



*AAUP president Rudy Fichtenbaum made the following address to the AAUP's 104<sup>th</sup> Annual Meeting on June 16, 2018.*

## What Can College and University Faculty Learn from the Teachers in West Virginia?

Good morning! It is an honor to address all of you. We are all expecting that the *Janus* decision will be issued in the next week or two and given the track record of this Court there is no doubt that it will end fair share in the public sector. This decision will have a profound effect on the way that most unions in the public sector operate, and it will have a profound effect on the AAUP. But ultimately, the effect that it has on the AAUP is up to us and the members of our profession.

Let me provide some context. For more than forty years, neoliberals have been attacking public services—notably, public higher education. Reduced funding has precipitated the privatization of higher education, skyrocketing tuition, and soaring student debt. Simultaneously, US higher education is ever more corporatized. For example, exorbitantly paid professional administrators on our campuses and view higher education as a “business.”

Rising tuition, stagnant real wages, increasing inequality, changing demographics, and growing hostility toward immigrants are all pressuring non-selective public and private institutions.

Private institutions typically depend heavily on tuition and have become addicted to tuition discounting—ultimately a sure-to-fail strategy. There, we are beginning to see faculty layoffs and outright closures in unprecedented numbers.

Public four-year institutions are pressured by tuition caps, a declining number of direct-from-high-school students, and stagnant or even declining state appropriations. Sadly, the response is often using program elimination as a means to reduce the number of tenured and tenure-track faculty, or to lay off—that is, non-renew—full-time non-tenure-track faculty, or both. In addition to the pressures I have already named, state legislatures interested in increasing graduation rates and holding down the cost of tuition have allowed high schools to offer more courses for college credit or allow high school students to take college courses at heavily discounted prices. The result? Deep cuts in the revenue generated by intro-level courses that most schools have used to subsidize graduate and upper-division undergraduate courses and programs. Finally, the racist and xenophobic anti-immigration rhetoric of the Trump administration has reduced the attractiveness of American colleges and universities to foreign

students, who at many public institutions have attended in substantial numbers while paying undiscounted prices— that’s code for out-of-state tuition with no financial aid.

These developments have totally transformed our profession, starting with what can only be called the phasing out of tenure. Today, only about 25 percent of the faculty in higher education are tenured or on a tenure track. Tenured and tenure-track faculty have been replaced by full-time *non-tenure-eligible* faculty who mostly work on year-to-year contracts, and by armies of graduate students and part-time faculty. Contingent faculty now teach the majority of undergraduate classes. While the decision and authority to hire more and more contingent faculty is not the responsibility of tenured faculty, it is absolutely the case that tenured faculty have not fought hard enough to protect their contingent colleagues, often treating them as second-class citizens. In fact, while many contingent faculty clearly recognize that they are simply at-will employees, many of the tenure-track faculty have not yet come to terms with the two hard facts: first, that they are an endangered species, and second, that as their numbers have declined, the protections of tenure do not have the same meaning that they had forty years ago. This can be seen clearly with the rise of targeted harassment of faculty accompanied by growing interference from corporations, foundations, and politicians— two developments which pose grave threats to academic freedom and shared governance. In many cases, tenured faculty are like the proverbial frog who, put in a pot of cold water sitting over a fire, doesn’t realize that the temperature is rising until it is too late, and the frog is cooked.

With this transformation there have arisen more and more attacks on academic freedom and shared governance, both of which merit places on the endangered species list. Institutions now rely on high priced consultants to reshape their curricula and pick academic programs for elimination. Though these changes initially targeted the humanities and social sciences, the loss of shared governance has propagated to other fields as well. In all programs, administrators seek to dumb down the curriculum in an attempt to increase graduation rates, to bolster retention, and ultimately to support the metastasizing administrative bureaucracy.

Why is tenure important? The purpose of tenure is to protect academic freedom. Academic freedom guarantees that faculty can explore controversial ideas in our classrooms, investigate them in our research and scholarship, and speak out on issues of public concern using our expertise as professionals. Every faculty member needs academic freedom, whether she or he is tenured, tenure track, full-time non-tenure track, a graduate teaching assistant, or part-time. Why do faculty need academic freedom? Put another way, what is so special about faculty that they should get the right to express ideas at work without fear of reprisal from administrators or politicians? The general public views such “special” protections for faculty skeptically, wondering why they are merited. Most workers know that if they say something at work that is viewed unfavorably by their employer, they can be fired in a heartbeat. At a time when the politics of envy reigns supreme, if we cannot explain to the public the real reason why faculty need academic freedom, then we will lose academic freedom and tenure with it.

I don't pretend for a minute to be a scholar when it comes to understanding the reasons for the founding of the AAUP. If this is a topic you are interested in, I highly recommend that you read *University Reform: The Founding of the American Association of University Professors* by Hans-Joerg Tiede. But from what little I know about our founding documents, the founders of the AAUP did *not* see academic freedom and therefore tenure as rewards for scholarship or as a way of simply providing faculty with more job security than ordinary workers because we were professionals or had PhD's. Our organizational history is complicated. There definitely were people who saw the role of the AAUP as professionalizing the faculty, to make them more like doctors and lawyers, seeing "professionals" as being better than "ordinary workers." At the turn of the twentieth century, doctors and lawyers were not more highly trained than faculty nor were they highly paid. What set them apart was they were largely self-employed, giving them control over their work. The problem for faculty was they could not be self-employed, because they worked for trustees. But setting up a system of tenure and protecting themselves from outside interference gave them more control over their working environment, so that they would not be treated as if they were "hired men."

At the same time, the founders of the AAUP also saw higher education as serving the common good, and they recognized that trustees represented business interests, a point made by Thorsten Veblen in his 1907 book *The Higher Learning in America: A Memorandum on the Conduct of Universities by Business Men*. Our founders saw academic freedom as a way of insulating faculty from interests of business barons or the whims of politicians, who often served as trustees. In a more modern vernacular, we might say that the purpose of higher education is to serve the interests of the 99 percent despite the fact that our trustees and politicians largely represent the interests of the top 1 percent.

Academic freedom and tenure were not about protecting faculty as individuals *per se*, but about ensuring that colleges and universities serve the common good or (put in more modern language) the public interest. So academic freedom and tenure are not about us. Instead, they are about insuring that colleges and universities are not captured or bought and paid for by special interests like the Koch brothers, so that these institutions can continue to serve the interests of the overwhelming majority of people in this country and indeed on the whole planet.

What about shared governance? What is shared governance? Is it just workplace democracy? If that is the case, why are faculty more deserving than other workers in having a say at how their workplace is run? Risa Lieberwitz, AAUP's general counsel, is a wonderful scholar, an expert on academic freedom and shared governance. She has argued that shared governance is the collective expression of academic freedom by the faculty as a whole. It is shared governance that allows the faculty to collectively control the curriculum, decide which academic programs will be offered or discontinued, determine academic policies, and control hiring and tenure decisions. This type of control is again important to insulate these decisions from the corporate interests and politicians that ultimately control our institutions. Ultimately, shared governance is the collective voice of the faculty writ large. It is our responsibility to exercise that collective voice to see that colleges and universities serve the public interest.

Clearly, one of the things that our chapters and conferences must do better is explaining to faculty themselves the reasons for tenure, academic freedom, and shared governance. Then we must make our case in the arena of public opinion— more about that later.

So—what might the future hold for our profession? What’s on the horizon? *Unless we act*, we will continue to see declining real wages for all faculty, making it harder to attract the best and the brightest to our profession. For those full-time faculty lucky enough to have health insurance, premiums will keep rising; but more importantly copays, deductibles, coinsurance, and out of pocket maximums will also continue to rise, shifting the burden to those who are sick and those with the lowest salaries, eroding what it means to have “insurance.” Nearly half the faculty in the US do not have employer-provided health insurance and are forced to seek health insurance on private exchanges or through Medicaid. The Republican Party had pledged to wipe out these exchanges and the Medicaid expansion, a pledge that turned out to be impossible to keep, despite the fact that they control all three branches of government. However, these programs will continue to be attacked. And the people who rely on them will see the benefits erode and will have obstacles such as work requirements put in place so that they cannot get the coverage they need.

Public-sector faculty will continue to see “pension reform”—a euphemism for cuts in pension benefits, levied even on those who have already retired. Institutions without pensions will contribute less to individual retirement accounts. Finally, after years of eroding tenure via attrition, it now appears that the enemy is massing for a frontal assault on tenure, to finish off the remaining tenured faculty in most institutions, particularly the nonelite institutions that serve working people and students of color. This is especially evident in attacks on academic freedom through the use of targeted online harassment, encouraged by websites such as Professor Watchlist, Campus Reform, and College Fix. It is not a coincidence that the same groups behind these websites are also behind the *Janus* decision that will in one fell swoop bring “right-to-work” to the public sector in an attempt to cripple public sector unions.

Well, that’s bad news! What’s the good news? The good news is that we do not have to stand by and watch our profession and with it higher education, as a public good, be destroyed by super-rich corporate interests and extreme rightwing forces. We can fight back! I believe we can win! But it will not be easy.

Perhaps at the risk of being rebaited, I will share with you one of my favorite quotes from the preface of Volume I of *Capital* by Karl Marx. Marx wrote, “There is no royal road to science, and only those who do not dread the fatiguing climb of its steep paths have a chance of gaining its luminous summits.” This is a challenge we face as individual scholars on a daily basis but is also a challenge we face as members of AAUP, as members of our profession, as members of a movement. If we want to regain the high ground in higher education, we have a steep path to climb. But the real question is, “Do we have a choice?” If we fold, our fate is certain; even if we fight, there are no guarantees, but we have a chance. In the immortal words of that great

philosopher Kojak, “if you want a guarantee, buy a washing machine.” (If you chuckled, you’re nearly as old as I am!)

How do we fight back? This brings me to the title of my talk today, “What Can College and University Faculty Learn from the Teachers in West Virginia?” Many of you are too young to remember the movie “The Graduate”—that even predated Kojak—but there is a scene where Mr. McGuire, talking to the young Dustin Hoffman about his future, takes him aside and says, “I want to say just one word to you: “plastics.” Well today I want to say one word to you: Union. I bet a lot of you are relieved because you thought I was going to say strike!

But seriously, I know already that many of you may be thinking, I live in the south, this is a right-to-work state, there is no enabling legislation for public-sector unions, we are not allowed to bargain over wages, striking is illegal.

In response, I want to start by drawing a distinction between unions and collective bargaining. Collective bargaining is a state-sanctioned process that on the one hand allows workers to unionize and bargain with employers, while at the same time placing certain restrictions on union activity. Collective bargaining is supposed to provide certain legal protections to employees, their union, and to employers. I say supposed to provide protections, because the reality is that today, both in the public and private sector, employees and unions have few if any real protections. To paraphrase our general counsel Risa Lieberwitz, the law can have its uses, but if you are an employee or a union, it is not your friend.

Long before collective bargaining, workers had unions—that is, they engaged in collective action to protect their interests. Collective bargaining is a relatively new invention designed to promote “labor peace” and avoid strikes which, as many of you know, have a long and bloody history in the US.

I am from a state that has public-sector collective bargaining. At the university where I was a faculty member for thirty-five years, Wright State University, faculty have had collective bargaining since 1998. On top of that, striking for college faculty is legal in Ohio. Now some of you may be sitting there thinking that the faculty and other public-sector workers in Ohio have it made. But nothing could be further from the truth.

The threat of the impending *Janus* decision in the Supreme Court notwithstanding, public-sector collective bargaining in Ohio is a lame duck session away from right-to-work, annual recertification, and the loss of payroll deduction. Some of you may know that a few years ago the Ohio legislature passed a law, Senate Bill 5, which would have effectively ended public-sector collective bargaining in Ohio. This bill came right on the heels of Act 10 in Wisconsin, which effectively did away with collective bargaining for almost all public-sector workers in that state. In Ohio we were lucky enough to have a citizen’s referendum, and we collected millions of signatures to put this issue on the ballot, and we raised millions of dollars for advertising. We formed a labor coalition called We Are Ohio and the AAUP was an important part of that coalition, which remains in existence to this day. We were victorious, and Senate Bill 5 was

overturned. But if today if the legislature passed the exact same legislation we would not be able to exercise our right to a citizen's referendum because the Republican Party has a super-majority in both in the House and Senate and legislation passed by a super-majority is not subject to a citizen's referendum.

Since that time, there have been successful attacks on public-sector unions in Indiana, which is now a right-to-work state, and in Iowa, which was already a right-to-work state, one where public-sector unions have to recertify every year, have lost payroll deduction, and do not have the right to collectively bargain over wages and benefits. Similarly, Michigan is now a right-to-work state. So right-to-work and attacks on collective bargaining are not unique to the South.

What does it mean to have collective bargaining? Even with the right to strike, collective bargaining is no panacea. Employers still have most of the power and the law is almost always on their side, especially in states where Republicans are in complete control. Even in states like New Jersey, where Democrats have had control of the legislature, there have been attacks on collective bargaining. Our chapter at Union County College in New Jersey had all of the shared governance language stripped out of its contract because of changes in state law.

In states where there is collective bargaining, what happens when employers violate the law or ignore provisions in contracts? Can't the union just take them to court or to the labor board? Legal battles are extremely expensive and many a union treasury has been depleted filing lawsuits, pursuing unfair labor practice charges, and taking grievances to arbitration. Ultimately, those unions that are successful in providing their members with adequate protection and are able to win good contracts, do so because they have political power. Political power starts with membership, but membership alone is not enough. That membership must be organized and active. Good contracts and strong unions don't happen because of smart bargaining at the negotiating table. They happen because union members are willing to act collectively to defend their rights.

In a different era, one might have just pointed to the South as the place most hostile to labor. But today there are twenty-eight states where the Republicans have a trifecta, controlling all three branches of government, and these include states like Ohio, Michigan, Wisconsin, Indiana, and New Hampshire. When people ask me where I am from I tell them Ohio, aka the Mississippi of the North, hoping that I am not insulting the good people of Mississippi.

This brings me to another important point. Let's take the South. After the end of the Civil War there was a brief period when former enslaved people had the right to vote, served in state legislatures, and enjoyed a host of other rights. That all ended rather quickly, ushered in by the end of Reconstruction and the establishment of Jim Crow, a form of state sanctioned terrorism designed to take away all of the rights of African-Americans. In fact, if you read *The New Jim Crow* by Michelle Alexander, you will see that many of the central features of the old Jim Crow system are still with us today. But throughout the entire history of slavery, then through the Jim Crow period, and now today, there has always been an organized resistance to this oppression in the South.

This resistance exploded into public view during the civil rights movement in the late 1950s and especially in the 1960s when in the face of lynchings, executions, and state-sponsored terrorism, African-Americans won the right to vote along with certain other key rights. There was no enabling legislation passed allowing them to form organizations to fight for their rights. And of course, we know that this struggle continues, and new forms of resistance are emerging such as Black Lives Matter, to address the police killings of unarmed African-Americans, particularly African-American men, where all too frequently our legal system allows this to occur without punishing the perpetrators of these crimes.

Similarly, there was no enabling legislation for women, when the struggle for equal rights for women emerged the 1970s. And of course, this struggle continues because of the courageous women who have stepped forward as part of the “#Me Too” movement, and many of these same women are stepping forward in record numbers to run for political office and are likewise leading the way in the recent wave of teachers’ strikes.

The point is that there is always organized resistance when people have their rights trampled upon and are treated without dignity. At times, this resistance is hidden from our view, only to emerge by exploding onto the stage of public consciousness. This is what is happened in West Virginia and Oklahoma.

So, what does this mean for college and university faculty? It means we need to act collectively, i.e., we need to organize a union.

Let me read to you from the AAUP-CBC webpage:

Organizing is a democratic form of building and maintaining an active membership base in order to effect change. The main principle behind successful organizing, and behind the formation of AAUP chapters, is collective action. When faculty speak and act with one voice, they demonstrate a large-scale commitment to the issues around which they organize. Effective organizing results in more equitable handbook and contract language, more robust shared governance, and better educational policies.

Organizing takes many forms:

- Increasing membership
- Moving members to be active in their chapter
- Communicating with members
- Planning and carrying out actions to improve conditions for both faculty and students
- Obtaining commitments from members to complete tasks, come to meetings, and participate in actions
- Building reciprocal relationships with allies

What is a union? It is an organization of employees, funded by member dues, that negotiates with the employer on behalf of workers. Unions existed long before collective bargaining! After all, collective bargaining is just a legal framework that provides for union representation but also places limits on that representation. Working people struggled collectively long before collective bargaining came about. Where we have collective bargaining, we should use it. Where we don't, we can still organize a union.

With any union, winning is almost always about political power. Only rarely do unions win great victories by relying upon the legal apparatus provided by collective bargaining. Those who win good contracts and are able to enforce them do so via their political power—power that comes from forming an organization and paying dues that enable faculty to act collectively.

I want to touch on one area in particular, and that is dues. I hate to say this, but faculty are the cheapest people in the world when it comes to paying dues. Often, when people ask why more faculty don't join the AAUP, the answer I hear is that dues are high. Faculty on campuses with collective bargaining pay between 0.7 percent and 1.25 percent of their salary in dues. Most lower-paid workers pay more than 2 percent of their wages in union dues. For example, dues for the Communications Workers of America, who represent a significant number of low wage workers, are 1 1/8 hours per week, which is equivalent to about 2.8 percent of wages. If you want to have an effective organization on campus to you have pay local dues and national dues. And I am not talking about \$10 a year to pay for coffee and doughnuts or wine and cheese once or twice a year. If you want a union, you need union dues.

But beyond dues, an effective union requires a group of volunteers and, at larger and more complex institutions, employees. What would your union do? You could go to the administration and demand a grievance procedure and when the administration violates that grievance procedure you would have the resources to get legal advice for the member against whom the violation occurred. More importantly, you would have the ability to organize support for an aggrieved faculty member, especially when the grievance is over an issue of academic freedom or discrimination. You can be an organized force in on-campus politics and take over your faculty senate. That can be very useful, because today, senates are often dominated by administration wannabees and do not represent the interests of faculty. You could organize faculty to demand higher pay, more equitable systems for distributing pay increases, and pay equity for women and scholars of color. You could hold forums on campus and have grade-ins where you educate students about working conditions for faculty on your campus. You could ask students to write to the administration and demand that faculty receive fair pay, including fair pay for part-time faculty on your campus. You can analyze how your institution is spending its resources and show how little is going to instruction or to support faculty research, the primary missions of our institutions.

I know that faculty are busy teaching, doing research, and engaging in service. But think about the service you do. How many hours do you waste going to committee meetings? Divert some of that time to organizing a union. How many times do you volunteer to do this or that to help

your department or college? Stop volunteering, stop doing the extra things you do to make your institutions work, and instead spend the time organizing and running your union. Two things will happen. First, you will begin to make a real difference in the lives of faculty on a daily basis. Second, the administration will notice that lots of work that you used to do for free isn't getting done. Tell them "If you want us to do that work, you need to treat us fairly and with respect. We want a voice in determining how people will get raises. We want a transparent process for the awarding of promotions and the granting of tenure. We want fair treatment, including decent pay *and* benefits for non-tenure eligible faculty. We want you—the administration—to defend us when we are victims of online harassment, and we want you to stand up for and fight for more money for higher education with state legislatures. We want you to stop sucking up to legislators and bringing us BS messages about the 'new normal' and 'doing more with less.'"

Whether you live in Connecticut, New Jersey, Ohio, Michigan, Wisconsin, Indiana, Illinois, West Virginia, Kentucky, Georgia, Louisiana, North Carolina, Tennessee, Oklahoma, California or Oregon, you can organize and call yourself a union, i.e., act collectively in the interests of your members and for the larger common good as well.

But the real benefits of working in union go beyond the work we can do on our campuses. We need to be at every legislative session to testify about the impact of changes that affect our institutions. We need to pool our resources statewide to defend tenure whether in the legislature or in the courts. We need to expose the shameless conditions for part-time faculty and work with students to end the exploitation of this group of faculty.

Faculty working together can get in the press. They can write op-eds and talk to reporters about how the misplaced priorities of politicians and administrators are hurting the education our students receive. Remember to tell this fundamental truth: faculty working conditions are students' learning conditions.

Beyond lobbying and talking to the press, it is time for us to get directly involved in politics. Only with that involvement we can start electing people who genuinely care about education and are willing to raise taxes on the wealthy to pay for it. Your chapter can form a political action committee and raise money for candidates for state offices that will support higher education. Of course, involvement in politics will require working with other organizations and building alliances off campus.

I know that some of you are thinking that if the AAUP gets involved in politics we will alienate some of our members. The problem is that if we don't get involved in politics we will be unable to stop the forces attacking tenure, academic freedom, and shared governance. They have goals: reshaping higher education to serve wealthy corporate interests, privatizing higher education, driving up tuition and student debt, and destroying higher education that serves the public interest.

Aside from the one percenters, virtually all of us have an interest in creating an educated citizenry who will protect our democracy. In addition, we are responsible for educating the doctors, nurses, and social workers who are on the front lines in the opioid crisis; we must train scientists to insure that we have safe drinking water and clean air; engineers to help us reduce carbon emissions and stave off climate change; professionals to help us rebuild our crumbling infrastructure; managers who will not tolerate sexual harassment or racial discrimination; teachers dedicated to all children having access to first-class public education and meeting their full human potential. The overwhelming majority of Americans and likely the overwhelming majority of faculty support these ideas and think that the best way to pay to improve public services is to increase taxes on the wealthy and on corporations so that they pay their fair share.

Interestingly, in his 1923 book *The Goose-step: A Study of American Education*, Upton Sinclair referred to the AAUP as the “union for faculty.” If we are going to save our profession we must make Sinclair’s statement a reality. No matter where you live, whether or not you have collective bargaining, whether your institution is private or public, you can organize and engage in concerted activity. You can stand together!

That is the lesson of the West Virginia teachers’ strike. They did not have collective bargaining because there is no law that allows for public-sector bargaining in the state. They live in a state where 70 percent of voters went for Trump. They don’t have collective bargaining, striking is illegal, and they are in a red state. But they do have a union!

In West Virginia, teachers had endured years of skyrocketing health insurance premiums alongside zero pay increases, and their salaries had sunk to 48<sup>th</sup> in the country. But they recognized that this was not only hurting teachers but also the students they serve, so they went on strike. They went on strike for higher wages and better health coverage. But ultimately their struggle was about respect for them and communities they serve.

The West Virginia teachers have shown us that being organized and engaging in concerted activity matters. Standing together matters!

Remember, too, that our struggle is not just about our jobs or even the education that we provide our students. It is also about saving our democracy by ensuring that we have an educated citizenry, and by showing politicians bought by wealthy corporations that they cannot influence what we teach or what research we do.

If the AAUP is to survive and indeed if our profession and our movement are to survive, we must change. In a post-*Janus* world where public-sector collective bargaining is weakened, in a world where tenure no longer offers protection for academic freedom and shared governance for the majority of faculty, in a world where faculty face targeted online harassment and legislative overreach, in a world where higher education is run as a corporate enterprise and presidents and top administrators are paid like CEOs of for-profit businesses, in a world where public funding for higher education is eroding so that the wealthy can receive tax cuts and avoid

paying their fair share for public services, in a world where new threats to democracy emerge daily, we need to change as an organization or risk becoming irrelevant. This is the reality that we face and there is no way to sugar coat it.

Someone once told me that everyone wants change, but nobody wants to change what they are doing. If the AAUP is going to change, we are all going to have to change what we are doing and how we are doing it. That is the struggle that is before us.

Let me leave you with a quote from Fredrick Douglass:

“If there is no struggle there is no progress. Those who profess to favor freedom and yet deprecate agitation are men who want crops without plowing up the ground; they want rain without thunder and lightning. They want the ocean without the awful roar of its many waters.... Power concedes nothing without a demand. It never did and it never will. Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them, and these will continue till they are resisted ... The limits of tyrants are prescribed by the endurance of those whom they oppress.”

Thank you.