

ⁱ Alaska, California, Guam, Hawaii, Oregon, and Washington.

SURVEY REPORT TABLE 5

Average Full-Time Faculty Compensation, by Region, Category, and Academic Rank, 2018–19 (Dollars)

Academic Rank	Northeast		North Central		South			West	
	New England ^a	Middle Atlantic ^b	East North Central ^c	West North Central ^d	East South Central ^e	West South Central ^f	South Atlantic ^g	Mountain ^h	Pacific ⁱ
<i>CATEGORY I (Doctoral)</i>									
Professor	238,916	222,917	187,429	173,115	164,131	173,974	186,728	160,943	229,286
Associate	153,456	147,920	129,852	119,227	117,084	119,907	128,720	120,400	152,396
Assistant	130,526	123,528	115,343	104,957	99,956	108,605	112,209	104,292	133,871
Instructor	113,081	93,607	85,821	79,304	70,413	72,796	85,580	76,488	88,011
Lecturer	107,656	96,879	83,576	81,599	72,417	75,585	80,766	84,102	117,991
No Rank	91,143	133,928	85,846	66,939	119,146	75,965	110,264	52,414	104,819
All Combined	170,269	160,466	138,351	127,603	117,125	121,599	134,578	120,414	172,087
<i>CATEGORY IIA (Master's)</i>									
Professor	157,534	146,565	119,672	114,129	115,526	124,560	127,132	131,953	147,176
Associate	120,601	118,026	100,286	95,398	98,536	101,001	103,182	108,740	125,034
Assistant	102,256	98,274	91,170	81,556	80,996	87,951	91,307	96,222	110,749
Instructor	86,791	75,128	74,231	64,905	67,164	71,254	77,047	71,620	85,097
Lecturer	94,129	92,936	70,545	67,569	62,023	62,636	69,893	75,471	89,611
No Rank	104,808	92,786	65,798	66,899	77,712	71,840	76,665	78,461	109,945
All Combined	122,946	116,089	98,256	92,393	91,546	95,301	100,685	100,818	122,087
<i>CATEGORY IIB (Baccalaureate)</i>									
Professor	165,148	157,747	123,083	121,800	120,721	98,435	117,491	129,393	168,792
Associate	122,285	120,683	99,441	96,041	95,659	84,608	91,032	105,800	127,574
Assistant	101,024	99,902	82,879	80,884	77,874	72,795	78,657	86,104	103,263
Instructor	79,459	85,429	68,183	73,686	65,893	59,175	65,042	67,366	90,562
Lecturer	100,331	95,044	68,575	75,862	64,720	60,503	68,603	88,663	92,064
No Rank	88,091	100,353	56,740	73,493	104,000	n.d.	66,193	79,841	88,375
All Combined	127,584	120,252	98,596	97,825	94,817	83,339	91,303	102,610	134,714
<i>CATEGORY III (Associate's with Ranks)</i>									
Professor	101,893	140,633	110,485	99,108	102,056	109,934	116,974	98,793	138,664
Associate	83,329	119,756	89,232	86,780	85,994	85,112	98,966	92,302	122,600
Assistant	75,511	108,172	71,147	80,282	74,776	68,189	89,502	82,970	109,282
Instructor	68,642	81,024	57,119	75,508	67,395	60,961	74,115	73,936	94,540
Lecturer	n.d.	104,457	79,468	54,492	n.d.	50,094	n.d.	69,955	n.d.
No Rank	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	70,481	n.d.
All Combined	88,277	116,536	82,339	86,123	80,419	95,001	100,214	86,766	112,829
<i>CATEGORY IV (Associate's without Ranks)</i>									
No Rank	n.d.	n.d.	n.d.	89,267	75,946	75,760	111,806	71,644	127,557
<i>ALL CATEGORIES COMBINED EXCEPT IV</i>									
Professor	208,213	190,821	166,533	149,313	148,656	158,864	166,705	154,997	195,631
Associate	137,924	131,797	117,771	109,128	109,961	113,134	118,425	116,998	140,246
Assistant	116,499	110,527	103,350	94,154	93,311	101,547	102,994	101,233	121,820
Instructor	103,261	85,987	79,508	71,409	69,332	71,564	81,027	75,131	88,427
Lecturer	104,578	96,340	80,183	80,153	68,761	73,814	77,421	82,496	101,728
No Rank	93,847	125,886	77,584	67,121	81,385	74,267	106,445	70,478	107,268
All Combined	151,152	138,903	123,276	112,852	108,416	113,713	122,166	115,517	149,389

Note: The table is based on 932 reporting institutions. For definitions of categories, see Explanation of Statistical Data. N.d. = no data or too few institutions for statistically reliable results. This table was corrected on April 24, 2019.

^a Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

^b New Jersey, New York, and Pennsylvania.

^c Illinois, Indiana, Michigan, Ohio, and Wisconsin.

^d Iowa, Kansas, Minnesota, Missouri, Nebraska,

North Dakota, and South Dakota.

^e Alabama, Kentucky, Mississippi, and Tennessee.

^f Arkansas, Louisiana, Oklahoma, and Texas.

^g Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, Puerto Rico, South Carolina,

Virgin Islands, Virginia, and West Virginia.

^h Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming.

ⁱ Alaska, California, Guam, Hawaii, Oregon, and Washington.

SURVEY REPORT TABLE 6

Percentile Distribution of Institutions, by Average Full-Time Faculty Salary and Academic Rank, 2018–19 (Dollars)

Rating ^a	1*		1		2		3		4	
Percentile	95	90	80	70	60	50	40	30	20	10
<i>CATEGORY I (Doctoral)</i>										
Professor	209,834	187,472	166,627	154,153	145,711	133,766	127,449	119,224	110,904	98,406
Associate	135,771	124,395	114,499	108,630	102,177	98,206	93,504	87,783	83,943	77,372
Assistant	117,239	110,004	100,993	93,175	89,245	85,042	81,640	77,534	74,010	67,874
Instructor	94,072	79,582	72,694	67,678	63,089	60,002	56,015	54,045	50,470	47,404
All Combined	161,170	139,997	121,649	112,345	105,678	98,492	94,136	87,436	83,340	76,655
<i>CATEGORY IIA (Master's)</i>										
Professor	135,274	125,903	112,918	106,617	100,985	95,778	90,113	85,300	79,756	72,135
Associate	103,135	99,988	91,032	85,606	80,354	77,154	73,410	70,331	67,126	62,181
Assistant	88,490	84,242	78,392	73,931	70,592	67,741	65,507	63,071	60,454	56,789
Instructor	74,876	71,444	63,742	61,149	58,392	55,713	53,380	51,282	48,728	44,096
All Combined	105,065	96,581	89,159	83,910	78,842	75,679	72,094	68,957	65,621	61,245
<i>CATEGORY IIB (Baccalaureate)</i>										
Professor	146,242	134,136	111,924	101,995	93,878	87,764	82,403	78,082	70,908	64,635
Associate	106,302	100,689	88,409	80,692	75,810	72,110	68,100	65,027	59,732	56,522
Assistant	87,273	83,187	73,934	68,823	65,100	62,347	60,043	56,678	53,188	49,825
Instructor	70,735	67,612	62,862	58,262	54,369	52,501	50,210	47,803	45,117	42,595
All Combined	111,480	104,555	88,851	80,079	75,298	70,551	67,290	64,139	59,540	55,500
<i>CATEGORY III (Associate's with Ranks)</i>										
Professor	118,873	116,322	99,782	96,830	95,757	89,928	81,666	77,104	72,138	62,186
Associate	95,750	92,691	82,655	79,243	76,469	74,240	69,612	65,129	58,755	55,965
Assistant	80,938	79,515	74,647	69,374	64,637	62,401	60,464	56,859	53,819	50,853
Instructor	70,476	65,721	61,398	58,154	55,699	52,243	49,386	47,480	46,124	44,961
All Combined	90,198	89,815	79,416	76,299	74,809	71,422	65,444	62,942	58,508	52,830
<i>CATEGORY IV (Associate's without Ranks)</i>										
No Rank	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.

Note: The table is based on 952 reporting institutions. For definitions of categories, see Explanation of Statistical Data. Calculated using R quantile function (type = 3) nearest even order statistic. N.d. = too few institutions reporting data for statistically reliable results.

^a Interpretation of the ratings: 1* = 95th percentile; 1 = 80th; 2 = 60th; 3 = 40th; 4 = 20th. An average lower than the 20th percentile is rated 5.

SURVEY REPORT TABLE 7

Percentile Distribution of Institutions, by Average Full-Time Faculty Compensation and Academic Rank, 2018–19 (Dollars)

Rating ^a	1*		1		2		3		4	
Percentile	95	90	80	70	60	50	40	30	20	10
<i>CATEGORY I (Doctoral)</i>										
Professor	268,583	239,780	209,273	196,168	185,300	172,376	164,157	154,108	142,932	127,153
Associate	178,452	166,923	148,979	141,521	135,347	129,878	122,041	116,086	109,512	101,930
Assistant	151,132	142,904	129,972	123,494	117,606	111,502	107,549	101,852	96,331	88,618
Instructor	126,413	110,189	97,143	92,049	86,483	80,973	77,307	71,871	68,600	62,887
All Combined	206,097	181,617	158,329	146,110	135,866	130,613	122,752	115,000	106,842	97,301
<i>CATEGORY IIA (Master's)</i>										
Professor	178,266	162,327	146,076	137,631	132,122	125,187	117,421	111,386	103,648	91,873
Associate	139,020	132,788	121,290	111,821	107,080	101,819	96,852	92,197	87,596	81,483
Assistant	120,588	113,477	104,817	96,939	92,530	89,335	85,765	82,029	78,257	73,034
Instructor	102,927	96,061	86,685	81,173	76,981	73,494	69,851	66,267	62,266	56,938
All Combined	138,837	129,038	116,985	109,765	104,131	99,794	94,976	89,859	85,593	79,796
<i>CATEGORY IIB (Baccalaureate)</i>										
Professor	188,679	176,033	150,467	137,978	125,523	116,606	109,300	101,661	94,786	80,741
Associate	143,061	135,344	119,474	107,210	100,911	97,058	91,333	85,602	80,178	70,554
Assistant	116,805	112,919	96,900	91,224	86,338	82,476	78,399	74,073	68,996	63,771
Instructor	98,255	89,721	81,923	76,136	71,245	68,369	64,916	61,643	56,219	52,355
All Combined	147,548	137,309	118,177	110,472	100,426	93,265	89,256	84,225	79,211	70,543
<i>CATEGORY III (Associate's with Ranks)</i>										
Professor	154,446	153,165	138,366	136,695	127,114	119,744	111,113	107,496	100,678	82,618
Associate	132,433	129,724	116,417	108,584	104,732	99,269	93,238	90,804	84,177	74,170
Assistant	116,990	114,392	106,610	94,590	89,698	86,228	82,416	80,158	77,390	71,026
Instructor	107,190	104,494	93,702	85,052	79,909	71,630	69,426	66,790	64,201	54,980
All Combined	126,585	121,008	111,398	104,808	101,632	95,934	90,789	89,012	84,488	70,466
<i>CATEGORY IV (Associate's without Ranks)</i>										
No Rank	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.

Note: The table is based on 932 reporting institutions. For definitions of categories, see Explanation of Statistical Data. Calculated using R quantile function (type = 3) nearest even order statistic. N.d. = too few institutions reporting data for statistically reliable results.

^a Interpretation of the ratings: 1* = 95th percentile; 1 = 80th; 2 = 60th; 3 = 40th; 4 = 20th. An average lower than the 20th percentile is rated 5.

SURVEY REPORT TABLE 8

Distribution of Full-Time Faculty, by Tenure Status, Affiliation, Academic Rank, and Gender, 2018–19

Academic Rank	All Combined	Public	Private-Independent	Religiously Affiliated	All Combined	Public	Private-Independent	Religiously Affiliated	All Combined	Public	Private-Independent	Religiously Affiliated
	NON-TENURE-TRACK				TENURE-TRACK				TENURED			
MEN												
Professor	4.3	3.2	6.5	6.6	0.6	0.6	0.5	1.3	95.1	96.2	93.1	92.2
Associate	7.5	6.2	11.7	8.7	5.9	5.1	8.4	6.8	86.6	88.7	80.0	84.5
Assistant	18.9	17.5	19.0	26.2	77.1	78.1	79.0	69.0	4.0	4.4	2.0	4.8
Instructor	94.7	92.8	98.9	97.3	4.6	6.2	1.0	2.5	0.7	1.0	0.1	0.2
Lecturer	95.7	95.0	97.2	99.9	1.8	1.9	1.6	0.1	2.5	3.0	1.2	0.0
No Rank	89.4	83.2	99.6	100.0	3.4	5.3	0.2	0.0	7.3	11.5	0.2	0.0
WOMEN												
Professor	7.2	6.2	10.0	7.7	0.8	0.8	0.6	1.3	92.0	93.0	89.4	90.9
Associate	10.8	9.9	14.3	10.9	6.2	5.5	7.0	8.3	83.0	84.6	78.7	80.8
Assistant	26.3	24.6	27.1	32.8	69.7	70.7	71.6	63.3	4.1	4.7	1.4	3.9
Instructor	95.0	93.4	99.2	97.4	4.2	5.4	0.7	2.5	0.9	1.2	0.2	0.1
Lecturer	96.6	95.9	98.8	99.6	1.5	1.8	0.8	0.3	1.9	2.4	0.4	0.1
No Rank	91.5	87.3	99.4	100.0	2.7	4.1	0.3	0.0	5.8	8.7	0.3	0.0
MEN AND WOMEN COMBINED												
Professor	5.2	4.2	7.6	7.0	0.7	0.6	0.5	1.3	94.1	95.2	91.9	91.7
Associate	9.1	7.9	12.9	9.8	6.0	5.3	7.8	7.5	84.9	86.9	79.4	82.8
Assistant	22.7	21.1	23.1	29.9	73.3	74.3	75.2	65.8	4.0	4.6	1.7	4.3
Instructor	94.9	93.1	99.1	97.4	4.4	5.8	0.8	2.5	0.8	1.1	0.1	0.2
Lecturer	96.2	95.5	98.1	99.7	1.6	1.8	1.2	0.2	2.2	2.7	0.8	0.1
No Rank	90.5	85.5	99.5	100.0	3.0	4.6	0.3	0.0	6.5	9.9	0.3	0.0

Note: The table is based on 952 reporting institutions. Prior to 2003–04, this table counted as tenure-track all faculty who were tenured and in positions leading to consideration for tenure and did not separately report faculty not on the tenure track. This table was corrected on April 24, 2019.

SURVEY REPORT TABLE 9

Distribution of Full-Time Faculty, by Rank, Gender, Category, and Affiliation, 2018–19 (Percent)

Academic Rank	All Combined		Public		Private-Independent		Religiously Affiliated	
	Men	Women	Men	Women	Men	Women	Men	Women
<i>CATEGORY I (Doctoral)</i>								
Professor	23.7	9.4	22.7	9.1	28.2	10.4	21.8	8.9
Associate	14.1	10.9	14.4	11.2	12.3	9.1	15.7	12.8
Assistant	11.7	11.3	12.3	12.0	10.2	8.9	10.1	10.8
Instructor	2.9	3.8	2.7	3.8	3.2	3.4	4.2	5.1
Lecturer	4.6	5.6	4.6	5.8	5.3	6.0	2.2	2.9
No Rank	0.9	1.1	0.6	0.8	1.5	1.6	2.8	2.7
All Combined	57.9	42.1	57.3	42.7	60.6	39.4	56.8	43.2
<i>CATEGORY IIA (Master's)</i>								
Professor	17.1	10.7	17.4	10.9	16.5	11.2	16.5	9.9
Associate	14.2	13.2	13.5	12.1	15.2	15.1	15.8	15.3
Assistant	12.1	14.9	12.0	13.9	12.0	15.9	12.4	17.3
Instructor	2.6	4.2	2.4	4.0	2.7	3.6	3.2	5.2
Lecturer	4.0	5.2	5.1	6.7	2.6	3.2	1.4	2.1
No Rank	0.8	1.0	0.9	1.0	0.9	1.2	0.4	0.5
All Combined	50.8	49.2	51.4	48.7	49.8	50.2	49.7	50.3
<i>CATEGORY IIB (Baccalaureate)</i>								
Professor	18.6	11.5	14.1	8.5	20.2	13.1	19.5	11.6
Associate	15.0	14.1	14.7	13.5	14.5	14.3	15.6	14.2
Assistant	12.4	15.4	14.6	16.8	10.9	13.6	12.7	16.5
Instructor	3.3	4.7	3.7	5.3	3.1	3.9	3.2	5.1
Lecturer	1.9	2.3	3.7	4.4	2.2	2.5	0.5	0.9
No Rank	0.5	0.5	0.4	0.3	0.9	0.9	0.1	0.1
All Combined	51.5	48.5	51.1	48.9	51.7	48.3	51.6	48.4
<i>CATEGORY III (Associate's with Ranks)</i>								
Professor	12.7	13.5	12.7	13.5	n.d.	n.d.	n.d.	n.d.
Associate	11.7	15.4	11.7	15.4	n.d.	n.d.	n.d.	n.d.
Assistant	13.4	16.0	13.4	16.0	n.d.	n.d.	n.d.	n.d.
Instructor	5.4	6.3	5.4	6.3	n.d.	n.d.	n.d.	n.d.
Lecturer	2.6	3.0	2.6	3.0	n.d.	n.d.	n.d.	n.d.
No Rank	0.0	0.0	0.0	0.0	n.d.	n.d.	n.d.	n.d.
All Combined	45.8	54.2	45.8	54.2	n.d.	n.d.	n.d.	n.d.
<i>CATEGORY IV (Associate's without Ranks)</i>								
No Rank	44.2	55.9	44.2	55.9	n.d.	n.d.	n.d.	n.d.
<i>ALL CATEGORIES COMBINED EXCEPT IV</i>								
Professor	21.1	10.0	20.6	9.8	24.4	11.0	18.8	10.0
Associate	14.1	12.0	14.0	11.7	13.3	11.2	15.7	14.3
Assistant	11.9	12.8	12.3	12.8	10.7	11.1	11.8	15.1
Instructor	2.9	4.1	2.8	4.0	3.1	3.6	3.5	5.2
Lecturer	4.1	5.2	4.6	5.9	4.2	4.8	1.4	2.1
No Rank	0.8	1.0	0.6	0.8	1.3	1.4	1.1	1.1
All Combined	55.0	45.0	55.0	45.0	56.8	43.2	52.3	47.7

Note: The table is based on 952 reporting institutions. For definitions of categories, see Explanation of Statistical Data. N.d. = no data. This table was corrected on April 24, 2019.

SURVEY REPORT TABLE 10

Presidential Salary, by Category and Affiliation, 2018–19 (Dollars)

	Presidential Salary							
	Public				Private-Independent			
	Average	Median	Minimum	Maximum	Average	Median	Minimum	Maximum
Category I (Doctoral)	504,927	482,125	190,719	900,409	751,001	690,200	325,000	1,500,000
Category IIA (Master's)	290,359	280,000	142,606	600,000	437,996	423,555	185,772	730,244
Category IIB (Baccalaureate)	251,732	250,000	91,366	500,000	414,887	401,057	125,000	700,000
Category III (Associate's with Ranks)	244,482	206,594	137,363	482,125	n.d.	n.d.	n.d.	n.d.
Category IV (Associate's without Ranks)	209,756	213,150	154,038	256,250	n.d.	n.d.	n.d.	n.d.

	Religiously Affiliated				All Combined			
	Average	Median	Minimum	Maximum	Average	Median	Minimum	Maximum
Category I (Doctoral)	481,261	393,300	283,250	746,800	541,628	500,000	190,719	1,500,000
Category IIA (Master's)	332,207	331,500	95,324	711,900	329,943	309,500	95,324	730,244
Category IIB (Baccalaureate)	287,868	288,972	109,560	576,184	320,685	300,978	91,366	700,000
Category III (Associate's with Ranks)	n.d.	n.d.	n.d.	n.d.	244,482	206,594	137,363	482,125
Category IV (Associate's without Ranks)	n.d.	n.d.	n.d.	n.d.	209,756	213,150	154,038	256,250

Note: The table is based on 634 reporting institutions. N.d. = no data. For four institutions where supplemental pay far exceeded a president's base salary, the salary figure used here includes supplemental pay.

SURVEY REPORT TABLE 11

Comparison of Average Salaries of Presidents and Faculty, by Category and Affiliation, 2018–19

	Ratio of Salaries, President to Average Full Professor							
	Public				Private-Independent			
	Average	Median	Minimum	Maximum	Average	Median	Minimum	Maximum
Category I (Doctoral)	4.00	4.08	1.35	6.21	5.16	4.78	3.34	8.87
Category IIA (Master's)	3.13	3.04	1.33	6.18	4.17	4.16	2.87	6.40
Category IIB (Baccalaureate)	2.99	2.93	1.15	5.22	3.82	3.81	1.56	5.53
Category III (Associate's with Ranks)	2.99	2.69	1.68	5.72	n.d.	n.d.	n.d.	n.d.
Category IV (Associate's without Ranks)	3.14	3.28	2.24	4.13	n.d.	n.d.	n.d.	n.d.

	Religiously Affiliated				All Combined			
	Average	Median	Minimum	Maximum	Average	Median	Minimum	Maximum
Category I (Doctoral)	4.23	3.96	3.38	6.25	4.20	4.09	1.35	8.87
Category IIA (Master's)	3.77	3.73	1.39	7.53	3.54	3.48	1.33	7.53
Category IIB (Baccalaureate)	3.74	3.72	1.67	6.90	3.63	3.62	1.15	6.90
Category III (Associate's with Ranks)	n.d.	n.d.	n.d.	n.d.	2.99	2.69	1.68	5.72
Category IV (Associate's without Ranks)	n.d.	n.d.	n.d.	n.d.	3.14	3.28	2.24	4.13

Note: The table is based on 628 reporting institutions. N.d. = no data. For category IV, the ratio is president to average full-time faculty member.

SURVEY REPORT TABLE 12

Chief Academic Officer Salary, by Category and Affiliation, 2018–19 (Dollars)

	Chief Academic Officer Salary							
	Public				Private-Independent			
	Average	Median	Minimum	Maximum	Average	Median	Minimum	Maximum
Category I (Doctoral)	357,389	363,850	180,000	671,802	441,657	393,688	225,000	828,000
Category IIA (Master's)	214,913	210,868	126,196	457,479	243,503	234,397	74,335	405,000
Category IIB (Baccalaureate)	154,142	154,246	88,284	222,000	220,935	207,050	112,100	360,000
Category III (Associate's with Ranks)	170,632	145,000	82,000	375,000	n.d.	n.d.	n.d.	n.d.
Category IV (Associate's without Ranks)	130,362	130,266	97,370	166,837	n.d.	n.d.	n.d.	n.d.

	Religiously Affiliated				All Combined			
	Average	Median	Minimum	Maximum	Average	Median	Minimum	Maximum
Category I (Doctoral)	285,166	290,000	169,000	416,919	366,307	365,000	169,000	828,000
Category IIA (Master's)	195,772	185,000	75,000	465,000	212,518	200,000	74,335	465,000
Category IIB (Baccalaureate)	167,822	165,000	66,366	296,500	181,584	178,482	66,366	360,000
Category III (Associate's with Ranks)	n.d.	n.d.	n.d.	n.d.	170,632	145,000	82,000	375,000
Category IV (Associate's without Ranks)	n.d.	n.d.	n.d.	n.d.	130,362	130,266	97,370	166,837

Note: The table is based on 631 reporting institutions. N.d. = no data. For one institution where supplemental pay far exceeded a chief academic officer's base salary, the salary figure used here includes supplemental pay.

SURVEY REPORT TABLE 13

Chief Financial Officer Salary, by Category and Affiliation, 2018–19 (Dollars)

	Chief Financial Officer Salary							
	Public				Private-Independent			
	Average	Median	Minimum	Maximum	Average	Median	Minimum	Maximum
Category I (Doctoral)	300,535	295,200	145,000	590,000	421,381	366,000	160,709	1,434,202
Category IIA (Master's)	191,829	189,350	85,000	301,947	254,006	237,000	105,000	441,000
Category IIB (Baccalaureate)	136,528	133,752	49,140	230,000	233,232	210,826	100,000	386,250
Category III (Associate's with Ranks)	160,561	133,737	78,557	312,120	n.d.	n.d.	n.d.	n.d.
Category IV (Associate's without Ranks)	127,517	129,346	108,414	148,089	n.d.	n.d.	n.d.	n.d.

	Religiously Affiliated				All Combined			
	Average	Median	Minimum	Maximum	Average	Median	Minimum	Maximum
Category I (Doctoral)	290,252	200,000	168,165	455,363	368,049	365,981	145,000	1,434,202
Category IIA (Master's)	208,203	188,769	75,000	1,687,000	211,472	200,000	75,000	1,687,000
Category IIB (Baccalaureate)	167,428	165,420	71,424	352,000	181,638	178,500	49,140	386,250
Category III (Associate's with Ranks)	n.d.	n.d.	n.d.	n.d.	173,460	142,338	78,557	312,120
Category IV (Associate's without Ranks)	n.d.	n.d.	n.d.	n.d.	130,362	130,266	108,414	148,089

Note: The table is based on 602 reporting institutions. N.d. = no data.

SURVEY REPORT TABLE 14

Average Amount Paid to Part-Time Faculty Members for a Standard Course Section, by Category and Affiliation, 2017–18 (Dollars)

	Amount Paid to Part-Time Faculty Members for a Standard Course Section					
	Public			Private-Independent		
	Average	Minimum	Maximum	Average	Minimum	Maximum
Category I (Doctoral)	4,974	805	41,665	4,105	2,325	10,244
Category IIA (Master's)	3,254	590	25,311	4,174	1,000	19,890
Category IIB (Baccalaureate)	5,011	1,050	25,311	4,525	1,000	85,002
Category III (Associate's with Ranks)	4,070	675	25,311	n.d.	n.d.	n.d.
Category IV (Associate's without Ranks)	2,474	525	7,020	n.d.	n.d.	n.d.
All Combined	3,998	525	41,665	4,218	1,000	85,002

	Religiously Affiliated			All Combined		
	Average	Minimum	Maximum	Average	Minimum	Maximum
Category I (Doctoral)	5,858	1,700	12,000	4,911	805	41,665
Category IIA (Master's)	3,245	500	16,000	3,438	500	25,311
Category IIB (Baccalaureate)	2,925	500	13,000	3,785	500	85,002
Category III (Associate's with Ranks)	n.d.	n.d.	n.d.	4,070	675	25,311
Category IV (Associate's without Ranks)	n.d.	n.d.	n.d.	2,474	525	7,020
All Combined	3,450	500	16,000	3,894	500	85,002

Note: This table is not comparable with tables 14 or 15 from the 2017–18 report and is based on 335 reporting institutions. Pay is for the 2017–18 academic year to enable more institutions to report. The standard course section is three credit hours, with some exceptions; see notes to Appendix III. Minimum pay reported as less than \$500 per section is excluded from the table but listed in Appendix III. For definitions of categories, see Explanation of Statistical Data. N.d. = no data or too few institutions for statistically valid reporting.

SURVEY REPORT TABLE 15

Number of Institutions Included in Tabulations, by Category and Affiliation, 2018–19

Category	Number in Tabulations			
	All Combined	Public	Private-Independent	Religiously Affiliated
Category I (Doctoral)	235	157	53	25
Category IIA (Master's)	403	189	75	139
Category IIB (Baccalaureate)	231	47	75	109
Category III (Associate's with Ranks)	72	72	0	0
Category IV (Associate's without Ranks)	11	11	0	0
All Combined	952	476	203	273

Note: The number of individual institutions included in the appendices may differ from that shown in the tabulations. For-profit institutions are not included in the tabulations, as there are too few to constitute a valid separate category. For definitions of categories, see Explanation of Statistical Data. This table was corrected on April 24, 2019.

Explanation of Statistical Data

FULL-TIME FACULTY. The full-time faculty members reported in the survey are those included in the US Department of Education categories of “Primarily Instructional” and “Instructional/Research/Public Service,” regardless of whether they are formally designated “faculty.” They do not include clinical or basic science faculty in schools of medicine and military faculty. Full-time faculty members on sabbatical leave with pay are counted at their regular salaries even though they may be receiving a reduced salary while on leave. Full-time replacements for those on leave with pay are not counted. All faculty members who have contracts for the full academic year are included, regardless of whether their status is considered “permanent.” Institutions are asked to exclude (a) full-time faculty members on sabbatical or leave without pay; (b) full-time faculty members whose services are valued by bookkeeping entries rather than by monetary payments unless their salaries are determined by the same principles as those who do not donate their services; (c) full-time faculty members who are in military organizations and are paid on a different scale from civilian employees; (d) administrative officers with titles such as academic dean, associate or assistant dean, librarian, registrar, or coach, even though they may devote part of their time to instruction, unless their instructional salary can be isolated; and (e) research faculty whose appointments have no instructional component.

The academic ranks assigned to full-time faculty members are those determined by the reporting institution. Not all institutions use all ranks, and the definitions vary by institution. Institutions have been instructed to report “visiting” faculty members and those with instructional postdoctoral appointments at the rank of instructor.

“No rank” full-time faculty members meet the other criteria for inclusion, regardless of whether they are formally designated as “faculty.” They may have titles such as “artist in residence” or “scholar in residence.” Institutions that do not assign faculty rank are instructed to report all full-time faculty members as “no rank.” (See also the definition of category IV below.)

PART-TIME FACULTY. The part-time faculty members reported in the survey are those included in the US Department of Education categories of “Primarily Instructional” and “Instructional/Research/Public Service” and defined by their institutions as employed less than full time, excluding clinical or basic science faculty in schools of medicine and military faculty. Individuals meeting these criteria are reported regardless of whether they are formally designated as “faculty.” This category does not include individuals employed to meet short-term needs (for example, to cover a few weeks of a course) and students in the Federal Work-Study Program, even if their work has an instructional component.

The course sections for which part-time faculty pay is reported are those meeting the definition of an undergraduate class section in the Common Data Set for 2018–19 (<http://www.commondataset.org/>), item I-3: “an organized course offered for credit, identified by discipline and number, meeting at a stated time or times in a classroom or similar setting, and not a subsection such as a laboratory or discussion session. Undergraduate class sections are defined as any sections in which at least one degree-seeking undergraduate student is enrolled for credit. Exclude distance learning classes and noncredit classes and individual instruction such as dissertation or thesis research, music instruction, or one-to-one readings. Exclude students in independent study, co-operative programs, internships, foreign language taped tutor sessions, practicums, and all students in one-on-one classes.” (See also the notes to table 14 and appendix III.)

SALARY. This figure represents the contracted academic-year salary for full-time faculty members excluding summer teaching, stipends, extra load, or other forms of remuneration. Department heads with faculty rank and no other administrative title are reported at their instructional salary (that is, excluding administrative stipends). Where faculty members are given duties for eleven or twelve months, salary is converted to a standard academic-year basis. The factor used to convert salaries is reflected in the notes to appendices I and II.

CHANGE IN SALARY FOR CONTINUING FACULTY. The change in salary reported is for those full-time faculty members who remained at the same institution as the previous year. The change includes both promotions in rank and increases (or decreases) due to other factors.

BENEFITS. This figure represents the institution (or state) contribution on behalf of an individual faculty member; the amount does not include the employee contribution. The major benefits include (a) retirement contribution, regardless of the plan’s vesting provision; (b) medical insurance; (c) disability income protection; (d) tuition for faculty members and dependents (both waivers and remissions are included); (e) dental insurance; (f) social security (FICA); (g) unemployment insurance; (h) group life insurance; (i) workers’ compensation premiums; and (j) other benefits paid directly to the faculty member (for the most part, these include benefits such as moving expenses, housing, and cafeteria plans or cash options to certain benefits). Not all institutions reported all items. Institutions are asked to provide their best estimate of the data for the entire academic year.

COMPENSATION. Compensation represents salary plus institutional contribution to benefits. It is best viewed as an approximate “cost” figure for the institution, rather than an amount received by the faculty member.

INSTITUTIONAL CATEGORIES. AAUP institutional categories are assigned to institutions by the AAUP Research Office based on the following institutional characteristics:

Category I (Doctoral). Institutions characterized by a significant level and breadth of activity in doctoral-level education as measured by the number of doctorate recipients and the diversity in doctoral-level program offerings. Institutions in this category grant a minimum of thirty doctoral-level degrees annually, from at least three distinct programs. (Awards previously categorized as first-professional degrees, such as the JD, MD, and DD, do not count as doctorates for this classification. Awards in the category of “doctor’s degree–professional practice” are reviewed on a case-by-case basis.)

Category IIA (Master’s). Institutions characterized by diverse postbaccalaureate programs (including first professional) but not engaged in significant doctoral-level education. Institutions in this category grant a minimum of fifty postbaccalaureate degrees annually, from at least three distinct programs. Awards of postbaccalaureate certificates are reviewed on a case-by-case basis.

Category IIB (Baccalaureate). Institutions characterized by their primary emphasis on undergraduate baccalaureate-level education. Institutions in this category grant a minimum of fifty bachelor’s degrees annually, from at least three distinct programs, and bachelor’s and higher degrees make up at least 50 percent of total degrees awarded.

Category III (Associate’s with Academic Ranks). Institutions characterized by a significant emphasis on undergraduate associate’s degree education. Institutions in this category grant a minimum of fifty associate’s degrees annually. Associate’s degrees make up at least 50 percent, and bachelor’s and higher degrees make up less than 50 percent, of total degrees and certificates awarded.

Category IV (Associate’s without Academic Ranks). Institutions characterized by the criteria for category III but without standard academic ranks. An institution that refers to all faculty members as “instructors” or “professors” but does not distinguish among them on the basis of standard ranks should be included in this category. However, if an institution utilizes another ranking scheme that is analogous to the standard ranks, it can be included in category I, II, or III as appropriate.

ABBREVIATIONS USED IN APPENDICES I AND II. Academic Ranks: PR = Professor; AO = Associate Professor; AI = Assistant Professor; IN = Instructor; LE = Lecturer; NR = No Rank; AR = All Ranks. All institutions that do not assign professorial ranks are listed in appendix II.

Col. (1) Institutional Category—The definition of categories is given above.

Col. (2) Institutional Control—PU = Public; PI = Private-Independent; FP = Private For-Profit; PR = Private-Religiously Affiliated.

Col. (3) Average Salary by Rank and for All Ranks Combined—This figure has been rounded to the nearest hundred. “All Ranks Combined” includes the rank of lecturer and the category of “No Rank.” Salary and compensation averages are replaced by a dash (—) when the number of individuals in a given rank is fewer than three.

Col. (4) Average Compensation by Rank and for All Ranks Combined—Same definition as that given for col. (3) but for compensation.

Col. (5) Benefits as a Percentage of Average Salary—Total benefit expenditure as a percentage of average salary for all ranks combined.

Col. (6) Percentage of Faculty with Tenure—This figure represents the percentage of faculty members tenured within a given rank. A zero indicates that tenured faculty are less than 0.5 percent of that rank.

Col. (7) Percentage Increase in Salary for Continuing Faculty—The percentage increase in salary for full-time faculty members remaining at the institution in 2018–19 from the previous year. This represents the average increase for individuals as opposed to a percentage change in average salary levels.

Col. (8) Number of Faculty Members by Rank and Gender—The figures represent the total number of full-time (FT) faculty members in a given rank.

Col. (9) Average Salary by Rank and by Gender—This figure has been rounded to the nearest hundred. Salary averages are replaced by a dash (—) when the number of individuals in a given rank is fewer than three.

ABBREVIATIONS USED IN APPENDIX III

Col. (3) Part-Time Faculty Pay—No. = The number of part-time faculty members paid on a per-section basis. Min. (\$) = Minimum pay for a standard course section, whether from actual data or by policy. Max. (\$) = Maximum pay for a standard course section, whether from actual data or by policy. Avg. (\$) = Average (mean) pay for a standard course section.

Col. (4) Part-Time Faculty Benefits—Ret. = The proportion of part-time faculty members receiving an institutional contribution toward retirement benefits. Med. = The proportion of part-time faculty members receiving an institutional contribution toward health-care benefits.

Col. (5) Calendar—The institution's academic calendar.

Any inquiries concerning the data in this report may be directed to the AAUP Research Office, 1133 Nineteenth Street NW, Suite 200, Washington, DC 20036. Email: aaupfcs@aaup.org. Website: <https://research.aaup.org>.

STATEMENT ON DATA QUALITY

The AAUP Faculty Compensation Survey collects data from colleges and universities across the United States through an online portal. These data are reviewed through our internal verification process. Whenever the AAUP believes an error may have occurred, we ask institutional representatives to review the specific issues we identify. Nearly all institutions comply with our requests for additional review. If resubmitted data meet our internal standard, they are approved for inclusion in published tables and appendices. Questionable data without an institutional response may be excluded.

While the AAUP makes every effort to report the most accurate data, the published tables and appendices may include inaccuracies, errors, or omissions. Users assume the sole risk of making use of these data; under no circumstances will the AAUP be liable to any user for damages arising from use of these data. The AAUP publishes additions and corrections to the Faculty Compensation Survey results online and may make modifications to the content at any time. The AAUP will also notify *Inside Higher Ed*, which publishes data from the survey on its website, of corrections to published tabulations.

Readers are requested to report possible errors in the published data to the AAUP Research Office at the address above.

Report of Committee A on Academic Freedom and Tenure, 2018–19

Introduction

In the past year Committee A reviewed important cases and case reports of investigations, monitored developments at censured institutions, and formulated recommendations on censure and censure removal. In addition, the committee engaged in fruitful discussion of several pressing issues on campuses nationwide that affect academic freedom and began implementing an ambitious program aimed at producing new and relevant policy documents and reports that we hope will serve the needs of chapters, conferences, and faculty members everywhere.

Judicial Business

Impositions of Censure

At its spring meeting Committee A considered two cases that had been subjects of ad hoc investigating committee reports published since the 2018 annual meeting. The committee adopted the following statements concerning these cases, the Council concurred in them, and the 2019 annual meeting voted to impose censure.

Nunez Community College (Louisiana). The report of the investigating committee concerns the administration's action to terminate the services of an associate professor of English following his twenty-second year on the faculty. The investigating committee concluded that the action taken violated the faculty member's academic freedom to speak on institutional matters without fear of reprisal. The investigating committee further concluded that the administration had not afforded him the dismissal hearing to which he was entitled as the result of having obtained de facto tenure at the institution through length of service. Nunez Community College does not have a formal tenure system.

The decision to terminate the professor's services followed his disagreement with the administration over the

veracity of information to be provided to the Southern Association of Colleges and Schools Commission on Colleges (SACS), the college's regional accreditor. An accreditation visit in 2017 had cited the institution for failing to document "student success." Shortly after the arrival of a new chancellor in 2018, the administration found itself under pressure to complete monitoring reports for submission to the accreditor.

As general studies program manager, the professor was responsible for the completion of reports on the program. When he expressed concern that reports he had produced were not being included in the material to be submitted to SACS, the administration relieved him of his role. When he learned that the administration was submitting reports not prepared by him to SACS under his name, he requested that his name be removed. The administration denied his request.

The chancellor subsequently informed the faculty member that his services would be terminated, first in a phone call in which the chancellor stated that he was "not a good fit" at the institution and subsequently in a letter in which she declined to provide reasons for the decision, pointing instead to the faculty member's status as an "at-will employee." In response to the professor's written appeal, the chancellor wrote, "[The decision] is not a reflection of your work record or behavior. Nor does it diminish the past contributions you have made to the college. Your time and service to the college is appreciated."

The report states, "In the absence of any stated cause for the administration's actions and on the basis of the available information, the investigating committee is left to conclude that the termination of [the faculty member's] services was a retaliatory measure taken in violation of his academic freedom."

Committee A on Academic Freedom and Tenure recommends to the 105th Annual Meeting that Nunez Community College be added to the Association's list of censured administrations.

St. Edward's University (Texas). The investigating committee's report concerns the dismissals of two tenured faculty members and the nonrenewal of a tenure-track faculty member. The tenured faculty members were in their twelfth year of service in the college's communication department. The tenure-track faculty member was in her fifth year of service in the teacher education department.

The two tenured professors, husband and wife, received almost identical letters notifying them of their dismissal for cause. The stated grounds were "continued disrespect and disregard for the mission and goals of the university," charges they sharply contested. Despite the urging of the AAUP's staff, the university's president declined to afford them a dismissal procedure that comported with AAUP-supported standards—an adjudicative hearing before an elected faculty body in which the burden of demonstrating adequate cause for dismissal rests with the administration. Instead, they were required to persuade an anonymous three-member faculty appeal body, of which one member was selected by the president, that the action taken against them was the result of "unlawful bias, arbitrary or capricious decision making, or a violation of procedures in the Faculty Manual." Their appeal was unsuccessful, as was a similar appeal to the governing board.

The tenure-track faculty member was afforded less than six months' notice (under AAUP-recommended standards, she was entitled to a year) and not allowed to appeal the nonrenewal to an elected faculty committee. She was thus denied the opportunity to ask a duly constituted faculty body to review her allegation that the real reason for the nonreappointment was her dean's perception of her as a troublemaker. Three years previously she had filed a complaint of sexual harassment against an associate dean in the School of Education, which did not, according to her account, result in a cessation of the objectionable conduct. As a result, she filed additional complaints. The school's dean, she charged, seemed irritated by the complaints, spoke of them disparagingly, failed to support her tenure application, and, after the associate dean retired, rehired him in another capacity.

The investigating committee found that, in dismissing the two tenured professors without affording them academic due process, the St. Edward's administration had violated the 1940 *Statement of Principles on Academic Freedom and Tenure* and the AAUP-supported dismissal standards set forth in Regulations 5 and 6 of the

AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure*. The committee also found that the administration may have acted against the two professors because of their "persistent outspokenness about administrative decisions and actions." As a result, in the absence of a faculty dismissal hearing, their plausible claim that they were dismissed for reasons that violated their academic freedom remained unrebutted.

With regard to the tenure-track faculty member, the committee found that the administration, by failing to afford her an appeal process and a year of notice, had violated Regulation 2 of the *Recommended Institutional Regulations*. The committee also found credible her allegation that the nonrenewal was a consequence of her having lodged complaints of sexual harassment against an administrator, noting that the allegation remained unrefuted absent an appropriate faculty review procedure. The committee further concluded that general conditions for academic freedom and governance at St. Edward's University were "abysmal," with "fear and demoralization" widespread among the faculty.

Committee A on Academic Freedom and Tenure recommends to the AAUP's 105th Annual Meeting that St. Edward's University be added to the list of censured administrations.

This is the last year in which censure will be imposed by vote of the annual meeting. In future years, in accordance with the constitutional changes adopted by the 2019 annual meeting, the AAUP Council will vote on censure recommendations.

Other Committee Activity

At its fall and spring meetings Committee A discussed a number of issues that have emerged around the country with potentially significant impact on the climate for academic freedom.

Nondisclosure agreements have become disturbingly common in matters of faculty employment. As noted in the following "Report of the Committee on College and University Governance," at Vermont Law School such agreements were employed in a restructuring that stripped faculty members of tenure. At Purdue University, the institution's newly acquired online arm, Purdue Global (formerly Kaplan University), required all faculty members to sign sweeping agreements as a condition of employment. However, after the Purdue University AAUP chapter, supported by our national staff, pushed back, Purdue

Global was compelled to rescind this requirement. Still, use of such agreements is a phenomenon that the committee and its staff will continue to watch closely.

Last year a professor at the University of Michigan, for political reasons, rescinded an offer to write a letter of recommendation for a student wishing to study in Israel. The action prompted considerable debate on the *Academe Blog* and elsewhere, and the administration sanctioned the professor without providing him an appropriate faculty hearing as stipulated in the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure*. In response, the staff wrote the administration to urge provision of such a hearing. At its fall meeting Committee A engaged in a lengthy discussion of the issues posed by this case. While the committee ultimately decided that it was premature to prepare a general statement on such letters, there was consensus that while writing letters of recommendation for students is an obligation incurred by most teaching faculty, no faculty member can be required to write any specific letter or to provide a student with a specific rationale for declining to write. At the same time, members of the committee agreed that some rationales violate professional ethics.

In 2016 a joint subcommittee of Committee A and the Committee on Women in the Academic Profession produced a report, *The History, Uses, and Abuses of Title IX*. In the wake of proposed changes to Title IX enforcement by Secretary Betsy DeVos's Department of Education, that subcommittee submitted formal comments to the department. The subcommittee also issued the statement *The Assault on Gender and Gender Studies*.

Issues of campus free speech, as distinct from academic freedom per se, continue to roil the national conversation. This spring President Trump issued his notorious executive order ostensibly in defense of free speech on campus. In response to his March 2 initial proposal for such an order, the AAUP, in consultation with Committee A, prepared a statement that was eventually cosigned by ten other national organizations. Following official promulgation of the order, AAUP executive director Julie M. Schmid released a statement calling it "a solution in search of a problem" and "troubling in that it serves a broader goal of attempting to discredit higher education." Committee A and its staff will continue to monitor Trump administration policies that may threaten academic freedom.

Another issue that has attracted the committee's attention is the increasing displacement of faculty

disciplinary processes, committees, and hearings with bureaucratic interventions by human resources departments. This phenomenon is especially common in cases involving alleged sexual harassment but may well be spreading to other areas as well, as exemplified by a case at George Mason University reviewed this spring by the committee. The committee also discussed the threat posed to Stanford University Press by the Stanford administration's reluctance to continue a long-standing subsidy, a situation that highlights the increasingly precarious state of academic publishing. Committee A will continue to keep track of these sorts of developments.

At its spring meeting the committee engaged in a productive conversation about potential reports and statements, which resulted in a commitment to prepare two documents for consideration at our fall meeting. The first, with the working title of "In Defense of Knowledge," is envisioned as a sweeping and rousing statement in defense of higher education, expertise, and knowledge in the face of the sorts of widespread attacks on higher learning that we have seen in recent years. The second will be a report documenting how collective bargaining agreements in higher education—and not only AAUP agreements—seek to defend academic freedom, highlighting best practices and, I hope, providing a useful tool for our collective bargaining chapters and faculty unions more generally to strengthen protections. At its fall meeting the committee will continue its discussion of potential statements and reports.

Finally, I should note that Committee A, like the Association as a whole, has sought to respond to the challenge posed for our Association and its finances by the *Janus* decision. Facing the possibility that we might no longer be able to afford two annual in-person meetings, as has been the practice for decades, several members of the committee took the initiative to secure external funding. As a result, the William and Flora Hewlett Foundation has given the AAUP Foundation's Academic Freedom Fund a \$150,000 grant to cover all costs associated with one meeting of Committee A each year for three years as well as any costs associated with producing reports or statements approved at those meetings. We owe a debt of gratitude to Committee A members Joan Scott and, especially, Robert Post, whose efforts were essential to obtaining this support.

Conclusion

I want to thank the members of Committee A for their tireless work on behalf of the principles of academic freedom, our profession, and the AAUP. I would also like to thank the members of the Department of Academic Freedom, Tenure, and Governance as well as other members of our devoted and hard-working

national staff for their support of the committee and their tireless efforts on behalf of academic freedom, shared governance, and the common good throughout higher education.

HENRY REICHMAN (History), *chair*
California State University, East Bay

Cases Settled through Staff Mediation

The following accounts exemplify the work of Committee A's staff in bringing cases to resolution during the 2018–19 academic year.

In March 2018 faculty members at a liberal arts college in the Midwest sought the advice and assistance of the AAUP's staff after a "program prioritization" process resulted in cuts to departments and the elimination of ten faculty appointments. Writing in the cases of two tenured faculty members whose appointments had been terminated, the staff pointed out that, under AAUP-recommended standards, an administration cannot terminate a tenured appointment when academic programs are merely *reduced* unless a bona fide financial emergency exists. As the college had not declared financial exigency, the letter continued, the AAUP considered the terminations to be "illegitimate." The letter closed by urging that the administration rescind the termination notices issued to the two professors and other similarly situated faculty members. In April, one of the two professors wrote to give the staff the good news that the college had offered him a settlement, which entailed his continuation as a tenured full professor.

In March 2019, additional faculty members, including members of the newly constituted AAUP chapter, contacted the staff as a result of the elimination of twelve more faculty positions in the fall through the same process. Writing in the cases of two full professors whose tenured appointments had been terminated, the staff reiterated many of the same points it had made in its correspondence of the previous spring. As in the spring, the staff's letter urged rescission of the terminations. In the case of one professor, the staff's letter also questioned whether the administration had made "every effort" to find him other suitable teaching assignments within the

institution, as required under Regulation 4c(5) of the *Recommended Institutional Regulations on Academic Freedom and Tenure*. The professor, the most senior in the department, claimed to be qualified to teach virtually all the courses currently offered and to have done so in the past.

In April this professor sent the staff the welcome news that the administration had done what the AAUP had urged and rescinded his termination notice. Soon thereafter the second professor in whose case the AAUP had intervened in spring 2018 informed the staff that she too had reached a resolution with the college that she found acceptable and had subsequently obtained a more suitable appointment elsewhere for the 2019–20 academic year.

* * *

[Since this case attracted wide publicity, our account does not preserve the subject professor's anonymity.] In July 2018 Rutgers University's Office of Employment Equity determined that history professor James Livingston had "violated the university's policy on discrimination and harassment" after his Facebook posts regarding gentrification in his Harlem neighborhood created a public uproar. He had posted from a local restaurant, "OK, officially, I now hate white people. I am a white people, for God's sake, but can we keep them—us—out of my neighborhood?" The restaurant, he wrote, is "overrun with little Caucasian assholes. . . . I hereby resign from my race."

In response to a request from the Rutgers AAUP chapter, a member of our staff sent an advisory letter

to chapter officers on August 28. At this juncture, it seemed possible that the administration would take disciplinary action against Professor Livingston. The letter outlined the AAUP's position that doing so would "likely violate" Rutgers's own academic freedom policy as well as the collective bargaining agreement between AAUP-AFT Rutgers and the university. The key language in university's academic freedom policy, the letter pointed out, was an outcome of the highly publicized case of Professor Eugene Genovese, whose extramural attacks on the Vietnam War generated public controversy and calls for his dismissal. The letter noted that the AAUP bestowed its Alexander Meiklejohn Award for Academic Freedom on President Mason W. Gross and the Rutgers board of governors in 1966 for their defense of Professor Genovese's academic freedom. The letter also noted that the following year the governing board amended the academic freedom policy to read as follows: "Outside the fields of instruction, artistic expression, research, and professional publication, faculty members, as private citizens, enjoy the same freedom of speech and expression as any private citizen and shall be free from institutional discipline in the exercise of these rights." With respect to the AAUP-AFT Rutgers collective bargaining agreement, the letter cited the following provision: "The parties hereto recognize the principles of academic freedom as adopted by the University's Board of Governors on January 13, 1967."

Rutgers chapter officers immediately shared the staff's letter with President Robert L. Barchi. The next day the president ordered another review of Professor Livingston's Facebook posts, asking the reviewers to take into account the free-speech implications. On November 14, the review having been completed, the Office of Employment Equity informed Professor Livingston of its decision to "retract" its initial determination, with the revised conclusion that he had "not violate[d] the Policy Prohibiting Discrimination and Harassment in this matter." In a statement, Professor Livingston said, "I'm relieved that my right to free speech and my academic freedom have been validated by this retraction, thanks to FIRE, the AAUP, and colleagues."

* * *

In November officers of the faculty senate and other faculty members of a large western state university sought the Association's assistance concerning a pattern of disregard for the legitimate role of the

faculty in institutional decision making. Among these concerns was that the administration had taken drastic measures to prevent the faculty senate from conducting its mandated review of university administrators.

A staff member promptly wrote to the administration conveying the AAUP's concern that the administration had obstructed the process for the biennial faculty senate review of the chancellor, provost, and other administrators as provided in the university bylaws; that the administration had repeatedly threatened legal action against individual members of the senate for participating in the review; and that it had forbidden the senate to use university resources to conduct the review on the basis of instructions from a deputy commissioner of the state's commission on higher education. The staff urged the administration and commission to reaffirm and uphold widely observed principles of academic governance as set forth in the *Statement on Government of Colleges and Universities*. As a result of the staff's letter, the state commissioner of higher education reaffirmed the faculty's right to conduct performance reviews of administrators. The faculty leaders in the state expressed their gratitude to the AAUP.

* * *

Over the course of the past year, the Association's staff became apprised of several cases of administrations' taking adverse personnel actions against faculty members for employing the N-word in situations in which its use would appear to be protected under tenets of academic freedom as set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure*. One such case involved a tenured full professor at a liberal arts college in the Midwest who quoted the word from an assigned book during an in-class discussion. Following student complaints and contentious campus-wide debates over the course of two weeks, the administration suspended him. In January, when the chief academic officer referred the case to a faculty hearing body, employing a process that can lead to dismissal-for-cause proceedings, the faculty member contacted the AAUP.

In addition to conveying the Association's concern regarding the summary suspension, which had occurred in contravention not only of AAUP-supported procedural standards but also of the institution's own regulations, the staff's letter to the administration pointed out that the faculty member's

classroom speech fell under the protections of academic freedom. In addition to the 1940 *Statement*, the letter cited the AAUP's *On Freedom of Expression and Campus Speech Codes*, which states that "rules that ban or punish speech based upon its content cannot be justified" and that "an institution of higher learning fails to fulfill its mission if it asserts the power to proscribe ideas—and racial or ethnic slurs, sexist epithets, or homophobic insults almost always express ideas, however repugnant. Indeed, by proscribing any ideas, a university sets an example that profoundly disservices its academic mission."

The letter also cited the Association's 2007 report *Freedom in the Classroom*, which, while acknowledging the need to "foster an atmosphere respectful of and welcoming to all persons" and warning that "an instructor may not harass a student nor act on an invidiously discriminatory ground toward a student," asserts that "ideas that are germane to a subject under discussion in a classroom cannot be censored" merely because a student might be offended. "Instruction cannot proceed in the atmosphere of fear that would be produced were a teacher to become subject to administrative sanction based upon the idiosyncratic reaction of one or more students. This would create a classroom environment inimical to the free and vigorous exchange of ideas necessary for teaching and learning in higher education."

In closing, the letter stated the AAUP's concern that the decision to refer the matter to a faculty body suggested that the administration would be seeking to dismiss the faculty member or impose another severe sanction on him. The letter noted that, although the AAUP has historically chosen to leave it to individual institutions to provide their own definitions of adequate cause for dismissal and for imposition of other severe sanctions, the Association's procedural standards assume that they will do so "bearing in mind the 1940 *Statement* and standards that have developed in the experience of academic institutions." The letter thus concluded that, to the extent that the administration intended to base a decision to impose a severe sanction on the faculty member because of the classroom incident in question, such an action would violate his academic freedom.

In March the Association learned that the administration had informed the faculty member that it had decided not to pursue his dismissal or any other severe sanction.

* * *

An assistant professor of sociology at a Roman Catholic college in the Northeast sought the assistance of the AAUP in early March after she received a letter from the college's director of human resources notifying her of her dismissal effective immediately. The letter gave no reason for the action, but the faculty member reported that the provost and general counsel had informed her in a subsequent meeting that the administration was dismissing her because of doubts regarding her "long-term possibility of success." The faculty member, however, alleged that she was dismissed in retaliation for protesting racial bias and discrimination on campus.

In a March 15 letter to the college's president, the AAUP's staff noted that the faculty member's allegation that her dismissal had been effected for impermissible reasons stood unrebutted in the absence of an appropriate dismissal proceeding. In such a hearing the administration would have been obliged to demonstrate adequate cause for the dismissal before an elected faculty hearing body. The staff's letter also noted that the administration's action against the faculty member seemed to have disregarded relevant provisions in the faculty handbook. As a result, the letter went on to state, the administration's action was "fundamentally at odds with basic standards of academic due process as set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure* and the complementary 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*," both documents joint products of the AAUP and the Association of American Colleges and Universities. The letter closed by urging the president immediately to rescind the notice of dismissal issued to the assistant professor and to follow AAUP-recommended procedural standards in taking any subsequent action.

On June 11 the faculty member informed the staff that she and the college's administration had reached a resolution that she found satisfactory. She wrote, "Your powerful letter was pivotal in the process. Not only did it make a big difference for my specific situation, but the faculty at [the college] are now creating an AAUP chapter as a result of it! I have truly appreciated the wonderful work you did on my case. Thank you for being there in a challenging time."

* * *

In May an assistant professor at a flagship university in the South tweeted about civil disobedience,

provoking a backlash involving state legislators and university administrators. When it appeared that the governing board might single him out from other tenure candidates for special scrutiny and potential denial of tenure because of his social media comments, the AAUP's staff promptly wrote to the chair of the board and the university's president to inform them that "if the reasons for this possible action are what have been alleged, we would consider this to be a flagrant violation of AAUP-supported principles of academic freedom and tenure." The staff further noted that the AAUP had investigated cases of tenure denials by governing boards that involved serious allegations of academic freedom violations, with several resulting in censure, and pledged to monitor the situation closely. The next day the board of trustees voted to award promotion and tenure to the faculty member. In a press release about its decision the board noted that its discussion of his tenure application included "consideration of the Board's support for academic freedom and expression." ■

Report of the Committee on College and University Governance, 2018–19

The work of the Committee on College and University Governance during the 2018–19 academic year focused on three governance investigations.

The committee discussed and voted by email on the imposition of a governance sanction at Vermont Law School. The committee adopted the following statement regarding the case, the Council concurred in the statement, and the 2019 annual meeting voted to impose the sanction.

Vermont Law School. The report of the investigating committee describes departures from AAUP-supported standards of academic governance evident in the faculty “restructuring” process at Vermont Law School that resulted in lowering salaries, reducing the number of full-time positions, and effectively eliminating the tenured status of three-quarters of the institution’s highest-paid faculty members. Fourteen of the nineteen tenured faculty members were essentially turned into at-will employees—transferring the bulk of the teaching load to lesser-paid faculty members serving on contingent appointments and radically reducing the size of the full-time faculty. Faculty members who accepted restructured appointments in lieu of termination were required to sign releases of claims and nondisclosure and nondisparagement agreements. The investigating committee found that the faculty played no meaningful role in analyzing, assessing, or, most important, approving the restructuring plan.

Since at least 2012, VLS has experienced significant financial difficulties, resulting in part from the national crisis in legal education. The investigating committee received ample evidence regarding the administration’s concerted efforts to communicate with faculty members in order to solicit their ideas about and reactions to various expenditure-reducing scenarios. But absent from the administration’s approach was the fundamental understanding that shared governance requires

far more than merely providing information to faculty members and inviting their perspectives before making a decision.

The report found that, in its actions to restructure the faculty in spring 2018, the administration of Vermont Law School disregarded the standards set forth in the AAUP’s *Statement on Government of Colleges and Universities* and derivative Association documents. The report found, further, that unacceptable conditions of academic governance prevail at the institution. The Committee on College and University Governance therefore recommends to the 105th Annual Meeting that Vermont Law School be added to the Association’s list of institutions sanctioned for substantial noncompliance with standards of academic government.

The committee also discussed and voted by email on the removal of the eight-year-old governance sanction at Idaho State University. The committee adopted the following statement regarding the case, the Council concurred, and the 2019 annual meeting voted to remove the sanction.

Idaho State University. The 2011 report concerned the action by the Idaho State Board of Education to suspend the faculty senate at Idaho State University on the recommendation of the university’s president, following several years of intense conflict between the senate and the administration. The report found that no justification existed for the decision to suspend the faculty senate and that the administration had violated AAUP-supported governance standards by severely restricting the faculty’s decision-making role, suppressing faculty dissent, and initiating the abolition of the faculty senate.

In spring 2018 the president whose actions led to the sanction retired. In November his successor approved a proposed new faculty senate constitution

that the faculty had ratified. In December the Idaho State Board of Education gave its final approval to that constitution. The provisional faculty senate voted to dissolve itself, and the election of a new senate under the revised constitution took place this spring. As the restoration of the faculty senate under a constitution approved by the faculty was the major step necessary to remove the sanction, the AAUP's staff contacted the new president, the leadership of the faculty senate, and officers of the AAUP chapter to recommend that an Association representative be sent to campus to assess current conditions for faculty governance and to report that assessment to the Committee on College and University Governance. The president and both faculty groups agreed to the visit, which occurred at the end of March.

The AAUP representative found conditions for faculty governance at ISU to be sound, adding, "I was very much impressed by the dedication of the ISU faculty, the AAUP chapter, and President Satterlee to cooperative institutional change. It is tremendously refreshing to visit a campus where the faculty seems energized not in opposition to fresh outrages, as is sadly too often the case, but because things are improving." He also reported that the faculty senate, the chapter, and the administration supported removing the sanction.

In view of these favorable developments, the Committee on College and University Governance recommends to the Association's 105th Annual Meeting that Idaho State University be removed from the list of sanctioned institutions.

Finally, the committee discussed and voted by email on the following statement regarding Maricopa Community Colleges. The committee approved the statement and provided it to the Council and the 2019 annual meeting as an informational item.

Maricopa Community Colleges (Arizona). The report of the investigating committee concerns the actions of the governing board of the Maricopa County Community College District to terminate "meet-and-confer," a process that the faculty and administration had used for four decades as a mechanism for establishing institutional policies related to faculty matters and for making recommendations to the board concerning salaries and budgets. The governing board also mandated the later repeal of the entire faculty manual and directed the administration to oversee the creation of a new manual, subject to restrictions on the

ability of the faculty to participate in institutional decision-making.

Faculty participate in governance at Maricopa at the college level through elected senates, which in turn are represented on a Faculty Executive Council. Prior to the changes made by the governing board, the Faculty Executive Council had served simultaneously as a district-level faculty governance body and as the governing body of the Maricopa Community Colleges Faculty Association, a voluntary labor organization that has represented the interests of the full-time faculty for more than thirty-five years. In the absence of enabling legislation that permits public employees to bargain collectively, the Faculty Association and administration had utilized the meet-and-confer process, which is permitted under Arizona law. The actions of the board eliminated not only the mechanism by which changes to institutional policies related to faculty matters were negotiated but also the role of the only district-level representative faculty governance body.

The investigating committee was unable to find any evidence to suggest that the board's actions were guided by considerations of the institution's best interests. Instead, correspondence by individual board members obtained through open-records requests—including email messages sent by two former Republican members of the Arizona House of Representatives, one who served as a board member and another who served as board president—led the investigating committee to conclude "that the board's intervention was an engineered performance of political theater motivated by partisan ideology and political ambition." The committee further concluded that "the governing board's resolution should be seen for what it is: union-busting—or more precisely, mischaracterizing the Faculty Association as a collective bargaining agent and then destroying it and, with it, all vestiges of a once-effective system of shared academic governance."

The committee found that, in terminating the meet-and-confer process and repealing the faculty manual, the governing board acted in disregard of the *Statement on Government of Colleges and Universities*, which provides that "the structure and procedures for faculty participation" in institutional governance "should be designed, approved, and established by joint action of the components of the institution." Moreover, the committee concluded that "by removing robust governance structures with no plan for replacement, the [Maricopa County

Community College District] board plunged the conduct of governance at the institution into chaos. While this chaos was entirely the result of the ill-considered board actions, the senior administration simultaneously abdicated its appropriate leadership role by failing to engage the issues publicly.”

Since the visit of the investigating committee, the AAUP has continued to monitor governance developments at the Maricopa Community Colleges. In November 2018, three new members were elected to the district governing board. In January, after the Association sent a prepublication draft of the investigating committee’s report to the principal parties, events suddenly took a welcome turn. A majority of the new governing board called for a special meeting to elect new officers at the beginning of the year, although the term of the board president had not yet expired. At the special meeting on January 15, the board president announced his resignation, and the governing board elected a new president. Among the first actions of the board’s new leadership was to adopt a resolution that rescinded the actions taken when the board terminated meet-and-confer and repealed the faculty manual. Writing to the members of the Faculty Association, the board’s new president applauded the restoration of shared governance and recounted that “in recognition of the Board’s vote, in a standing-room-only Rio Conference Center packed with faculty and staff, the Board received a cheering standing ovation.”

Following the actions of the newly constituted governing board, the restoration of shared governance at Maricopa is still ongoing. Addressing two concerns that the investigating committee had raised, the board established a new governance system that, for the first time, included part-time faculty members in institutional decision-making, and all faculty senates have extended participation rights to faculty members who are not members of the Faculty Association. However, by some faculty accounts, this restoration has been met with resistance from the chancellor. In April, the senates of nine of the ten colleges in the district voted no confidence in her.

The Committee on College and University Governance concurs in the findings and conclusions of the investigating committee. It condemns the deplorable actions of the Maricopa County Community College District’s governing board under its former leadership. As sound principles of academic governance are in the process of being restored, the committee has asked the AAUP’s staff to keep it

well informed and intends to provide an update on developments at the 2020 biennial meeting of the Association.¹

This is the last year in which sanction will be imposed by vote of the annual meeting. In the future, in accordance with the constitutional changes adopted by the 2019 annual meeting, the AAUP Council will vote on sanction recommendations.

By way of conclusion, I thank the members of the Committee on College and University Governance for their thoughtful and conscientious work on behalf of the principles of academic governance. I also thank the members of the national staff—especially the members of the Department of Academic Freedom, Tenure, and Governance, and Joerg Tiede in particular as staff to the committee—for their dedicated and enthusiastic support and promotion of the committee’s work. ■

MICHAEL DECESARE (Sociology), *chair*
Merrimack College

1. The AAUP’s staff sent a copy of this statement to the administration of the Maricopa Community Colleges on June 26 for its information. The school district’s general counsel responded by letter of July 1 objecting to several of its assertions, requesting changes, and asking that the letter be printed alongside the statement of the governance committee. As the *Bulletin* was about to be sent to the printer, the letter could not be included in the print version. It has instead been posted with the online version of the *Bulletin* at https://www.aaup.org/sites/default/files/Maricopa_AAUP_7-1-19.pdf.

Report of the 2019 Annual Conference

The AAUP hosted its Annual Conference on the State of Higher Education in Arlington, Virginia, from June 12 to 16, 2019. The 105th Annual Meeting of the AAUP and the regular business meeting of the AAUP Collective Bargaining Congress were held in conjunction with the conference.

The conference program began with a question-and-answer session Wednesday afternoon about proposed changes to the organizational structure of the AAUP and the AAUP-CBC and proposed amendments to the AAUP Constitution. These changes are discussed in greater detail below.



Joan W. Scott

The conference's first full day began with an opening plenary discussion of *The Future of Academic Freedom*, a new book by Henry Reichman, chair of the AAUP's Committee A on Academic Freedom and Tenure. Participants included Reichman; Patricia McGuire, president of Trinity Washington University; Alyssa Picard, director of AFT Higher Education; Frederick Lawrence, secretary and CEO of Phi Beta Kappa; and Will Creeley, senior vice president of legal and public advocacy at the Foundation for Individual

Rights in Education. The session attracted a large audience and included a lively round of comments and questions.

In lieu of paper panels, this year's conference featured a series of peer-to-peer sessions on Thursday and Friday in which AAUP staff and members discussed topics of interest such as current issues in shared governance, chapter communications, developing issue campaigns on campus, and post-*Janus* issues and strategies. An additional series on "AAUP Essentials" provided information about the Association's work on academic freedom, governance, and the status of women in the academic profession. Attendance was high for most sessions, and many participants commented favorably on the new format.

The Friday plenary luncheon speaker was Joan W. Scott, a former chair of the AAUP's Committee A and professor emerita at the Institute for Advanced Study in Princeton, New Jersey. She is the author of many books, including the classic *Gender and the Politics of History* and the recent *Knowledge, Power, and Academic Freedom*, which brings together her essays—spanning two decades—on academic freedom. In her keynote address, "Knowledge for the Common Good," Professor Scott discussed crucial distinctions between academic freedom and free speech and made a powerful case for academic freedom as the essential foundation of knowledge—"the accumulated product of disciplined thought, verified by communities of scholars"—that benefits society as a whole and enables social, economic, political, and scientific progress. Linking the current "noise about free speech on campus" and proposed campus free-speech legislation to broader attacks on higher education, she asserted that "to defend academic freedom is to defend the production and transmission of knowledge" and closed with a reminder that "the futures of the common good and of academic freedom are bound up together; the one cannot survive without the other. It is up to us to ensure their joint survival."

The awards and recognition luncheon on Saturday

provided an occasion for the Association to celebrate this year's award recipients and to honor its fifty-year members.

Photographs from the annual meeting and the higher education conference are available at <https://www.flickr.com/aaup>.

AAUP Collective Bargaining Congress

The AAUP-CBC held its regular business meeting on Thursday evening. As part of a package of proposed structural changes to the organization of the AAUP and AAUP-CBC, the regular meeting voted to approve a motion to dissolve the AAUP-CBC. The vote was contingent upon the passage of subsequent motions at the AAUP annual meeting on Saturday.

The results of the AAUP-CBC election for chair, vice chair, and three at-large members of the AAUP-CBC Executive Committee are printed elsewhere in this issue in "Officers and Committees of the AAUP-CBC." Starting on January 1, 2020, these officers will serve on the transitional AAUP Council, along with other members of the AAUP-CBC Executive Committee.

Noeleen McIlvenna of Wright State University was presented with the Marilyn Sternberg Award at the AAUP-CBC dinner on Thursday. The Sternberg Award recognizes AAUP members who "demonstrate concern for human rights, courage, persistence, political foresight, imagination, and collective bargaining skills." McIlvenna was chosen for the award in recognition of her service to Wright State's AAUP chapter as the chapter's first contract administration officer during a



Paul Davis and Noeleen McIlvenna



Erik Loomis

time when her university's administration and board were in the midst of a financial crisis. The award committee noted that "when the chapter began negotiating a new contract and encountered stubborn resistance from the administration, she took on an increasingly important role in organizing and in the eventual successful strike by AAUP-WSU members." Professor McIlvenna was subsequently elected as the chapter's new president.

Following the presentation of the Sternberg Award, Paul Davis of Cincinnati State Technical and Community College was recognized for his service as chair of the AAUP-CBC.

Erik Loomis, associate professor of history at the University of Rhode Island and author of the recent book *A History of America in Ten Strikes*, was the featured speaker at the AAUP-CBC dinner. In his keynote address, "Strikes in America: Past and Present," Professor Loomis described the working class as "not just white men in Pennsylvania," noting that labor is much broader and more diverse, despite a tendency to describe the working class in narrow terms that emphasize white males. Strikes, he said, are not the sole purview of unions, but also include such momentous events as enslaved African Americans leaving plantations in the Civil War era and the 2006 Day without Immigrants.

Actions Related to Restructuring

Following the vote of the AAUP-CBC regular meeting to dissolve the AAUP-CBC as part of a package of proposed organizational changes, the 105th Annual Meeting approved, by proportional vote, proposed amendments to the AAUP Constitution codifying changes recommended by the AAUP Council in November 2018. The motion proposing

the amendments included the Constitutional Amendment Proviso establishing the transitional leadership structure for the newly combined organization. The meeting subsequently voted, also by proportional vote, to approve a motion to roll CBC dues into AAUP collective bargaining dues, effective January 1, 2020. This change will result in a one-time increase of \$23 for the full-time, entrant, and associate categories of AAUP collective bargaining dues and a one-time increase of \$10 for part-time and graduate student AAUP collective bargaining dues. The AAUP-CBC will dissolve, and therefore will no longer collect CBC dues, effective January 1, 2020.

As the restructuring process moves forward, updated information will be available on the AAUP website at <https://www.aaup.org/restructuring>.

Censure and Sanction Actions

Delegates to the annual meeting voted to place St. Edward's University (Texas) and Nunez Community College (Louisiana) on the Association's list of censored administrations. The annual meeting also voted to place Vermont Law School on the list of sanctioned institutions and to remove Idaho State University from the sanction list. Although the Committee on College and University Governance had authorized the publication of an investigative report concerning Maricopa Community Colleges (Arizona), the committee made no recommendation regarding sanction. Censure by the AAUP informs the academic community that the administration of an institution has not adhered to generally recognized principles of academic freedom and tenure; sanction informs the academic community that an institution has infringed standards of academic governance. Censure and sanction are lifted after an administration or institution takes the necessary steps to address the AAUP's outstanding concerns.

The "Report of Committee A on Academic Freedom and Tenure, 2018–19," and the "Report of the Committee on College and University Governance, 2018–19," included elsewhere in this issue, contain the censure and sanction statements.

Georgina M. Smith Award

Established in 1979 to honor the memory of a Rutgers University professor who was a committed feminist, an AAUP leader, and a strong supporter of her faculty union, the Georgina M. Smith award is presented "to a person who has provided exceptional leadership in the past year in improving the status of academic women or in advancing collective bargaining and

through that work has improved the profession in general." This year, the award was presented to Jennifer K. Kerns of Portland State University and Christine Blasey Ford of Palo Alto University.

The award for Professor Kerns recognized her contributions as vice president for organizing for the Portland State University AAUP chapter and her leadership in engaging faculty members and academic professionals who identified as women, LGBTQ, persons of color, parents and caregivers, or persons with disabilities. Her organizing work led a number of people who had not been active in the chapter previously to become member volunteers and contributed to increasing PSU-AAUP's membership levels, which are now the highest in the chapter's four-decade history.

The award for Professor Ford recognized her "remarkable courage, grace, and generosity in shar-



Jennifer K. Kerns and Janice Habarth

ing her story of sexual assault in a highly public and publicized US Senate hearing." The award committee noted that, while her purpose was "to share her experience so that the Senate could make a fully informed decision about a Supreme Court nomination, her actions have also advanced the status of academic women, along with that of women in general." Janice Habarth, the secretary-treasurer of the Palo Alto University AAUP chapter, accepted the award and read remarks by Professor Ford.

Outstanding Achievement Award

The AAUP established the Outstanding Achievement Award to recognize chapter- or conference-level work to advance academic freedom or shared governance, promote the economic security of academics, help the higher education community organize, or ensure higher education's contribution to the common good. The Wright State University AAUP chapter is the recipient of the AAUP's 2019 Outstanding Achievement Award. In announcing the award, the award

committee observed that "chapter members fought an unjust contract—staying united throughout the longest strike in Ohio higher education history—to stand for what was best for the university and for their students. The faculty at Wright State didn't crack under pressure and have inspired other chapters." Chapter president Noeleen McIlvenna accepted the award on behalf of the chapter. ■

Fifty-Year AAUP Members

David L. Bruck
San Juan, Puerto Rico

Douglas L. Johnson
Clark University

John H. Planer
Manchester College

Morton J. Tenzer
University of Connecticut

Frederick J. Ernst
Potsdam, New York

Boaz Kahana
Cleveland State University

Donald Malcolm Reid
Georgia State University

John J. Thomas
Skidmore College

Eva D. Ferguson
Southern Illinois
University Edwardsville

Stewart Macauley
University of Wisconsin–
Madison

Bertram M. Schreiber
Wayne State University

John A. White
Rochester Institute of
Technology

Judith Frankel
University of Cincinnati

Joel T. Mague
Tulane University

Gilbert B. Solitare
Madison, New Jersey

Anthony W. Wolk
Portland State University

Lucille B. Garmon
University of West Georgia

Hugh T. Patrick
Columbia University

Irving J. Spitzberg
Monkton, Maryland

Jerrold H. Zar
Northern Illinois University

William H. Jefferys
University of Vermont

David A. Phillips
Wabash College

Patricia G. Steinhoff
University of Hawaii
at Manoa

Constitution of the American Association of University Professors¹

Article I—Purpose

The name of this Association shall be the American Association of University Professors (“AAUP” or “Association”). Its purpose shall be to facilitate a more effective cooperation among teachers and research scholars in universities and colleges, and in professional schools of similar grade, for the promotion of the interests of higher education and research, and in general to increase the usefulness and advance the standards, ideals, and welfare of the profession.

Article II—Membership

1. There shall be two classes of members, all of whom shall be members of a chapter chartered by the Association (a “chapter”), and associates:
 - a. *Active Members.* Any person who holds a professional position of teacher, researcher, graduate student, or related professional appointment, excluding administrators but including any member of a bargaining unit represented by a chapter, at a college, university, or professional school of similar grade accredited in the United States or Canada, is eligible for active membership in the Association. However, members of bargaining units may be admitted to active membership only if they are members of the local organization that serves as bargaining agent.
 - b. *Retired Members.* An active member who retires may choose to be transferred to retired membership. Retired members retain all rights and privileges accorded to active members under this Constitution, including the right to hold office.

- c. *Associates.* Persons who are not eligible for membership, including the general public and persons serving as higher education administrators, may become affiliated with the AAUP as Associates. Associates are not members of the AAUP and are not required to be affiliated with a chapter.

2. The Council shall establish procedures for the processing of applications and admissions to membership and associate affiliation. Membership in good standing shall require that the member remit the dues established by the Association in a timely manner as established by the Council. Members who fall in arrears by fifteen days will have their membership automatically suspended. A suspended member may be reinstated as a member under procedures established by the Council.
3. Only active and retired members in good standing shall be entitled to attend meetings, participate in nominations and elections, and otherwise have a voice in the affairs of the Association.
4. A member may resign by notifying the Association in writing. A member may be suspended or expelled for cause after notice and a hearing in accordance with procedures established by the Council.

Article III—Officers

1. The officers of the Association shall be a President, a Vice-President, and a Secretary-Treasurer.
2. The terms of office of the foregoing officers shall be four years, and shall expire at the close of the

1. Last amended at the 105th Annual Meeting of the Association in Arlington, VA, June 15, 2019, effective January 1, 2020.

last session of the biennial Association Meeting following the election of their successors, or, if a meeting of the Council is held after and in connection with the biennial Association Meeting, at the close of that Council meeting.

3. The President shall preside at meetings of the Association and the Council. The President shall appoint, and shall be a voting ex officio member of, all committees of the Association except the Nominating Committee, the Election Committee, and the Election Appeals Committee.
4. The Vice-President shall assist the President in the conduct of the affairs of the Association, performing such duties as assigned by the President or the Council. In the event of the inability or incapacity of the President to perform the responsibilities of that office, the Vice-President shall assume those responsibilities on an interim basis until the President is again able to perform them.
5. The Secretary-Treasurer shall be responsible for maintaining the records of the Association. The Secretary-Treasurer shall also oversee the receipt of all moneys and their deposit in the name of the Association. With the authorization of the Council, the Secretary-Treasurer shall oversee the investment of any funds not needed for current disbursements. The Secretary-Treasurer shall oversee payment of all bills approved in accordance with procedures determined by the Council, and shall make a report to the Association at each meeting of the Association and such other reports as the Council may direct. The financial records of the Association shall be audited annually by an external agency, and the report of the audit shall be published.
6. An officer may be removed from office for cause by a two-thirds vote of the Council finding such cause and voting for removal at a duly called meeting of the Council after opportunity for a hearing by a process determined by the Council.
7. Officers shall receive no salary, but they shall be reimbursed for reasonable expenses incurred in connection with the performance of their duties. This provision shall not prevent the Association from compensating officers' institutions, or compensating directly officers who are part-time

faculty members for salary of up to one course per semester, for release time from teaching or other assigned duties attributable to the officers' participation in Association matters.

8. Those officers who are entrusted with funds of the Association or other Association property shall be bonded to provide protection against loss.

Article IV—The Council

1. The Council of the Association shall consist of (a) the President, the Vice-President, the Secretary-Treasurer, (b) the immediate past President of the Association, as a nonvoting ex officio member for a period of two years immediately following his/her term as President, and (c) eight Council Members, who shall be elected in even-numbered years in the manner provided in Article V, to serve for four-year terms which expire at the close of the biennial Association Meeting following the election of their successors or, if a meeting of the Council is held after and in connection with the meeting, at the close of that Council meeting.
2. The Council shall carry out the purposes of the Association and, subject to the authority of a meeting as defined in Article VI of this Constitution, act for the Association. The Council shall (a) determine the annual Association dues and regulations governing their payment, subject to ratification at a meeting of the Association, and may authorize the inclusion of conference and/or chapter dues as a condition of membership in the Association, subject to ratification at a meeting of the Association; (b) manage the property and financial affairs of the Association; (c) construe the provisions of this Constitution; (d) provide for the publications of the Association; (e) appoint and determine the salaries of an Executive Director, a General Counsel, members of the senior program officer staff, and such other employees as shall be necessary to administer the affairs of the Association under the general supervision of the Council; (f) determine the time, place, and program of the biennial Association Meeting and convene special meetings of the Association at its discretion; (g) publish a record of its meetings to the membership; (h) authorize the establishment of committees of the Association; (i) authorize

the establishment of regional offices of the Association; and (j) authorize the imposition and removal of censure and sanction.

3. As a representative of the Association, each member of the Council shall promote the exchange of ideas between the Council and the membership, and may receive and transmit to the Council the proposals of members, chapters, and state conferences within the member's region.
4. Meetings of the Council shall be held at least three times each year, upon not less than two weeks' notice to the Council by telephone, letter, or electronic communication of the date, time, and place of the meeting. Six voting members shall constitute a quorum. The Council may also transact business by telephone, letter, or electronic communication, except to the extent that doing so would conflict with a legal requirement for a secret ballot. A special meeting of the Council shall be called by the President on the written request of at least five voting members of the Council.
5. Members of the Council, excluding officers, shall receive no salary, but they shall be reimbursed for reasonable expenses incurred in connection with the performance of their duties.
6. There shall be an Executive Committee of the Council, which, between meetings of the Council, may exercise such powers as the Council has delegated to it and, under unforeseen exigencies, exercise other powers subject to prior authorization of the Council. The Executive Committee shall consist of the President, Vice-President, and Secretary-Treasurer.

Article V—Nomination and Election of Officers and Council Members

1. Elections shall be conducted every two years, in even-numbered years, at biennial meetings of the Association.
2. Only members in good standing, as identified in Article II, are eligible for nomination and election as officers or Council Members. No member may be nominated for or hold more than one elected office at the same time.

3. There shall be one Council Member elected from each of five geographical regions and three Council Members elected on an at-large basis. To be eligible for election to a regional Council Member position, a candidate shall be a member in good standing from that region. All accredited delegates are eligible to cast votes for all officer and Council Member positions. No more than one at-large Council Member may be from the same region.

REGION 1

Alaska	Montana	Wyoming
Arizona	Nevada	American
California	New Mexico	Samoa, Guam,
Colorado	Oregon	Northern
Hawaii	Utah	Mariana Islands
Idaho	Washington	

REGION 2

Alabama	Georgia	Oklahoma
Arkansas	Kentucky	South Carolina
Delaware	Louisiana	Tennessee
District of Columbia	Maryland	Texas
Florida	Mississippi	Virginia
	North Carolina	West Virginia

REGION 3

Illinois	Missouri	Ohio
Indiana	Minnesota	South Dakota
Iowa	Nebraska	Wisconsin
Kansas	North Dakota	Canada
Michigan		

REGION 4

New Jersey	Pennsylvania	US Virgin
New York	Puerto Rico	Islands

REGION 5

Connecticut	Massachusetts	Rhode Island
Maine	New Hampshire	Vermont

4. There shall be a Nominating Committee of three members appointed by the Council. No two members of the Nominating Committee may be from the same region. Service on the Nominating Committee shall bar candidacy for any national elective office or the Council during that election cycle.

5. A member may become a candidate for an officer or Council Member position by submitting to the Nominating Committee a petition, on a form to be provided by the Association, signed by at least six members in good standing of the Association. All nominating petitions shall be postmarked or sent via electronic mail by March 15 in the year of the election.
6. Elections shall be conducted by secret ballot of the accredited delegates at the biennial Association Meeting casting the weighted vote of their chapters as specified in Article VI, Section 3. The Council shall establish rules consistent with this Constitution to govern the manner in which elections are conducted, including an Elections Committee to investigate complaints and render decisions regarding election-related events and an Election Appeals Committee to render final and binding rulings regarding such decisions.
7. The candidate for each officer and regional Council Member position who receives a majority of the valid votes cast shall be declared elected. In the event that no candidate(s) for any of these positions receives a majority, a runoff election between the two candidates receiving the highest number of votes for that position shall be conducted.
8. Candidates for at-large Council Member positions who receive the highest number of votes corresponding to the number of positions to be filled in an election cycle shall be declared elected unless this would result in more than one at-large Council Member from the same region, in which case the candidate not from that region with the next highest number of votes shall be declared elected. In the event that there is a tie for the final open position, a runoff election for that position between the tied candidates shall be conducted.
9. The term of office for officers and Council Members shall begin at the close of the last session of the biennial Association Meeting following their election or, if a meeting of the Council is held after and in connection with that biennial Association Meeting, at the close of that Council meeting. Officers and Council Members shall be eligible for election to their respective offices for no more than three consecutive full terms.
10. A vacancy occurring on the Council, or in the office of Vice-President or Secretary-Treasurer, shall be filled by a majority vote of the Council for the unexpired term. In the event of a vacancy in the office of President, the Vice-President shall succeed to that office for the unexpired term.

Article VI—Meetings of the Association

1. The Association shall hold a regular meeting of chapter delegates biennially in even-numbered years (referred to as the “biennial Association Meeting”) except when prevented by war or other national emergency, and otherwise upon the call of the Council as provided in Article IV, Section 2. The Secretary-Treasurer shall give notice to the membership of a meeting at least thirty days in advance. A quorum shall be a majority of the delegates registered for a meeting. A meeting of the Association shall have authority (a) to amend the Constitution in the manner herein provided; (b) to express its views on professional matters; (c) to act on recommendations presented to it by the Council; (d) to require the Council to report to the ensuing meeting on subjects within the province of the Association; (e) to propose action which, upon concurrence by the Council, shall become the action of the Association; and (f) in the event of disagreement between the Council and a meeting of the Association, to take final action as provided in the following section. A vote setting dues or establishing a dues formula shall be conducted by secret ballot.
2. If the Council declines to concur in a proposal of a meeting of the Association, it shall report its reasons to the ensuing meeting. If that meeting concurs in the action of the previous meeting, the action shall become that of the Association. An action of the Association reached either (a) by concurrence of the Council in an action of a meeting of the Association or (b) in two successive meetings shall not be changed except by the joint action of the Council and a meeting of the Association or by two successive meetings of the Association.
3. The members in each chapter may elect to each meeting of the Association not more than one delegate from that chapter for each 250

members or fraction thereof, up to a maximum of ten delegates. Delegates must be members elected by secret ballot, provided that no ballot need be taken if there is only one nominee. Chapter officers elected to their offices by secret ballot may serve as delegates by virtue of that election if authorized by the chapter.

4. Chapters with fewer than 250 members each from within a state may form one section of chapters for the exclusive purpose of electing to each meeting of the Association not more than one common delegate for each 250 aggregate members, up to a maximum of ten delegates. No chapter participating in the section shall have any other credentialed delegates at the meeting. The section's delegate(s) shall be entitled to a number of votes equal to the aggregate number of members in the chapters participating in the section. The section delegate(s) must be members elected by a secret ballot of all of the members of the chapters participating in the section. The Council shall establish procedures to be followed for election, designation, and credentialing of section delegates.
5. All members of the Association shall be entitled to attend a meeting of the Association, but only accredited delegates from chapters in good standing or sections of chapters in good standing are entitled to participate in elections and to a voice and vote on matters brought before the meeting.
6. On request of one-fifth of the accredited delegates present and voting, a weighted vote shall be taken on any matter then before the body. In an election or a weighted vote, the accredited delegates shall be entitled to a number of votes equal to the number of members in good standing at their respective chapters as of April 1 of the year of the meeting. In case a chapter or section has more than one delegate, each delegate shall be entitled to an equal portion of the votes to which the chapter or section is entitled, with the delegation distributing any remaining votes.
7. Except as provided in this Constitution or in rules adopted pursuant to it, the meetings of the Association shall be governed by the current edition of *Robert's Rules of Order*.

Article VII—Chapters

1. Whenever the eligible members in a given institution number seven or more, they may request a chapter charter from the Association. More than one chapter may be established in an institution when its parts are geographically separate (i.e., a state university with multiple campuses), there is a collective bargaining unit covering only part of the institution, or approval is given by the Council.
2. It shall be the duty of a chapter to designate an officer to report to the Association the names of the officers of the chapter, to conduct the correspondence of the chapter with the Association, and to ensure prompt payment of national dues to the Association. Chapters must be in good standing in order to participate in Association affairs, including the right through elected delegates to have voice and vote at Association meetings. To be in good standing, a chapter must ensure that Association dues are paid for all chapter members on a timely basis. The charter of a chapter may be rescinded whenever the number of members in a chapter falls below seven.
3. The charter of a chapter may be suspended or revoked for financial malpractice, failure to transmit members' dues to the Association or to satisfy other financial obligations, disregard of democratic procedures, or disregard of other principles, policies, or procedures of the Association. Suspension or revocation of a charter shall only occur in accordance with due-process procedures established by the Council and upon a two-thirds vote of the Council. A chapter whose charter has been suspended or revoked by the Council may appeal the Council decision to a meeting of the Association. The charter suspension or revocation shall remain in effect pending such an appeal. If the meeting sustains the appeal, the chapter shall have its charter restored.
4. There shall be a chartered national At-Large Chapter of the Association, which shall be composed of members who are not eligible for membership in another Association chapter.
5. Each chapter shall adopt bylaws governing its activities and functions. Such bylaws shall

(a) provide (i) that a President, Secretary and Treasurer (or Secretary-Treasurer), and such other officers as the chapter may deem necessary be elected at least triennially, (ii) that the election of officers be by secret ballot, and (iii) that only members may be nominated, vote, and hold office, and (b) otherwise be consistent with the provisions of this Constitution and the principles, policies, and procedures of the Association. A chapter may establish local membership dues. It may meet with other chapters and with other local organizations. Its actions shall be in harmony with the principles, policies, and procedures of the Association, and it shall not issue statements in the name of the Association.

approves, it will propose the amendment to a meeting of the Association. Upon failure of agreement between the Council and the proponents, the proponents may, with the support of at least five chapters, submit their proposed amendment to a meeting of the Association by communicating it, together with proof of submission to and action by the Council and of support of at least five chapters, to the Association at least three months in advance of the Association meeting at which the amendment is to be proposed. ■

Article VIII—State Conferences

Upon approval by the Council, two or more chapters in a state may organize a State Conference of the Association to advance the interests of the Association and members in the state. A conference may establish conference dues, which shall be distinct from Association dues. A conference may consider and act upon professional matters which are of concern to the members and chapters, but its action shall not bind the members or chapters without their authorization and shall be in harmony with the principles, policies, and procedures of the Association. A conference shall not issue statements in the name of the Association. The Council will consider formal recommendations on the purposes, structure, and work of the Association from conferences.

Article IX—Amendments

1. This Constitution may be amended by a vote of two-thirds of the delegates present and voting at a meeting of the Association. The Association shall transmit a proposed amendment to the membership of the Association at least one month before the meeting at which it will be proposed.
2. The Council may initiate and propose an amendment to a meeting of the Association. Also, ten or more members may initiate an amendment by submitting it in writing to the Council. At the next Council meeting which takes place more than one month after the date of submission, the Council shall approve, modify, or disapprove the submitted amendment and promptly report its action to the proponents. If the Council

AAUP Officers and Council, 2019–20

AAUP officers are ex officio members of the Council, as are the chair and past chair of the Assembly of State Conferences and the chair and past chair of the AAUP-CBC.

A list of Association officers, general counsel, and Council members follows, with dates of term expiration noted at the end of each entry. An asterisk denotes an individual who is ineligible to run again for another consecutive term in the same office. The distribution of states in each district is based on the redistricting plan approved by the Council on June 17, 2016. Council members whose districts have changed will continue to serve in the district in which they were elected until the completion of their current terms.

The constitutional amendment proviso approved by the 105th Annual Meeting as part of the AAUP's restructuring plan stipulated the following: "During the period January 1, 2020, through the close of the June 2020 biennial Association Meeting, or the close of any connected Council meeting, as specified in Article IV, Section 1 of the amended AAUP Constitution . . . : (a) the officers of the AAUP shall consist of the four AAUP officers serving on December 31, 2019, (b) the Council of the Association shall consist of the AAUP Officers and Council Members serving on December 31, 2019, and the AAUP-CBC Executive Committee serving on December 31, 2019, and (c) the Executive Committee of the Council shall consist of the Executive Committee members serving on December 31, 2019."

Officers

President

Rudy H. Fichtenbaum (Economics), Wright State University, 2020

First Vice President

Brooks Ellwood (Geology and Geophysics), Louisiana State University, 2020

Second Vice President

Caprice Lawless (English), Front Range Community College, 2020

Secretary-Treasurer

Michele Ganon (Accounting), Western Connecticut State University, 2020

General Counsel

Risa L. Lieberwitz (Law), Cornell University, 2020

Council Members

District I (Alaska, Arizona, California, Hawaii, Nevada, New Mexico, Utah)

*Chris Nagel (Philosophy), California State University–Stanislaus, 2020

Alexander Zukas (History), National University, 2022

District II (Colorado, Idaho, Kansas, Montana, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Washington, Wyoming)

Friedrich Schuler (History), Portland State University, 2020

*Jonathan Rees (History), Colorado State University–Pueblo, 2022

District III (Michigan)

*Lisa C. Minnick (English), Western Michigan University, 2020

Charles J. Parrish (Political Science), Wayne State University, 2022

District IV (Illinois, Indiana, Iowa, Minnesota, Pennsylvania, Wisconsin)

Kathryn Kuhn (Sociology), Saint Louis University, 2020

Loren Glass (English), University of Iowa, 2022

District V (Alabama, Arkansas, Canada, District of Columbia, Florida, Foreign, Georgia, Guam, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Puerto Rico, South Carolina, Tennessee, Virgin Islands, Virginia, West Virginia)

Leslie Bary (Spanish and Latin American Studies), University of Louisiana, Lafayette, 2020

Monica Black (History), University of Tennessee, 2022

District VI (Ohio)

Julie McLaughlin (Humanities), Cincinnati State Technical and Community College, 2020

Huey-Li Li (Educational Philosophy), University of Akron, 2022

District VII (New Jersey)

David Hughes (Anthropology), Rutgers University, 2020

*Zoran Gajic (Electrical and Computer Engineering), Rutgers University, 2022

District VIII (New York)

*Sally Dear-Healey (Sociology and Anthropology), State University of New York at Cortland, 2020

James Davis (English and American Studies), Brooklyn College, City University of New York, 2022

District IX (Connecticut)

Mary Ann Mahony (History), Central Connecticut University, 2020

*Irene T. Mulvey (Mathematics), Fairfield University, 2022

District X (Delaware, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

*Michael DeCesare (Sociology), Merrimack College, 2020

Carolyn Betensky (English), University of Rhode Island, 2022

At-Large Delegates

*Natalio “Nathan” Avani (Secondary Education), San Francisco State University, 2020

John Castella (Labor Studies), Rutgers University, 2020

Sonya Hester (English), Southern University at Shreveport, 2020

Greg Loving (Philosophy), University of Cincinnati, 2020

Linda Carroll (Italian), Tulane University, 2022

Patricia Navarra (Irish Studies), Hofstra University, 2022

*Diana I. Rios (Communication and El Instituto), University of Connecticut, 2022

David Sanders (Biological Sciences), Purdue University, 2022

Ex Officio from Assembly of State Conferences

Brian Turner (Political Science), Randolph-Macon College, chair, 2020

Vacant, past chair

Ex Officio from AAUP-CBC

Paul Davis (Behavioral and Social Sciences), Cincinnati State Technical and Community College, chair, 2021

Howard Bunsis (Accounting), Eastern Michigan University, past chair

Julie M. Schmid, staff ■

Officers and Committees of the AAUP-CBC, 2019–20

The executive committee of the AAUP-CBC is the leadership board elected by the members of AAUP-CBC chapters.

In accordance with the restructuring plan approved by the 2019 AAUP-CBC regular meeting and the AAUP's 105th Annual Meeting, the AAUP-CBC will be dissolved on January 1, 2020. Starting on January 1, 2020, members of the AAUP-CBC Executive Committee will serve on the transitional AAUP Council. The committees of the AAUP-CBC will cease to exist in 2020.

Executive Committee

Chair

Paul Davis (Behavioral and Social Sciences), Cincinnati State Technical and Community College, 2021

Vice Chair

Diana I. Rios (Communication and El Instituto), University of Connecticut, 2021

Secretary

Dennis Mazzocco (Radio, Television, and Film), Hofstra University, 2020

Treasurer

Deborah Cooperstein (Biology), Adelphi University, 2020

Past Chair

Howard Bunsis (Accounting), Eastern Michigan University

At-Large Members of the Executive Committee

John Castella (Labor Studies), Rutgers University, 2021

Brian T. Gallagher (Libraries), University of Rhode Island, 2020

Antonio Gallo (Chicano/a Studies), California State University, Northridge, 2021

Nivedita Majumdar (English), City University of New York John Jay College of Criminal Justice, 2021

Noeleen McIlvenna (History), Wright State University, 2020

Patricia Navarra (Writing Studies and Composition), Hofstra University, 2020

Julie M. Schmid, staff

Audit Committee

Deborah Cooperstein (Biology), Adelphi University, chair, 2020

Howard Bunsis (Accounting), Eastern Michigan University, 2021

Alan Revering (Philosophy and Religion), Curry College, 2021

Charlie Lorenzetti, staff

Eric Whiteley, staff

Investment Committee

Deborah Cooperstein (Biology), Adelphi University, chair, 2020

Fall Anina (Finance), Wright State University, 2020

Oskar Harmon (Economics), University of Connecticut, 2020

Charlie Lorenzetti, staff

Eric Whiteley, staff ■

Board of Directors and Committees of the AAUP Foundation, 2019–20

The president, first vice president, second vice president, and secretary-treasurer of the AAUP serve as ex officio directors of the AAUP Foundation, as does the chair of Committee A on Academic Freedom and Tenure. One additional member of the AAUP's Council, elected by that body, serves as an ex officio director for a term of two years or until the termination of his or her service on the AAUP's Council, whichever is shorter. The AAUP-CBC Executive Committee appoints a representative to the board of directors. Public directors are elected by a majority vote of the directors in attendance at a regular or special meeting of the board.

Board of Directors

Chair

Henry Reichman (History), California State University, East Bay, chair of Committee A on Academic Freedom and Tenure, 2020

Secretary

Caprice Lawless (English), Front Range Community College, AAUP second vice president, 2020

Treasurer

Michele Ganon (Accounting), Western Connecticut State University, AAUP secretary-treasurer, 2020

Directors

Rudy H. Fichtenbaum (Economics), Wright State University, AAUP president, 2020

Brooks Ellwood (Geology and Geophysics), Louisiana State University, AAUP first vice president, 2020

Caprice Lawless (English), Front Range Community College, AAUP second vice president, 2020

Henry Reichman (History), California State University, East Bay, chair of Committee A on Academic Freedom and Tenure, 2021

Jonathan Rees (History), Colorado State University–Pueblo, AAUP Council representative, 2020

*Diana I. Rios (Communication and El Instituto), University of Connecticut, AAUP-CBC representative

Robert C. Post (Law), Yale University, 2020

Joan Wallach Scott (History), Institute for Advanced Study, 2021

Julie M. Schmid, staff

Audit Committee

Michele Ganon (Accounting), Western Connecticut State University, chair, 2020

Pat Poli (Accounting), Fairfield University, 2021

*Paul Davis (Behavioral and Social Sciences), Cincinnati State Technical and Community College, AAUP-CBC representative

Charlie Lorenzetti, staff

Eric Whiteley, staff

Investment Committee

Michele Ganon (Accounting), Western Connecticut State University, chair, 2020

Fall Ainina (Finance), Wright State University, 2021

Howard Bunsis (Accounting), Eastern Michigan University, 2021

Charlie Lorenzetti, staff

Eric Whiteley, staff

Governing Board of the Legal Defense Fund

Paulette M. Caldwell (Law), New York University, 2021

Linda H. Krieger (Law), University of Hawaii at Manoa, 2021

Risa L. Lieberwitz (Law), Cornell University, ex officio
as general counsel, 2020

Michael A. Olivas (Law), University of Houston, 2022

Henry Reichman (History), California State
University, East Bay, ex officio as chair of the AAUP
Foundation, 2020

Julie M. Schmid, ex officio as executive director of the
AAUP

Nancy Long, staff

Aaron Nisenson, staff ■

Note

*AAUP-CBC representatives to the AAUP
Foundation's board and committees will continue to
serve until the AAUP's restructuring takes effect on
January 1, 2020.

Committees of the AAUP, 2019–20

Appointments to standing committees of the Association are ordinarily for a term of three years; the terms of approximately one-third of the members of each committee expire with the adjournment of each annual meeting. By Council action in June 1977 (as amended in November 1988), appointments to a “second consecutive three-year term shall be occasional; a third consecutive three-year term shall be rare.” An appointment may be extended beyond nine consecutive years only in extraordinary circumstances and is subject to ratification by the executive committee and the Council. Appointments are made by the president of the Association, who has the advice of members of the Association, the executive director, and other members of the staff. The executive director assigns members of the staff to assist the committees in their work.

A list of committee appointments follows, with the date of expiration given after each name. In addition to standing committees, there are special committees whose members serve ex officio or are appointed by the president according to regulations established by the Council. The AAUP Constitution provides that the president shall be a member ex officio of all committees except the Nominating Committee, the Election Committee, and the Election Appeals Committee. The officers of the Assembly of State Conferences are elected by that body. The Executive Committee of the Council consists of the Association’s officers, general counsel, and past president; the chairs of the ASC and the AAUP-CBC; and four at-large members elected by the Council from among their number. In accordance with the restructuring plan approved by the AAUP’s 105th Annual Meeting and the 2019 AAUP-CBC regular meeting, the ASC and the AAUP-CBC will be dissolved on January 1, 2020. The constitutional amendment proviso approved by the 105th Annual Meeting as part of the AAUP’s restructuring plan stipulated that “during the period January 1, 2020, through the close of the June 2020 biennial Association Meeting, or the close of any connected Council meeting, as specified in Article IV, Section 1 of the amended AAUP Constitution . . . the Executive Committee of the Council shall consist of the Executive Committee members serving on December 31, 2019.”

Executive Committee of the Council

Rudy H. Fichtenbaum (Economics), Wright State University, president, 2020
Brooks Ellwood (Geology and Geophysics), Louisiana State University, first vice president, 2020
Caprice Lawless (English), Front Range Community College, second vice president, 2020
Michele Ganon (Accounting), Western Connecticut State University, secretary-treasurer, 2020
Michael DeCesare (Sociology), Merrimack College, 2020
Lisa C. Minnick (English), Western Michigan University, 2020
Irene T. Mulvey (Mathematics), Fairfield University, 2020

Patricia Navarra (Writing Studies and Composition), Hofstra University, 2020
Paul Davis (Behavioral and Social Sciences), Cincinnati State Technical and Community College, chair of the AAUP-CBC, 2021
Brian Turner (Political Science), Randolph-Macon College, chair of the ASC, 2020
Risa L. Lieberwitz (Law), Cornell University, general counsel, 2020
Julie M. Schmid, staff

Committee A on Academic Freedom and Tenure

Henry Reichman (History), California State University, East Bay, chair, 2021
Jeffrey R. Halpern (Anthropology), Rider University, 2021
Emily M. S. Houh (Law), University of Cincinnati, 2021

Ibram X. Kendi (International Relations), American University, 2020
 Michael E. Mann (Meteorology), Pennsylvania State University, 2021
 Michael Meranze (History), University of California, Los Angeles, 2021
 Walter Benn Michaels (English), University of Illinois at Chicago, 2022
 Irene T. Mulvey (Mathematics), Fairfield University, 2022
 Robert C. Post (Law), Yale University, 2020
 Jennifer H. Ruth (Film Studies), Portland State University, 2021
 Joan Wallach Scott (History), Institute for Advanced Study, 2022
 Donna Young (Law), Albany Law School, 2021
 Risa L. Lieberwitz (Law), Cornell University, ex officio as general counsel, 2020
 Julie M. Schmid, ex officio as AAUP executive director
 Gregory F. Scholtz, staff

Committee on Academic Professionals

Courtney Bailey (Advising), Portland State University, 2021
 Jim Bakken, staff

Committee on Association Investments

Michele Ganon (Accounting), Western Connecticut State University, chair, 2020
 Fall Ainina (Finance), Wright State University, 2021
 Howard Bunsis (Accounting), Eastern Michigan University, 2021
 Charlie Lorenzetti, staff
 Eric Whiteley, staff

Committee on College and University Governance

Michael DeCesare (Sociology), Merrimack College, chair, 2020
 Rachel Ida Buff (History), University of Wisconsin–Milwaukee, 2022
 Allison Buskirk-Cohen (Psychology), Delaware Valley University, 2020
 Bethany Carson (English), Santa Fe Community College, 2022
 Philip Cole (Physics), Lamar University, 2020
 Ruben Garcia (Law), University of Nevada, Las Vegas, 2021
 Pippa Holloway (History), Middle Tennessee State University, 2021
 Susan Jarosi (Art History and Women’s and Gender Studies), Hamilton College, 2022

Julia Schleck (English), University of Nebraska–Lincoln, 2022
 Noleen McIlvenna (History), Wright State University, liaison from the AAUP-CBC, 2020
 Brian Turner (Political Science), Randolph-Macon College, liaison from the ASC, 2020
 Hans-Joerg Tiede, staff

Committee on Community Colleges

Kimberley Reiser (Biology), Nassau Community College, chair, 2021
 James Klein (History), Del Mar College, 2022
 Caprice Lawless (English), Front Range Community College, 2020
 Glynn Wolar (History), Mid-Plains Community College, 2020
 Jason Elias, staff

Committee on Contingency and the Profession

Caprice Lawless (English), Front Range Community College, chair, 2022
 Carolyn Betensky (English), University of Rhode Island, 2021
 Gretchen McNamara (Music), Wright State University, 2020
 Catherine Moran (Sociology), University of New Hampshire, 2022
 Chris Nagel (Philosophy), California State University, Stanislaus, 2022
 Joel O’Dorisio (Art), Bowling Green State University, 2021
 Margaret Stein (Writing Studies), Hofstra University, 2020
 David Kociemba, staff

Committee on the Economic Status of the Profession

Oskar Harmon (Economics), University of Connecticut, chair, 2020
 Whitney DeCamp (Sociology), Western Michigan University, 2022
 Barbara Hopkins (Economics), Wright State University, 2021
 Robert Kelchen (Higher Education), Seton Hall University, 2021
 Vacant, staff

***Committee on Gender and Sexuality in the Academic Profession**

Rana Jaleel (Gender, Sexuality, and Women’s Studies), University of California, Davis, chair, 2021

Sally Dear-Healey (Sociology and Anthropology), State University of New York College at Cortland, 2020
Kelly Dennis (Art and Art History), University of Connecticut, 2022
Tina Kelleher (English), Towson University, 2020
Maura Kelly (Sociology), Portland State University, 2021
Kathryn Kuhn (Sociology and Anthropology), Saint Louis University, 2021
Anita Levy, staff

Committee on Government Relations

John T. McNay (History), University of Cincinnati–Blue Ash College, chair, 2021
Natalio “Nathan” Avani (Secondary Education), San Francisco State University, 2022
Michael Behrent (History), Appalachian State University, 2020
Rachel Ida Buff (History), University of Wisconsin–Milwaukee, 2021
Kevin Kean (Psychology), Central Connecticut State University, 2021
Sara Kilpatrick, executive director of the Ohio AAUP conference, 2020
James Klein (History), Del Mar College, 2022
David P. Nalbone (Behavioral Sciences), Purdue University Northwest, 2021
Paul Davis (Behavioral and Social Sciences), Cincinnati State Technical and Community College, ex officio as chair of the AAUP-CBC, 2021
Lynn Tatum (Religion), Baylor University, liaison from the ASC, 2021
Monica Owens, staff

Committee on Graduate and Professional Students

Kira Schuman, staff

Committee on Historically Black Institutions and Scholars of Color

Julian Madison (History), Southern Connecticut State University, chair, 2020
Emily M. S. Houh (Law), University of Cincinnati, 2021
Kenyal McGee (Accounting), Central State University, 2020
Katherine Morrison (Community Health and Wellness), Curry College, 2020
Jason Elias, staff

Committee on the History of the Association

Jonathan Rees (History), Colorado State University–Pueblo, chair, 2021
Noleen McIlvenna (History), Wright State University, 2022
David M. Rabban (Law), University of Texas at Austin, 2022
David Robinson (History), Truman State University, 2022
Hans-Joerg Tiede, staff

Committee on Membership

Irene T. Mulvey (Mathematics), Fairfield University, chair, 2022
Andres Guzman (Advising), Portland State University, 2022
John T. McNay (History), University of Cincinnati–Blue Ash College, 2022
Paul Davis (Behavioral and Social Sciences), Cincinnati State Technical and Community College, ex officio as chair of the AAUP-CBC, 2021
Brian Turner (Political Science), Randolph-Macon College, liaison from the ASC, 2020
Jim Bakken, staff
Rebecca Lewis, staff

Committee on the Organization of the Association

Irene T. Mulvey (Mathematics), Fairfield University, chair, 2022
Greg Loving (Philosophy), University of Cincinnati, 2020
Jonathan Rees (History), Colorado State University–Pueblo, 2020
Risa L. Lieberwitz (Law), Cornell University, ex officio as general counsel, 2020
Hans-Joerg Tiede, staff

Committee on Professional Ethics

Aaron Nisenson, staff

Committee on Teaching, Research, and Publication

Daniel Murphy (History), Hanover College, chair, 2021
Martin Kich (English), Wright State University, 2022
Jonathan Rees (History), Colorado State University–Pueblo, 2021
Gwendolyn Bradley, staff

Advisory Board for *Academe*

Michael F. Bérubé (English), Pennsylvania State University, 2021
 Julie A. Cajigas (Communication), University of Akron, 2022
 James Davis (English), City University of New York Brooklyn College, 2020
 Nicholas Fleisher (Linguistics), University of Wisconsin–Milwaukee, 2020
 Juan González (Communication and Information), Rutgers University, 2021
 Tina Kelleher (English), Towson University, 2021
 Aaron Krall (English), University of Illinois at Chicago, 2020
 Caprice Lawless (English), Front Range Community College, 2022
 Jonathan Rees (History), Colorado State University–Pueblo, 2022
 Henry Reichman (History), California State University, East Bay, 2021
 Donna Young (Law), Albany Law School, 2022
 Gwendolyn Bradley, staff
 Michael Ferguson, staff

Advisory Board for the *Bulletin of the American Association of University Professors*

Michael DeCesare (Sociology), Merrimack College, 2020
 Henry Reichman (History), California State University, East Bay, 2021
 Michael Ferguson, staff
 Gregory F. Scholtz, staff

Audit Committee

Michele Ganon (Accounting), Western Connecticut State University, chair, 2020
 Deborah Cooperstein (Biology), Adelphi University, 2022
 Pat Poli (Accounting), Fairfield University, 2022
 Charlie Lorenzetti, staff
 Eric Whiteley, staff

Grievance Committee

Maria T. Bacigalupo (Administration, Planning, and Social Policy), Curry College, chair, 2022
 David Jackson (Political Science), Bowling Green State University, 2020
 Duane Storti (Mechanical Engineering), University of Washington, 2021
 Gwendolyn Bradley, staff

Litigation Committee

Risa L. Lieberwitz (Law), Cornell University, chair, 2020
 Joan E. Bertin (Public Health), Columbia University, 2021
 Emily M. S. Houh (Law), University of Cincinnati, 2020
 Neal Hutchens (Education), Pennsylvania State University, 2021
 Peter Lee (Law), University of California, Davis, 2020
 Jack Lerner (Law), University of California, Irvine, 2020
 Martha T. McCluskey (Law), State University of New York College at Buffalo, 2020
 Nancy Long, staff
 Aaron Nisenson, staff

Panel on Chapter and Conference Sanctions

Dennis Mazzocco (Radio, Television, and Film), Hofstra University, chair, 2021
 Kate Budd (Art), University of Akron, 2021
 Philip Cole (Physics), Lamar University, 2021
 Christopher Simeone, staff

Officers and Executive Committee of the Assembly of State Conferences

Brian Turner (Political Science), Randolph-Macon College, chair, 2020
 Irene T. Mulvey (Mathematics), Fairfield University, vice chair, 2020
 Mark Painter (Philosophy), Misericordia University, treasurer, 2021
 Leah Akins (Engineering, Architecture, and Computer Technologies), Dutchess Community College, secretary, 2020
 Marcelo Godoy Simões (Engineering), Colorado School of Mines, member at large, 2021
 Lynn Tatum (Religion), Baylor University, member at large, 2021
 Kira Schuman, staff ■

Note

*In June 2019 the AAUP Council, acting on the recommendation of members of the affected committees, voted to merge the Committee on Women in the Academic Profession and the Committee on Sexual Diversity and Gender Identity into the new Committee on Gender and Sexuality in the Academic Profession.

Censured Administrations

INVESTIGATIONS by the American Association of University Professors of the administrations of the institutions listed to the right show that, as evidenced by a past violation, they are not observing the generally recognized principles of academic freedom and tenure endorsed by this Association, the Association of American Colleges and Universities, and more than 250 other professional and educational organizations. The 1940 *Statement of Principles on Academic Freedom and Tenure* can be found on the AAUP website at www.aaup.org.

This list is published for the purpose of informing Association members, the profession at large, and the public that unsatisfactory conditions of academic freedom and tenure have been found to prevail at these institutions. Names are placed on or removed from this censure list by vote of the Association's annual meeting.

Placing an institution on this list does not mean that censure is visited either upon the whole of the institution or upon the faculty but specifically upon its present administration. The term "administration" includes the administrative officers and the governing board.

Members of the Association have often shown their support of the principles violated by not accepting appointment to an institution on the censure list. Since circumstances differ widely from case to case, the Association does not assert that such an unqualified obligation exists for its members; it does urge that, before accepting appointments, they seek information on present conditions of academic freedom and tenure from the Association's Washington office and prospective departmental colleagues. The Association leaves it to the discretion of the individual to make the proper decision.

The censured administrations, with dates of censuring, are listed to the right. Reports through 2009 were published as indicated by the AAUP *Bulletin* or *Academe* citations in parentheses following each listing. Beginning in 2010, reports were published online on the AAUP website in the indicated month and year, with printed publication following in the annual *Bulletin of the American Association of University Professors*. Reference should also be made to "Developments Relating to Association Censure and Sanction" and to the "Report of Committee A," which annually appear respectively in *Academe* and in the *Bulletin of the American Association of University Professors*.

Frank Phillips College (Texas) (December 1968, 433–38)	1969
Concordia Seminary (Missouri) (April 1975, 49–59)	1975
Murray State University (Kentucky) (December 1975, 322–28)	1976
State University of New York (August 1977, 237–60)	1978
Nichols College (Massachusetts) (May 1980, 207–12)	1980
American International College (Massachusetts) (May–June 1983, 42–46)	1983
Talladega College (Alabama) (May–June 1986, 6a–14a)	1986
Pontifical Catholic University of Puerto Rico (May–June 1987, 33–38)	1987
Husson University (Maine) (May–June 1987, 45–50)	1987
Hillsdale College (Michigan) (May–June 1988, 29–33)	1988
Southeastern Baptist Theological Seminary (North Carolina) (May–June 1989, 35–45)	1989
The Catholic University of America (September–October 1989, 27–40)	1990
Dean College (Massachusetts) (May–June 1991, 27–32)	1992
Baltimore City Community College (May–June 1992, 37–41)	1992
Loma Linda University (California) (May–June 1992, 42–49)	1992
Clarkson College (Nebraska) (May–June 1993, 46–53)	1993
North Greenville College (South Carolina) (May–June 1993, 54–64)	1993
Savannah College of Art and Design (May–June 1993, 65–70)	1993
University of Bridgeport (November–December 1993, 37–45)	1994
Benedict College (South Carolina) (May–June 1994, 37–46)	1994
Bennington College (March–April 1995, 91–103)	1995
Alaska Pacific University (May–June 1995, 32–39)	1995
National Park College (Arkansas) (May–June 1996, 41–46)	1996
Saint Meinrad School of Theology (Indiana) (July–August 1996, 51–60)	1997
Minneapolis College of Art and Design (May–June 1997, 53–58)	1997
Brigham Young University (September–October 1997, 52–71)	1998
University of the District of Columbia (May–June 1998, 46–55)	1998
Lawrence Technological University (Michigan) (May–June 1998, 56–62)	1998
Johnson & Wales University (Rhode Island) (May–June 1999, 46–50)	1999
Albertus Magnus College (Connecticut) (January–February 2000, 54–62)	2000
Charleston Southern University (South Carolina) (January–February 2001, 63–77)	2001
University of Dubuque (September–October 2001, 62–73)	2002
Meharry Medical College (Tennessee) (November–December 2004, 56–78)	2005
University of the Cumberlands (Kentucky) (March–April 2005, 99–113)	2005
Virginia State University (May–June 2005, 47–62)	2005
Bastyr University (Washington) (March–April 2007, 106–20)	2007
Nicholls State University (Louisiana) (November–December 2008, 60–69)	2009
Cedarville University (Ohio) (January–February 2009, 58–84)	2009
North Idaho College (January–February 2009, 85–92)	2009
Clark Atlanta University (January 2010)	2010
University of Texas Medical Branch at Galveston (April 2010)	2010
Bethune-Cookman University (Florida) (October 2010)	2011
Louisiana State University, Baton Rouge (July 2011)	2012
Northwestern State University (Louisiana) (April 2012)	2012
Southeastern Louisiana University (April 2012)	2012
National Louis University (Illinois) (April 2013)	2013
Southern University, Baton Rouge (April 2013)	2013
Northeastern Illinois University (December 2013)	2014
University of Texas MD Anderson Cancer Center (April 2015)	2015
University of Southern Maine (May 2015)	2015
Felician College (New Jersey) (May 2015)	2015
The College of Saint Rose (New York) (May 2016)	2016
University of Missouri (Columbia) (May 2016)	2016
Community College of Aurora (Colorado) (March 2017)	2017
Spalding University (Kentucky) (May 2017)	2017
University of Nebraska–Lincoln (May 2018)	2018
St. Edward's University (Texas) (October 2018)	2019
Nunez Community College (Louisiana) (February 2019)	2019

Institutions Sanctioned for Infringement of Governance Standards

REPORTS OF an Association investigation at the institutions listed below have revealed serious infringements of generally accepted standards of college and university governance endorsed by this Association, as set forth in the *Statement on Government of Colleges and Universities* and derivative governance documents. Institutions are placed on or removed from this sanction list by vote of the Association's annual meeting.

The publication of these sanctions is for the purpose of informing Association members, the

profession at large, and the public that unsatisfactory conditions of academic governance exist at the institutions in question.

The sanctioned institutions and the date of sanctioning are listed, along with the citation of the report that formed the basis for the sanction. Beginning in 2011, reports were published online on the AAUP website in the indicated month and year, with printed publication following in the annual *Bulletin of the American Association of University Professors*.

Elmira College (New York) (<i>Academe</i> , September–October 1993, 42–52)	1995
Miami-Dade College (<i>Academe</i> , May–June 2000, 73–88)	2000
Antioch University (<i>Academe</i> , November–December 2009, 41–63)	2010
Rensselaer Polytechnic Institute (New York) (January 2011)	2011
Union County College (New Jersey) (November 2015)	2016
Vermont Law School (May 2019)	2019

The DEPARTMENT CHAIR

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—CORINNE WEISGERBER

"Tenure is a cornerstone of academic freedom, and I ask that you cast your vote to reaffirm our profession's voice."

—SHANNAN BUTLER



Weisgerber and Butler, subjects of an AAUP investigation at St. Edward's University in Texas, spoke at the 2019 annual meeting, which voted to censure the university's administration. The AAUP Foundation's Academic Freedom Fund provided support for the investigation and for the couple, summarily dismissed from their tenured faculty positions.

Learn about how our grant programs can help faculty under attack at <https://www.aaupfoundation.org/grants>.

*The AAUP Foundation is a 501(c)(3) tax-exempt organization and is eligible to receive tax-deductible donations. Each donation is tax deductible as and to the extent allowed under applicable law. Donations specifically earmarked to a restricted fund of the AAUP Foundation represent a contribution to that fund. Please see our Uniform Charity Disclosure Statement at <http://www.aaupfoundation.org/uniform-charity-disclosure-statement>.

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2019 NATIONAL DUES¹

Annual Dues	Monthly Dues	Academic Income
\$64	\$5.33	\$30,000 and less
\$82	\$6.83	\$30,001–\$40,000
\$107	\$8.92	\$40,001–\$50,000
\$131	\$10.92	\$50,001–\$60,000
\$179	\$14.92	\$60,001–\$70,000
\$209	\$17.42	\$70,001–\$80,000
\$234	\$19.50	\$80,001–\$100,000
\$257	\$21.42	\$100,001–\$120,000
\$283	\$23.58	More than \$120,000

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- ☐ **Associate:** A nonvoting membership for all other supporters, including administrators and the public

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2. Lifetime member rates do not apply to members currently paying dues through a collective bargaining chapter.

CORRECTIONS AND ADDITIONS TO APPENDICES I, II, AND III

The appendices to the *Annual Report on the Economic Status of the Profession, 2018–19*, include detailed institution-level data on average salary and compensation by rank, benefits, the percentage of faculty with tenure, the increase in salary for continuing faculty, the number of faculty by rank and gender, and salary by rank and gender. **View an updated version of the appendices with corrections and additions to the data at <https://www.aaup.org/2018-19-faculty-compensation-survey-results>.**



The 2019 volume of the AAUP's *Journal of Academic Freedom*—an online, open-access publication—will be out on September 18. Essays explore, among other topics, how “bullying” is implicated in conflicts taking place around discourses of civility and academic freedom. The journal's tenth-anniversary volume, whose contents are listed below, reflects a diverse range of perspectives on higher education and scholarship in the United States and abroad through the lens of academic freedom.

VOLUME 10

Editor's Introduction: Who's a Bully? Abuses of Power in and beyond the University

By Rachel Ida Buff

Speech, Academic Freedom, and Privilege

By John F. Covalesskie

Compulsory Civility and the Necessity of (Un)Civil Disobedience

By Judy Rohrer

The Weaponization of Student Evaluations of Teaching: Bullying and the Undermining of Academic Freedom

By Jason Rodriguez

Postwar Recovery and Student Academic Freedom in Côte d'Ivoire

By Alfred Babo

“Book Burning” in Japan

By Frank Baldwin

The Danger of Campus Bans on Bullying

By John K. Wilson

No Sanctuary: Japanese American Internment and the Long Arc of Academic Freedom and Shared Governance

By William Kidder, Judy Sakaki, and Daniel Simmons

The Tale of Professor X

By Sherryl Kleinman

Endangered and Vulnerable: The Black Professoriate, Bullying, and the Limits of Academic Freedom

By Lori Latrice Martin, Biko Mandela Gray, and Stephen C. Finley

A Vision for Scholar-Activists of Color

By John Streamas

Dear Administrators: To Protect Your Faculty from Right-Wing Attacks, Follow the Money

By Isaac Kamola

Read the complete volume at <https://www.aaup.org/JAF>.

ACTION ALERT

Pass a Chapter Resolution to Defend Faculty IP Rights Online

AS CORPORATE-RUN ONLINE PROGRAMS SPRING UP at more and more colleges and universities across the country, administrators often emphasize increased access to higher education as a core value of online initiatives. When this happens, emphasis on the quality of education sometimes gets lost. Now, as part of our Education Not Privatization campaign, faculty are stepping up to ask: What is our priority? Quality teaching for students or corporate profit?

One aspect of higher education that is increasingly uncertain in the online classroom is faculty rights to their own work. Institutions and online program managers—often for-profit companies contracted to run online offerings—are asking instructors to give up some of their intellectual property rights and claiming ownership of the course materials they develop. Faculty do not want their course materials to be recycled in potentially low-quality online courses or farmed out to poorly paid adjunct instructors.

At the beginning of next fall term, will you introduce a resolution reclaiming faculty intellectual property rights in the online classroom? To get started and to view a sample resolution, visit <https://www.aaup.org/IP-resolution>.



HOW TO CONTACT US

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AAUP-CBC

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AAUP Foundation

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Frequently requested contacts:

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Organizing and Services csimeone@aaup.org
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Association of American Colleges and Universities

2019–20 UPCOMING EVENTS

ANNUAL MEETING

Shaping the Future of Higher Education: An Invitation to Lead

January 22–25, 2020 • Washington, DC

NETWORK FOR ACADEMIC RENEWAL CONFERENCES

Global Citizenship for Campus, Community, and Careers

October 17–19, 2019 • San Antonio, Texas

Transforming STEM Higher Education

November 7–9, 2019 • Chicago, Illinois

General Education and Assessment

February 20–22, 2020 • Jacksonville, Florida

Diversity, Equity, and Student Success

March 19–21, 2020 • New Orleans, Louisiana

WEBINARS

AAC&U offers a series of live and on-demand webinars. For information, visit www.aacu.org/events/webinar.

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GENDER-BASED PAY DISCRIMINATION

2018-2019 AAUP Faculty Compensation Survey of Full Professor, Associate Professor and Assistant Professor Salaries

- Found, on average, women will be paid **82 percent of men's salaries** during 2018-19

Women Professors Have Been Challenging Gender-Based Pay Discrimination Through Litigation

- Seven women law professors at the University of Denver recently recovered an aggregate of **\$2.66 million for back pay**, increases in their current salaries and significant changes in the university's compensation policies.
- Associate professor of chemistry at the University of Arizona has recently brought a class action alleging that women in the College of Science are consistently underpaid and passed over for promotion as compared to their male colleagues.

Prior results do not guarantee a similar outcome.



Federal statutes and state laws exist to rectify gender pay discrimination. They provide for damages as well as injunctive relief to level the field going forward.

For more information, visit **www.klafterolsen.com** or contact: **Alexis Castillo**

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