

March 10, 2021

VIA ELECTRONIC MAIL

Dr. Brad Johnson
Interim President
Southwest Baptist University
1600 University Avenue
Bolivar, Missouri 65613

Dear President Johnson:

Dr. R. Zachary Manis, a professor of philosophy with sixteen years of service at Southwest Baptist University, has advised the American Association of University Professors of having received oral notice of the termination of his tenured appointment, effective at the end of the 2020–21 academic year, for stated financial reasons.¹ We understand that Dr. J. Lee Skinkle, the university provost, conveyed this notice to Professor Manis in a May 20, 2020, meeting convened for that purpose. We understand, further, that, on June 2, Dr. Eric A. Turner, the previous SBU president, announced a restructuring initiative taken to address “historic budgetary issues” and “enrollment concerns caused by COVID-19” and that the administration later revealed that the philosophy department was among the departments and programs to be eliminated in the restructuring, the only such elimination that entailed the termination of a tenured appointment.

Professor Manis has informed us that, in June 2020, the SBU faculty senate asked him to provide a written response to the administration’s decision to close the philosophy department. (The senate had just approved a new major in philosophy in spring 2020, with its first course offerings set to launch in the fall.) In a July 3 letter to the senate executive committee, Professor Manis recommended that the senate urge the administration to reconsider. He emphasized, among other things, that the elimination of the philosophy department and the resulting termination of his appointment had been carried out in violation of the applicable procedures in the faculty handbook.

On October 2, the faculty senate voted to approve the following recommendation to the university’s executive cabinet:

Faculty Senate recommends to the University to retain and/or reinstate the Philosophy area, major, and minor at Southwest Baptist University with the following rationale:

- 1) Contractual procedures were not followed per Handbook 2.10.4.1 by not allowing for designated input.

¹ Professor Manis has informed us that he received no written notice.

- 2) Philosophy plays an integral role in liberal arts education, specifically to the mission of Southwest Baptist University.
- 3) The Philosophy area was being utilized in other areas to develop associated program majors and minors.
- 4) Sufficient timeframes set forth in the curricular milestones of two years were not met, which should be allowed after reinstatement.
- 5) Because financial exigency was not declared by the Board of Trustees, financial reasons, in whole or in part, to eliminate the Philosophy program were not substantiated as set forth in Handbook 2.10.4.2.

The interest of our Association in the case of Professor Manis arises from its longstanding commitment to fundamental tenets of academic freedom, tenure, and due process, as enunciated in the enclosed 1940 *Statement of Principles on Academic Freedom and Tenure*, jointly formulated by the AAUP and the Association of American Colleges and Universities (formerly the Association of American Colleges) and endorsed by more than 250 scholarly societies and higher-education organizations.² Derivative procedural standards are set forth in the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure*.

The AAUP has long held that these recommended principles and procedural standards are applicable to all American institutions of higher learning, including those that are religiously affiliated. However, as the AAUP's 1915 *Declaration of Principles on Academic Freedom and Academic Tenure* (the AAUP's founding document) acknowledges, "If a church or religious denomination establishes a college to be governed by a board of trustees, with the express understanding that the college will be used as an instrument of propaganda in the interests of the religious faith professed by the church or denomination creating it, the trustees have a right to demand that everything be subordinated to that end." Such an entity is obviously not an institution of higher learning, which has a public trust, but a proprietary entity with a private trust, and the standards relevant to institutions of higher learning—such as those recommended by the AAUP—would not apply. In 1915, the statement continues, "such institutions are rare . . . and are becoming ever more rare. We still have, indeed, colleges under denominational auspices; but very few of them impose upon their trustees responsibility for the spread of specific doctrines. They are more and more coming to occupy, with respect to the freedom enjoyed by the members of their teaching bodies, the position of untrammelled institutions of learning, and are differentiated only by the natural influence of their respective historic antecedents and traditions." The multiple references to AAUP-supported principles and standards in the SBU faculty handbook, regarding not only academic freedom and tenure, but also academic due process and shared governance, indicate that SBU is among the "untrammelled institutions of learning" to which our recommended standards apply.

² We are pleased to note that the 2011 edition of the faculty handbook states that SBU "has adopted the academic freedom portion of the 1940 *Statement of Principles on Academic Freedom and Tenure* jointly prepared by the American Association of University Professors and the Association of American Colleges" and that it reproduces the first section of the 1940 *Statement* verbatim.

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The 1940 *Statement* articulates the AAUP-recommended standard most relevant to the case of Professor Manis: “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.” As Professor Manis’s appointment was not terminated for cause (i.e., for reasons related to professional fitness) but for stated financial reasons, the relevant procedural standards are those set out in Regulation 4c, “Financial Exigency,” of the *Recommended Institutional Regulations*.

Regulation 4c permits the termination of a tenured appointment “under extraordinary circumstances because of a demonstrably bona fide financial exigency,” defined as “a severe financial crisis that fundamentally compromises the academic integrity of the institution as a whole and that cannot be alleviated by less drastic means.” Regulation 4c requires extensive faculty involvement in all decision-making related to financial exigency, from the financial exigency declaration itself to the decisions about which programs to close and which appointments to terminate. It also places obligations on the administration regarding reassignment, retraining, order of layoff, severance salary, and academic due process. The latter requires “an on-the-record adjudicative hearing” before an elected faculty body. Among the contestable issues in such a proceeding are “the existence and extent of the condition of financial exigency,” the “validity of the educational judgments and criteria for identification for termination,” and “whether the criteria are being properly applied in the individual case,” with the burden of proof resting with the administration. (Section 2.10.4, “Reduction in Force,” of the faculty handbook incorporates many of these provisions.)

We are not aware that SBU has declared financial exigency or that any of these normative academic standards have been observed in the case of Professor Manis. In fact, the October 2 faculty senate recommendation clearly indicates that neither of these conditions was met. As a result, the AAUP must regard the action to terminate Professor Manis’s appointment as a summary dismissal, effected in violation of the 1940 *Statement of Principles on Academic Freedom and Tenure*.

The purpose of Regulation 4c is to protect academic freedom by discouraging administrations from using a real or apparent financial crisis as a pretext for terminating the appointments of faculty members for impermissible reasons, such as those that violate academic freedom. Our concern regarding the case of Professor Manis is thus further intensified by a statement, in a document authored by Mr. Robert Ingold, an eight-year member and former acting chair of the SBU board of trustees, indicating that the real basis for decision to terminate Professor Manis’s appointment had nothing to do with budgetary concerns. In an eight-page document reportedly distributed to the SBU board of trustees at its October 2020 meeting, Mr. Ingold wrote that the “SBU Trustees responded to the Dockery Commission Report [the product of a review of SBU’s school of theology and ministry by six conservative theologians] by instructing [President] Eric Turner to take measures to move the theology program in a more conservative direction. Two faculty members with documented views to the left of mainstream Missouri Baptist doctrine have been removed, in one case by resignation and in another case by elimination of the philosophy department at the end of the current academic year.”

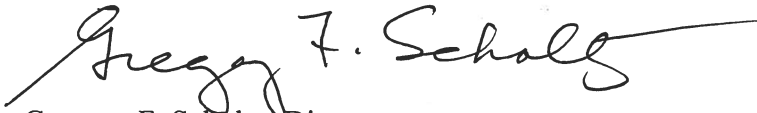
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If this report is true, the action against Professor Manis would appear to have been taken in disregard of his academic freedom rights and therefore in evident violation, again, of the 1940 *Statement*.

The information in our possession concerning the case of Professor Manis has come to us primarily from him and from media accounts. We appreciate that you may have additional information that might address our concerns. Absent such information and assuming the essential accuracy of what we have recounted above, we would urge that the notice of termination issued to Professor Manis be immediately rescinded and that any subsequent steps be taken in accordance with the above-cited procedural standards. As an alternative, we would urge the administration to seek a resolution of the case acceptable to Professor Manis.

An action to dismiss a faculty member summarily—especially when based on considerations that implicate principles of academic freedom—is a matter of basic concern to our Association under its longstanding responsibilities. We would therefore welcome a timely response.

Sincerely,



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

Enclosures by email attachment

Cc: The Rev. Dr. Eddie Bumpers, Chair, Board of Trustees
Dr. J. Lee Skinkle, Provost
Dr. Kevin Schriver, Dean of the College of Arts and Sciences:
Dr. Jeff Waters, Head, Arts and Humanities Division
Professor Tom Sneed, President, Faculty Senate
Professor Nate Wright, President-Elect, Faculty Senate
Professor Melinda Jones, Past President, Faculty Senate
Professor Kathryn E. Kuhn, President, Missouri Conference of the AAUP
Professor R. Zachary Manis