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# Academic Freedom and Tenure: Linfield University (Oregon)<sup>1</sup>

(APRIL 2022)

On April 26, 2021, Dr. Daniel Pollack-Pelzner, a tenured professor of English with ten years of full-time service at Linfield University, received an email message from the provost summoning him to a virtual meeting with her the next day. When he emailed the provost to inquire about the purpose of the meeting, she responded, “To discuss your employment at Linfield.” When he asked that the meeting be postponed until he could retain an attorney to accompany him, the provost cancelled it.

The next day, Professor Pollack-Pelzner has recounted, his university laptop abruptly shut down while he was participating in a work-related teleconference, and when he tried to reboot it, he received an “access denied” notification. When he attempted to send an email message from his Gmail account to his university email address, he received the following automated reply: “Daniel Pollack-Pelzner is no longer an employee of Linfield University.”

Later that same afternoon, the director of human resources sent him an email message stating that because the meeting that “would have notified [him] of the termination of [his] employment did not take place,” he would instead be sent by FedEx overnight

mail “a written summary” of the topics the administration had intended to discuss with him. The email ends by stating, “This confirms that your employment terminated today, Tuesday, April 27, 2021.”

The summary that arrived the next day came in the form of a memorandum from the provost, dated April 27, containing the notice of termination with the additional information that his dismissal had been effected “for cause.” The provost charged that Professor Pollack-Pelzner had “violated . . . attorney-client privilege”; “circulated false statements about the University, its employees, and its Board”; “knowingly refused to comply with University policies”; and “interfered with the University’s administration of its responsibilities.” The memorandum directed him to return his computer and all other university property immediately (advising him that his refusal to do so would be construed as “theft”), gave him thirty days to clean out his office, notified him that he would receive his final paycheck that same day, and informed him that his health benefits would expire the next day.

## **I. The Institutional Context**

Linfield University (prior to July 1, 2020, Linfield College) enrolls approximately 1,900 undergraduate students taught by about 130 full-time faculty members at its main campus in McMinnville, Oregon, and at its school of nursing in Portland. Founded in 1858 as the Baptist College at McMinnville, Linfield maintains an affiliation with the American Baptist Churches, USA. The university’s president is Dr. Miles K. Davis, who took office in July 2018 as the institution’s first African American leader. Dr. Davis had previously served as a faculty member and later dean in the business school at Shenandoah University

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1. The text of this report was written in the first instance by the investigating committee. In accordance with Association practice, the text was then edited by the Association’s staff and, as revised with the concurrence of the investigating committee, was submitted to Committee A on Academic Freedom and Tenure. With the approval of Committee A, it was subsequently submitted to the subject faculty member, the administration, and other concerned parties. This final report has been prepared for publication in light of the responses received and with the editorial assistance of the staff.

in Virginia. Linfield's provost and vice president for academic affairs is Ms. Susan Agre-Kippenhan, previously dean of the College of Arts and Architecture at Montana State University. During the events of concern the university's thirty-member governing board was chaired by Mr. David C. Baca, an alumnus and corporate attorney, who resigned from the board on September 14, 2021.

Professor Daniel Pollack-Pelzner, who earned his degrees at Yale (BA, history) and Harvard (PhD, English), began his postsecondary teaching career at Linfield in 2010 as assistant professor of English. In July 2016, he was promoted to associate professor with tenure and appointed Ronni Lacroute Chair in Shakespeare Studies. In July 2020 he received promotion to full professor. According to his faculty webpage (deleted by the university on April 27, 2021), he has published extensively on literary and cultural topics in both scholarly journals and in magazines and newspapers, the latter including the *Atlantic*, the *New Yorker*, and the *New York Times*.

## **II. The Case of Professor Pollack-Pelzner**

The investigating committee benefited from a wealth of documentation regarding this case, which received extensive coverage in both local and national media. On April 14, 2021, prior to a vote of no-confidence in the institution's leadership by the faculty in the College of Arts and Sciences and two weeks before his dismissal, Professor Pollack-Pelzner emailed his colleagues a detailed summary of his interactions with the administration and governing board, which was subsequently shared with news outlets. President Davis and other Linfield officials issued statements and granted press interviews regarding their action against Professor Pollack-Pelzner. On July 12, 2021, Professor Pollack-Pelzner's attorney submitted a lawsuit in Oregon circuit court that incorporates a detailed chronology of events. The foregoing account of Professor Pollack-Pelzner's dismissal and the following narrative are based on these sources as well as on the investigating committee's interviews.

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In spring 2019, the Linfield faculty elected Professor Pollack-Pelzner "faculty trustee." According to the institution's faculty handbook, the faculty trustee is "a full voting member of the Board of Trustees" whose role of "liaison . . . between the board and the faculty" obliges that individual "to speak to issues of concern to the faculty and to seek and promote

opportunities for faculty-trustee interaction and cooperation." Shortly after Professor Pollack-Pelzner attended his first board meeting, in November 2019, a faculty colleague (later revealed to be Professor Jamie Friedman) informed him that during a faculty-trustee social event held in conjunction with that meeting, a new member of the board—a friend of the president—had inappropriately touched her, asked if she were married, and invited her to join him off campus. The professor said she was reluctant to file a formal complaint because she feared it would be met with disbelief and might result in retaliation. She noted that she would be standing for tenure in the spring and was acutely conscious that the board had the final say on tenure recommendations.

That same month another colleague contacted Professor Pollack-Pelzner to report that a former student had recently told her that another board member had touched her and spoken to her inappropriately at a trustee-student social event in spring 2019. Both colleagues asked Professor Pollack-Pelzner, in his role as faculty trustee, to report these allegations to the board, while maintaining their anonymity and that of the alumna. Professor Pollack-Pelzner accordingly shared the two reports with the university's then general counsel, Mr. John McKeegan, along with his colleagues' recommendations that the board institute training for its members on avoiding sexual harassment, issue guidelines for board member conduct, and identify means of facilitating board interaction with faculty and students other than off-campus evening events at which alcoholic beverages are served. Mr. McKeegan told Professor Pollack-Pelzner that he would convey the allegations and recommendations to board chair Baca.

In early December 2019, after students reported finding swastikas and racist messages scrawled on residence-hall whiteboards, Professor Pollack-Pelzner organized a response to the incident in the form of a faculty-staff letter to the administration asking that diversity and inclusion training be provided for the entire campus community.<sup>2</sup> The December 13 letter also called upon the administration to address the issues posed by the incidents and to keep the campus community informed about the steps it was taking because "it is vital to the health of Linfield that the college responds to these incidents as a threat to

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2. The Linfield student newspaper had reported a similar incident in February 2014.

our entire community.” The administration did not respond.

That same week Professor Pollack-Pelzner learned from an article in the December 10 issue of the *Oregonian*, the statewide newspaper headquartered in Portland, that an alumna had filed a lawsuit against Mr. David Jubb, a former board member. The lawsuit alleged that Mr. Jubb, who had not been identified in the reports Professor Pollack-Pelzner had previously forwarded to the board, had sexually assaulted the alumna, a student trustee, at a social event following the February 2019 board meeting. According to the article, the student had reported the incident to the administration and board chair Baca, who had assured her that Mr. Jubb would be “removed” from the board by May. When Mr. Jubb resigned from the board in June for “health reasons,” the article noted, Mr. Baca had recognized Mr. Jubb’s “valuable service” and “positive contributions.”

Disturbed by this new information, Professor Pollack-Pelzner sent an email message on December 12 to President Davis and Chair Baca stating that Mr. Jubb was not the only board member who had been accused of inappropriate conduct and reminding them of the allegations regarding two other trustees that he had previously forwarded to Counsel McKeegan. He reiterated his request that board members be offered training in sexual-harassment and sexual-assault prevention, warning that if the board did nothing to address these issues prior to its February meeting, he could not, “in good conscience, encourage colleagues to attend any more trustee social events.”

By January 2020, Professor Pollack-Pelzner has claimed, the board had done nothing to address the issue. Thus, when faculty members received invitations that month to host trustees for dinner in their homes on Valentine’s Day, as had been the custom, Professor Pollack-Pelzner sent an email message on January 27 to the faculty, with copies to Chair Baca and President Davis, stating that he could not “support the dinners.” The following day, Chair Baca asked Professor Pollack-Pelzner to meet with him in his Portland law office.

According to Professor Pollack-Pelzner, the meeting did not go well. As Professor Pollack-Pelzner remembers it, Mr. Baca began by accusing him of “a secret agenda to grab power,” claimed that “the board never had a problem” prior to Professor Pollack-Pelzner’s service on it, and said that he was not going “to ask all the trustees to become Puritans just because some students and professors said they were uncomfortable

being touched.” The fact that Professor Pollack-Pelzner was hearing complaints, Mr. Baca reportedly added, “doesn’t mean that I have to don a hairshirt and punish myself.”

On February 5, Professor Pollack-Pelzner received an anonymous letter from the alumna whose account of inappropriate conduct and speech on the part of a trustee his colleague had shared with him in November. Professor Pollack-Pelzner immediately forwarded that letter with its firsthand account to President Davis, Chair Baca, Counsel McKeegan, and the institution’s Title IX coordinator, along with a reiteration of his call for guidelines and training for board members on preventing sexual harassment. President Davis responded by informing Professor Pollack-Pelzner that he intended to remind faculty members at the next faculty meeting of their reporting responsibility under Title IX, a response Professor Pollack-Pelzner interpreted as a warning that he might be held “personally liable” for not revealing the identities of the faculty members and alumna who had shared their stories with him.

Three days prior to the February 10 faculty meeting, Professor Pollack-Pelzner submitted his faculty trustee report to the office of academic affairs for inclusion among the written materials for the meeting. The report conveyed Professor Pollack-Pelzner’s concerns about perceived board and administration inaction in response to allegations of sexual misconduct on the part of board members, including those regarding Mr. Jubb, as well as about the administration’s lack of response to the faculty’s December 13 letter regarding racist and antisemitic graffiti in the residence halls. On the evening that his office received the report, the then dean of faculty, Dr. Jackson Miller, called Professor Pollack-Pelzner to inform him that President Davis had directed him to remove it from the faculty meeting agenda. According to the lawsuit Professor Pollack-Pelzner has filed in circuit court, Dean Miller stepped down as dean on February 10 in protest of the administration’s “mishandling of sexual-misconduct allegations” and its suppression of Professor Pollack-Pelzner’s report.

On the morning of the faculty meeting, President Davis met with Professor Pollack-Pelzner and asked him to withdraw his report. When Professor Pollack-Pelzner refused, President Davis, according to Professor Pollack-Pelzner’s account, stated that the report “would destroy Linfield.” The president, however, distributed the report to the faculty several hours before the meeting, along with his rebuttal, and then

gave a speech at the faculty meeting which, according to Professor Pollack-Pelzner, downplayed the impact that antisemitic and racist epithets and symbols might have had on Jewish and other minority members of the Linfield community.

Three days later, on February 13, Professor Pollack-Pelzner received a letter from Professor Friedman, the faculty colleague who had first reached out to him in November. The letter provided her firsthand account of the unwelcome speech and conduct of the new board member at the spring 2019 trustee-faculty social event. Professor Pollack-Pelzner immediately forwarded the letter, with the author's name redacted, to the Title IX coordinator, with copies to President Davis, Chair Baca, and Counsel McKeegan. As with the letter he had received from the alumna, Professor Pollack-Pelzner considered the actions alleged in it to have constituted sexual misconduct as defined in the university's regulations: "any intentional sexual touching, however slight, with any object or body part, by any person upon any other person, without consent."

At the board meeting the next day, Professor Pollack-Pelzner has reported, President Davis gave a speech in which he stated that, as a student of history, he was aware that great empires had been destroyed by "internal dissent" and that Linfield College would be similarly affected unless its critics followed the teachings of Jesus in his Sermon on the Mount. Professor Pollack-Pelzner, who is Jewish, has stated that he believed these remarks to be directed at him. Professor Pollack-Pelzner has also stated that he began to perceive the president's remarks as part of a pattern, beginning with Professor Pollack-Pelzner's first conversation with the president in October 2018. On that occasion, Professor Pollack-Pelzner has recounted, he told the president that he was teaching Shakespeare's *Merchant of Venice*, a play that incorporates antisemitic elements. The president, Professor Pollack-Pelzner has reported, "responded, excitedly, that he knew that if you measured the size of the average Jewish nose and compared it to the size of the average Arab nose, you couldn't tell the difference."

On February 26, Professor Pollack-Pelzner filed a complaint with the director of human resources about what he characterized as efforts on the part of Chair Baca and President Davis to silence him as well as what he regarded as the antisemitic undertones of their rhetoric. The human resources director, according to Professor Pollack-Pelzner, said, "Personally, I don't believe the Jews have a secret agenda to grab power at

all," adding that she had a "nice Jewish neighbor who would never try to grab power." She assured Professor Pollack-Pelzner that the college would engage an investigator to examine his allegations.

Soon thereafter, Professor Friedman submitted a formal complaint to the college's human resources department. In addition to describing the spring 2019 incident of unwelcome speech and conduct by the new board member, the complaint recounts previously unreported conduct by President Davis that had allegedly occurred in September 2018. With regard to the latter incident, Professor Friedman has stated, "I did not initially file a 'formal' complaint against President Davis in 2018 (that is, no paperwork was filled out). I notified a member of HR (I don't believe it was the director of HR) over the phone, detailing how Davis came up behind me, rubbed my arms up and down, and whispered in my ear that he was looking forward to our next meeting. The HR representative discouraged me from filing a report and told me that's just how men are. She advised me to have a conversation with him and educate him about how women like to be touched in professional settings. I declined her advice."

In late April, in advance of the May board meeting, Professor Pollack-Pelzner submitted his faculty-trustee report to the board of trustees. In it, he protested a recent board proposal to revoke the voting rights of student and faculty trustees as well as their right to attend executive sessions, charging that these proposed changes were being advanced to retaliate against students and faculty members who had openly conveyed their concerns regarding alleged misconduct by board members, and he cited the negative reactions directed at him by President Davis and Chair Baca. Professor Pollack-Pelzner told the *Linfield Review*, the student newspaper, that his report also contained information about sexual-misconduct allegations against three current board members. According to Professor Pollack-Pelzner (in his April 14, 2021, email account to the arts and sciences faculty), Mr. Baca had "censored" the report and "forbade the trustees from discussing it," directed Professor Pollack-Pelzner not to discuss "sexual misconduct outside of executive sessions," "banned" Professor Pollack-Pelzner from those sessions, and allowed the board attorney to "threaten" him "with public exposure" if he "continued to report sexual misconduct."

Following the May board meeting, Professor Pollack-Pelzner received a letter from yet another former Linfield student. The student claimed that in

2018 she had reported to Counsel McKeegan that Mr. Jubb had subjected her to unwelcome sexual advances at a trustee-student event in May 2017 and had been assured that Chair Baca would take steps to prevent Mr. Jubb from repeating the behavior with other students. The former student shared this information with Professor Pollack-Pelzner (and, later, with the press) when she learned about the lawsuit against Mr. Jubb. A May 22, 2020, article in the *Oregonian* (“Linfield College Graduate Accuses School of Ignoring Her Abuse Complaint, Allowing Board Member to Strike Again”) quotes the student as saying that Mr. Baca gave his word that “David Jubb would never have contact with students again or be allowed at events that served alcohol.”<sup>3</sup> On May 19, Professor Pollack-Pelzner forwarded the letter to the college’s Title IX coordinator and the governing board.

On May 26, the faculty assembly (which consists of the institution’s full-time faculty) adopted the following motion: “The Faculty Assembly has no confidence in Board of Trustees Chair David Baca to continue to provide leadership that promotes transparency, accountability, and responsiveness on issues of sexual assault and sexual misconduct.” Citing the chair’s handling of the allegations against Mr. Jubb and the “censoring” of Professor Pollack-Pelzner’s faculty trustee report, the rationale for the motion states that Mr. Baca had “demonstrated a clear pattern of inaction on prior allegations” of sexual misconduct by board members, “a pattern of misleading and damaging messaging,” and suppression of “thoughtful dialog” on these issues, creating “potential ongoing harm to the institution.” When

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3. By this time, the criminal indictment against Mr. Jubb had been unsealed. On May 13, 2020, the *Oregonian* reported that Mr. Jubb had been accused of one count of first-degree sexual abuse, alleging that he subjected a student-trustee to forcible contact on February 15, 2019, as they left a faculty-trustee dinner, and seven counts of third-degree sexual abuse involving three other students, alleged to have occurred on May 5, 2017, at a senior awards dinner. The article also revealed that the college had paid the former student, AnnaMarie Motis, \$500,000 to settle her civil suit against the institution.

On October 29, 2021, the *Oregonian* reported that several days earlier, after Mr. Jubb had entered no-contest pleas to two counts of sexual harassment “for groping two students,” the court sentenced him to eighteenth months of probation and ordered him to undergo an alcohol abuse assessment. The article added, “A no contest plea means Jubb didn’t admit guilt but acknowledged the state had sufficient evidence to convict him.”

President Davis declined to forward the faculty assembly’s motion and rationale to the board, Professor Pollack-Pelzner did so.

In response to similar communications from students, parents, and alumni during summer 2020—including a student-initiated petition seeking Mr. Baca’s resignation that reportedly garnered more than 3,200 signatures—the board’s executive committee and Chair Baca each sent email letters, both dated July 30, to the “Linfield community.” The executive committee’s letter begins by reaffirming its “unwavering support” for Mr. Baca. Regarding the faculty’s no-confidence motion, the executive committee states, “We see no reason to comment . . . except to say we utterly reject it.” The letter goes on to address, with evident reference to Professor Pollack-Pelzner, “the campaign of false information . . . promulgated in recent months,” asserting that “allegations . . . first raised in February that four trustees had been ‘credibly accused of sexual misconduct,’” are “false.”

Board chair Baca’s letter is more personal and more pointed. He had concluded, he writes, that “it is important to speak publicly about the campaign to demand my resignation.” After stating that his fellow board members rejected his offer to resign, Mr. Baca refers directly to Professor Pollack-Pelzner: “I am disappointed—even angry—that a small group of Linfield faculty members has falsely accused me and other trustees of failing to protect the safety of our students. It is shameful that a Faculty Trustee has spread misinformation, including the malicious claim that ‘four different members of the Board have been credibly accused of sexual misconduct.’ . . . Let me be clear. There are no pending allegations by any Linfield students involving ‘sexual misconduct’ against current trustees.” Citing his career as an attorney “devoted . . . to seeking social justice,” he writes, “I support the rights of students to protest and engage in free speech. I also believe that protest and debate should be based on facts.”

He then recounts the facts, as he perceives them, of the board’s handling of allegations against former board member Jubb. He states that when the board learned of these allegations, it “acted promptly and within the confines of the law and student privacy rights,” aligning its actions “as much as possible with the wishes of the complainant,” a “core tenet,” he states, “of dealing with harassment and assault complaints.” He adds that, after the first accusation, reported in 2018 of an event that allegedly occurred in May of the previous year, “we confronted Mr. Jubb,

imposed restrictions, and received assurances . . . that there would be no future misconduct.” After the second accusation, received in February 2019, “we again listened to the wishes of the complainant,” which, he states, “included protecting [her] identity, restricting disclosure of the report, and agreeing not to conduct a full investigation.”

“As our policies mandate,” he writes, “Linfield did not publicize the report and immediately banned Mr. Jubb from attending the next Board meeting while I began the process of removing him as a trustee.” This action was taken, he states, without an investigation or a hearing in accordance with the “student’s wishes.” In response to criticism of a “lack of transparency,” he indicates that the matter was kept confidential also at the student’s request. In response to criticism of his note acknowledging Mr. Jubb’s service when the former trustee resigned from the board, he states that “the note was never meant to be a public statement.” He did “not publicly denounce Mr. Jubb” because “there had not been an investigation and [any] findings” and Mr. Jubb had “denied the student’s allegations.” His only regret: “that we did not strictly enforce an order that Mr. Jubb refrain from fraternizing with students during the evening when the second incident allegedly took place.”

Regarding concrete actions taken to address the issue of sexual misconduct and abuse, Chair Baca states that a student-faculty-staff task force reviewed the institution’s Title IX policies and procedures during the 2019–20 academic year. That task force, he writes, found that “Linfield has appropriate” policies and procedures as well as personnel to implement them and that the institution “has mechanisms to realign and adapt those policies and procedures” should circumstances demand such action. He notes that the board “took action in February to clarify that each trustee is to be treated as a mandatory reporter and [to require each trustee] to undergo Title IX training” by spring 2020.

“Speaking only for myself,” he continues, “I believe the furor over false claims of rampant sexual misconduct at Linfield is the result of an unsettling time brought on by the cross-currents of a raging pandemic, great uncertainty, and sweeping change. It is my sincere belief that a small number of faculty members are rebelling against the changes brought to Linfield by President Davis, beginning with the difficult decisions required in the spring of 2019 to respond to several years of declining admissions and enrollment. President Davis is leading a dramatic, and

in my view necessary, transition that is uncomfortable for some parts of the community.”<sup>4</sup>

On August 12, less than two weeks later, members of the campus community received two additional letters from the institution’s leadership—one from, again, the executive committee of the board of trustees and the other from President Davis. The stated purpose of the board’s letter is “to report on the outcome of independent investigations into allegations of [inappropriate conduct] made by a faculty member [Professor Friedman] against two trustees.” The letter notes that, while “Linfield follows all applicable laws to protect the privacy and confidentiality of both complainants and respondents,” the executive committee is nevertheless sharing this information “because of unauthorized and inaccurate statements made in recent months—including by the Faculty Trustee in [his] February and May reports to the Board of Trustees.” Professor Pollack-Pelzner’s May report, the executive committee states, “described a ‘crisis’ at Linfield related to the safety of our students and revealed that ‘four different members of the board have been credibly accused of sexual misconduct since last February.’ Those claims were false, as we have stated previously.” Based on its review of the investigator’s findings, the executive committee states that it is “confident that claims of a sexual misconduct crisis are erroneous.”

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4. Chair Baca was apparently referring to the president’s efforts in early 2019 to deal with financial and enrollment problems by downsizing the faculty. In early February 2019, President Davis reportedly informed the Faculty Executive Committee that the college planned to eliminate twenty-five tenured and tenure-track positions through an “academic prioritization process.” Later that month, in response to a request from the Linfield AAUP chapter, the AAUP’s staff wrote an advisory letter to the chapter regarding “potential issues of academic freedom and governance” posed by the administration’s actions. That letter, dated March 4, notes that the college’s governing board had announced on February 28 that it was requiring a balanced budget for the 2019–20 academic year and that the administration had indicated that achieving that goal might require large reductions in the number of faculty positions. After reviewing AAUP-supported standards governing the termination of appointments for reasons other than cause, the staff’s letter concludes, “As the faculty handbook reproduces in their entirety the most recent versions” of the relevant AAUP standards, “it would seem to us that the faculty of Linfield College has every reason to expect that AAUP-recommended procedural standards will be adhered to should the college find it necessary to reduce the size of its faculty.” The anticipated cuts did not occur. See also Colleen Flaherty, “Linfield College Is Moving Forward with a Plan to Cut Its Faculty—Apparently with or without Professors’ Input,” *Inside Higher Ed*, February 11, 2019.

After repeating an assertion from its July 30 letter that “there were no reported allegations of sexual misconduct against any current trustee at the time of” Professor Pollack-Pelzner’s February report to the board, the executive committee acknowledges that “shortly thereafter a Linfield faculty member filed separate complaints against two trustees.” According to the executive committee, “the outside investigator determined that there was no harassment in either case.” The letter then alludes to two additional anonymous complaints of which Linfield’s Title IX office “was made aware,” but, the letter states, “no complainant ever came forward,” and the Title IX officer “determined that the anonymous allegations did not rise to the level of violating any Linfield policy.” “These four matters,” the letter summarizes, “represent the total number of complaints made against current trustees. None was found to constitute sexual misconduct. None was found to have violated any Linfield policy.”

The president begins his letter by revealing that he was “one of the trustees accused of inappropriate behavior,” a “complaint,” he says, “that came as a complete shock.” He briefly recounts the investigation of the complaint against him, which he calls “a learning experience,” but, he says, resulted in a finding that “no Linfield policies were violated and no misconduct had occurred.”

President Davis also mentions that an investigator had “thoroughly investigated” allegations by Professor Pollack-Pelzner (whom he does not name) that he had made antisemitic statements. “These claims of bias on my part are fictitious. . . . I will not dignify the allegations by discussing them further.”

A faculty response to these board and administration communications came on August 31 in the form of a six-and-a-half-page letter from the Faculty Executive Council. The council’s letter offers a detailed rebuttal of three claims made in the board and administration communications: “(1) that members of the faculty are simply ‘rebelling against changes brought to Linfield by President Davis,’ (2) that student concerns about safety are unwarranted, and (3) that Faculty Trustee Daniel Pollack-Pelzner has spread misinformation, made inaccurate claims, and acted maliciously.” Following a thorough review of the last claim, the letter concludes: “Given . . . [the] information that the Faculty Executive Council has reviewed, we do not believe that Dr. Pollack-Pelzner has spread misinformation or made inaccurate claims. As detailed above, accusations were made against four

different trustees, Dr. Pollack-Pelzner had every reason to believe that the reports were credible, and, based on his understanding of Linfield policy, [that] each case involved sexual misconduct.” As far as we are aware, the Faculty Executive Council did not receive a response to its letter.

With regard to Professor Pollack-Pelzner, the fall 2020 and the first half of the spring 2021 semester passed without major incident. He had not, however, remained silent. Throughout this period, as he informed the AAUP’s staff, he had “repeatedly asked the board leadership to apologize for its actions and to adopt an anti-retaliation policy to protect people who reported allegations of harassment in good faith.” The board declined to apologize or to adopt such a policy and instead moved ahead with a plan to eliminate the faculty and student trustee positions entirely. Thus, on March 29, in apparent frustration, Professor Pollack-Pelzner posted a string of twenty-three tweets repeating his claims about antisemitism and sexual misconduct at Linfield. “The moment I knew that nothing would come of my claims that the @LinfieldUniv President and Board Chair had religiously harassed me,” the thread begins, “was when I went to the head of HR and she said: ‘Personally, I don’t believe the Jews have a secret agenda to grab power at all!’” With regard to sexual misconduct, he wrote, “I had reported that four @LinfieldUniv trustees were accused of sexual misconduct by students and faculty over the past year. That’s more than 10% of the Board. Three of those trustees are still on the Board.”

Citing media sources, he enumerated additional charges: that board chair Baca failed to “keep Mr. Jubb away from students and alcohol,” even though the chair knew that Mr. Jubb had been “accused of sexually assaulting three students”; that Mr. Baca had told him that the board’s problems began when Professor Pollack-Pelzner joined it and that, if Professor Pollack-Pelzner really cared about sexual misconduct, he “would be going after the faculty, who, [Mr. Baca] had said, were the true predators”; that President Davis threatened him with “personal liability,” made “comments about Jewish noses,” and stated that people like Professor Pollack-Pelzner “were destroying” the university “from within and could only show loyalty by accepting the teachings of Jesus Christ”; and that when Professor Pollack-Pelzner tried to report these and other comments to the board, the president and board chair “censored” his report, said the issues could be discussed only in executive session, and then “banned” him from those sessions.

In his final tweets, he states that he had “previously declined to speak publicly” because the board had prohibited him from doing so. But, he writes, he had “just learned” that the board was about to abolish the student and faculty trustee positions, renew President Davis’s contract, and reelect Mr. Baca to another term as chair. “That’s why I’m speaking out now: because the @LinfieldUniv President and Board will continue to abuse their power until someone with more authority stops them.”

A week later, on April 8, the Pacific Northwest chapter of the Anti-Defamation League (ADL) addressed a letter to the board of trustees regarding Professor Pollack-Pelzner’s Twitter claims. After having heard about “allegations of antisemitism on campus,” the letter begins, “we reached out to Professor Daniel Pollack-Pelzner, who shared concerning details about recent incidents” at the university, including that “he experienced religious harassment after he reported that members of the Board of Trustees were accused of sexual misconduct.” The letter refers to Professor Pollack-Pelzner’s allegations that institutional officers had referred to “Jewish secret agendas and power grabs,” the size of Jewish noses, and Professor Pollack-Pelzner’s having to adhere to the teachings of Jesus Christ to show loyalty to the university. “These comments,” the letter states, “are very common antisemitic tropes and [are] extremely troubling.” The ADL letter also notes that the organization had been informed that the president had “downplayed the appearance of swastikas on campus.” The letter urges the board to “investigate” Professor Pollack-Pelzner’s allegations and to take the steps necessary to “ensure a culturally sensitive campus environment.” The letter also encourages the board to undertake training “to address bias and/or antisemitism.”

President Davis responded the next day, writing, “As you acknowledge, you cannot attest to the veracity of Professor Pollack-Pelzner’s allegations . . . promoted on Twitter late last month.” “None of the allegations,” he states, “involve recent incidents” but events that occurred “nearly a year ago.” He states that the administration “took deliberate and exhaustive actions to investigate each alleged incident” of antisemitism as well as of sexual misconduct on the part of board members, two of whom, he notes, are African Americans (as will be discussed later in this report, this last fact became an issue when the administration used charges of racism to deflect from the allegations of ongoing sexual misconduct). He

states that the “outside law firms” that conducted the investigation of Professor Pollack-Pelzner’s allegations “found no support for the violations he claimed,” nor did “trained internal investigators” or the university’s human resources office. Regarding the antisemitic comments Professor Pollack-Pelzner accused him of making, President Davis says that he “can attest that I did not make the comments he has attributed to me.” The human resources officer that Professor Pollack-Pelzner had accused, the president writes, also denies having made the objectionable comments.<sup>5</sup>

After noting that the university has “extensive and robust programs” in place for preventing “discrimination, sexual harassment and misconduct, and intolerance,” President Davis states that “Professor Pollack-Pelzner has been engaged in a smear campaign toward me and the administration at Linfield University. His recent Twitter posting is just the latest salvo in an effort that has caused harm to the university and our community.”<sup>6</sup>

On April 15, the Oregon Board of Rabbis published an open letter calling for President Davis and Chair Baca to “step down.” The open letter also advocated for the implementation of sexual-harassment policies and procedures, including “guidelines that prohibit retaliation”; training for board members on “implicit bias, micro-aggressions, and antisemitism”; and “reporting and transparency on these issues.” Regarding Professor Pollack-Pelzner, the rabbis expressed “grave concern” that President Davis had “not only failed to foster a climate of accountability” but had also made “antisemitic innuendos and disapprobations [*sic*] against a distinguished Jewish faculty member.”

The same day that President Davis received the ADL letter, he contacted the Salem-Keizer chapter of the National Association for the Advancement of Colored People (NAACP) to share his concerns about

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5. But Professor Pollack-Pelzner has reported that the investigator was prevented from looking into his allegations that Chair Baca had engaged in discriminatory and retaliatory conduct toward him. Professor Pollack-Pelzner’s lawsuit also notes that the investigator had stated that “Dr. Pollack-Pelzner has endured significant resistance from President Davis and other Linfield leadership.”

6. An April 29 article in the *Chronicle of Higher Education* (“Everybody Is a Target Right Now”) reports that President Davis told the *Chronicle* reporters that “he had indeed made the comment about Jewish and Arab noses.” The article also repeats claims by two Linfield psychology professors that President Davis had made a comment in a 2018 meeting about not sending “Jews to the shower with soap.”



“racial animus,” according to the April 30 “Final Report of Findings” by that group. In response, that organization charged a team of investigators to “determine if the attacks on President Davis were unfair.” Following interviews and review of documents, the NAACP’s investigating team found that “President Davis has been subject to numerous instances of unfair treatment since his arrival in July 2018, and this unfair treatment [and] personal attacks were due to [his] being a Black man.”<sup>7</sup> After providing its account of that treatment, the report concludes, “This is what systemic and institutionalized racism looks like in Oregon.”

Faculty members told the AAUP investigating committee that the human resources office had sent a message to the faculty about the NAACP investigation, reporting that “it did not know who had initiated” the investigation and encouraging “faculty cooperation.” According to the same sources, the NAACP investigator contacted six members of the Linfield University faculty on a Thursday, suggesting times in the next three days for interviews. These six, who happened to include the faculty members most often quoted in press accounts speaking critically of the administration, responded collectively in a letter to the NAACP with a list of questions about the nature of the investigation. These faculty members subsequently received a letter from the Salem-Keizer NAACP chapter stating that they had refused to cooperate because of their concern “that even being asked to be interviewed was retaliation.” Indeed, the investigating committee was informed, these six faculty members did express such concern, given the timing of the NAACP inquiry, but they also expressed interest in supporting an investigation into the racial climate on campus and did not refuse to be interviewed. Faculty members with whom this investigative committee spoke expressed general support for the broad conclusions of the NAACP investigation regarding the campus’s racial climate, if not the specific claim that President Davis was a victim of racial animus.

Informed by Professor Pollack-Pelzner’s April 14 email message recounting his struggles over the previous year and a half with the administration and governing board, the faculty of the College of Arts and

Sciences convened a special meeting on April 19 at which it adopted a one-page resolution expressing no confidence in Chair Baca and President Davis and calling upon them to resign. The resolution states that the two leaders had engaged in behavior that “degrades members of our community.” This behavior, according to the resolution, included “expressions of intolerance and discrimination; actions that intimidate or humiliate others; and retaliation against those who seek to promote justice and accountability.” They have responded, the statement continues, with “censorship, punishment, secrecy, and defamation” to faculty efforts “to work collaboratively, constructively, and proactively.” In so doing, the resolution concludes, President Davis and Chair Baca have “created an intimidating and hostile work environment, harmed members of the Linfield community, and damaged Linfield’s reputation.”

The following Sunday, April 25, the vice president for finance and administration sent an email message to the faculty announcing that, “based on the request of many faculty,” the administration had deactivated all campus email listservs because they were being used “to send unsolicited messages.” The next day Professor Pollack-Pelzner received the email message from the provost requiring his attendance at a meeting to discuss his “employment.” And on the afternoon of April 27, Provost and Vice President for Academic Affairs Agre-Kippenhan sent an email message to the campus community stating that the administration had taken “the extraordinary step of terminating the employment of a member of our faculty for serious breaches of the individual’s duty to the institution.” A university’s goals are undermined, she added, when “individuals abuse their positions of trust and take deliberate actions that harm the university.”

### **III. The Association’s Involvement**

Professor Pollack-Pelzner advised the AAUP on April 28 of having received notice the day before of the immediate termination of his tenured appointment “for cause.” On April 30, the AAUP’s staff wrote President Davis to inform him that “an action to dismiss a tenured professor without the administration’s having first demonstrated adequacy of cause in a pretermination hearing of record before an independent faculty body is in violation of the AAUP-AAC&U [American Association of Colleges and Universities] 1940 *Statement of Principles on Academic Freedom and Tenure* and the complementary 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.”

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7. One of the six faculty members whom the NAACP sought to interview, however, reports, “The NAACP investigator did not talk to any faculty members or students, but only interviewed a handful of administrators, like the dean of the college of arts and sciences and the special assistant to the president” (emphasis in original).

With respect to substantive concerns, the staff noted its understanding that “Professor Pollack-Pelzner, a faculty representative to the board of trustees, has publicly criticized the governing board for its handling of alleged sexual misconduct in its ranks and has accused you of having made antisemitic remarks, leading to the inference that the action against him may have been based on considerations that violated his academic freedom.” The letter continued, “The administration’s summary action against Professor Pollack-Pelzner is therefore a matter of grave concern to this Association under its longstanding responsibilities, which include investigating summary dismissals of faculty members in evident violation of their academic freedom.”

Regarding the consistency of Linfield’s dismissal policies with AAUP-supported principles and procedural standards, the staff stated, “Remarkably, the Linfield University faculty handbook incorporates verbatim, not only the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*, but the AAUP’s *Recommended Institutional Regulations on Academic Freedom and Tenure*, Regulation 5 of which sets forth even more detailed standards governing dismissal for cause.” “The administration’s summary action against Professor Pollack-Pelzner,” the staff’s letter concluded, “was evidently taken in flagrant violation, not only of AAUP-recommended standards, but of the institution’s own regulations.”

The staff’s letter closed by urging, “in strongest terms,” the rescission of the notice of dismissal issued to Professor Pollack-Pelzner, his immediate reinstatement to his academic responsibilities, and the administration’s adherence to AAUP principles and procedural standards in any further action against him.

President Davis responded on April 30, writing, “Linfield respects the work and advocacy of the AAUP and is unwavering in its support of academic freedom.” With respect to Professor Pollack-Pelzner’s dismissal, he wrote, “The personnel action undertaken last week was a firing for cause unrelated to academic performance or professional competence.”

In its May 4 response, the staff referred President Davis to the AAUP’s *Recommended Institutional Regulations on Academic Freedom and Tenure*, which, the staff pointed out, the faculty handbook incorporates in full. Regulation 5a of the *Recommended Institutional Regulations*, the staff noted, provides as follows: “Adequate cause for dismissal will be related, directly and substantially, to the fitness of faculty

members in their professional capacity as teachers or researchers.” The staff then advised the president that his statement that Professor Pollack-Pelzner’s dismissal was “unrelated to academic performance or professional competence” therefore contravened “a crucial AAUP-recommended dismissal standard.” The letter ends by stating that unless the AAUP received news by the following week that the Linfield administration had rescinded Professor Pollack-Pelzner’s summary dismissal, the AAUP’s staff would recommend a formal investigation of the case. President Davis’s one-sentence response, dated May 10, conveyed his thanks for the letter and informed the staff that he had “shared it with [the institution’s] legal counsel for review.”

On May 17, the staff wrote to inform President Davis that the AAUP’s executive director had authorized an investigation of the action against Professor Pollack-Pelzner. “In situations of this kind,” the staff explained, “which involve developments of interest to the general academic community, our long experience has indicated that it is desirable—in fairness to the institution’s administration and governing board, the affected faculty member or members, and the institution as a whole—to establish an ad hoc committee composed of professors . . . who have had no previous involvement in the case to conduct its own inquiry without prejudgment.” The letter closed by noting that the staff would be writing again to provide the administration with the names of the investigating committee members and an estimated date on which the committee would be contacting the administration to arrange interviews.

Provost Agre-Kippenhan responded by email the same day. She wrote that “Linfield University does not have an AAUP union chapter” and that, while the Linfield administration “respect[s] the AAUP and its work and understand[s]” the AAUP’s interest “in issues raised by this matter, our position is that it is not suitable for resolution through an ad hoc committee of a private, outside organization.” As a result, she added, the Linfield administration “declines your invitation to participate.”

In reply, the AAUP’s staff questioned how the absence of an AAUP collective bargaining chapter would be relevant to the AAUP’s prospective investigation, pointing out that “most of the institutions at which” the AAUP has “conducted investigations in the last 106 years” did not have AAUP collective bargaining chapters and many had no AAUP chapter at all. The existence of a chapter, the staff wrote, “is

not among the considerations that lead to the authorization of an investigation.” Regarding the news that the administration would not be cooperating in the investigation, the staff noted its disappointment, but added that “for an understanding of the administration’s position,” the investigating committee could “rely on the accounts of other parties, on published and unpublished documents, and on the president’s statements to the press.”

The staff wrote once more, on May 24, to announce the names of members of the ad hoc investigating committee and to urge the administration to reconsider its decision not to participate. That letter received no response.

The investigating committee conducted interviews by teleconference on October 12, 2021. Eleven people agreed to participate in individual interviews, including current faculty members, former faculty members, and former board members. President Davis declined to be interviewed, and Chair Baca did not respond to an email request for an interview. Nevertheless, the investigating committee believes that, given its interviews and the extensive documentation of the case, it has abundant information on which to base the conclusions reached in this report.

#### **IV. Issues of Concern**

The following sections address the procedural and substantive issues.

##### **A. Procedural Issues**

The investigating committee has identified the following procedural issues as the most salient.

##### **1. Failure to Afford Academic Due Process**

As the AAUP’s staff noted in its April 30 letter to President Davis, under AAUP-recommended standards, a tenured faculty member can be dismissed for cause only following affordance of an adjudicative hearing of record before a duly constituted faculty body in which the burden of demonstrating adequate cause rests with the administration. These procedural standards constitute the “academic due process” by which, the AAUP holds, academic freedom and tenure are protected.

A consensus within the community of higher education on the basic elements of academic due process is articulated in the 1940 *Statement of Principles on Academic Freedom and Tenure*, the joint formulation of the AAUP and AAC&U, which declares, “After the expiration of a probationary

period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.” After being further refined in the *Statement on Procedural Standards in Faculty Dismissal Proceedings* (also a joint formulation of the AAUP and AAC&U), the AAUP’s understanding of academic due process found its latest expression in Regulations 5 and 6 of the *Recommended Institutional Regulations on Academic Freedom and Tenure*.

By refusing to afford academic due process to Professor Pollack-Pelzner, the Linfield administration summarily dismissed him from the faculty in flagrant violation of the 1940 *Statement of Principles* and the derivative AAUP policy documents discussed above.

As the staff pointed out in its correspondence with President Davis, the fall 2020 edition of the Linfield University faculty handbook incorporates in their entirety the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings* as well as the *Recommended Institutional Regulations on Academic Freedom and Tenure*. Thus, in summarily dismissing Professor Pollack-Pelzner from the faculty, the Linfield administration also violated the university’s own regulations.

##### **2. Rationales for Failing to Afford Academic Due Process**

Under AAUP-recommended standards on academic freedom and tenure, only three bases exist for terminating a tenured faculty appointment: (1) adequate cause, (2) financial exigency, and (3) program discontinuance for educational reasons as determined by the faculty (Regulation 4 of the *Recommended Institutional Regulations*). Hence, if an administration seeks to dismiss a tenured faculty member on a basis other than financial exigency or program discontinuance, that action must be a dismissal for adequate cause, requiring the above-described procedural standards.

While the 1958 *Statement* assumed that most institutions “will have formulated their own definitions of adequate cause for dismissal,” Regulation 5 of the *Institutional Regulations* does specify, in the provision quoted above, 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” and “not be used to restrain faculty members in their exercise of academic freedom

or other rights of American citizens.” Under normative academic standards, professional fitness includes not only disciplinary competence but also conformance with standards of professional ethics, such as those set out in the AAUP’s *Statement on Professional Ethics*.<sup>8</sup> Thus, institutional regulations tend to specify not only “incompetence” but “professional misconduct” and similar grounds related to ethical standards as constituting adequate cause for dismissal.

The Linfield administration has fully acknowledged that it declined to afford Professor Pollack-Pelzner a dismissal procedure. It has also stated that it dismissed Professor Pollack-Pelzner for cause. How, then, has it justified its refusal to afford him the academic due process that dismissal for cause requires under its own regulations?

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8. The *Statement on Professional Ethics* sets forth five basic ethical standards:

1. As scholars, professors “seek and . . . state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. . . . Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.”
2. “As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. . . . They avoid any exploitation, harassment, or discriminatory treatment of students. . . . They protect their academic freedom.”
3. “As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. . . . Professors accept their share of faculty responsibilities for the governance of their institution.”
4. “As members of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. . . .”
5. “As members of their community, professors have the rights and obligations of other citizens. . . . When they speak or act as private persons, they avoid creating the impression of speaking or acting for their college or university. . . . [P]rofessors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.”

The *Statement on Professional Ethics* also acknowledges that serious violations of professional ethical standards may result in disciplinary action while cautioning that any such action must be taken “in accordance with the 1940 *Statement of Principles on Academic Freedom and Tenure*, the *Statement on Procedural Standards in Faculty Dismissal Proceedings*, or the applicable provisions of the Association’s *Recommended Institutional Regulations on Academic Freedom and Tenure*.”

The administration’s main rationale has been that Professor Pollack-Pelzner was not entitled to academic due process because, to quote President Davis’s April 30 letter to the AAUP, “the personnel action . . . was a firing for cause unrelated to academic performance or professional competence.” A university spokesperson made a similar statement in an April 28, 2021, interview published in the *Oregonian*: “The firing didn’t result from concerns about the ‘responsibilities and duties as a professor,’ such as teaching effectiveness, professional achievement, or service, but rather for the stated causes.” The reader may recall that the “stated causes,” as set out in the provost’s April 27, 2021, memorandum, were that Professor Pollack-Pelzner had “violated . . . attorney-client privilege”; “circulated false statements about the University, its employees, and its Board”; “knowingly refused to comply with University policies”; and “interfered with the University’s administration of its responsibilities.” In other words, according to university authorities, the stated causes are essentially that Professor Pollack-Pelzner engaged in misconduct by knowingly making false and damaging statements about the administration (“the University”) and governing board.

The implicit argument, if one can call it that, depends on two erroneous premises: (1) A dismissal for cause is related only to misconduct. (2) A dismissal for cause does not require affordance of any due-process rights. As a result, the administration has mistakenly concluded, the academic-due-process protections called for under the faculty handbook do not apply in Professor Pollack-Pelzner’s case: since the charge is misconduct, he is not entitled to due process. As we have just explained, under AAUP-supported standards, cause for dismissal *must* be related “directly and substantially” to the “fitness of faculty members in their professional capacities as teachers or researchers.” But professional fitness is not confined only to competence in teaching and research; it also includes conduct that accords with standards of professional ethics. The administration’s fundamental error is to assume that professional fitness excludes an ethical dimension.

A second approach has been to assert that the academic-due-process provisions of the faculty handbook did not apply to Professor Pollack-Pelzner’s case because, according to Provost Agre-Kippenhan (as reported in an April 29, 2021, *Chronicle of Higher Education* article), Professor Pollack-Pelzner “had been fired from the university under his status as an

employee, not as a tenured professor.”<sup>9</sup> The notion that, when convenient, an administration can choose to apply the provisions of the employee handbook rather than those of the faculty handbook when seeking to dismiss a tenured faculty member is inimical to principles of academic freedom and tenure because it allows an administration to dismiss a faculty member without affordance of the academic due process that defines tenure and protects academic freedom. Tenure, as the AAUP understands it, is an indefinite appointment terminable only for cause as demonstrated through an adjudicative hearing before a faculty body. In the absence of this academic due process, tenure does not exist, and academic freedom lacks protection.

A third rationale, even weaker than the previous two, for denying Professor Pollack-Pelzner academic due process was that the faculty handbook was invalid. The April 29 *Chronicle* article cited above, for example, quotes President Davis as saying, when asked why the handbook was not followed, that it “had not been updated,” even though “Fall 2020” appears on its title page and revisions to it had been made in January 2021. The article also reports that “the president said he was unaware of the [dismissal] guidelines, hadn’t seen the most recent version of the faculty handbook, didn’t know who had updated it, and didn’t believe that it had been approved by the administration.” Despite these assertions, the investigating committee is aware of no evidence suggesting that the faculty handbook was no longer valid. President Davis’s remarkable admission of ignorance regarding his institution’s regulations may have exposed the real basis of his failure to follow those regulations in dismissing Professor Pollack-Pelzner. The offhand and dismissive tone of his admission, furthermore, suggests not only indifference to his presidential responsibilities but incompetence.

In short, the administration’s stated reasons for declining to afford Professor Pollack-Pelzner the academic due process required when dismissing a tenured professor for adequate cause are devoid of merit.

### 3. Terminal Salary or Notice

Regulation 8 of the *Recommended Institutional Regulations* provides that, unless “there has been a finding

[in a dismissal proceeding] that the conduct which justified dismissal involved moral turpitude,” tenured faculty members whose appointments are terminated for cause are entitled to “at least” one year of notice or severance salary: “On the recommendation of the faculty hearing committee or the president, the governing board, in determining what, if any, payments will be made beyond the effective date of dismissal, may take into account the length and quality of service of the faculty member.” Professor Pollack-Pelzner informed the investigating committee that he requested one year’s severance salary in accord with Regulation 8, which the faculty handbook incorporates. The administration not only refused to honor that request but even contested Professor Pollack-Pelzner’s application for unemployment benefits, asserting that he was ineligible because he had been dismissed for misconduct.<sup>10</sup>

In the absence of a finding of moral turpitude by a faculty hearing committee, the Linfield administration violated Regulation 8 of the *Recommended Institutional Regulations* and the university’s own regulations by refusing to afford Professor Pollack-Pelzner at least one year of severance salary or notice.

## B. Substantive Issues

This section discusses academic freedom, the campus climate for academic freedom and shared governance, and a “culture of abuse.”

### 1. Academic Freedom

The 1940 *Statement* stipulates that faculty members, in addition to being entitled to “full freedom in research and in the publication of results” and “freedom in the classroom,” are “citizens, members of a learned profession, and officers of an educational institution.” As noted in the Association’s 1994 statement *On the Relationship of Faculty Governance to Academic Freedom*, “The academic freedom of faculty members” thus “includes the freedom to express their views . . . on matters having to do with their institution and its policies,” a mode of expression that AAUP policy documents refer to as “intramural” speech or utterance. That freedom is not absolute, however. The AAUP statement notes the exceptions: “A particular

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9. Of course, as we point out in the upcoming section on academic freedom, the conduct for which Professor Pollack-Pelzner was “fired” was precisely that of a tenured professor: he was fulfilling his governance responsibilities as the faculty’s representative to the governing board.

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10. In a July 29, 2021, decision, an administrative law judge overruled the latter position, finding that Professor Pollack-Pelzner was eligible for unemployment insurance benefits because “claimant was discharged, but not for ‘misconduct,’ as defined” by Oregon law.

instance of faculty speech will be subject to discipline . . . where that speech violates some central principle of academic morality, as, for example, where it is found to be fraudulent (academic freedom does not protect plagiarism and deceit)” or when that speech “supports a judgment of . . . incompetence.”

According to the Linfield administration, the grounds for Professor Pollack-Pelzner’s dismissal were his “statements about the University, its employees, and its Board” (Provost Agre-Kippenhan’s April 27, 2021, notice of termination). As the account of the case contained in this report demonstrates, those statements arose from Professor Pollack-Pelzner’s efforts to exercise his responsibilities as the faculty’s representative to the board of trustees. They thus fell into the category of intramural speech that should be protected under principles of academic freedom, with the qualifications stated above. In his fiduciary role as faculty trustee, Professor Pollack-Pelzner continuously pressed the administration and governing board to take reports of sexual harassment seriously and to initiate training and adopt policies addressing the issue, an effort consistent with the institution’s stated values and goals. This understanding of Professor Pollack-Pelzner’s efforts was echoed contemporaneously by his faculty colleagues (most notably in the Faculty Executive Council’s August 31, 2020, letter and in the April 19, 2021, no-confidence resolution of the arts and sciences faculty) and by the individuals whom this committee interviewed, including former members of the board of trustees. While the administration has contended that its summary dismissal of Professor Pollack-Pelzner was not retaliation for legitimate expressions of dissent but an appropriate response to what it has characterized as the professor’s dissemination of false and damaging statements about the institution, that charge remains unsubstantiated absent an appropriate dismissal proceeding.<sup>11</sup>

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11. In the view of this investigating committee, the possibility seems remote that a faculty hearing body would have sustained the administration’s charges of misconduct had Professor Pollack-Pelzner been afforded such a hearing. The opinion issued by the administrative law judge who heard Professor Pollack-Pelzner’s unemployment case, which provides an independent appraisal of those charges, supports our view: “The evidence was persuasive that, when claimant posted on social media in a manner that was critical of the board’s and administration’s failures to address a multitude of serious issues of which they had been made aware, claimant was acting out of loyalty toward the institution, as well as a sense of fiduciary responsibility to preserve the integrity of the institution. There was no evidence that claim-

In the view of this investigating committee, the Linfield administration clearly violated the freedom of a faculty representative, pursuant to his or her governance responsibilities, to express legitimate concerns regarding the health and mission of the institution without fear of retaliation, in contravention of one of the Association’s most fundamental principles: “Dismissal will not be used to restrain faculty members in their exercise of academic freedom” (Regulation 5a of the *Recommended Institutional Regulations*).

## **2. The Climate for Academic Freedom and Shared Governance**

As the foregoing has indicated, Professor Pollack-Pelzner’s dismissal occurred in a context of eroding shared governance at the institution. The AAUP’s *Statement on Government of Colleges and Universities*, jointly formulated with the American Council on Education and the Association of Governing Boards of Universities and Colleges, emphasizes that effective academic decision-making requires the administration, governing board, students, and faculty to engage in “joint planning and effort,” a practice more commonly referred to as “shared governance.” Shared governance, in turn, requires “adequate communication” among these key institutional constituencies, which entails, among elements most relevant to this case, “the right of a faculty member . . . to speak on general educational questions or about the administration and operations of the . . . institution” and the president’s special obligation to “ensure that faculty views, including dissenting views, are presented to the board.” Regarding these governance standards, Linfield faculty members interviewed by the investigative committee reported having received “no sign” from the administration of “hearing faculty voices and providing rationales for decisions.” Instead, they claimed, the Linfield administration has tended to present the “appearance of doing something without actually doing something.”

Faculty frustration with the administration and governing board’s perceived indifference to the

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ant’s conduct in taking this action was a breach of the institution’s reasonable policies or expectations. Further, there was no evidence that claimant was bound by any rule or policy prohibiting employees’ speech on social media. With no evidence of such a rule or policy in this record, there is obviously no evidence of a breach of any such rule or policy.”

concerns raised by Professor Pollack-Pelzner and others did not go unexpressed. As recounted earlier, in May 2020 the faculty assembly adopted a resolution of no-confidence in board of trustees chair Baca that Professor Pollack-Pelzner was compelled to forward to the board when President Davis refused to do so. The stated rationale for the resolution featured Chair Baca's communication deficiencies, specifically, a failure "to provide leadership that promotes transparency, accountability, and responsiveness on issues of sexual assault and sexual misconduct" as well as "a pattern of misleading and damaging messaging" and suppression of "thoughtful dialog."

To facilitate communication, especially with regard to the faculty's meaningful involvement in institutional governance, the *Statement of Government* stipulates that institutions should establish "agencies for faculty participation at each level where faculty responsibility is present." These governance agencies should not be created unilaterally by the administration or governing board but instead "be designed, approved, and established by joint action of the components of the institution."

In fall 2020, the administration and governing board imposed a new faculty governance structure without adequately consulting the faculty.<sup>12</sup> On November 14, President Davis sent an email message notifying the faculty that the faculty assembly and all its committees had been dissolved that day. Five days later the provost followed up with an email informing the faculty that a faculty senate would be formed as the board of trustees had directed. It is no wonder, then, that when the investigating committee inquired about the state of shared governance at the institution, individuals described it as extremely poor to the point of nonexistence. Or, as one faculty member succinctly put it, "Shared governance at Linfield is dead."

Regarding the inextricable relationship between conditions for academic freedom and conditions for shared governance, the above-cited *On the Relationship of Faculty Governance to Academic*

*Freedom* articulates the following standard: "A sound system of institutional governance is a necessary condition for the protection of faculty rights and thereby for the most productive exercise of essential faculty freedoms. Correspondingly, the protection of the academic freedom of faculty members in addressing issues of institutional governance is a prerequisite for the practice of governance unhampered by fear of retribution."

Given the evidence that conditions for shared governance at Linfield University are severely deficient, a corresponding deficiency should also exist in conditions for academic freedom. And such does indeed seem to be the case, as manifested not only by the administration's actions against Professor Pollack-Pelzner but also by other administrative and board actions recounted in this report. The faculty statement most indicative of the unsatisfactory climate for academic freedom may be the no-confidence resolution adopted by the faculty of the College of Arts and Sciences on April 19, 2021. It affirms the Linfield community's "right to expect institutional leaders to . . . ensure an atmosphere of trust and mutual confidence, promote tolerance of dissent and mutual understanding, and act in a manner that reflects the highest professional, ethical, and moral standards." It condemns "behaviors that degrade members of our community (including expressions of intolerance and discrimination), actions that intimidate or humiliate others, and retaliation against those who seek to promote justice and accountability." And it concludes, "President Miles Davis and Chair David Baca have engaged in the aforementioned behaviors."

As the institution's chief administrative officer, President Davis must be held primarily accountable for the unsatisfactory conditions for academic freedom and shared governance at Linfield University. The *Statement on Government* describes the essential qualifications and chief responsibilities of a college or university president. To cite those most relevant to this case, "The president . . . is measured largely by his or her capacity for institutional leadership. The president shares responsibility for the definition and attainment of goals, for administrative action, and for operating the communications system that links the components of the academic community. The president represents the institution to its many publics." A president, who "should be equally qualified to serve both as the executive officer of the governing board and as the chief academic officer of the institution and the faculty," must have "an ability to interpret to board and faculty

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12. In commenting on the draft report, a faculty member wrote, "As I envision the administration reading this report, I imagine them saying, 'But the Faculty Assembly voted to change to a senate model.' This is true, but (1) we were explicitly told that we would not be allowed to maintain a Faculty Assembly model, and (2) while we did vote to move to a Senate model (on November 2, 2020), our vote (and model) was vetoed. The model that they imposed (very problematic) was not the model that we approved."

the educational views and concepts of institutional government of the other.” To be effective in this intermediary role, “the president should have the confidence of the board and the faculty.” Moreover, to quote in full a passage cited earlier, “It is also incumbent on the president to ensure that faculty views, including dissenting views, are presented to the board in those areas and on those issues where responsibilities are shared. Similarly, the faculty should be informed of the views of the board and the administration on like issues.” Critically, the president is responsible for ensuring that standards and procedures in actual operation conform to the institution’s official policies and “to the standards of sound academic practice.”

It is evident to this investigating committee that President Davis’s performance as president during the period described in this report did not conform with the *Statement on Government’s* conception of that role. The most obvious shortcomings were his failures to maintain the confidence of the faculty, to serve as an effective conduit of communication between board and faculty, and, most glaringly, to make sure that the institution adhered to its own policies and sound academic standards, which are largely identical.

The information available to the investigating committee has also left the impression that President Davis’s conception of the role of university president is more authoritarian than that set forth in the *Statement on Government*. In fact, faculty members interviewed by the investigating committee characterized Dr. Davis’s understanding of his role as “totalitarian.” They observed that he seems to view himself as running an “empire,” that he emphasizes a “chain of command” with all information filtered through him, that he takes the position that there is only “one truth,” and that he enacts this role in a manner that one individual characterized as “relentless.”

Along with decrying his highhanded authoritarianism, faculty interviewees also emphasized the president’s apparent disregard of his fiduciary responsibilities. One example cited was the timing of his dismissal of Professor Pollack-Pelzner, which suggested more animus than careful stewardship. Even though the dismissal occurred immediately before final exams, college commitment day, and graduation, the administration apparently had no plan to support Professor Pollack-Pelzner’s students through the remainder of their semester. As reported in the April 28, 2021, issue of the *Oregonian* and substantiated by our interviews, students in his two English courses merely received notification that Professor Pollack-Pelzner was no

longer an employee and were given no instructions regarding where or how they should submit their final papers. (According to the April 29 issue of the *Chronicle of Higher Education*, Professor David T. Sumner, chair of the English department, resigned that position, “effectively immediately,” on April 28.)

The long-term effects of President Davis’s action against Professor Pollack-Pelzner and, more generally, his leadership style remain to be seen. In the short term, his actions do not appear to have enhanced the institution’s reputation, enrollment, or fundraising efforts. In the *Oregonian* article, a parent of a current Linfield student was quoted as having said, “Doing this in finals week is unconscionable, with graduation on Sunday, and now students cannot contact DPP (Pollack-Pelzner) as they have already dismantled his email.” Parents of alumni were outraged as well. A parent of a 2014 Linfield graduate was quoted as saying that she “will no longer be bequeathing any sum of money to Linfield University. Due to the recent firing and the attempt at silencing Professor Daniel Pollack-Pelzner I cannot in good conscience leave money to Linfield.” Despite peer institutions’ seeing increases in their enrollments with the return to campus classes post-COVID-19, faculty members reported to the committee that Linfield experienced decreased enrollment in fall 2021, particularly among students from the regional media market exposed to reporting about events at Linfield. These faculty members believe that President Davis’s dismissal of Professor Pollack-Pelzner has harmed the institution’s reputation, a view consistent with one of the conclusions in the April 19, 2021, College of Arts and Sciences resolution.

### **3. A Culture of Abuse Enabled by Attacks on Shared Governance and Academic Freedom**

While many institutions grapple with issues of campus culture, we must emphasize that the Linfield administration’s disregard for academic freedom and shared governance has abetted multiple systemic inequities and made a mockery of what makes a campus “just.” The AAUP has long condemned racial, sexual, gender, and other forms of discrimination and harassment, understanding such discrimination as linked and mutually reinforcing. In the *Statement of the Association’s Council: Freedom and Responsibility*, the Association emphasizes that “intimidation and harassment” are inconsistent with the maintenance of academic freedom. The AAUP’s *Statement on Professional Ethics* reiterates the ethical responsibility of faculty members to avoid “any exploitation of



students for . . . private advantage.” In its 2016 report *The History, Uses, and Abuses of Title IX*, the AAUP took pains to note that charges of sexual harassment and other forms of gender discrimination should be understood as “embedded within the broader social dynamics on and off campus.”

The investigating committee again must emphasize that issues of racism and ethno-religious discrimination should not be put in competition with each other or framed as unrelated to sexual and gender inequities on campuses. To do otherwise risks what *The History, Uses, and Abuses of Title IX* calls “a shallow commitment to equality.” The Linfield administration declined to understand allegations of sexual, gender, ethno-religious, and racial discrimination as an opportunity to investigate how abuse occurs across multiple sites of social difference and across institutional roles. Instead, it effectively attempted to use one set of allegations (racial discrimination allegedly suffered by President Davis) to invalidate or distract attention from other allegations (specifically, multiple claims of sexual harassment by students and faculty, as well as charges of antisemitism by faculty). The administration’s approach typifies the “shallow commitment to equality” the AAUP condemns, one that obscures how access to institutional power (the differential abilities of university presidents, trustees, faculty, and students to claim such power) shapes the ability to name, narrate, and address what counts as prohibited forms of discrimination and ignores in turn how the administrative erosion of shared governance and academic freedom exacerbates campus climate issues.

As this report has recounted, Professor Pollack-Pelzner received from several sources allegations that three board members had sexually harassed students and a faculty member, and a former board member eventually stood trial—and ultimately pleaded no contest—for having sexually assaulted several students. The alleged harassment and assaults had occurred at social gatherings that took place in conjunction with meetings of the governing board. As this report has also recounted, neither Professor Pollack-Pelzner nor various faculty bodies regarded the administration and board response to these allegations as adequate, a view apparently shared by many Linfield students. In a May 3, 2021, *Oregonian* interview, Ms. Ronni Lacroute, who had just resigned from the board of trustees in protest of Professor Pollack-Pelzner’s dismissal, cited a recent survey conducted by members of the psychology department that found that Linfield students overwhelmingly believed that the university

“harbors a culture where victims do not feel heard.”<sup>13</sup> The preliminary report of the survey includes all 161 responses to the open-ended survey item asking respondents to contextualize their quantitative responses. The faculty authors of the report, addressing the administration, wrote, “The students’ words beg you to *please listen* to the *need to change the culture surrounding sexual assault and institutional betrayal*” (emphasis in original), an appraisal with which this investigating committee agrees. Individuals interviewed by the investigating committee repeatedly decried what they described as a negative cultural shift at the institution. As one person noted, the board and administration’s deficient response to reports of sexual misconduct demonstrated an “absence of empathy for victims—particularly women.” Several interviewees decried the fact that President Davis and Chair Baca’s communications regarding complaints of sexual misconduct implied that these alleged incidents were best left in the past and that it was “time to move on” without asking for any accountability.

Evidence available to this committee, however, suggests that the Linfield administration has not learned from the past. In March 2018, Professor Reshmi Dutt-Ballerstadt received a letter from the administration apologizing for its investigation into her claims of harassment. The letter stated, “The investigation did not comport with expectations of excellence and fairness,” and “the procedures outlined in the Faculty Handbook and AAUP recommendations were not followed.” As noted earlier in this report, when Professor Friedman reported her experience of sexual harassment to the university’s human resources office, the official who took her call stated, “That’s just how men are.”<sup>14</sup>

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13. Ms. Lacroute had endowed the chair in Shakespeare studies held by Professor Pollack-Pelzner.

14. Linfield did retain an outside investigator to inquire into Professor Friedman’s allegations, but despite finding that the reported incidents had occurred, the investigator concluded that they “did not violate Linfield policy,” a conclusion sharply contested by Professor Friedman and others. In an article posted by Portland NBC News affiliate KGW, Professor Friedman stated, “If there are no policies in place that keep women from being rubbed and squeezed and winked at, that keep women from having someone whisper in their ear, . . . then we need new policies.” The KGW article also notes that, at the time of publication, Linfield’s online fact sheet claimed that “in 2020, President Davis empowered two campus-wide task forces to investigate policies related to students and employees.” But the fact sheet is no longer available online, and interviews conducted by the investigating committee suggest that no significant shift has occurred in Linfield’s culture of abuse.

With respect to antisemitism, this report has detailed Professor Pollack-Pelzner's claims of having experienced bias based on his religious identity. In a July 25, 2020, interview in the *Linfield Review*, he recited several of these allegations: "When I told . . . [Mr. Baca] that there had been multiple allegations in the past year of sexual misconduct by trustees against students and faculty . . . the chair accused me of pursuing a secret agenda to grab power"; "The president said that I was putting Linfield at risk by reporting claims of sexual misconduct . . . [and] that people like me were destroying Linfield from within and could only show loyalty by accepting the teachings of Jesus Christ in the New Testament." Professor Pollack-Pelzner was not the only faculty member to complain of antisemitism. The April 12, 2021, issue of the *Oregonian* quotes two psychology professors, Dr. Jennifer Linder and Dr. Tanya Tompkins, recalling that during an October 2018 department meeting President Davis had made a remark, apparently referring to the Holocaust, about not sending "the Jews to the showers with soap." A university spokesperson denied that the president had made these statements, and President Davis accused Pollack-Pelzner of a "smear campaign." Yet the Oregon Board of Rabbis found Professor Pollack-Pelzner's allegations compelling enough to warrant its asking President Davis and Chair Baca to resign. According to Professor Pollack-Pelzner's lawsuit, another trustee, Mr. Steve Bils, called the board of rabbis on April 15 after receiving the rabbis' letter and told a staff member that Pollack-Pelzner was a "pathological liar" who was using his Jewish identity "to give his cause leverage." As noted earlier in this report, the Pacific Northwest chapter of the ADL wrote to the board of trustees a week later, urging another investigation of the allegations and training for the university's leaders.

The Linfield administration's treatment of the NAACP investigation and report, however, demonstrates how a "shallow commitment" to equality can enable or be perceived to enable the suppression of whistleblowing and dissent. As recounted earlier, on March 29, 2021, Professor Pollack-Pelzner posted the Twitter thread that catalyzed the final chain of events culminating in his dismissal a month later. In those twenty-three tweets, he reiterated his complaints regarding sexual misconduct and antisemitism, resulting, one week later, in the letter from the Pacific Northwest chapter of the ADL to the Linfield board of trustees, followed soon thereafter by the letter from the Oregon Board of Rabbis.

As we have reported, on April 8, the same day he received his copy of the ADL letter, President Davis contacted the local NAACP chapter to complain of "racial animus," and the chapter soon afterward launched an investigation "to determine whether the attacks on the president were unfair." The investigation concluded, as noted earlier, that "President Davis has been subject to numerous instances of unfair treatment since his arrival in July 2018 . . . due to [his] being a Black man." While the chapter's investigative report does not mention Professor Pollack-Pelzner, the following statement seems to imply that the two Jewish groups (and, by association, Professor Pollack-Pelzner) were biased against President Davis: "The Northwest Chapter of the Anti-Defamation League failed to conduct any independent investigation" of allegations of antisemitism on the part of President Davis, "preferring to simply believe the complaint. . . . Further, the Oregon Board of Rabbis also called for the resignation of President Davis without talking with him or conducting an investigation of any kind."

Regarding the Linfield faculty, the NAACP report states that "the faculty, staff, and the Board of Trustees had little to no experience in navigating and respecting the nuances of Black culture. This lack of exposure resulted in faculty expecting President Davis to assimilate to the majority culture by abandoning his own." The majority culture, the report contends, is "a white supremacy culture of power hoarding." As noted in the preceding discussion of antisemitism, the NAACP investigating team sought, without explanation, to interview only the six faculty members who had been the most publicly critical of the administration and governing board. Objecting to being thus singled out for interviews as possible retaliation, these faculty members requested further information about the interviews before agreeing to participate. In a paragraph beginning, "It is not lost on us that even our investigation was subject to false and racist attacks," the NAACP report comments, "Six faculty from the College of Arts and Sciences were invited to contribute to Salem Keizer NAACP's inquiry. In an email they declined to participate, claiming even being asked to be interviewed was retaliation. It appeared that talking with the Jewish organizations did not constitute retaliation." Faculty members interviewed by this investigating committee perceived the NAACP investigation as an effort by President Davis and his supporters to counter and perhaps intimidate the president's harshest critics.

## V. Conclusions

1. The administration of Linfield University summarily dismissed Professor Pollack-Pelzner from his tenured appointment in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure* and derivative AAUP policy documents. Since the Linfield University faculty handbook incorporates in their entirety the AAUP-AAC&U 1958 *Statement on Procedural Standards on Faculty Dismissal Proceedings* and the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure*, its action against Professor Pollack-Pelzner also violated the university's regulations.
2. The administration of Linfield University violated Regulation 8 of the *Recommended Institutional Regulations* and the university's own regulations by refusing to afford Professor Pollack-Pelzner at least one year of severance salary or notice.
3. In dismissing Professor Pollack-Pelzner because of speech and conduct in which he engaged in fulfilling his fiduciary responsibilities as the faculty's elected representative to the board of trustees, the Linfield administration violated his academic freedom to participate in academic governance, thus contravening Regulation 5a of the *Recommended Institutional Regulations*: "Dismissal will not be used to restrain faculty members in their exercise of academic freedom."
4. Professor Pollack-Pelzner's dismissal occurred in a context of eroding shared governance, which has jeopardized the faculty's exercise of academic freedom and contributed to a culture of abuse. General conditions for academic freedom and shared governance at Linfield University are deplorable.<sup>15</sup> ■

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15. In response to the staff's invitation for comment on the draft report, Provost Agre-Kippenhan wrote, "With regard to comments or corrections, as you are aware, the university is involved in litigation with former faculty member Daniel Pollack-Pelzner, and his claims will be submitted to a jury that will make a determination based on all the evidence. For purposes of accuracy and transparency, the university requests the report include a disclosure that should read as follows:

In light of the legal issues surrounding litigation and the legal claims likely to be at issue, the university was not in a position to be able to participate or provide any information to the AAUP. Accordingly, the report was issued without an opportunity to hear the university's side of these issues."

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**ALLISON BUSKIRK-COHEN** (Psychology)  
Delaware Valley University, *chair*

**RANA JALEEL** (Gender, Sexuality, and Women's Studies)  
University of California, Davis

**BRIAN TURNER** (Political Science)  
Randolph-Macon College

*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: **CHARLES TOOMBS** (Africana Studies), San Diego State University

Members: **EMILY M. S. HOUH** (Law), University of Cincinnati; **RANA JALEEL\*** (Gender, Sexuality, and Women's Studies), University of California, Davis; **MARK S. JAMES** (English), Molloy College; **ANIL KALHAN** (Law), Drexel University; **MICHAEL MERANZE** (History), University of California, Los Angeles; **WALTER BENN MICHAELS** (English), University of Illinois at Chicago; **PATRICIA C. NAVARRA** (English), Hofstra University; **JENNIFER H. RUTH** (Film Studies), Portland State University; **JOAN WALLACH SCOTT** (History), Institute for Advanced Study; **RISA L. LIEBERWITZ** (Law), Cornell University, *ex officio*; **IRENE T. MULVEY** (Mathematics), Fairfield University, *ex officio*; **JULIE M. SCHMID** (English), AAUP Washington Office, *ex officio*

\*Did not participate in the vote.