



September 20, 2016

VIA ELECTRONIC MAIL AND USPS

Dr. Elizabeth Oudenhoven
President
Community College of Aurora
16000 East CentreTech Parkway
Aurora, Colorado 80011

Dear President Oudenhoven:

Mr. Nathaniel Bork, an adjunct instructor of philosophy with six years of service at the Community College of Aurora, has sought the assistance of the American Association of University Professors as a result of having received a letter, dated September 13, from the college's director of human resources notifying him of the termination of his appointment, effective the next day. Mr. Bork had been teaching a section of PH 111, Introduction to Philosophy, since August 26. The reason given for the termination was a stated "lack of effectiveness in implementing the philosophy curriculum redesign" for the course. The letter specifies that the college will pay him the full amount of \$2,559 for the three-credit course despite his having been relieved of any further teaching responsibilities.

Our Association's interest in Mr. Bork's case stems from its longstanding commitment to basic tenets of academic freedom and due process as articulated in the enclosed 1940 *Statement of Principles on Academic Freedom and Tenure*, a joint formulation of the AAUP and the Association of American Colleges and Universities. The 1940 *Statement* has received the endorsement of more than 240 higher-education and scholarly organizations. Derivative procedural standards are set forth in the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure* (also enclosed).

Regulation 13, "Part-Time Faculty Appointments," of the *Recommended Institutional Regulations* provides that, "in a case of dismissal before the end of the term of appointment, the administration will set forth cause for the action, and the faculty member will have the right to a hearing before a faculty committee." A footnote specifies that "[a]dequate cause for a dismissal will be related, directly and substantially, to the fitness of faculty members in their professional capacities as teachers or researchers. Dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens."

(We note that BP 3-20, "Due Process for Faculty," of the policies and procedures of the Colorado board for community colleges and occupational education affords part-time faculty members whose service is at least 50 percent of full time an opportunity for "peer review" when their appointments are involuntarily terminated for reasons other than reduction in force.

Although Mr. Bork's service was less than 50 percent, we see nothing in the regulations that would prohibit his being afforded this right.)

The evident purpose of this regulation is to discourage administrations from summarily dismissing highly vulnerable part-time faculty members for impermissible reasons, especially those that violate their academic freedom.

The 1940 *Statement* declares, "Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition. Academic freedom is essential to these purposes. . . ." As a result, everyone who performs faculty work at an institution, not just full-timers, should have academic freedom. The AAUP views academic freedom, furthermore, as protecting a faculty member's right to teach, conduct research, engage in artistic expression, "address any matter of institutional policy or action," and "address the larger community with regard to any matter of social, political, economic, or other interest," subject only to ethical and disciplinary standards (see the enclosed *Protecting an Independent Faculty Voice: Academic Freedom after Garcetti v. Ceballos*).

We are concerned about the issues of academic freedom that Mr. Bork's case raises. We understand that the "curriculum redesign" of PH 111 that Mr. Bork was required to implement, under the aegis of "Gatekeeper Intervention Strategies," entailed a 20 percent reduction in course content, a student "success rate" of 80 percent, a reduction in total writing assignments to 6-8 pages, a standard paper-grading rubric, and use of small-group instruction every other class session. A recently published statement by the AAUP's Committee A on Academic Freedom and Tenure, asserts that "[t]he freedom to teach includes the right of the faculty to select the materials, determine the approach to the subject, make the assignments, and assess student academic performance in teaching activities for which faculty members are individually responsible, without having their decisions subject to the veto of a department chair, dean, or other administrative officer," with the sole caveat that "[t]eaching duties that are commonly shared among a number of faculty members require a significant amount of coordination and the imposition of a certain degree of structure, often involving a need for agreement on such matters as general course content, syllabi, and examinations" (see the enclosed *Freedom to Teach*).

We also understand that Mr. Bork's dismissal occurred soon after he asked his administrative superiors to review a letter he intended to send to the Higher Learning Commission (HLC). The letter conveys his serious reservations about these mandated changes to Introduction to Philosophy, which he indicates have severely degraded academic standards in the course, with potentially adverse effects for students.¹ As noted above, academic freedom includes the right to "address any matter of institutional policy or action" and to "address the larger community" about matters of public concern.

¹ He was apparently not alone in this perception. We have a copy of a resignation letter by one of Mr. Bork's colleagues, a veteran teacher of philosophy with eight years of service at CCA. He resigned his appointment in the face of these changes because, he wrote, "I could not do what the school asked and keep any integrity."

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Mr. Bork has further informed us that he has served as the adjunct representative on the faculty senate, helped design the department's assessment plans, assisted in the redesign of the classroom building, and served on many other college committees in the past six years, including one with you. He says that his student reviews have been consistently excellent and that he "faithfully attempted to redesign" his sections of PH 111. He therefore sharply contests the stated ground for his dismissal, stating his belief that his appointment was terminated because he communicated his concerns to the HLC, an allegation that stands unrebutted in the absence of an appropriate faculty review procedure.

The information in our possession regarding Mr. Bork's case has come to us exclusively from him, and we appreciate that you may have additional information that might enhance our understanding of the situation. We would therefore welcome your comments. If the facts as we have recounted them are essentially accurate, we would urge Mr. Burk's immediate reinstatement to his teaching responsibilities for PH 111, with any further action against him consistent with the above-mentioned academic procedural standards.

We look forward to hearing back from you.

Sincerely,



Gregory F. Scholtz
Associate Secretary and Director
Department of Academic Freedom, Tenure, and Governance

Enclosures by electronic mail

Cc: Ms. Janet Brandau, Vice President of Academic Affairs
Dr. Ted Snow, Dean of Arts and Communication
Dr. Bobby Pace, Chair, Department of Social Sciences
Professor Rhonda Hattar, Faculty Senate Executive Committee
Professor Kate Noon-Ulvila, Faculty Senate Executive Committee
Professor Katherine O'Donnell, Faculty Senate Executive Committee
Professor Steve Mumme, Co-President, Colorado AAUP Conference
Professor Dean Saitta, Co-President, Colorado AAUP Conference
Mr. Nathaniel Bork