
Academic Freedom and Tenure: The College of Saint Rose (New York)¹

(MAY 2016)

This report concerns the action taken on December 11, 2015, by the administration of the College of Saint Rose to eliminate twenty-seven academic programs and terminate the appointments of fourteen tenured and nine tenure-track faculty members as the result of an “academic program prioritization” process.

I. The Institution

The College of Saint Rose is a four-year institution situated on a forty-nine-acre campus in the heart of Albany, New York. It was founded in 1920 by the Sisters of Saint Joseph of Carondelet as a Roman Catholic college for women with a liberal arts curriculum and an emphasis on teacher education. In 1946 Saint Rose began admitting men, and in 1969 it became officially coeducational. Today the college enrolls approximately 4,500 students, including about 2,800 undergraduates, of whom two-thirds are women. Students are served by approximately 200 full-time faculty members, almost all of whom are tenured or tenure track, and 150 part-time faculty members, organized into the School of Arts and Humanities, the School of Mathematics and

Sciences, the School of Business, and the School of Education.² Prior to the program closures, the college offered almost sixty undergraduate majors and more than thirty graduate degree programs. The college is chartered by the New York State board of regents and accredited by the Middle States Commission on Higher Education. The college is governed by a board of trustees consisting of thirty-two members, nine of whom are Sisters of Saint Joseph. The current chair is Ms. Judith Calogero, an alumna and local businesswoman.

Dr. Carolyn J. Stefanco became the college’s eleventh president on July 1, 2014, after having most recently served as vice president for academic affairs at Agnes Scott College in Decatur, Georgia. Prior to her tenure at Agnes Scott, Dr. Stefanco, who earned a PhD in history at Duke University, taught women’s history and women’s studies at several colleges and universities. Dr. Hadi Salavitabar, provost and vice president for academic affairs since July 2013, resigned on September 8, 2015. An interim provost, Dr. Barbara Schirmer, took office in early December.

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 the College of Saint Rose, the AAUP chapter, and other persons directly concerned. This final report has been prepared for publication in light of the responses received and with the editorial assistance of the staff.

2. The part-time faculty has been represented since September 22, 2014, by the Service Employees International Union (SEIU), which is currently engaged in negotiating a collective bargaining agreement with the college’s administration. In fall 2015, the full-time faculty also entertained the possibility of unionizing with the AAUP or with SEIU, prompting several communications from the administration attempting to discourage such a step. On March 7, 2016, the college’s AAUP chapter posted on its blog a letter it had sent to the president and board chair announcing that “the majority of the full-time faculty members of The College of Saint Rose have signed cards stating that they want the Service Employees International Union (SEIU) Local 200 United to serve as their collective bargaining agent.”

II. Events of Concern

In the second week of December 2015, the affected faculty members received notice of termination, either by hand delivery or by mail, in a letter dated December 11 and cosigned by the associate vice president for human resources and each faculty member's dean. The letter began as follows:

As you know, as a necessary response to extraordinary financial challenges due in significant part to declining or continued low enrollment in certain programs, The College of Saint Rose (the "College") has undergone an academic prioritization process. The College has followed *The College of Saint Rose Faculty Manual* (June 2012) (the "Manual") in identifying academic program reductions and eliminations and necessary faculty layoffs. After considering a range of alternatives, the Board of Trustees has voted to eliminate and to reduce a number of programs at the College and to eliminate 23 tenured and tenure-track faculty positions at the College. This academic prioritization process affects programs and faculty in your department. The Manual prescribes an order of priority that must be followed, absent special needs and circumstances, when faculty in affected programs must be laid off: "preference will be given to retaining faculty according first to tenure, then to seniority at the College, and then to rank." Applying those criteria, we regret to inform you that you have been selected for layoff.

The letter went on to specify that "[a]ll faculty subject to layoff will receive twelve (12) months advance notice," making December 29, 2016, the effective date of termination.

The chain of events that led to this action can be traced back to October 2014. Only four months after assuming the presidency, at the first of four "finance convocations," Dr. Stefanco informed attendees that the college was not on sound financial footing. In December the president announced the immediate retirement of the vice president of finance and a search for his successor. On February 17, 2015, at the second finance convocation, the president referred to "significant financial challenges" resulting from the previous administration's having failed to follow "generally accepted accounting practices," having improperly reported depreciation, and having improperly drawn on accounts. On April 30 and

on May 18, the president held additional finance convocations at which she announced steps to be taken to address a stated \$18 million "structural deficit," long-term debt of \$56 million (with 70 percent of college property mortgaged), and 9 percent and 27 percent declines in undergraduate and graduate enrollment, respectively. These steps included eliminating forty staff positions (seventeen of which were vacant), reducing the college's contribution to health-care coverage, reducing the tuition-remission benefit from 100 percent to 80 percent, eliminating phased-retirement opportunities, and indefinitely suspending the college's contribution to employees' TIAA-CREF accounts. According to faculty sources, these decisions were reached without involving the faculty "in any meaningful way" and without providing the faculty with access to relevant financial data.

During summer 2015, the governing board and administration took two additional actions that some faculty members viewed as violating principles of academic governance. First, on June 19 the board of trustees, without previously consulting with the faculty, unanimously adopted a resolution directing the administration to implement by July 15 a new transfer credit policy raising from sixty-two to ninety the number of credits accepted in transfer from four-year institutions. The stated basis for the action was to address the "competitive disadvantage" created for the college by its current more stringent policy. At a June 29 special meeting called by Provost Salavitarbar, the faculty's Undergraduate Academic Committee (UAC) voted to accept a maximum of seventy transfer credits, instead of ninety. At a July 3 special meeting of its own, the full faculty voted to endorse the UAC's proposal. In a July 20 e-mail message, the provost informed the faculty that the board of trustees, "after much consideration" and in view of "the urgent nature" of "financial conditions at the College," had affirmed its original decision, effective immediately.³

Second, on July 1 the board of trustees imposed a campus e-mail policy governing mass communications, reportedly proposed by the president's chief of staff and developed without

3. Months later, at its October 28 meeting, the faculty followed up by adopting a resolution to "reject the Board of Trustees' change in academic policy that allows for the acceptance by the College of up to ninety transfer credits for students transferring to the College from four-year institutions."

faculty participation.⁴ At the July 3 special meeting, the faculty adopted a motion requesting that the administration “abolish its new e-mail policy, as it prohibits effective and timely communication among the Faculty, Staff, and Administration.” The rationale for the motion stated, “The new Saint Rose e-mail policy, as it affects the Faculty, was established without proper Faculty input, vote, or consensus.” In a separate motion, the faculty called upon the administration to “submit future e-mail policy changes to the full-time Faculty body for deliberation, recommendations, and endorsement.”

On August 26, with the new academic year about to begin, Provost Salavitabar visited each of the college’s four schools to inform their faculties that retrenchment would occur in the fall semester, with terminal contracts issued by December 15. In an e-mail message sent that afternoon to all faculty members, he reiterated his message: “As the President shared last semester at the finance convocations, the College’s enrollment has declined due to market forces and demographic shifts over the last eight years. These enrollment shifts have led to the College’s current structural deficit of \$9.3 million and significant disparity in course loads among departments and programs.” In his meetings that day, he wrote, he had informed faculty members that the college was “beginning the necessary process of academic program prioritization and reductions” in order “to achieve long-term financial sustainability. As you know, we have already had to reduce our administration and staff and have avoided any faculty reductions up to now. We will seek to minimize those reductions, but they are

unavoidable.”⁵ Regarding the procedures to be followed, he stated, “The President, Deans, and I will follow the process for consulting with faculty this semester as outlined in the Faculty Manual and complete that input process by November 2, 2015. Your input into this process will be critical.” He noted that President Stefanco had initiated the retrenchment procedure earlier that same day by sending an e-mail message to the Representative Committee of the Faculty (Rep Com).

In that brief communication, the president had cited section E, “Contingency Planning and Retrenchment,” of the faculty manual as requiring her formally to notify Rep Com that the administration had initiated the layoff process and had given the same date, November 2, as had the provost for its completion. On September 2 the president followed up with a message to the entire faculty about the academic prioritization process, which, she stated, the board of trustees had mandated “to relieve some of the financial burden from the costs of under-enrolled programs.” The goals of academic prioritization, she added, were three: (1) “to identify those academic areas where student demand has increased and where investment in faculty and programs is necessary to meet demand and ensure quality”; (2) “to identify programs that the College does not presently have, but where there is high market demand and where the College has the potential to invest in new programs to bring in new cohorts of students”; and (3) to “identify those academic areas where student demand has diminished and there is no near-term prospect that the demand will increase.” In closing, she wrote, “The

4. The new policy created separate mass e-mail groups for faculty, staff, administrators, and students; only “authorized senders” could send messages to each group; and the “reply all” function was disabled. While numerous administrative officers could send messages to all employees, to all faculty, to various categories of staff, or to students, the only two groups to which a faculty member could send a message were the adjunct union and the full-time faculty. The only authorized senders to the former group were the cochairs of the union, and the only authorized senders to the latter group were the cochairs of the Representative Committee of the Faculty. Messages to more than fifty individuals outside of an officially created group were prohibited, and new groups could be created only with the permission of the executive director of information technology services and the vice president for public relations and strategic communications. Violations of the policy could lead to “disciplinary action up to and including termination of employment.”

5. Readers familiar with the AAUP’s recent reports of investigations at Felician College (2015), the University of Southern Maine (2015), and National Louis University (2013) may find the phrase “academic program prioritization” familiar, as the program cuts and mass layoffs at those institutions were the outcome of such a process, the brainchild of Dr. Robert Dickeson, author of *Prioritizing Academic Programs and Services: Reallocating Resources to Achieve Strategic Balance*. The AAUP has had a long history with Dr. Dickeson, dating back to 1984, when the AAUP censured the administration of the University of Northern Colorado, where he was president, for terminating the appointments of forty-seven tenured and tenure-track faculty members in violation of AAUP-recommended standards. As footnote 2 of the Felician College report (*Bulletin of the American Association of University Professors*, July–August 2015, 48–61) points out, Dickeson’s prioritization process tends to entail “discontinuing courses and reducing tenured positions in ways that disregard Association-supported standards of academic freedom, due process, and governance.”

administration invites you as tenure-track and tenured faculty, through Rep Com, to engage in dialogue with us on this very important process. We aim to minimize the impact on faculty by following the process for program reductions (including reassignment, appeal, and rehiring) that is outlined in the Faculty Manual, and to work toward a stronger and more fiscally sound Saint Rose. I welcome the opportunity to engage in dialogue with you over the next two months on this topic.”

Rep Com’s first meeting with the administration did not take place, however, until September 21, leaving only six weeks for the development of a plan through what was now being called Strategic Academic Program Prioritization (creating the unfortunate acronym SAPP).⁶ According to a member of Rep Com, at that initial meeting the president stated that because “no plan” as yet existed, the committee would have to decide by November 2 what programs were to be discontinued and what faculty positions were to be terminated. In the meantime, the president reportedly stated, she would be working with her cabinet to come up with her own plan in case Rep Com failed to create one. According to a Rep Com member, the committee indicated that it would need data to inform its work, data that the president did not supply until September 29, on the eve of the next meeting.

Two more SAPP meetings between Rep Com and the administration took place, on September 30 (from which the president was absent because of illness) and on October 8. A faculty member who was present at both meetings provided an account of them. At the first meeting, the committee shared its view that its seven members “could not meaningfully sort through the data and make rational decisions in the span of six weeks” and asked to be able to consult with the department chairs and deans. At the second, the president “chastised” the committee for “shirking its duties” by having failed “to provide a plan that recommended specific cuts” and told the committee that “there was no need to speak to deans and department chairs.” When committee members asked the president

if she were forbidding them to consult with these two groups, she indicated, in the faculty member’s words, that “it was OK if [the committee] spoke to them, but she would be getting their views” separately, and she insisted that Rep Com create its own retrenchment plan while the administration did the same.

Matters came to a head on October 9 at another special meeting of the faculty, called by Rep Com in order to ascertain the will of the faculty in this matter. According to minutes of that meeting, the committee had intended to propose the following motion for adoption: “The full-time faculty direct the members of Rep Com to consult with the deans and department chairs to gather information about Strategic Program Prioritization,” with the rationale that “deans and department chairs know best what the requirements and roles of each program, major, and faculty member are, and the members of Rep Com require this information to make rational recommendations about SAPP.” The minutes record that, after much discussion of the constraints under which the Rep Com was operating and of the potential outcome of the process, one faculty member said, “We need to say that we reject the terms of this whole thing. We’ve been pushed into a corner. We’re damned if we do, damned if we don’t. We should spell out why we are not going to participate and leave it at that.”

The following motion then came from the floor as a “resolution of the full-time faculty”:

Whereas: Having approached the Strategic Academic Program Prioritization process in good faith, the faculty have found that the terms of the task set forth by the President of the College of Saint Rose put us in an untenable position, putting the institution at risk of destabilization by sanctioning cuts without regard for accreditation standards, degree requirements, or the mission of the college.

Be it resolved that the faculty direct Rep Com to not participate in the rushed and superficial Strategic Academic Program Prioritization process begun only on September 21, 2015, to be completed by November 2, 2015.

In response, the president the next day sent the faculty a detailed e-mail message stating that the administration had thus far made no plans for program cuts and “remained hopeful” that the faculty’s representatives on Rep Com would “continue to provide . . . input and recommendations based on the

6. By this time the faculty had learned of the provost’s resignation, news of which came on September 8 in the following e-mail message from President Stefano: “I am writing to inform you that Provost and Vice President for Academic Affairs Hadi Salavitabar has resigned, and he will not return to the office. I am thankful for Hadi’s service to the College over the past two years and during these extraordinarily difficult times, and I wish him well. With the support of the Board of Trustees, I will immediately begin the process of selecting an experienced Interim Provost.”

faculty perspective.” She also urged the committee to “consult with other faculty leaders, as well as faculty members generally, and with the Deans in developing recommendations” and assured the faculty that the administration would take both accreditation standards and the college’s mission into account in the process going forward.

On October 13 Rep Com’s chair e-mailed President Stefanco with the results of the online vote on the resolution: it had been approved by 61 percent of the 120 faculty who voted. “As a result of the vote,” the chair stated, “Rep Com requests that your office cancel any future meetings we had jointly scheduled for Strategic Academic Program Prioritization. Rep Com is aware this is not the result you hoped for, but we must abide by the will of the faculty.”

On October 30 the president provided an e-mail update to the campus community, beginning with the good news of “one of the largest first-year classes” in the college’s history and a resulting “\$1 million increase in net tuition revenue”; an anonymous donor’s gift of \$1 million, the “largest unrestricted gift” the college had ever received; the appointment of several new staff members; ongoing searches for an interim provost, a vice president for finance and administration, and a vice president for marketing and communications; and continuing searches for faculty in “high-need areas such as communication sciences and disorders, computer science, and accounting.” With respect to plans for program discontinuance, she wrote that the deans had “been evaluating each of the College’s academic departments to determine which programs are growing and might warrant additional investment, which programs are steady or shrinking in enrollment, and how best to address the shifting interests of our students.” Not only the deans, she added, but “[m]any . . . faculty members and members of the Saint Rose community have been consulted and have provided input.” “Ultimately,” she wrote, “the Deans will finalize their recommendations to the senior administration, and the senior administration will make its recommendations to the Board of Trustees for final approval.” She concluded by inviting her readers to “continue to share [their] thoughts” with her. “Many,” she wrote, “have sought me out for private conversation, and I encourage you to continue to do so. I will continue to hold office hours and to meet with committees and departments to solicit their input and to describe my vision for the future of Saint Rose.”

That same day, Professor David Linton, president of the New York State AAUP conference, which had

been assisting the local AAUP chapter, sent an “Open Letter to the College of Saint Rose Community” expressing “concern over recent developments at the College regarding threats to the Faculty’s rightful participation in the governance of the institution and what appears to be an attack on due process and academic freedom.” The letter warned that if “crafting and implementing” the academic prioritization proposals “were not carried out with scrupulous adherence to the highest standards of faculty consultation” with the appropriate faculty bodies, “the legitimacy of the outcome” would “be highly questionable.” “Transparency and participation,” he added, “are essential in order to avoid the risk of years of costly and demoralizing legal action and even the possibility of censure by the AAUP.” The letter urged the board and administration “to cease its efforts to terminate faculty and to seek all other possible alternatives to any fiscal concerns or problems first.” The academic prioritization process, he wrote, should be “led by faculty in standing committees charged with overseeing the curriculum. It should be thoughtful, deliberative, and done with full and genuine faculty consultation. Such a process cannot be accomplished in the very short time offered to the faculty.”

Responding with an open letter of her own dated November 3, President Stefanco stated that “the AAUP has had no contact with the College about these matters, and, as a result, the AAUP’s letter contain[s] misstatements based on misinformation.” With respect to the claim that transparency and consultation were lacking, she wrote, “Not so. Starting last October and continuing through May, I held four separate, well-attended finance convocations to describe our financial situation, including the size and source of our structural deficit.” She enumerated the steps the administration had taken to address the situation prior to initiating the academic prioritization process: expanding the college’s student recruitment area “beyond the Northeast,” resulting in “one of the largest first-year classes in the College’s history”; recruiting more international students; “establishing an Office of First-Year Experience . . . to improve retention”; “reenergizing” the college’s fund-raising initiatives, resulting in \$2 million in unrestricted donations, including the “largest single unrestricted gift in the history of the College”; and addressing the deficit by “refinancing the college’s long-term debt, removing all contingency funds, eliminating forty . . . administrative and staff positions, and reducing other expenses.” Despite these efforts, she wrote, the college

“still projects an approximate \$9 million structural deficit for 2015–16. This shortfall must be reduced if the College is to comply with our obligations to our lenders, which is essential.” The “root cause of the deficit,” she went on to state, was “significant and sustained enrollment declines in certain programs, without concomitant change in the number of faculty,” necessitating a process for discontinuing programs and terminating appointments. The short timeline of the academic program prioritization process, she wrote, was “driven by the College’s enrollment-related financial circumstances.”

Regarding the faculty resolution directing Rep Com to withdraw from the process, the president wrote, “The administration and many faculty were surprised and distressed at Rep Com’s withdrawal from this deliberative process. Nevertheless, the administration has continued to seek faculty input: informally through my office hours and in countless conversations with individual faculty, and formally through meetings with the Strategic Planning and Priorities Committee, the Undergraduate Academic Committee, the Graduate Academic Committee, and department chairs.”

Official announcement of the program closures and appointment terminations came December 11, the same day the administration sent termination notices to the twenty-three affected faculty members. Among the discontinued programs were undergraduate degree and certificate programs in American studies, art education, economics, geology, philosophy, religious studies, sociology, Spanish, and women’s and gender studies, and graduate degree and advanced certificate programs in art education, communications, educational psychology, English, history/political science, music education, and studio art.

III. The Association’s Involvement

Faculty leaders at the College of Saint Rose initially contacted the AAUP’s Department of Academic Freedom, Tenure, and Governance by e-mail on July 1, 2015, seeking “guidance and help in dealing with an administration that no longer participates in shared governance.” Detailing some of the events described in the previous section of this report, they asserted, “It is clear that we have entered a pattern where violations of shared governance . . . are becoming routine.” Among other suggestions offered in its response of July 28, the staff referred these concerned faculty members to the leadership of the Association’s New York conference, which provided significant assistance

to the college’s AAUP chapter (organized on September 2), including a financial donation and the October 30 “Open Letter.” In late October the president of the new chapter contacted the AAUP’s national office with urgent news of the pending cuts and layoffs.

The Association’s staff first conveyed the national AAUP’s concerns regarding the program discontinuance and resulting appointment terminations to President Stefanco by letter of December 23. After summarizing AAUP-recommended procedural standards set forth in Regulations 4c (“Financial Exigency”) and 4d (“Discontinuance of Program or Department for Educational Reasons”) of the *Recommended Institutional Regulations on Academic Freedom and Tenure*, the staff’s letter stated, “According to faculty sources, the procedures employed to reach the decision to terminate twenty-seven programs and, with them, the appointments of twenty-three tenured and tenure-track faculty members bore very little resemblance” to these AAUP-supported standards.

Referring to the president’s December 11 letter to the college community, in which she wrote that “the deans, the president’s cabinet, and the board of trustees have worked diligently to develop a balanced and thoughtful plan,” the staff noted that the “absence of any mention of the faculty’s role” was “significant.” Referring to the president’s November 3 letter responding to the New York AAUP conference’s “Open Letter to the College of Saint Rose Community,” the staff pointed out that, while President Stefanco had stated that “the administration and many faculty were surprised and distressed at Rep Com’s withdrawal from” the SAPP process, she did “not mention the faculty’s stated reasons for directing the committee to withdraw” nor did she explain why the administration declined to present its layoff plan to the faculty for “review and vote before presenting it to the board of trustees for final adoption.”

In closing, the staff informed the president that, in order to provide the administration with ample opportunity to respond to the concerns conveyed in its letter, Dr. Julie Schmid, the Association’s executive director, had approved sending to the college “two AAUP leaders versed in the applicable AAUP-supported standards” to conduct an inquiry. These “consultants,” the staff wrote, would interview the president, other members of her administration designated by her, members of the governing board, faculty leaders, and AAUP chapter officers. Their charge, the staff continued, was to prepare a report for “Dr. Schmid and other responsible AAUP staff members” that would be

shared with President Stefanco and others interviewed with an invitation for comments and corrections prior to “wider distribution.” The staff further informed the president that the undersigned had agreed to serve as the AAUP’s “committee of inquiry” and proposed dates for their visit to campus.

Responding by letter of January 5, President Stefanco stated that the AAUP’s letter was “significant” for not alleging “any violation of a faculty member’s academic freedom.” With respect to Regulations 4c and 4d outlined in the letter, the president wrote, “Saint Rose has not adopted the RIRs [*Recommended Institutional Regulations*]. . . . Accordingly, the RIRs have no relevance to academic program prioritization at Saint Rose or the layoff decisions at issue.” Regarding the committee of inquiry, the president wrote, “Saint Rose respectfully declines to participate in an AAUP investigation into whether Saint Rose has complied with AAUP RIRs that the College has not adopted and that have no relevance to the decisions it has made.” As to the AAUP’s ability to conduct an impartial and objective inquiry, President Stefanco, apparently referring to the New York conference president’s “Open Letter,” stated, “AAUP long ago prejudged this process. It criticized Saint Rose and disseminated inaccurate information in its first letter on this matter, which it chose to circulate as an open letter to the faculty without seeking information from the Administration.”

Addressing the issue of faculty participation in the academic prioritization process, the president made two points: one, that the administration “notified the faculty as soon as feasible of the necessity of both academic program prioritization and likely faculty layoffs” and, two, that “the faculty as a body formally voted to refuse to participate in shared governance,” adding that “though free to do so and on notice of the College’s financial challenges since at least the fall of 2014, the faculty has never proposed any substantive recommendations to address the College’s fiscal challenges.”

Replying on January 8, the staff conveyed its disappointment that President Stefanco had declined to meet with the AAUP’s committee of inquiry and urged her to reconsider: “You write that the AAUP has reached conclusions ‘without seeking information from the administration.’ . . . [A] primary reason for sending two consultants to Albany [is] to provide the administration and the board with full opportunity to communicate their version of what has transpired.” In response to the president’s statement that the AAUP

did not allege any violations of academic freedom, the staff stated that it seemed improbable that, among such a large group of affected faculty members, not one of them, if afforded an appropriate hearing, would claim that his or her academic freedom had been violated. “In addition,” the staff’s letter continued, “putting aside possible direct violations of individuals’ academic freedom, the AAUP’s official recommended institutional regulations on academic freedom and *tenure* emphasized in the bulk of our December 23 letter are designed to protect tenure per se, without which faculty members will think twice before exercising the academic freedom that is crucial to higher education.” Regarding the president’s charge that the faculty had failed to fulfill its obligations, under principles of shared governance, to help develop a plan for discontinuing programs, the staff stated, “Our Association is not only troubled by the allegation that the faculty shirked its responsibility, but also keenly interested in the notion that actions so deeply injurious to the faculty were nevertheless effected without the faculty’s playing the primary governance role.”

In a January 19 response, the president reiterated her earlier assertions regarding the absence of any violations of academic freedom, the inapplicability of AAUP-recommended procedural standards to the College of Saint Rose, and what she described as the AAUP’s “one-sided and inaccurate approach to the College’s academic prioritization process.” She also informed the AAUP’s staff that the administration had “found a reassignment opportunity” for one of the affected faculty members.⁷ She closed with a request:

7. The investigating committee finds this assertion disingenuous. The chair of the department of the faculty member in question tendered her resignation in a December 20 letter to Interim Provost Schirmer. In a letter to the interim provost dated two days later, the faculty member requested that her termination be reversed in light of her chair’s resignation. The interim provost and the dean of the School of Arts and Humanities responded in writing exactly one week later. Their letter read in part: “We believe that you are qualified to fill this now vacant faculty position and are pleased to offer you that position.” This action can hardly be characterized as the administration’s finding a reassignment opportunity; one simply fell into its lap.

The committee offers three additional observations. First, the provost and the dean alone rather than a faculty committee judged the faculty member qualified for the new position they offered her. Second, the faculty member’s status is unclear. She would appear to occupy two positions simultaneously: the one from which she will be terminated effective December 29, 2016, and the one that she was offered (and subsequently accepted), which retains her as a tenured member of the faculty. Finally, we find it illustrative of the rushed nature of decision

“Finally, please do not instruct your consultants to contact me about re-considering the College’s position. Additionally, please instruct your consultants not to contact our administrators and staff in connection with your inquiry. We have made a decision not to engage in a process that we believe is one-sided, unfair, and has a pre-determined result.”

On January 29 and 30, the undersigned committee visited Albany and interviewed more than thirty faculty members and a dozen students. Subsequent to the visit, two former administration officers sent us written responses to questions submitted in writing. Although the administration and the governing board did not cooperate, we believe that the information obtained in our interviews as well as the voluminous documentation we reviewed has provided an ample basis for the conclusions stated in this report.

The AAUP’s staff wrote President Stefanco on March 7 to inform her that Executive Director Schmid had that day authorized the submission of this report to the Association’s standing Committee A on Academic Freedom and Tenure, thereby converting the inquiry into a formal investigation.

IV. The Issues of Concern

Five issues of central interest to the AAUP are presented and analyzed below.

A. AAUP Regulations on Financial Exigency and Program Discontinuance

Aside from adequate cause, the AAUP’s *Recommended Institutional Regulations on Academic Freedom and Tenure* recognize only two “extraordinary” circumstances in which tenured appointments, or probationary appointments prior to their expiration, may be terminated: bona fide financial exigency (Regulation 4c) and bona fide discontinuance of a program or department based essentially upon educational reasons (Regulation 4d).

Employing language such as “serious fiscal challenges” and the “pressing fiscal reality,” the administration repeatedly attributed its need to make

cuts to financial difficulties stemming from declining enrollment. The investigating committee understands that the college faced financial troubles, perhaps most clearly indicated by the December 2014 downgrade of its credit rating by Moody’s Investors Service. At no point leading up to the announcement of the cuts and appointment terminations, however, did the administration state that the college was in a condition of financial exigency, which Regulation 4c defines as “a severe financial crisis that fundamentally compromises the academic integrity of the institution as a whole and that cannot be alleviated by less drastic means” than terminating appointments. In the absence of any evidence that the administration’s decision to terminate full-time faculty appointments was based on a demonstrably bona fide financial exigency, we conclude that Regulation 4c of the *Recommended Institutional Regulations* is not applicable.

Nor were the terminations the result of a bona fide program discontinuance. Under Regulation 4d, the termination of appointments “may occur as a result of bona fide formal discontinuance of a program or department of instruction.” Applying Regulation 4d to the facts as presented in this report immediately presents two problems. First, in the case of nearly half of the faculty members whose appointments were terminated, neither their programs nor their departments were discontinued. These included at least six faculty members across several departments in the School of Education, two tenured professors in the interdisciplinary history and political science program, and two tenure-track faculty members in English. These cases represent a flagrant violation of Regulation 4d, which permits terminating faculty appointments only as a result of program *discontinuance*, not program *reduction*.

The second problem is that the administration failed to demonstrate that the program discontinuations were bona fide. The extent of the administration’s efforts in this regard was repeatedly to claim that the programs to be cut were underenrolled: specifically, that together they enrolled only 4 percent of the college’s students, that twelve of the targeted programs enrolled no students, and that 75 percent of students were enrolled in 25 percent of the college’s academic programs. Chair Calogero, for example, was quoted as saying that the college had “suffered a 16 percent decline in enrollment since 2008, mainly concentrated in the programs to be discontinued and the departments to be reduced. At the same time, large numbers of students have flocked to

making at the college that the administration could unceremoniously terminate the appointment of a tenured faculty member, consider her request to have that decision reversed, and offer her a new tenured position—all in the span of less than three weeks during the holiday season.

By early April, word came that four additional laid off faculty members had received similar offers of reinstatement because of retirements or resignations in their departments.

academic programs such as computer science, psychology, criminal justice, and music industry. The Trustees have a duty to shift financial support to the programs that are in highest demand among our students.” The administration, however, did not present detailed evidence to the faculty supporting any of these claims and did not mention specific programs until the cuts were announced. The administration and board’s simple repetition of undocumented claims regarding shifts in student demand did not serve to demonstrate that the program discontinuations were bona fide.

Many of the affected faculty members presented evidence to this committee that their programs were healthy in terms of enrollment. One faculty member, armed with longitudinal data from the last ten years, demonstrated that, while the number of majors in his program had not increased, it had also not decreased. “What changed,” he asked, “from ten years ago that lands us on the chopping block now?” A number of other affected faculty members told us that their classes were full and that their departments had not seen any decline in majors.

Faculty members in the Lally School of Education asserted that the college’s accounting practices had deflated their enrollment numbers. Because certifications to teach general education or special education are tied to a student’s major, students working toward their teaching certifications—and therefore taking coursework in the School of Education—were “coded” (or counted) by the college under their major programs rather than under education. As a result, in the words of one faculty member, the data used by the administration “don’t reflect the reality of the school.”

Finally, several faculty members pointed out that the program eliminations were inexplicably based on the previous year’s enrollment numbers rather than on data from fall 2015, which saw the largest incoming class in the college’s history. It was not an unexpected class size. In a May 18 e-mail message containing an overview of the same day’s finance convocation, for example, President Stefanco stated that “enrollment numbers for the Fall look strong.” In a July 10 e-mail update to the campus community, she provided the details: “We received more than 6,000 applications for the first-year class, the most the college has ever received. The size of our first-year class is the highest it has ever been with 673 first-year student deposits.” Surely, the faculty members with whom we spoke suggested, if the decisions had been based on the current year’s historically high enrollment figure, far fewer programs would have been cut.

If the program discontinuations had been demonstrably bona fide—and, again, evidence indicates the opposite—the process by which any resulting appointment terminations were carried out should have been governed by Regulation 4d. In the view of this committee, the process that was actually followed departed significantly from the provisions of that regulation. Regulation 4d(1) provides that “[t]he decision to discontinue formally a program or department of instruction will be based essentially upon educational considerations, as determined primarily by the faculty as a whole or an appropriate committee thereof,” noting that “[e]ducational considerations’ do not include cyclical or temporary variations in enrollment. They must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance.”

According to the administration, enrollment trends, not educational considerations, drove the academic program eliminations. President Stefanco’s August 26 e-mail message to Rep Com stated that “*because of continuing enrollment declines* since 2008, the College is beginning the process of academic program prioritization and consequent reductions in faculty” (emphasis added). An e-mail message of the same day from Provost Salavitarbar to the faculty stated that “the College’s *enrollment has declined* . . . [and] the College is beginning the necessary process of academic program prioritization and reductions” (emphasis added). The December 11 announcement of the cuts published on the college website read: “In identifying programs for reduction or elimination and identifying reduction of faculty, the Board of Trustees *took into account enrollment levels and trends*” (emphasis added). Such communications make clear that the administration’s decisions did not “reflect long-range judgments that the educational mission of the institution as a whole [would] be enhanced” by the program closures, as stipulated by Regulation 4d(1).

The administration initiated the SAPP process itself in direct response to enrollment variations. President Stefanco’s September 2 e-mail message to the faculty (quoted earlier) outlined SAPP’s three goals: to identify existing academic areas where new investment was needed to meet increased student demand, to identify areas of “high market demand” for investment in new programs, and to identify existing areas with diminished student demand. Each of these goals and, therefore, the entire process were predicated on *temporary* shifts in student demand—an approach that is not permissible under 4d(1).

A final point must be made about the applicability of Regulation 4d(1). At no time did “the faculty as a whole or an appropriate committee thereof” determine the “educational considerations” upon which the “decision to discontinue” the programs was based. Addendum II to the faculty manual, “Shared Governance Document: Principles and Processes,” approved by the board of trustees in 2009, makes clear that the college’s process for terminating majors and programs should involve two faculty committees: the Undergraduate Academic Committee and Graduate Academic Committee (GAC). According to minutes of the October 22 GAC meeting, however, President Stefanco “advised that the deans and provost began meeting about academic program prioritization over the summer.” (She conveyed the same message at the UAC meeting the next day.) The president added, “Deans and a subgroup of Cabinet are working on recommendations; the deans presented recommendations on October 16, 2015.” Members of the UAC and the GAC who met with the investigating committee confirmed that neither of their committees was ever consulted; instead, as one member put it, the committees “were informed” of the program cuts.

The faculty members with whom we spoke confirmed that each of the four academic deans had been asked by the president to compile a list of programs to be cut. The extent to which the president and her cabinet ultimately took into account the deans’ lists was unknown to the faculty. What is known is that the deans did not consult with department chairs, program directors, and the rank-and-file faculty in devising their respective lists. And, as this report discusses in greater detail in the next section, the UAC and the GAC were “bypassed” in the process, according to members of both committees.

Regulation 4d(2) provides that “[f]aculty members in a program being considered for discontinuance for educational considerations will promptly be informed of this activity in writing and provided at least thirty days in which to respond to it. Tenured, tenure-track, and contingent faculty members will be invited to participate in these deliberations.” Interviewees repeatedly told us that no faculty members—including department chairs and program directors—knew which programs were being eliminated until they read President Stefanco’s December 11 e-mail announcement or the Albany *Times Union* article that appeared later the same day. Affected faculty members were therefore never informed that their programs were

being considered for discontinuance, much less provided an opportunity to respond. The tenured and tenure-track (but not the part-time) faculty was invited to participate in the deliberations but voted against doing so, a decision to be discussed in detail further on in this report.

Finally, Regulation 4d(3) provides that, “[b]efore the administration issues notice to a faculty member of its intention to terminate an appointment because of formal discontinuance of a program or department of instruction, the institution will make every effort to place the faculty member in another suitable position.” The administration made no such effort in behalf of any of the affected faculty members interviewed by this committee.

In sum, the administration did not declare that the college was in a state of financial exigency, nor did it demonstrate that any of the program discontinuations was bona fide. Even if it had so demonstrated, it nevertheless failed to follow the procedures outlined in Regulations 4d(1) through 4d(3) for discontinuing programs and terminating faculty appointments. Because the administration’s decisions were based on neither of the two extraordinary conditions set forth in Regulations 4c and 4d allowing appointments to be terminated for reasons other than cause, we conclude that the administration terminated the appointments of twenty-three tenured and tenure-track faculty members in direct contravention of AAUP-recommended principles and procedural standards.

B. Shared Governance

The 1966 *Statement on Government of Colleges and Universities*, jointly formulated by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges, sets forth principles and standards for faculty participation in academic governance. These are reflected in those portions of Regulations 4c and 4d that stipulate the faculty’s role in decisions leading to terminations of appointment for financial exigency and program discontinuance.

Section 5 of the *Statement on Government*, for example, assigns to the faculty “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.” In these areas where the faculty exercises primary responsibility, the president and governing board should adversely exercise their “power of review or final decision . . . only in

exceptional circumstances and for reasons communicated to the faculty.” The faculty manual’s “Shared Governance Document: Principles and Processes” provides a flowchart for decisions related to the termination of majors and programs that is consistent with the *Statement on Government*: the faculty and two elected faculty committees have primary responsibility for such decisions, subject to the approval of the president and the vice president for academic affairs (VPAA). The process is as follows:

1. Input: Discipline faculty and Deans routinely monitor the overall viability of majors and programs relative to such key factors as enrollment trends and the support capacity
2. Recommender: Discipline faculty propose the termination of majors or programs and, in some cases, seek approval at the School level, before making a recommendation to UAC or GAC as appropriate⁸
3. Decision Maker: In the case of Undergraduate majors and programs, faculty act in the role of decision makers based upon UAC recommendations, and subject to final approval by the President/VPAA. GAC acts in the role of decision maker in the case of graduate majors and programs subject to final approval by the President/VPAA
4. Final Approval: VPAA & President

This is clearly a faculty-driven process. “Discipline faculty” propose program and major termination; their recommendations go to either the UAC or the GAC. The “decision makers” are the faculty as a whole, for undergraduate majors and programs, and the GAC, for graduate majors and programs. Neither the president nor the vice president for academic affairs has any role in academic program discontinuance other than “final approval” of the decisions made by either the faculty as a whole or the GAC.

The administration did not follow this process in the least. None of the program eliminations was proposed by the faculty. The faculty did not make

recommendations to the UAC or the GAC. Finally, the faculty did not act as decision maker based upon UAC recommendations in the cases of undergraduate programs slated for elimination, and the GAC did not act as decision maker in any of the cases of graduate programs. Instead, as we were repeatedly told, President Stefanco, in consultation to an unknown extent with some members of her cabinet and the academic deans, drove the program discontinuance process and, ultimately, determined which undergraduate and graduate programs would be closed. The board of trustees had reportedly given her the order to do so. In a February 19, 2016, e-mail message, Chair Calogero informed Saint Rose alumni that “last December, our Board of Trustees, after long deliberation, *directed the President to make changes in our academic programs* to meet the changing needs of our students” (emphasis added).⁹ Ms. Calogero’s e-mail message went on to express the board’s “full and unwavering support of Dr. Stefanco, who is after all, *implementing the very changes the Trustees directed*” (emphasis added).

Even with the president’s serving as chair of both the UAC and the GAC for nearly the entire fall 2015 semester in the absence of a vice president for academic affairs, the members of both committees told us that they had played no role in the decisions about program elimination. “We were simply informed” of the cuts, several committee members remarked. “We did no deliberating whatsoever,” stated another. The minutes of the fall semester’s UAC and GAC meetings confirm that view. Neither committee discussed proposals or recommendations from discipline faculty, the UAC made no recommendations to the faculty as a whole, and the GAC made no decisions of its own regarding program eliminations. The process that was followed was, in both committees’ judgment, in clear violation of the process set out in the faculty manual’s “Shared Governance Document: Principles and Processes.” It was also, according to a member of GAC, a complete departure from past practice at the college. Whenever graduate programs had been eliminated in the past, this member explained, “the school always brought [proposals] forward for a GAC vote.” We asked the members of the UAC and the GAC directly: “How would the process have played out if the UAC and the GAC did not exist?” The

8. The membership of the UAC includes the vice president for academic affairs (as chair), fifteen elected full-time faculty members, and two undergraduate students selected by the student association. Similarly, the GAC’s membership includes the vice president for academic affairs (as chair), a full-time graduate faculty member from each of thirteen graduate departments, and two graduate students appointed by the president of the student association in consultation with the chair of the GAC.

9. It is difficult to understand, however, how the board could have directed President Stefanco to change the college’s academic programs in December when the president had informed Rep Com of the academic program prioritization process four months earlier, in August.

answer was that there would have been no difference; the UAC and the GAC might as well not have existed. It is particularly dismaying to see that the clear process articulated in the faculty manual was ignored. As many of those interviewed informed us, the shared governance document had been a source of pride for the faculty and administration ever since its adoption by the board of trustees in 2009.

The *Statement on Government* asserts that “[t]he framing and execution of long-range plans, one of the most important aspects of institutional responsibility, should be a central and continuing concern in the academic community,” that “effective planning demands . . . the broadest possible exchange of information and opinion among the components of a college or university,” and that “channels of communication should be established and maintained by joint endeavor.” In her October 30 e-mail update to the campus community (quoted earlier), President Stefanco wrote, “Many . . . faculty members and members of the Saint Rose community have been consulted and have provided input. . . . Many have sought me out for private conversation, and I encourage you to continue to do so. I will continue to hold office hours and to meet with committees and departments to solicit their input and to describe my vision for the future of Saint Rose.” Similarly, in her November 3 response to the New York conference’s open letter (also quoted earlier), she wrote, “The administration has continued to seek faculty input: informally through my office hours and in countless conversations with individual faculty, and formally through meetings with the Strategic Planning and Priorities Committee, the Undergraduate Academic Committee, the Graduate Academic Committee, and department chairs.”

The faculty members with whom we spoke disagreed vehemently with the president’s repeated claims of consultation and inclusion and with her statement that, “though free to do so and on notice of the College’s financial challenges since at least the fall of 2014, the faculty has never proposed any substantive recommendations to address the College’s fiscal challenges.” One faculty member called this assertion “an outright lie.” As this report indicates, the UAC and GAC meetings chaired by President Stefanco were informative rather than deliberative, and the committees played no meaningful role in the process of terminating programs and majors. It seems evident that the institutionalized channels of communication between the faculty and the administration were not utilized, leaving open no formal avenue of dialogue.

Private conversations between the president and certain individual faculty members do not qualify as such, especially since, as this committee was told, the president’s “office hours” were actually ten-minute slots for which one needed to request an appointment.

Regulation 4d(2) of the *Recommended Institutional Regulations* states that “[t]enured, tenure-track, and contingent faculty members will be invited to participate in . . . deliberations” regarding programs being considered for discontinuance based on educational considerations. As noted earlier in this report, the tenured and tenure-track faculty was invited to participate in the administration’s deliberations regarding program discontinuance. The invitation, arriving on September 2 in the form of an e-mail message from the president, gave the faculty exactly two months “to engage in dialogue with us on this very important process.” As we have also seen, the faculty subsequently proposed and voted in favor of directing Rep Com to withdraw from the SAPP process, which led to the president’s assertion in her January 5 letter to the AAUP’s staff that “the faculty as a body formally voted to refuse to participate in shared governance.”

This case serves to highlight a dilemma that can confront the faculty when institutions face decisions of this magnitude: whether to participate in a severely flawed process in the hope of making a positive impact or to decline to participate in order to avoid lending legitimacy to an anticipated bad outcome. A problem with the first option is that the faculty or its representatives, after having had little to do with producing a deplorable final product, might end up being held accountable for it anyway. A problem with the second is what has occurred in this case—the administration’s being in a position to claim that the faculty shirked its responsibility.

A key question, therefore, is the following: Was the faculty justified in directing Rep Com to withdraw from participation in the layoff process? We believe that it was. Based solely on the board’s and the administration’s unilateral and contentious summer decisions to implement a new credit-transfer policy and to establish a much more restrictive mass e-mail policy—and their unwillingness to compromise on either decision after the faculty sharply objected—one might argue that the faculty would have been justified in refusing from the outset to participate in the SAPP process. After all, recent events had given members of the faculty no reason to think that faculty input would even be considered.

Nonetheless, the minutes of the October 9 special faculty meeting and the comments offered during our interviews indicated that the faculty conscientiously and thoroughly deliberated over the matter before directing Rep Com to withdraw from the process. The faculty debated two motions at length at the October 9 meeting—one directing Rep Com to consult with deans and department chairs to gather information about the SAPP process and a second urging all members of the community to take cuts in compensation—before moving that Rep Com withdraw from the SAPP process. Ultimately, the faculty asserted that it had no choice given the constraints—of time, information, authority, and purview—under which the administration was requiring Rep Com to operate. The evidence compels the investigating committee to reach the same conclusion. The faculty was, as the resolution put it, in “an untenable position.”

But let us assume for the sake of argument that the faculty did fail to fulfill its governance role. Would such a failing justify the board’s and administration’s going forward anyway with cuts and terminations “so deeply injurious to the faculty,” as the staff’s January 8 letter to President Stefanco put it? We think not. If the president truly viewed the faculty resolution as irresponsible, she could have offered to negotiate over conditions that would have allowed the faculty to participate. Instead, she accused the faculty of shirking its responsibility, and the administration forged ahead with its drastic plan.

Section 5 of the *Statement on Government* stipulates that decisions affecting faculty status (which certainly includes termination of appointments) “should first be by faculty action through established procedures, reviewed by the chief academic officer, with the concurrence of the board. The governing board and president should, on questions of faculty status . . . concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail.” We established earlier in this report that the decisions to terminate faculty appointments were made not by faculty action but by administrative fiat.

In light of the foregoing analysis, the committee finds that the actions of the board and administration recounted in this report, despite the president’s occasional invocation of shared governance, disregarded the normative principles and standards of academic governance articulated in the *Statement on Government*. This committee also judges the current state of shared governance at the college to be wholly at odds with

these principles and standards. Indeed, we concur in the opinion unanimously expressed by faculty members responding to our direct question regarding the conditions of shared governance at the college. Over and over again we were told, “It doesn’t exist.”

C. Academic Due Process

Along with the need for meaningful faculty involvement in the decision-making process that leads to termination of appointments, the other critical component of Regulation 4d is the provision of academic due process through faculty hearing procedures. Regulation 4d(4) requires affordance of “an on-the-record adjudicative hearing” before an elected faculty body similar in essential respects to what the AAUP recommends for dismissal (as set forth in Regulation 5 of the *Recommended Institutional Regulations*). In such a hearing, the burden of proof rests with the administration on all issues—with the sole exception of a decision to discontinue a program or department that was made by the faculty, an exception obviously inapplicable in this case. The hearing affords affected faculty members the opportunity to challenge the adverse action before an elected body of faculty peers, responsible for rendering judgment on allegations that the decision to terminate their programs and positions was reached improperly or was based on impermissible considerations, such as those implicating principles of academic freedom.

Under section E, “Contingency Planning and Retrenchment,” of the faculty manual, the Faculty Review Committee (FRC) is charged with hearing appeals of layoff. In its December 23 letter to President Stefanco, the staff urged the FRC “to employ procedures set forth in Regulations 4c(3) or 4d(4) when handling any appeals.” While this investigating committee was unable to ascertain the extent to which the FRC will adhere to Regulation 4d(4), we do note that the process, as outlined in article II of the FRC constitution, includes a digitally recorded hearing with the aggrieved faculty member and that the FRC is an elected faculty body.

The appeals process, however, seemed to have gotten off to a bumpy start. On January 9 Interim Provost Schirmer wrote the FRC to request that four of its five members recuse themselves, “effective immediately.” Under the committee’s bylaws, the administration or the faculty member is allowed to “challenge members of the committee for personal prejudice.” The interim provost asserted that because three members of the committee had posted critical

comments about the cuts on nonpublic Facebook pages and signed petitions opposing them, they had “prejudged the layoff decisions” and thus could not “fairly judge an appeal involving any layoff stemming from academic program prioritization.” The fourth FRC member whose recusal the administration had requested had already resigned from the committee because her appointment was among those terminated. The investigating committee was informed that the other three members of the FRC whom the administration had challenged chose not to recuse themselves. To their surprise, the administration accepted their decision.

According to the members of the FRC, the road ahead looked to be at least as bumpy. The caseload facing the committee was, as one member put it, “unprecedented.” At the time of our interview with FRC members, seven programs and sixteen faculty members had submitted requests for hearings, with more than four weeks remaining until the March 1 deadline to do so. It was not clear to these FRC members how they were going to manage their already overwhelming caseload.

Nor were the members of the FRC confident that the process would be followed after the committee submitted its recommendations to the president. One remarked, “I suspect that regardless of what our recommendations are, they will spin their response and rationale to justify their cuts.” While expressing full confidence in their FRC colleagues, affected faculty members voiced the same prediction about the administration.

D. Academic Freedom and Tenure

As noted earlier in this report, President Stefanco, in her January 5, 2015, letter, stated that the staff’s December 23 letter was “significant for what it d[id] not allege. It d[id] not allege any violation of a faculty member’s academic freedom—which tenure is intended to protect. Nor could the AAUP legitimately make any such allegation. Saint Rose took difficult, but necessary action to confront serious fiscal challenges and low enrollments in certain programs by engaging in academic program prioritization for the future, and nothing more.” In its response, the staff, while noting her appreciation of the purpose of tenure, acknowledged the accuracy of her statement. But, as mentioned earlier in this report, the staff went on to suggest that it was highly unlikely that in such a large group of affected faculty members, not one of them, if afforded an appropriate hearing,

would allege that the decision to terminate his or her appointment did not entail impermissible considerations. The staff also pointed out that, beyond the distinct possibility that allegations of violations of academic freedom would arise in the appeal hearings, “the AAUP’s official recommended regulations on academic freedom and *tenure* emphasized in the bulk of [its] December 23 letter are designed to protect tenure per se, without which faculty members will think twice before exercising the academic freedom that is crucial to higher education.”

The investigating committee did, in fact, meet with affected faculty members who alleged that they had been singled out for appointment termination because of their (or their senior department colleagues’) vocal criticism of the administration. They planned to include evidence in support of those allegations in their grievance portfolios for the Faculty Review Committee.

Regardless of the outcome of the forthcoming hearings, we conclude that in unilaterally terminating fourteen tenured appointments, the administration signaled its disregard for the institution of tenure, set a dangerous precedent, and dealt a withering blow to tenure and academic freedom. This investigating committee asked faculty members what tenure now means at the institution. “Nothing” was the unanimous reply. One faculty member added a telling qualifier: “Tenure only means something if you’ve had it long enough to give you the seniority to survive the next round of cuts.” Another lamented that “there’s nothing stopping them from doing this again the next time enrollment drops.” As a consequence, academic freedom is in peril at the college. Indeed, the perception that academic freedom no longer exists at the College of Saint Rose was widespread among the faculty members whom we interviewed. They frequently spoke of being “fearful” and of the potential for “retaliation” by the administration. Comments offered by one faculty member at the October 9 special faculty meeting serve to summarize the overwhelming sentiment. Referring to the unilateral process by which the terminations were about to be effected, she said, “If they can [so easily] eliminate tenured faculty, then tenure will mean nothing. And if there is no tenure, there is no academic freedom.”

E. The College’s Recent Leadership

On February 11, 2016, nearly 80 percent of the faculty participated in a vote of no confidence in President Stefanco. The results were 125 in favor and 35 against. When an institution witnesses declining

enrollments for nearly a decade, resulting in a \$9 million deficit, a significant amount of debt, and downgrades in credit ratings, one might reasonably question the adequacy of the governing board and administration's stewardship. When the results also include mass layoffs of tenured and tenure-track faculty members, the elimination of long-standing academic programs, and, ultimately, a majority expression by the faculty of no confidence in the president, one *must* question it.

President Stefanco declined to allow anyone in her administration to speak with this committee. Chair Calogero declined to answer four questions we submitted to her in writing, forwarding them instead to the president's chief of staff, who informed us that no one on the board would answer any of our questions.¹⁰ However, two former administrative officers did agree to provide answers in writing. We rely on

their responses, as well as on our interviews with faculty members and students and on news stories, to question the board and administration's effectiveness in carrying out their governance responsibilities.

Section E.1.1 of the faculty manual states that "[o]rdinarily, decreases in enrollment and/or changes in academic requirements and offerings can be anticipated [by the administration] in advance of the need to eliminate a particular program." By all accounts, the college's enrollment began to decline with the 2008 recession. The subsequent six years of continuing decline was somehow neither anticipated nor, more important, corrected before President Stefanco's efforts to address it beginning in late 2014. We cannot help but conclude that the board's inaction during this lengthy period represented a failure to maintain the general oversight required under the *Statement on Government*.

According to a May 2015 Albany *Times Union* story, the institution's "modest surplus" had become a "structural deficit" by 2010. Also in 2010, Moody's Investors Service downgraded the college's outlook from positive to stable. It was again downgraded in 2012, to negative, where it remains. Yet the board appears to have taken no corrective action before fall 2015, when it "directed" President Stefanco to implement an academic prioritization process.

The investigating committee concedes that President Stefanco, for her part, was in an extremely difficult position from the outset. In December 2014, six months after taking office following a tumultuous period of administrative turnover that witnessed three presidents in the previous two years, Moody's downgraded the college's credit rating to Baa3.¹¹ In the May 2015 *Times Union* story, the new president seemed to place at least some of the blame for the college's financial difficulties on her predecessors: "Saint Rose has been in this situation since the recession," she said, "where we have not made changes in our financial model, when other institutions have been doing this routinely." She continued, "We just have not been attentive." The dire consequences of that inattentiveness have occasioned this investigation and report.

10. The questions that Chair Calogero declined to answer were the following:

1. According to a May 2015 Albany *Times Union* story, The College of Saint Rose's "modest surplus" had become a "structural deficit" by 2010. President Carolyn Stefanco was quoted in that story as follows: "Saint Rose has been in this situation since the [2008] recession, where we have not made changes in our financial model, when other institutions have been doing this routinely." She added: "We just have not been attentive." We would benefit from your perspective, as a trustee since 2007, on President Stefanco's assessment. We would be particularly interested to learn of the nature of the College's financial planning, at both the board and administrative levels, during your tenure on the board.
2. On a similar note, President Stefanco's May 18 e-mail overview of her finance convocation of the same day reads in relevant part: "The College now employs accounting best practices and we have fully addressed the previous practice, used for many years, of putting expenses in unrelated budget lines. Briefly, we now properly reflect department expenses in the appropriate lines in our bookkeeping and include depreciation on our balance sheet." Any clarifications or explanations you are able to offer regarding the longstanding previous practice to which President Stefanco refers would be most helpful.
3. By all accounts, student enrollment at the college began declining in 2008. During your tenure as a trustee, to what extent and in what specific ways did the board address the downward enrollment trend? To your knowledge, to what extent and in what specific ways did administrations prior to President Stefanco's share the downward enrollment trend and any resultant financial trends with the faculty?
4. We would welcome any additional comments that you believe might help us situate the recently announced faculty terminations and program closures in a historical and institutional context.

11. According to Moody's, "obligations rated Baa are judged to be medium-grade and subject to moderate credit risk and as such may possess certain speculative characteristics." Baa is Moody's lowest rating above "noninvestment" or "speculative" grade.

VI. Conclusions

1. In terminating the appointments of twenty-three tenured and tenure-track faculty members absent a declaration of financial exigency or a demonstrably bona fide formal program discontinuance for educational reasons, the board of trustees and administration of the College of Saint Rose violated basic tenets of the joint 1940 *Statement of Principles on Academic Freedom and Tenure* and derivative procedural standards set forth in Regulation 4 of the *Recommended Institutional Regulations on Academic Freedom and Tenure*. The “academic prioritization” process that led to the program cuts, moreover, was entirely inconsistent with relevant AAUP-recommended standards for program discontinuance set forth in Regulations 4d(1) through 4d(3) of the *Recommended Institutional Regulations*.
2. In determining which academic programs were to be reduced or eliminated, the administration disregarded the shared governance document in the faculty manual. More significantly, in this action and in at least two other recent actions—the unilateral implementation of a new transfer credit policy and the equally unilateral establishment of a restrictive e-mail policy—the administration and governing board acted in disregard of normative standards of academic governance, as set forth in the *Statement on Government of Colleges and Universities*. In short, under the current administration and governing board, the faculty has repeatedly been left out of deliberations or had its reasoned objections ignored, creating conditions for shared academic governance that can only be described as deplorable.
3. The administration—in allowing the faculty only two months in which to make recommendations for eliminating programs and faculty positions, restricting access to information, and otherwise constraining the faculty’s participation—placed the faculty in an untenable position, justifying its withdrawal from the academic prioritization process.
4. The administration and governing board, by terminating fourteen tenured faculty appointments through a program of “academic prioritization” that excluded the faculty, have rendered tenure virtually meaningless and thus severely undermined academic freedom at the College of Saint Rose.

5. The program eliminations and faculty layoffs were ultimately the result of a lack of responsible stewardship at the board and presidential levels, leading to the faculty’s recent vote of no confidence.¹² ■

12. President Stefanco, having received a preliminary draft text of this report with an invitation for corrections and comments, responded by letter of April 11, here printed in full:

Thank you for forwarding the draft text of the report of the American Association of University Professors (AAUP) investigating committee. I understand that you forwarded the draft report so that I can provide comments and corrections of fact.

The draft report has numerous inaccuracies and gross misrepresentations—too many to correct without attempting to rewrite the entire document. As just one example, your statement that the administration did not meet with RepCom until September 21, 2015 implies that the administration delayed the first meeting. In fact, we sought to meet with RepCom immediately after notifying the committee of the initiation of the academic program prioritization process on August 26th, but the committee was not available until September because of leadership changes. Under this new leadership, the faculty elected as a body for RepCom to withdraw from participating in the discussions about academic program prioritization—when shared governance mattered most. The draft report also incorrectly applies AAUP regulations to the College when those regulations have not been adopted. The College fully complied with the applicable process and standards outlined in its Faculty Manual.

This was a critical time for the College as it faced financial challenges that needed to be addressed without delay. Your investigators—and unfortunately a subset of our faculty—seem to have little understanding of the perils that face the College as a tuition dependent institution of higher education today. As was true at the College this fall, sometimes action is required on a shorter timeline than we all would like. We are saddened by each and every faculty member who received a layoff notice. The College has already reinstated five faculty without an adverse budget impact. Further, the information provided in the draft report about the appeals process is premature. The College provided numerous documents in response to the Faculty Review Committee’s (FRC) requests and we have been fully engaged and involved as contemplated by the Faculty Manual.

Finally, the draft report ignores the innumerable recommendations and decisions that the faculty individually and/or through faculty committees effectively make, regarding academic programs, the curriculum, and individual graduate student admission decisions, to name just a few. The draft also ignores that the leadership of the AAUP chapter on campus has attempted to use the College’s circumstances to pursue their own agenda and to try and persuade other faculty members to join with them.

The College community must move forward in an effort to be fiscally strong for our students for years to come. This requires investment in new programs of interest and other ways to grow enrollment. We continue to look to our faculty to be a part of this process with the administration.

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MICHAEL DECESARE (Sociology)

Merrimack College, *chair*

IRENE T. MULVEY (Mathematics)

Fairfield 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

Members: **MICHAEL BÉRUBÉ** (English), Pennsylvania State University; **DON M. ERON** (Writing and Rhetoric), University of Colorado; **JEFFREY A. HALPERN** (Sociology), Rider University; **MARJORIE HEINS** (Law), New York, NY; **MICHAEL E. MANN** (Meteorology), Pennsylvania State University; **WALTER BENN MICHAELS** (English), University of Illinois at Chicago; **DEBRA NAILS** (Philosophy), Michigan State University; **JOAN WALLACH SCOTT** (History), Institute for Advanced Study; **DONNA YOUNG** (Law), Albany Law School; **RUDY H. FICHTENBAUM** (Economics), Wright State University, *ex officio*; **RISA L. LIEBERWITZ** (Law), Cornell University, *ex officio*; **JOAN E. BERTIN** (Public Health), Columbia University, *consultant*; **BARBARA M. JONES** (Legal History), American Library Association, *consultant*; **JAMES TURK** (Sociology), Ryerson University, *consultant*; **IRENE T. MULVEY** (Mathematics), Fairfield University, *liaison from the Assembly of State Conferences**

*Did not participate in the vote.