



August 28, 2020

VIA ELECTRONIC MAIL

Dr. S. Georgia Nugent, President
Mr. Timothy Szerlong, Chair, Board of Trustees
Illinois Wesleyan University
1312 Park Street
Bloomington, Illinois 61701

Dear President Nugent and Chair Szerlong,

Faculty members at Illinois Wesleyan University have advised the American Association of University Professors of the action taken by the board of trustees on July 16, based on stated educational considerations, to discontinue programs in anthropology, French, Italian, and religious studies. We understand that the administration has announced that it will issue terminal one-year appointments on August 31 to as many as six tenured faculty members who teach in these programs.

IWU faculty members have further advised us that, while several representative faculty bodies participated in the year-long process that preceded this action, that process was nevertheless marred by repeated departures, on the part of the administration and governing board, from normative standards of academic governance; that the faculty and its representative bodies repeatedly protested these departures in formal resolutions and other written communications addressed to the administration and board; and that both entities either ignored or minimized the faculty's stated concerns.

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Our Association's interest in the situation at Illinois Wesleyan University stems from the AAUP's longstanding commitment to principles and standards of academic governance and of academic freedom and tenure as enunciated, respectively, in the *Statement on Government of Colleges and Universities* and the 1940 *Statement of Principles on Academic Freedom and Tenure* (both of which are enclosed for your convenience). The *Statement on Government* was jointly formulated in 1966 by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges; the 1940 *Statement* was the joint formulation of the AAUP and the American Association of Colleges and Universities (formerly the American Association of Colleges) and over the last eighty

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years has gained the endorsement of more than 250 scholarly societies and higher-education organizations. As you know, the IWU faculty handbook incorporates in toto the 1940 *Statement* as well as the interpretive comments formulated by the AAUP and the AAC&U in 1970.

The *Statement on Government* recognizes that “[t]he variety and complexity of the tasks performed by institutions of higher education produce an inescapable interdependence among governing board, administration, faculty, students, and others.” As a result, effective institutional decision-making requires “adequate communication among these components and full opportunity for appropriate joint planning and effort” — what has come to be called “shared governance.”

But shared governance is not the same as stakeholder engagement or even democracy. It acknowledges the differences in responsibility, and therefore authority, that each institutional component possesses — with the governing board, the “final institutional authority,” having responsibility for the general oversight of the institution; the administration for its day-to-day operation; and the faculty for academic matters. As the *Statement* puts it, “The faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, . . . and those aspects of student life which relate to the educational process” as well as for “faculty status and related matters,” which includes “appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal.” Why does the faculty exercise primary responsibility for these matters? According to the *Statement on Government*, because the faculty’s “judgment is central to general educational policy.”

As the AAUP’s *On the Relationship of Faculty Governance to Academic Freedom* (also enclosed) aptly observes, “Sound governance practice and the exercise of academic freedom are closely connected, arguably inextricably linked. While no governance system can serve to guarantee that academic freedom will always prevail, an inadequate governance system — *one in which the faculty is not accorded primacy in academic matters* — compromises the conditions in which academic freedom is likely to thrive” (emphasis added).

It should come as no surprise, then, that AAUP-recommended procedural standards derived from the 1940 *Statement* and designed to protect academic freedom and tenure grant the faculty primary responsibility for decision-making related to appointment terminations. These procedural standards are set forth in the Association’s *Recommended Institutional Regulations on Academic Freedom and Tenure* (enclosed).

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Regulation 4d of the *Recommended Institutional Regulations* governs the termination of appointments resulting from a “bona fide formal discontinuance of a program or department of instruction” for educational reasons, the stated basis for the actions taken by the IWU administration and governing board. As you are aware, chapter four (G.2.c) of the IWU faculty handbook incorporates, substantially verbatim, the pre-2013 version of this regulation.¹

The provisions of Regulation 4d are as follows:

Under 4d(1), a bona fide program discontinuance “will be based essentially upon educational considerations, as determined by the faculty as a whole or an appropriate committee thereof.” “Educational considerations” exclude “cyclical or temporary variations in enrollment”; instead, they “must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance.”

Under 4d(2), “Faculty members in a program being considered for discontinuance will promptly be informed of this activity in writing and provided at least thirty days in which to respond to it.”

Under 4d(3), “Before the administration issues notice of its intention to terminate an appointment” because of program discontinuance, “the institution will make every effort to place the faculty member in another suitable position,” including providing financial and other support for a reasonable period of retraining. This regulation also requires the administration to pay “severance salary equitably adjusted to the faculty member’s length of past and potential service,” which “may well exceed but not be less than” one year of salary for faculty members with indefinite tenure.

Under 4d(4), affected faculty members have the right to contest any relocation or termination in an adjudicative hearing of record before an elected faculty hearing body. Contestable issues include the “institution’s failure to satisfy any of the conditions” of Regulation 4d. In such a hearing, the burden of proof rests with the administration on

¹ In 2013, the AAUP inserted the following as 4d(2): “Faculty 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.” We understand that the IWU administration assured the faculty that it would adhere to this provision despite its absence from the faculty handbook.

every issue except a faculty determination that a program should be discontinued, which “will be considered presumptively valid.”

The Association regards adherence to these procedural standards as necessary for the protection of academic freedom and tenure. An action to discontinue programs and terminate appointments taken in disregard of these standards undermines tenure; gives all faculty members reason to believe that their appointments are insecure; and thus weakens, if not destroys, the climate for academic freedom, upon which we claim educational excellence depends.

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The information in our possession suggests that the administration and governing board of Illinois Wesleyan University failed to observe key provisions of Regulation 4d despite repeated faculty efforts to call attention to these departures and to ask for correction.² The following are issues of particular concern.

Whether the considerations that led to program closures were educational (Regulation 4d[1]). Documents provided to the AAUP indicate that the IWU administration introduced and characterized the program evaluation process as primarily a financial rather than an educational undertaking, and the faculty members involved accordingly understood it as such.

An April 3 resolution unanimously passed by the Council on University Programs and Policy (CUPP)—the faculty body charged with primary responsibility for program discontinuance under IWU’s faculty handbook—for example, states that the committee did not understand its work to be related to program discontinuance for educational reasons: “Specifically, the Program Evaluation process was not ‘essentially educational’ as it primarily involved taking into account the financial impact of academic units. Therefore, any recommendation put forward that is based on the Program Evaluation report can regard only *programs*, not *faculty*,” i.e., any program reductions would not entail terminations of faculty appointments.

² A document from the Council on University Programs and Policy (CUPP) issued on July 10 and addressed to the “Illinois Wesleyan University Trustees” contains eight examples of such efforts on the part of CUPP from April 3 to July 9. One faculty member has described this document as indicating that “time and time again, CUPP has warned the administration and governing board that governance standards were being violated. CUPP tried repeatedly to bring the administration and board back to the exercise of properly shared governance—but to no avail.”

A July 9 resolution from the Program Evaluation Task Force (PETF)—the faculty committee charged with the initial stages of the program—states that “the data and rubric provided to the PETF were based upon financial, not educational considerations, and the PETF made its recommendations based principally on those considerations” and that “the PETF was given assurances that terminations were not part of the process.”³

Whether the considerations that justified the closures were determined by “the faculty or an appropriate committee thereof” (Regulation 4d[1]). Under AAUP-supported standards, as noted in our *Role of the Faculty in Conditions of Financial Exigency*, “program closure is very much a matter of educational policy.” As a result, “the faculty should . . . be accorded an *initial* and *decisive* role in any deliberations over program closure and release of tenured faculty members.”

Faculty members have informed us that no faculty or administrative body recommended the closure of religious studies and that the faculty as a whole failed to pass a motion recommending the discontinuance of the French major. A June 19 CUPP resolution states that “reasons [for program discontinuance] determined primarily by the board or the administration would not comply with either Regulation 4d or the IWU Faculty Handbook.” A July 9 PETF resolution states that the board’s decision to discontinue programs in anthropology, French, Italian, and religious studies at its July 19 meeting was “not a continuation of the agreed-upon process” but “a subversion of that process and . . . not an exercise of shared governance. Any recommendations that come from this new process have not undergone appropriate faculty review.”

Responding by an email message of July 27 to a query from CUPP asking how programs were selected for discontinuance, Chair Szerlong replied,

³ We understand that President Nugent assured the faculty at its September 18, 2019, meeting that a forthcoming program review would not result in the termination of tenured appointments. We further understand that, until spring 2020, officers of the administration and governing board continued to characterize the program review process as a cost-saving undertaking that did not trigger either the handbook’s financial exigency or its program discontinuance policy because it would not culminate in any appointment terminations. That the process did so culminate lends the whole process, at least in retrospect, the unfortunate appearance of a bait-and-switch scam. Taking the administration and governing board at their word, the faculty participated in an intensive curricular review under the assumption that no appointments would be terminated, only in the end to see their hard work employed for precisely that purpose and leading them to question whether the undertaking was initiated in good faith.

Please keep in mind that any program in the review upon which the board had yet to offer [a] response remained eligible for further review if the board deemed that would be of value. We limited the focus to six. The programs that received this further review were ultimately identified by me based on feedback and questions advanced by various trustees.

This response suggests that the final decision to discontinue programs was made unilaterally by the board chair despite faculty recommendations. The response also suggests that the IWU board and its chair assert the right to select *any* academic program for discontinuance and associated faculty appointments for termination irrespective of the faculty's carefully considered recommendations, the university's policies, and widely accepted academic governance standards.

Whether faculty members in programs selected for elimination received notice of the reasons for the prospective closures (Regulation 4d[2]). Faculty members whose programs are slated for closure cannot provide an effective response without being informed of the reason for the decision. We understand that the affected faculty members received no such information, much less any insight regarding potential educational reasons. On June 19, CUPP adopted a resolution stating that "the notification letters [to affected faculty members] do not present any reasons or considerations, educational or otherwise, for the possible discontinuation of programs. The point of the 30-day notice is to permit affected units and faculty to respond." The resolution ended by insisting that "*the board or administration . . . immediately provide affected units and faculty members with the official and specific educational reasons the board will consider in making their decision*" (emphasis in original).

We understand, further, that the administration subsequently instructed faculty members in affected departments to make the case to the board that their programs contributed to the health and success of the university and its "overall educational mission." Such an approach seems problematic. First, it fails to provide faculty members with the program-specific reasons required to mount an effective response to a discontinuance proposal. Second, it appears to stand Regulation 4d on its head: rather than being informed of the educational reasons for its closure to which to respond, the program must instead provide educational justification for its own continuance.

Whether the administration is making "every effort" to find appropriate suitable positions for tenured faculty members prior to issuing notices of termination. My enclosed July 24 advisory letter to Professor Michael Theune, vice chair of CUPP, explains the AAUP's position that making "every effort" requires "more than merely granting displaced faculty

members the right to apply for other currently advertised positions,” that “administrators should work creatively to transfer displaced faculty members’ lines to other potential departmental homes,” and that (quoting from the case report of our investigation at National Louis University) “the release of tenured faculty members . . . qualified to teach available courses [is] a violation of Association-supported policy and of the commonly accepted understanding of tenure.”

Faculty members have informed us that at a July 30 emergency meeting, the IWU faculty overwhelmingly passed a CUPP resolution urging the administration not to issue terminal appointments for 2020–21 while the affected faculty member’s courses are still in the catalog and while the faculty is considering the state of the academic program and curriculum in the wake of program closure, a resolution consistent with the Regulation 4d(3) provision that every effort be made “*before* the administration issues notice” (emphasis added).

As I emphasized in our advisory letter to Professor Theune, in assessing the bona fides of a program discontinuances ostensibly effected for educational reasons, the AAUP pays special attention to an administration’s adherence to Regulation 4d(3). The passage I cited from the *Role of the Faculty in Conditions of Financial Exigency* is worth quoting again:

This provision is crucial to determining whether a program is being discontinued for sound, legitimate educational reasons or whether it is being discontinued simply in order to shed its tenured faculty members: an institution that makes no substantial effort (or, as is often the case, no effort at all) to find ‘another suitable position’ for faculty members affected by program closure is effectively using program closure as a convenient way to terminate tenured appointments.

According to faculty sources, the IWU administration has repeatedly suggested that terminal appointments issued at the end of August for the upcoming year might be rescinded if in the meantime suitable positions were to be found for affected faculty members. We would welcome such a rescission, as long as the faculty member was restored to a tenured appointment. But this approach is not an acceptable substitute for making every effort to find a suitable alternative appointment *before* issuing a terminal appointment. Indeed, the fact that the administration is apparently contemplating the possibility that such positions might become available in the near term suggests that it has not hitherto made every effort to find suitable positions elsewhere within the institution for the affected faculty members.

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A faculty member requesting anonymity from fear of retaliation has summarized the departures from AAUP-recommended standards discussed in the previous section:

- usurpation of a program evaluation process in order to change the curriculum in ways the faculty either does not agree with or else has not had the opportunity to consider and weigh in on (in short, failure to respect the faculty's primary role in matters of determining curriculum, especially insofar as "primary" indicates both an *initial* and a *decisive* decision-making role);
- failure to articulate clear educational considerations for the closure of the departments of anthropology, French, and religious studies (most likely because the considerations are mainly financial, not educational); and
- failure to exert "every effort" to find new positions for the tenured faculty members from the departments the majors and minors of which have been slated for discontinuance.

To reiterate, actions by the administration and governing board of Illinois Wesleyan University to close programs and terminate appointments appear to have been taken in disregard of AAUP-supported principles and standards of academic governance, with deleterious effects on tenure and academic freedom at the institution.

The information in our possession concerning this case has come to us entirely from faculty sources, and we appreciate that you may have additional information that would improve our understanding of what has occurred. We therefore welcome your comments. In the meantime, assuming the basic accuracy of the foregoing account, we urge the administration and board of trustees to take immediate steps to address the issues we have raised by

- responding to CUPP's June 19 resolution and providing affected faculty members with a statement of the board's specific reasons for discontinuing their programs;
- accepting the faculty recommendation, adopted at the July 30 emergency faculty meeting, to refrain from issuing terminal contracts to affected faculty members for the 2020–21 academic year; and

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- employing the upcoming academic year to make every effort to identify suitable alternative positions for faculty members in discontinued departments in accordance with the Association-supported standards outlined in this letter.

Absent countervailing information or an appropriate resolution, the evident serious departures from Association-recommended principles and standards will likely result in the staff's recommending to the AAUP's executive director that she authorize a formal investigation into the matter under the aegis of the Association's Committee on College and University Governance (see the enclosed *Standards for Investigations in the Area of College and University Governance*).

We look forward to your timely response.

Sincerely,



Gregory F. Scholtz
Director

Department of Academic Freedom, Tenure, and Governance

Enclosures by electronic mail

cc: Mark Brodl, Provost and Dean of Faculty
Dr. Rebecca Roesner, Associate Provost
Professor Ann Eckhardt, Chair, Council on University Programs and Policy
Professor David Marvin, Chair, Curriculum Council
Professor Meghan Burke, Chair, Department of Sociology and Anthropology
Professor Tao Jin, Chair, Religious Studies
Professor Carolyn Nadeau, Chair, World Languages, Literatures, and Cultures
Professor Emily Kelahan, President, IWU AAUP Chapter
Professor Michael J. Harkins, President, Illinois AAUP Conference