
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.