

Hi Group,

Welcome to the Summer Institute's *Defending Adjuncts* workshop.

My goal is that by the end of our three hours you will have a clear understanding of how to draw upon AUP policy to write letters, on behalf of your AUP chapter or conference, that defend the rights of part-time faculty who are facing discipline or termination, or whose academic freedom is otherwise threatened.

At least as importantly, I hope that you will be motivated to do so.

I have some good news. As of June, AUP policy defining the academic freedom and job security rights of part-time faculty is much more accessible. Committee A has revised the *Recommended Institutional Regulations on Academic Freedom and Tenure*. The *RIR*, as it is known, is essentially the Association's rulebook. These revisions foreground AUP protections for the academic freedom and job security of part-time faculty (which were previously tucked away in Regulation #13) and clearly articulate that the Association intends for the procedural safeguards of all faculty, part-time and full-time, to be almost identical.

Almost, of course, is an adverb that is often laden with contradiction, and AUP history offers no exception. But I believe that any administrator who seeks to terminate a part-time faculty member without running a full AUP procedure will think two or three times upon consulting with the revised *RIR*. And most adjuncts compelled toward activism will be pleasantly surprised to find that our policy far exceeds their expectations.

However, even the best-intended policies lose validity if they exist only as iterations enumerated on paper. All of you are aware that, as a matter of practice, institutional disdain for (or ignorance of) procedural safeguards for part-time faculty are all but ubiquitous, especially when part-time faculty members risk inconveniencing their chairs or directors by voicing pedagogical opinions, criticizing policies that might negatively affect their students, or advocating to improve their working conditions. When the employment incentives to please one's chair or director are overwhelming, academic freedom (to say nothing of committed activism) hasn't a snowball's chance.

Let's change that.

Sincerely,

Don Eron
Caprice Lawless
Melinda Myrick

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Dean Leigh has responded to our later by claiming that aspects of our argument are incorrect, and that CU-Boulder has followed its published policies regarding the termination of adjuncts. We summarize his argument in the first paragraph, refute some of his "facts" with information we've received from the adjunct, and argue for the primacy of AAFP standards over institutional policy.

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A long-serving adjunct writing instructor at an R1 institution, who has a remarkable CV, is terminated through non-reassignment of courses. He is not a member of the AAFP but has long acted as a gadfly in his program, accumulating numerous enemies over the years. In addition to appealing to our chapter/conference for assistance, he has filed an age discrimination claim with the EEOC. We argue/cite a number of AAFP principles in his defense, and argue that, as he has taught the equivalent of a full-time load for longer than seven years, he is entitled to contest his termination via the due process procedures that accrue with tenure.

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Two long-serving community college adjuncts, who are the president and vice president of their AAFP chapter and are pivotal (as a profound understatement) to our conference's multi-panked community college adjunct initiative, have been

penalized (in our view) for their AUP participation. They have been assigned reduced course loads. The department chair, an outspoken critic of the AUP, has justified the reduced course load for one of the adjuncts on a negative peer observation (the chair was the observer).

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33. Appendix 1
A long-serving community college adjunct (and AUP activist) has protested an initiative that he believes will retard student success. Shortly thereafter his class is peer-reviewed by an administrator, and he is summarily terminated.

37. Appendix 2
An older student has asked a community college adjunct if he can testify before the state legislature in support of an AUP sponsored bill to increase adjunct equity. Her department chair threatens the adjunct with termination for manipulating the student to serve her selfish political ends.

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A former adjunct at a state college, who runs a web site that is persistently critical of the college's administration, is declared "persona non grata" by the college and banned from campus under threat of immediate arrest for trespass.

42. Appendix 4
The Recommended Institutional Regulations on Academic Freedom and Tenure

Five Workshop Scenarios—an adjunct walks into a bar...

1. An adjunct with over seven years experience, who typically teaches three courses per term, has been told, right before the new term, that there are no available classes. She has believed herself to be in good-standing with the chair, stayed out of departmental politics, and has been offered no explanation beyond that "enrollments are down." Nonetheless, she's noticed that a similar course is being taught by an adjunct with less experience.

2. An adjunct with over seven years experience, who typically teaches three courses per term, has been told that there are no available classes for the next term. While she kept her head down during her first few years, in recent years she's contributed to departmental meetings, and at these meetings has occasionally disagreed with the chair over pedagogical requirements. The chair has offered no explanation for her termination beyond "enrollments are down." Nonetheless, she's noticed that a similar course is being taught by an adjunct with less experience.

3. An adjunct with three years experience has a Ph.D., several peer-review publications, and typically teaches two courses per term. He is an AAUP member, although he has kept a low profile; his involvement hasn't extended beyond attending meetings. He has been told that there are no classes available for the next term. When asked why, his director tells him, "I'm sorry. We like working with you. There are just no classes available." Nonetheless, he's noticed that a similar course is being taught by an adjunct who has two years experience, an MA, and no peer-review publications.

4. An adjunct composition instructor is in his second semester of teaching one course at an RI university. The adjunct, who by all reports is an excellent classroom teacher, also blogs on political issues from an alt-right (and satirical) perspective. In this capacity he has become annoyed by what he considers to be a double standard on the part of liberals. He is particularly irked by reports (verified by the alt-right blogosphere) that President Obama committed grave misdeeds in office compared with which President Trump's missteps pale, offenses that were covered-up by his long-time aide, Valerie Jarrett. In this context, he tweets, "Muslim brotherhood & planet of the apes had a baby=vj." The next day both the local newspaper and the governor demand his ouster. The university immediately suspends him from the classroom, "indefinitely" with pay, and issues a statement that the tweet "does not represent—indeed, is abhorrent to—the values that our great university strives to embody."

5. At a faculty meeting, an adjunct engages in a spirited debate over criteria for peer observations. On at least two occasions the director raises her voice. The next day the adjunct receives an email from the director, advising him that she has placed a letter in his personnel file regarding his incivility at yesterday's faculty meeting, and that any further incidence may result in severe sanction.

Basic Letter Structure

P#1: Identify reason for writing

P#2: Describe/summarize AUP and your conference's/chapter's interest in case (e.g., the necessity of meaningful due process for academic freedom and the academic profession to remain viable, particularly at a time when 76% of faculty appointments are off the tenure track...)

P#3: Review of relevant events

P#4: Cite/summarize AUP principles and policies that appear to have been violated. Quote from *RIR* and/or other statements and documents—most likely the "Freedom to Teach" statement and the 1994 statement "On the Relationship of Faculty Governance to Academic Freedom."

P#5: Review of relevant institutional policies (vis-a-vis AUP policies) with emphasis on where they fall short of industry (our!) standards. In most instances, an institution's policies will afford no procedural protections for part-time faculty. Here we argue that it is in their interest to devise policies that meet our standards.

P#5: Demurral ("We understand that most of our information has come from Professor McGillicuddy...")

P#6: Conclusion, including explicit recommendations. We'll always recommend that the institution devise policies for part-time faculty that meet AUP standards. We'll also recommend that the institution restore the part-time faculty member's class schedule, or else give the part-time faculty member the due process rights to which her or she is entitled by AUP policy.

As we assume you know, Ms. Emons, who has taught continually at RRCC since 1995, is the longest serving teacher in the Visual Arts Department. According to Ms. Emons, on August 5, she received a phone call from Benjamin Rogers, a full-time faculty member in your department, advising her that a drawing course which she has taught numerous times with notable success, and to which she had been led to believe she would be assigned for fall 2016, would instead be assigned to another adjunct. Mr. Rogers, who claimed that he was speaking on behalf of the "art department," informed Ms. Emons that the decision to summarily dismiss her was due to low SOI (student evaluation) scores, a lack of core competence demonstrated

Since 1915, the AUP's purpose has been to advance academic freedom and shared governance, to define fundamental professional values and standards for higher education, and to ensure higher education's contribution to the common good. Our concern in Ms. Emons's case stems from our longstanding belief that academic freedom cannot endure in the absence of rigorously practiced due process protections for faculty. Indeed, without such adherence to due process, the protections for academic freedom would be reduced to the possibly self-interested assurances of administrators that they value academic freedom. Furthermore, at a time when 76% of the professoriate hold appointments that are off the tenure track (or its equivalent), with the vast majority of those appointments being part-time, the academic profession cannot survive if accomplished, long-serving faculty such as Anne Emons can be summarily dismissed in disregard of long-established due process standards.

Anne Emons, an adjunct in the Visual Arts Department (VAD) at Red Rocks Community College (RRCC) since 1995, has sought the assistance of the Colorado Conference of the American Association of University Professor's (CAAP), pursuant to her non-reappointment for the fall 2016 semester. Based on information provided to us by Ms. Emons, her employment was terminated in disregard (or ignorance) of numerous due process protections to which she is entitled. As disturbingly, Ms. Emons has also provided us with evidence that her dismissal occurred in part as a result of exercising her rights to academic freedom as Co-President of the RRCC chapter of the AUP.

Dear Professor Savig,
 Berndt Savig, Chair
 Visual Arts Department
 Red Rocks Community College

Date

A long-serving community college art instructor (who is president of the Red Rocks AUP chapter) is terminated by non-reassignment of classes—in violation, we argue, of her due process protections

Letter 1:

This one most faithfully adheres to template.

by her students (as observed by others on the visual arts faculty) and informal student complaints about her courses.

For your convenience I will link the AUP's Recommended Institutional Regulations on Academic Freedom and Tenure (RIR): <https://www.aaup.org/file/RIR%202014.pdf>

I comment to you #13: "Part-Time Faculty Appointments." This regulation defines professional standards regarding due process protections for part-time faculty, with the rigor of the protections contingent upon length of service to the institution. Other than that Mr. Rogers offered Ms. Emons an explanation for her dismissal, none of these numerous protections were afforded to Ms. Emons. Of particular significance, I commend you to 13f:

...[Part-time faculty] offered additional appointment [beyond a seventh year] shall have continuing appointments and shall not be replaced by part-time appointees with less service who are assigned substantially identical responsibilities without having been afforded the procedural safeguards associated with dismissal as set forth in section b.

Section 13b accords adjuncts in Ms. Emons's circumstance the right to contest their dismissal in a hearing before a faculty committee. According to Ms. Emons, she has received no such faculty committee hearing, or, as noted, any other opportunity to contest her dismissal from the Visual Arts Department or RRCC.

Additionally, here is the AUP's 1967 statement "On the Relationship of Faculty Governance to Academic Freedom": <https://www.aaup.org/report/relationship-faculty-governance-academic-freedom>. Please note that a central tenet of academic freedom is the right of faculty to express their views "on matters having to do with their institution and its policies." To state the obvious, the treatment of adjunct faculty is a matter of institutional importance at RRCC. As you are no doubt also aware, as Co-President of the RRCC AUP chapter, Ms. Emons has been central to the efforts of the Colorado AUP to advocate for adjuncts within the Colorado Community College System, a campaign that has received national attention.

When an AUP activist such as Ms. Emons, who has an established record of teaching excellence, is dismissed without prior warning due to suddenly perceived teaching deficiencies, there exists a *prima facie* case of retaliation. We are also concerned that Ms. Emons is being retaliated against for reporting sexual harassment complaints, on behalf of several third parties, to your program assistant. According to Ms. Emons, your program assistant (speaking on your behalf) informed her that she had no standing to report third party harassment complaints—information that is not only inaccurate, but that evidences a disturbing departmental violation of Title 9 enforcement stipulations.

Ms. Emons—a Christian-themed artist whose work has been exhibited throughout

Colorado and California, and who, in addition to her 20 years service to RRCC, has participated in prestigious seminars and conducted workshops at nationally acclaimed venues—vigorously contests the assessment that Mr. Rogers's offered on behalf of you and your department. However, as full professors who have been involved with innumerable personnel decisions, we understand that negative evaluations can be contentious, even when made in good faith, and that opinions can differ. Perhaps there is validity to Mr. Rogers's finding that Ms. Emmons's teaching record falls short of the established standards of your department. Perhaps low student evaluations in a single class (as Ms. Emmons accounts for her low SOI) is typically grounds for dismissal of faculty at RRCC, and that criteria for meeting "core standards" is well articulated in your department (despite that many of your faculty claim there's no such criteria), and that informal complaints from students about Visual Arts faculty are infrequent at RRCC and always indicative of poor teaching rather than, for example, rigorous standards or heavy assignment workloads. However, as Ms. Emmons was not given the opportunity to contest Mr. Rogers's charges before a faculty committee, or counterbalance them with her long history of strong student evaluations, testimonials from current and former students, and other measures of teaching excellence, we can't know if Ms. Emmons's dismissal was justified or retaliatory and damaging to your department, to RRCC, and to the public. What we can be sure of, however, is that the chances of another Visual Arts adjunct offering candid views on faculty business that might be contrary to those of the Visual Arts or RRCC administrations, or of an adjunct reporting concerns of sexual harassment within the Visual Arts Department as required by Title 9 legislation, or of otherwise contributing their ideas to further the common good, are now almost nil. That's the cost to an institution and to the public when a faculty member is denied access to due process procedures to which she is entitled.

That the Visual Arts Department and, more generally, RRCC, is negligent in its treatment of adjunct faculty is evidenced by what appears to be the lack of any explicit institutional policy that addresses due process protections for long-serving adjuncts such as Ms. Emmons. But the absence of any such policy is not plausible ground for denying Ms. Emmons the protections to which she is entitled. It is the obligation of colleges and universities to adopt policies and regulations that are consistent with AUP policies. Hypothetically, in the event of a national investigation into the practices of the Red Rocks Community College administration regarding the status of faculty, whether part-time or full-time, it is not the laws of the institution but the standards of the AUP to which the institution will be held. Thus a good faith adherence to AUP policy regarding due process for faculty protects both faculty and the institution.

For the long term, we recommend that you work toward establishing for adjuncts in your department and at RRCC due process protections that are consistent with AUP standards. For the short term, we ask that you reassign to Ms. Emmons the drawing class she had been led to believe she would be assigned, or else grant her the opportunity to contest the charges against her before a duly constituted faculty committee, in accordance with stipulation #13 of the AUP's "Recommended

Institutional Regulations on Academic Freedom and Tenure;"

We appreciate that you might have additional information to that provided to us by Ms. Emmons, on which we have based this letter. If so, we welcome your comments. In any event, we hope for a just resolution of this case, and look forward to your prompt response.

Sincerely,

Dr. Stephen Mumme, Co-President
Colorado Conference of the AUP
Professor

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CC: Anne Emmons
Benjamin Rogers
Dean
Provost

Letter 2:
A long-serving community college geography instructor, who is not an active member of the AAUP and who has a disability, is terminated for non-performance of contract, in violation, we argue, of her ADA and AAUP protections.

December 29, 2015

Max Miller

Geography/GIS Faculty

Geography/Geology/Meteorology/GIS Lead

B1015

Front Range Community College

3645 West 112th Avenue

Westminster, CO 80031

Dear Mr. Miller,

We write this letter to express the concerns of the Colorado Conference of the American Association of University Professors (AAUP) with respect to the treatment of Dr. Sherry Oaks, an adjunct faculty instructor at Front Range Community College with long time service at the Westminster and other FRCC campuses.

It is our understanding based on statements by Dr. Oaks and consultation with our FRCC AAUP Chapter, that Dr. Oaks' employment has been terminated by circumstance of contract nonrenewal for the spring 2016 semester. It is also our understanding, based on your correspondence with Dr. Oaks, that the basis for Dr. Oaks' nonrenewal is a combination of alleged failure to properly enter grades in one section of MET-150 (Meteorology). You also allege various student complaints against Dr. Oaks as well as an unlisted change to the MET-150 course syllabus substituting one form of final evaluation for another.

We have read Dr. Oaks response and rebuttal of these allegations in her email to you on December 23, 2015. While we cannot and do not propose to litigate all these charges and counter-charges, the AAUP Colorado Conference is concerned with two important aspects of this situation that bear directly on the propriety of faculty renewal and continuance.

Our first concern has to do with the fact that Dr. Oaks has a long track record of service at FRCC and therefore, following AAUP best practices, a presumption of renewal as an instructor in the absence of substantial evidence of incompetence, malfeasance, or abuse. The allegations raised against her do not seem to us to rise to this level. In any event, according to the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure*, an instructor with Dr. Oaks' record of service is entitled to numerous levels of due process in order to contest charges brought against her. We refer specifically to Regulation #13:

<http://www.aaup.org/report/recommended-institutional-regulations-academic-freedom-and-tenure>
According to the information presented to us, Dr. Oaks has not been granted any of the due process protections to which she is entitled.

A second concern is what appears to be an administrative failure to meet with Dr. Oaks and discuss your pedagogical and procedural concerns for the purpose of establishing mutual understanding, a pathway, and an opportunity for Dr. Oaks to meet institutional expectations—expectations that are consistent and compliant with requirements for disability accommodation found in the Americans with Disabilities Act of 1990 (ADA). Front Range CC is clearly a “covered entity” under the Act and Dr. Oaks plainly qualifies as a disabled employee. The AAUP Colorado Conference believes all faculty with an established record of service are entitled to an opportunity to understand and meet institutional expectations and this would be especially true for those faculty with disabilities that clearly merit additional accommodation in order to comply with institutional expectations. Dr. Oaks falls into this category.

The AAUP's 2012 report, *Accommodating Faculty Members Who Have Disabilities*, recognizes the role of effective communication between a faculty member with a disability and an administrator that is obligated to accommodate the faculty member: <http://www.aaup.org/report/accommodating-faculty-members-who-have-disabilitieshttp://www.ok-ahead.org/facultywdis.pdf>

This report calls for “good faith” discussions between both parties. Given the obvious miscommunication and festering animosities between Dr. Oaks and the Geography Department on this matter, one would be hard put to construe that any such discussions were conducted in good faith on the part of the FRCC administration to reach an equitable accommodation for Dr. Oaks.

In sum, based on the information we have in hand we are convinced that the nonrenewal of Dr. Oaks lacks a sound justification and warrants review and reversal. Dr. Oaks' regular courses should be restored to her and further efforts should be made to resolve the issues raised by both Dr. Oaks and yourself. Such a course meets with AAUP best practice in the matter of renewal and retention of college faculty and, in our opinion, best satisfies the promise of the Americans with Disabilities Act.

Should you wish to discuss our concerns with us we are happy to make time available for this purpose.

Sincerely,

Stephen Mumme
Jonathan Rees

Letter 3:
A long serving adjunct at an R1 institution, who is not an AAUP member, is terminated through non-reassignment of classes, as the English department will no longer sign-off on the classes he teaches in affiliated academic programs. We argue that, as he has taught the equivalent of a full-time load for longer than seven years, he is entitled to contest his termination via the due process procedures that accrue with tenure.

December 15, 2014

Steven Leigh, Dean
College of Arts and Sciences
275 UCB
Boulder CO 80309
steven.leigh@colorado.edu

Dear Dean Leigh,

Jim McVey, a part-time faculty member at the University of Colorado-Boulder (UCB) from 2001 through 2013, has sought the assistance of the Colorado Conference of the American Association of University Professors (AAUP), pursuant to his 2013 non-reappointment from his lecturer position. Based on information provided to us by Dr. McVey, his employment at UCB was terminated in disregard (or ignorance) of numerous due process protections to which he is entitled.

Since 1915, the AAUP's purpose has been to advance academic freedom and shared governance, to define fundamental professional values and standards for higher education, and to ensure higher education's contribution to the common good. Our concern in Dr. McVey's case stems from our longstanding belief that academic freedom cannot endure in the absence of rigorously practiced due process protections for faculty. Furthermore, at a time when 76% of the professoriate hold appointments that are off the tenure track (with the vast majority of those appointments being part-time), the academic profession cannot survive if long-serving faculty such as Dr. McVey can be summarily dismissed in disregard of long-established due process standards.

With three published books as well as other notable professional distinctions, including featured readings at the Sorbonne and the prestigious Watermark Literary Muster in Australia, Dr. McVey appears to have been extraordinarily well qualified for a lecturer position at UCB. According to information provided to us by Dr. McVey, he taught continually at UCB from 2001 through 2013, with appointments in Continuing Education, English, the Program for Writing and Rhetoric and several Residential Academic Programs (RAP). His appointments to Continuing Ed and the RAPs were dependent upon course approval from English. Throughout most of this period Dr. McVey, despite holding the rank of lecturer, taught the equivalent of a full-time load. However, beginning in 2011, after ten years of continuous service, English gradually stopped approving Dr. McVey's classes. According to Dr. McVey:

"On seven different occasions over the past three years, the English Department has appointed a graduate student to teach a class that I'd been teaching. Five of these classes were the result of positions I created through my own initiative. The pattern has been the same: I create a teaching opportunity at CE or a RAP, the Department approves the class, and then, after a year or so, it appoints someone else to teach the class. In at least two of the instances involving RAPs, the program director appealed unsuccessfully to the English Department to keep me on."

According to documents provided to us by Dr. McVey, Professor William Kuskin, then chair the English Department, replied to one of the RAP appeals by explaining that he terminated Dr. McVey's employment because he wanted to create increased teaching opportunities for current or recent graduate students, many of whom taught classes similar to those created by Dr. McVey.

For your convenience I have attached the 1940 Statement of Principles on Academic Freedom and Tenure, with the 1970 interpretive comments. Please note point #5 in the interpretive comments: "The concept of 'rank of full-time instructor or a higher rank' is intended to include any person who teaches a full-time load regardless of the teacher's specific title." I have also attached the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure* (RIR). Here I commend to you #5: "Dismissal Procedures," which governs the due process protections to which Dr. McVey is entitled if he has taught the equivalent of a full-time load for a period of seven years or longer, and to #13: "Part-Time Faculty Appointments," with specific reference to b, d, e, and f. These clauses govern due process measures to be accorded faculty members who teach less than a full-time load, with the level of protection varying depending upon length of service.

In summary, if Dr. McVey (or any adjunct) has taught the equivalent of a full-time load for seven years or longer, he should be accorded the due process protections as enumerated in RIR #5. These involve four levels of due process, including a formal statement of charges and the opportunity to defend himself in a formal hearing before a duly constituted faculty committee. If he has taught in a part-time capacity for fewer than seven years, Dr. McVey (or any adjunct) warrants a lesser degree of protection that may nonetheless include the right to a hearing before a faculty committee. Adjuncts have further rights if they have been terminated and replaced—as Professor Kuskin has explained is the case with Dr. McVey—by part-time appointees of lesser credentials who teach essentially the same course.

That the University of Colorado is negligent in its treatment of adjunct faculty is evidenced by what appears to be the lack of any explicit policy that addresses due process protections for long-serving lecturers such as Dr. McVey. The absence of any such policy is not plausible grounds for denying Dr. McVey the protections to which he is entitled. It is the obligation of colleges and universities to adopt policies and regulations that are consistent with AAUP policies. Hypothetically, in the event of a national investigation into the practices of the University of Colorado's

administration regarding the status of faculty, whether adjunct or tenured, it is not the laws of the institution but the standards of the AUP to which the institution will be held. Thus a good faith adherence to AUP policy regarding due process for faculty protects both faculty and the institution.

According to Dr. McVey, on several occasions Dean Boonin, in recognizing the lack of any explicit college or university policy regarding due process protections for part-time faculty at UCB, has suggested that you might appoint an ad hoc committee to hear Dr. McVey's dismissal grievance. As we understand, you have declined to appoint such a committee in the absence of a policy explicitly authorizing you to do so. We urge you to reconsider your decision to deny Dr. McVey the rights to which he is entitled as a long-serving member of the academic profession.

We appreciate that you might have additional information to that provided to us by Dr. McVey, on which we have based this letter. If so, we welcome your comments. In any event, we hope for a just resolution of this case, and look forward to your prompt response.

Sincerely,

Dr. Stephen Mummé, Co-President
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cc: Dr. David Boonin, Associate Dean, College of Liberal Arts, UCB
Dr. William Kuskin, Professor of English and Associate Vice Provost of Education
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Dr. Russell Moore, Provost, UCB
Dr. David Glimp, Chair of English, UCB

Dr. Phil DiStefano, Chancellor, UCB
Mr. Don Eron, Executive Committee, Colorado Conference of the AAUP
Dr. Jim McVey
Dr. Rolf Norgaard, Co-Chair, BFA Instructor Track Faculty Affairs Committee, UCB
Dr. Adam Norris, Co-Chair, BFA Instructor Track Faculty Affairs Committee, UCB
Dr. Penelope Kelsey, BFA Representative, English Department, UCB

Attachments:

1940 State of Principles on Academic Freedom and Tenure
<http://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>

Recommended Institutional Regulations on Academic Freedom and Tenure
<http://www.aaup.org/report/recommended-institutional-regulations-academic-freedom-and-tenure>

Letter 4: Dean Leigh has responded to our later by claiming that aspects of our argument are incorrect, and that CU has followed its published policies regarding the termination of adjuncts. We summarize his argument in the first paragraph, refute some of his "facts" with information we've received from the adjunct, and argue for the primacy of AAUP standards over institutional policy.

February 11, 2015

Steven Leigh, Dean
College of Arts and Sciences
275 UCB
Boulder, CO 80309
steven.leigh@colorado.edu

Dear Dean Leigh,

Thank you for your letter of January 21 in response to our December 15 letter regarding what the Colorado Conference of the AAUP understands to be the termination of Dr. Jim McVey's appointment as a lecturer at the University of Colorado-Boulder (CUB). In your letter, you state that Dr. McVey has not taught for the English Department since 2011, that lecturers have not been supplanted by graduate students (as Dr. McVey claims has occurred in his case) but, rather, many course offerings have been eliminated due to declining enrollments over the past six years, and that, in any event, Dr. McVey was not dismissed or terminated from CUB in that his employment did not end prior to the designated period of his appointment.

While we appreciate your understanding, we must say that it is contradicted either by evidence provided to us by Dr. McVey, or by the policies and principles of the AAUP. For example, regarding your information that Dr. McVey has not taught for the English Department since 2011, Dr. McVey claims that he taught the following nine courses since 2011, either directly for the English Department, or with the required approval of the English Department:

Spring 2012: 1600-720 (Buckingham RAP), 1600-785 (Baker RAP)
Fall 2012: 3060-015 (Main Campus), 3246-581 (Online Credit)
Spring 2013: 3246-581 (Online Credit), 4245-581 (Online Credit)
Summer 2013: 4245-581 (Online Credit)
Fall 2013: 3246-581 (Online Credit), 4245-581 (Online Credit)

Some of the contradiction may be explained by the dual supervision that occurs when the English classes are offered through the RAPS or through Continuing Ed. However, in both cases, the approval of the English department is required for the course and the instructor (as students receive English credit). Dr. McVey claims that

it was the refusal of the English Department to approve him that terminated his employment from CUB. As noted in our letter of December 15, in at least three cases the RAPS were sufficiently disappointed by the English Department's action that they appealed to English to reconsider their decision. While these courses may be under dual supervision, it is the English Department that dismissed Dr. McVey.

Your contention that Dr. McVey's courses were not subsequently assigned to graduate students is similarly contradicted by evidence provided by Dr. McVey to the Colorado AAVP. As we wrote to you on December 15, according to Dr. McVey:

"On seven different occasions over the past three years, the English Department has appointed a graduate student to teach a class that I'd been teaching. Five of these classes were the result of positions I created through my own initiative. The pattern has been the same: I create a teaching opportunity at CE or a RAP, the Department approves the class, and then, after a year or so, it appoints someone else to teach the class. In all three instances involving RAPS, the program director appealed unsuccessfully to the English Department to keep me on."

As we also noted in our letter of December 15, according to documents provided for us by Dr. McVey, Professor William Kuskin, then chair of the English Department, replied to one of the RAP appeals that he terminated Dr. McVey's employment because he wanted to create increased teaching opportunities for current or recent graduate students, many of whom taught classes similar to those created by Dr. McVey.

In any event, considering the variance between these accounts and your understanding, it should be a simple enough matter to check whether the courses that Dr. McVey created for the RAPS were eliminated due to declining enrollments, or if they were continued and assigned to graduate students, as Dr. McVey claims and Professor Kuskin corroborates.

Finally, we understand that it is the policy of CUB that lecturers who are not reappointed at the conclusion of their designated term are not considered to have been terminated, dismissed, or fired, as CUB's contractual obligation to these faculty ends at the conclusion of their appointment. However, it is the policy of the AAVP that part-time faculty who have served a sufficient period of time are entitled to considerable due process protections in the event that they are not reappointed. Today, when 76% of the faculty nationally are part-time or otherwise serve contingently, we will not long have a profession if the employment of long-serving faculty can be discontinued in the absence of due process procedures, as appears to have been the case with Dr. McVey. This is especially true if faculty can be summarily dismissed and replaced by graduate students or others with less experience to teach essentially the same course.

Rather than quote at length from my letter of December 15 regarding the passages of the Recommended Institutional Regulations on Academic Freedom and Tenure

(RIR) that apply to Dr. McVey, I have re-attached that letter to accompany this one.

As I concluded the letter of December 15, I hope we can resolve this issue by providing an opportunity for Dr. McVey to contest his non-reappointment before the appropriate faculty committee (which Dean Boonin has suggested is within your province to appoint), and for CUB to begin the process of adopting policies regarding due process protections for part-time faculty that are consistent with the standards of the profession, as defined by the AUP.

Sincerely,

Dr. Steven Mummé, Co-President
Colorado Conference of the AUP
Professor

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Jonathan Rees, Co-President
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719-549-2541 (office)
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cc: Dr. David Boonin, Associate Dean, College of Arts and Sciences, CUB
Dr. William Kuskin, Professor of English and Associate Vice Provost of Education
Innovation, CUB
Dr. Russell Moore, Provost, CUB
Dr. David Glimp, Chair of English, CUB
Dr. Phil DiStefano, Chancellor, CUB
Mr. Don Eron, Executive Committee, Colorado Conference of the AUP
Dr. Jim McVey
Dr. Rolf Norgaard, Co-Chair, BFA Instructor Track Faculty Affairs Committee, CUB
Dr. Adam Norris, Co-Chair, BFA Instructor Track Faculty Affairs Committee, CUB
Dr. Penelope Kelsey, BFA Representative, Department of English, CUB

Letter 5:

A long-serving adjunct writing instructor at an R1 institution, who has a remarkable CV, is terminated through non-reassignment of courses. He is not a member of the AAUP but has long acted as a gadfly in his program, accumulating numerous enemies over the years. In addition to appealing to our chapter/conference for assistance, he has filed an age discrimination claim with the EEOC. We argue/cite a number of AAUP principles in his defense, and argue that, as he has taught the equivalent of a full-time load for longer than seven years, he is entitled to contest his termination via the due process procedures that accrue with tenure.

July 13, 2016

Steven Leigh, Dean
College of Arts and Sciences
275 UCB
Boulder CO 80309
steven.leigh@colorado.edu
Dear Dean Leigh,

Dr. David Williams, a lecturer in the Program for Writing and Rhetoric (PWR) at the University of Colorado-Boulder (CU) from 2010 through 2015, has sought the assistance of the Colorado Conference of the American Association of University Professors (AAUP), pursuant to his 2015 non-reappointment. Based on information provided to us by Dr. Williams, his employment in the PWR was terminated in disregard (or ignorance) of numerous due process protections to which he is entitled. As disturbingly, Dr. Williams has also provided us with evidence that his dismissal occurred in part as a result of his exercising his rights to academic freedom.

Since 1915, the AAUP's purpose has been to advance academic freedom and shared governance, to define fundamental professional values and standards for higher education, and to ensure higher education's contribution to the common good. Our concern in Dr. Williams's case stems from our longstanding belief that academic freedom cannot endure in the absence of rigorously practiced due process protections for faculty. Indeed, without such adherence to due process, the protections for academic freedom would be reduced to the possibly self-interested assurances of administrators that they value academic freedom. Furthermore, at a time when 76% of the professoriate hold appointments that are off the tenure track (with the vast majority of those appointments being part-time), the academic profession cannot survive if long-serving faculty such as Dr. Williams can be summarily dismissed in disregard of long-established due process standards.

As you may be aware, Dr. Williams has filed an Equal Opportunities Employment Commission (EEOC) complaint alleging that his dismissal from the PWR was in

violation of the Age Discrimination in Employment Act (ADEA) and the Americans with Disabilities Act (ADA). As these claims will be adjudicated by the EEOC and then, presumably, the federal courts, we will not comment on them here other than as they relate to our specific concerns regarding violations of due process and academic freedom.

As of January 2014 Dr. Williams had been employed as a lecturer in the PWR for four years. By that time he had taught in various higher education capacities for over 30 years, had published numerous books with commercial or academic presses, and had won an Emmy award for his work in educational television. An expert in digital literacy (supposedly a PWR emphasis), Dr. Williams's internet videos have received over 80,000,000 hits. His 1993 book, *Grandma Essie's Covered Wagon* (Knopf), has become a staple of 5th grade reading curricula. A recent book of his, *The Trickster Brain: Neuroscience, Evolution, and Narrative* (Lexington Books), provides the basis for Dr. Williams innovative (and by all previous measures, successful) pedagogy, whereby he teaches rhetoric from the standpoint of neuroscience and biology in relationship to language.

In January 2014 Kathryn Pieplow, PWR Associate Director of Faculty Development and Curricular Oversight, convened a meeting with PWR lecturers to advise them that she would conduct peer observations of their classes during the forthcoming semester. At this meeting, according to Dr. Williams and others in attendance, Dr. Williams attempted to engage in discussion, regarding adjunct working conditions within the PWR, with Associate Director Pieplow, who appeared disinclined to discuss the issue. During the first week of the new semester, Ms. Pieplow initiated her observations by attending Dr. Williams's class. While Dr. Williams had been assured that these observations were designed to be formative (a constructive aid to teaching), Ms. Pieplow concluded her January 23 report with a summative judgment, "I found this class to be poorly executed in a number of ways." She then offered suggestions for improvement. While we cannot comment on the validity of Ms. Pieplow's suggestions, as full professors of long standing we will say that they were the kind one might offer a graduate assistant who had never taught a class. In response to what Dr. Williams considered to be a retaliatory report, Dr. Williams submitted a detailed refutation/reflection to the then PWR Director, Dr. John-Michael Rivera. Additionally, as Dr. Williams had supervised the peer review process at another university, Dr. Williams made several suggestions to Dr. Rivera on how to professionalize the process in the PWR, and volunteered his participation in efforts to revamp this process. This offer to help improve the PWR peer review process was one that Dr. Williams would make on several occasions over the next months, supplemented by links to empirical studies defining best practices.

In February 2015 Dr. Williams's class was observed by another PWR instructor. This instructor, who had previously reported positively on Dr. Williams's instruction, now offered suggestions similar (and, in our view, similarly condescending) to those offered in Ms. Pieplow's report. Dr. Williams filed another lengthy response, defending his course (which has historically received excellent student evaluations,

and in 2014 a glowing recommendation from the School of Engineering, the course's co-sponsor). In April 2015 Dr. Williams wrote to Dr. Steve Lamos, PWR Associate Director for Personnel, complaining of what he considered age discrimination against current PWR lecturers in the PWR instructor hiring process. Although Dr. Williams's letter addressed only the specific context, allegations of age discrimination have long plagued PWR culture, according to numerous sources. On multiple occasions PWR faculty complained of age discrimination to your office—albeit before your tenure as Dean of Arts and Sciences. Rather than pursue inquiries into the validity of these allegations, your office met these complaints with indifference or vehement denial.

In May 2015, one month after Dr. Williams complained to Dr. Lamos of age discrimination, then interim PWR director Dr. John Ackerman summoned Dr. Williams to inform him that the PWR would no longer employ him. Dr. Ackerman did not provide Dr. Williams with a written account of reasons for the dismissal, as is mandated by AUP standards, but—in what Dr. Williams recalls as a five minute conversation—advised Dr. Williams that, regardless of his lengthy record of excellence in the PWR, he was being terminated because of the two negative peer reviews and because the grades he administered were excessively high. Following the brief discussion with Dr. Ackerman, Dr. Williams contacted Dr. Rivera for clarification. Dr. Rivera provided Dr. Williams with another reason for his dismissal: He was being fired because he had insulted Associate Director Pieplow.

For your convenience I will link several AUP documents that define professional standards implicated in Dr. Williams's summary dismissal: Here is the AUP's 1940 *Statement of Principles on Academic Freedom and Tenure*, with the 1970 interpretive comments: <https://www.aaup.org/file/1940%20Statement.pdf>

Please note point #5 in the interpretive comments: "The concept of rank of full-time instructor or a higher rank is intended to include any person who teaches a full-time load regardless of the teacher's specific title." This is significant because over the course of his five-year career in the PWR, as well as over a previous two-year stint as a CU English department lecturer, Dr. Williams consistently taught the equivalent of a full-time load. Thus, prior to his firing in May 2015, Dr. Williams had taught full-time at CU for seven years.

Here is the AUP's *Recommended Institutional Regulations on Academic Freedom and Tenure* (RIR): <https://www.aaup.org/file/RIR%202014.pdf>

I comment to you #5: "Dismissal Procedures," which governs the due process protections to which Dr. Williams (or any faculty member) is entitled if he or she has taught the equivalent of a full-time load for a period of seven years or longer. In summary, these protections involve four levels of due process, including a formal statement of charges and the opportunity to defend himself in a formal hearing before a duly constituted faculty committee. As noted above, Dr. Williams, despite his rights as enumerated in these seminal documents, was accorded no due process

prior to his dismissal. He was merely advised of his summary termination in a five-minute conversation with Dr. Ackerman.

Here is the AUP's 1967 statement *On the Relationship of Faculty Governance to Academic Freedom*: <https://www.aaup.org/report/relationship-faculty-governance-academic-freedom>. Please note that a central tenet of academic freedom is the right of faculty to express their views "on matters having to do with their institution and its policies." Obviously, among these policies at CU are the PWR peer review process and program practices regarding the promotion of lecturers to the rank of instructor.

Furthermore, Dr. Williams's right to speak out—and to do so with vigor—holds regardless of whether his opinions are welcomed by the PWR administration. Here is the AUP's statement *On Collegiality as a Criterion for Faculty Evaluation*: <https://www.aaup.org/report/relationship-faculty-governance-academic-freedom>. As this statement clarifies, "*Criticism and opposition do not necessarily conflict with collegiality. Gaffies, critics of institutional practices or collegial norms, even the occasional malcontent, have all been known to play an invaluable and constructive role in the life of academic departments and institutions. They have sometimes proved collegial in the deepest and truest sense.*"

Dr. Williams is clearly a gadfly in the PWR. He expresses his views on institutional policies, especially regarding the treatment of adjuncts, in language that evokes the imagery and rhetoric of exploitation. This is clearly not flattering to PWR administrators, who may perceive their efforts differently than does Dr. Williams. In one document provided to us by Dr. Williams, in which he criticizes the PWR peer review process, an obviously exasperated Dr. Rivera accuses Dr. Williams of arrogance. Dr. Williams is also hard-hitting in his criticism of Associate Director Pieplow's administration of the peer review process. While one can imagine that Ms. Pieplow might be insulted by this criticism (or that Drs. Rivera and Ackerman might be insulted on her behalf), Dr. Williams's criticism takes pains to be professional and is never personal. He is not always congenial, but—as the AUP strongly warns—collegiality, which is necessary to the governance of an academic unit, is never to be confused with congeniality or civility. Furthermore, Dr. Williams speaks for many adjuncts within the PWR who lack his willingness or courage, and his vigorous discourse is consistent with that of other voices that contribute to the national discussion of this crucial issue. Rather than fire Dr. Williams in part for his views or the way that he expresses them, we suggest an alternative: that the PWR administrators listen to his educated opinions and attempt to accommodate them in the interest of developing a stronger, more effective program and university.

It may be that the two negative reviews that also figured in Dr. Williams's summary termination were valid assessments of meretricious teaching, and that his grading practices are an egregious violation of PWR policy (although to our knowledge there is no PWR policy regarding grading standards). However, as he was not given the opportunity to contest those reviews before a faculty committee, or counterbalance

Dr. Stephen Mummé, Co-President
Colorado Conference of the AAUP
Professor
John Stern Distinguished Professor of Liberal Arts
Department of Political Science

Sincerely,

prompt response.

In any event, we hope for a just resolution of this case, and look forward to your
Dr. Williams, on which we have based this letter. If so, we welcome your comments.
We appreciate that you might have additional information to that provided to us by

Recommended Institutional Regulations on Academic Freedom and Tenure.
constituted faculty committee, in accordance with stipulation #5 of the AAUP's
else grant him the opportunity to contest the charges against him before a duly
term, we ask that you commend the PWR to reinstate Dr. Williams as a lecturer, or
CU due process protections that are consistent with AAUP standards. For the short
For the long term, we recommend that you work toward establishing for lecturers at

faculty protects both faculty and the institution.
be held. Thus a good faith adherence to AAUP policy regarding due process for
the laws of the institution but the standards of the AAUP to which the institution will
administration regarding the status of faculty, whether adjunct or tenured, it is not
the event of a national investigation into the practices of the University of Colorado's
policies and regulations that are consistent with AAUP policies. Hypothetically, in
to which he is entitled. It is the obligation of colleges and universities to adopt
of any such policy is not plausible ground for denying Dr. Williams the protections
process protections for long-serving lecturers such as Dr. Williams. But the absence
what appears to be the lack of any explicit institutional policy that addresses due
Colorado. That CU is negligent in its treatment of adjunct faculty is evidenced by
regarding the summary dismissal of long-serving lecturers at the University of
As you may recall, this is not the first time we have expressed our concerns to you

due process procedures to which he or she is entitled.
cost to an institution and to the public when a faculty member is denied access to
common good (through courses offered by the PWR) are now almost nil. That's the
of the PWR administration, or otherwise contributing their ideas to further the
subject matter) or offering views on faculty business that might be contrary to those
another PWR lecturer risking an innovative pedagogy (despite expertise in the
damaging to the university. What we can be sure of, however, is that the chances of
excellence, we can't know if Dr. Williams dismissal was justified or retaliatory and
Engineering (an equal stakeholder in his course), and other measures of teaching
current and former students and glowing evaluations from the School of
them with his long history of superlative student evaluations, testimonials from

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CC: Dr. David Williams
Provost Russell Moore, UCB
Dr. John-Michael Rivera, Director, PWR
Dr. John Ackerman, Associate Director, PWR
Dr. Steve Lamos, Associate Director, PWR
Ms. Kathryn Pieplow, Associate Director, PWR

Letter 6:
Two long-serving community college adjuncts, who are the president and vice president of their AAUP chapter and are pivotal (as a profound understatement) to our conference's multi-plancked community college adjunct initiative, have been penalized (in our view) for their AAUP participation. They have been assigned reduced course loads. The department chair, an outspoken critic of the AAUP, has justified the reduced course load for one of the adjuncts on a negative peer observation (the chair was the observer).

April 14, 2015

Andrew Dorsey, President
Front Range Community College
3645 West 112th Avenue
Westminster, CO 80031

Dear Dr. Dorsey:

As you are no doubt aware, since 1915 the purpose of the American Association of University Professors (AAUP) has been to advance academic freedom and shared governance, to define fundamental professional values and standards for higher education, and to ensure higher education's contribution to the common good. Toward this end, over the last one hundred years the AAUP has defined standards of academic freedom for the academic profession. According to the AAUP's classic 1994 statement *On the Relationship of Faculty Governance to Academic Freedom*:

The academic freedom of faculty members includes the freedom to express their views (1) on academic matters in the classroom and in the conduct of research, (2) on matters having to do with their institution and its policies, and (3) on issues of public interest generally, and to do so even if their views are in conflict with one or another received wisdom.

Regrettably, it has come to the attention of the Colorado Conference of the American Association of University Professors that the prospective course load for Caprice Lawless, an English instructor for Front Range Community College who is the Colorado Conference's vice president for Community Colleges, has been cut in half—reduced to two classes from the usual four. Her department chair, Tino Gomez, has informed her of his reasons by means of the attached document. The course load for another instructor in the English Department, Larry Eson, also has been reduced to two from the usual three, ostensibly due to declining enrollment. As this letter will demonstrate, there is *prima facie* evidence that Mr. Gomez's actions in reducing their course loads is pre-textual. The Colorado Conference respectfully asks that you intercede and request that Mr. Gomez grant Ms. Lawless and Dr. Eson the number of

courses that they have been accustomed to teaching throughout their long association with Front Range Community College.

An AUP representative, Suzanne Hudson, attended a conference between Mr. Gomez and Ms. Lawless on April 7. The reason for the conference was to follow-up on his suggestions for improving her teaching, which he had presented to her during the fall semester. Ms. Hudson noted that Mr. Gomez was most un-cordial and was present at the conference for no more than one minute. He gave Ms. Lawless a document that he said contained his recommendations, and left the room. There was no discussion, no attempt to work with Ms. Lawless. Mr. Gomez's recommendations are attached. The nebulous nature of Mr. Gomez's criticism's of Ms. Lawless's teaching (particularly in the context of Mr. Gomez's proposed punitive remedies), his past complaints about the activities of the AUP to improve working conditions for adjuncts in the CCGS, and Mr. Gomez's unprofessional behavior toward Ms. Lawless at the April 7 conference, suggest that he is retaliating against her for her leadership in the AUP's efforts to improve the working conditions of adjunct instructors in the Colorado Community College System.

As you know, Ms. Lawless has been quite vocal about adjunct instructors' low pay, lack of benefits, exclusion from faculty governance, and deficiency of career paths. All of these issues have been recognized and targeted for improvement by Dr. Nancy McCallin's Adjunct Task Force, published in 2014. (Indeed, we understand that you were a participating member of the task force.) Ms. Lawless has appeared in a Rocky Mountain PBS report, which aired March 13 on *Colorado State of Mind*. Her picture and an article about the under-compensation of adjuncts appeared on the front page of *The Coloradoan* on March 15. Ms. Lawless spearheaded the publication of the *Adjunct Cookbook* under the auspices of the AUP and has testified at numerous legislative hearings regarding the CCGS's overuse (and under-compensation) of adjuncts. In 2014, Ms. Lawless was the recipient of the prestigious Al Sumberg Award from the national AUP, in recognition of her efforts on behalf of HB14-1154, the "equal pay for equal work" legislation. As someone who testified against HB14-1154, we assume that you are aware that this legislation, designed to fix the inequities within the CCGS by refocusing administrative priorities, was not greeted with enthusiasm by the CCGS administration. On numerous occasions, other adjuncts in the English Unit have related to Ms. Lawless Mr. Gomez's complaints about the AUP.

Mr. Gomez's complaints about Ms. Lawless's teaching, described in the attached document, which also contain Ms. Lawless's responses, seem, at most, weak and arbitrary. No teacher has pleased every student; everyone is complained about at times, but student complaints about Ms. Lawless are rare—so rare that Mr. Gomez was compelled to fish for a complaint and found one from a former student of Ms. Lawless's, from a previous semester and completely different class from the one under observation. He faults her for class overcrowding, a situation that was beyond her control, and for a mistake on her syllabus—a mistake frequently made by instructors and that is easily corrected. He faults a small group discussion in which

he participated for lack of engagement, without considering the possibility that his presence (Mr. Gomez acknowledges that he did almost all of the talking in the group) may have discouraged student participation, out of deference or intimidation. When Ms. Lawless takes advantage of unexpected class time to review a forthcoming assignment on D2L, Mr. Gomez plays "gotcha" by pointing out that Ms. Lawless had previously said that she would not review the assignment in class, as if her fluidity in this context was pedagogical malpractice. Mr. Gomez acknowledges that Ms. Lawless's course evaluations are generally positive, yet his response to his "concerns" is to cut in half her course load and her already-meager compensation. We also find it troubling that Ms. Lawless has taught at Front Range Community College for sixteen years, always with good to excellent student evaluations, oftentimes nominated by her students for Teacher of the Year—a teacher whose reputation with students is such that her classes often have waiting lists during the enrollment period—but it was not until she became an advocate for improving the working conditions of instructors that her department chair has found her performance lacking.

Larry Eson is also an advocate for instructors, the vice-president of the FRCC AUP chapter, who wears his AUP button every day. Dr. Eson also has testified at numerous legislative hearings about adjunct issues at the CCS and has been filmed speaking at a press conference. The reason given to Dr. Eson for his reduced course load is "declining enrollment." An email exchange between Dr. Eson and Mr. Gomez is attached. While enrollment may have declined since its peak in 2008, it has increased overall during the eleven years that Dr. Eson has been teaching at Front Range. While there may be fewer classes to offer adjuncts than in recent years, there are also more adjuncts. It's inherently unfair to the instructors who have served longest to be among the first to suffer reduced course loads during declining enrollments. The Colorado Conference of the AUP requests, again, that you intercede and ask Mr. Gomez to assign a third course to Dr. Eson.

While academic freedom does not excuse incompetence in the classroom, the nebulous nature of Mr. Gomez's "concerns" about Ms. Lawless's teaching as the pretense for reducing her course load, and Mr. Gomez's disregard of Dr. Eson's seniority in targeting Dr. Eson for course reduction, strongly imply that Mr. Gomez is retaliating against Ms. Lawless and Dr. Eson for the legitimate expression of their academic freedom.

Thank you for your consideration of these matters.

Sincerely,

Letter 7:

A follow-up letter to President Dorsey, who has not responded to out letter of concern.

Andrew Dorsey, President
Front Range Community College
3645 West 112th Avenue
Westminster, CO 80031

Dear Dr. Dorsey:

On April 14 the Colorado Conference of the American Association of University Professors (AAUP) sent a letter advising you of a troubling development that had come to our attention. Two Front Range Community College (FRCC) writing instructors, Caprice Lawless and Larry Eson, had been informed by Tino Gomez, chair of the Westminster campus English and Communication Department, that he was reducing their customary teaching loads by half. Our letter detailed substantial evidence that Mr. Gomez's actions were retaliatory—measures taken to punish Ms. Lawless and Dr. Eson for their efforts to improve working conditions for adjunct faculty at FRCC. If that is true, Mr. Gomez's behavior (and by extension that of FRCC) are in violation of the core precepts of the AAUP regarding fundamental rights of academic freedom.

To date, we have received no response from you. If you wish to respond to our concerns, please do so by July 20, in advance of our conference Executive Committee meeting, at which we plan to discuss the FRCC case.

For your convenience, I have attached our letter of 4/14.

Sincerely,

Steve Mumme
Etc

Jonathan Rees
Etc

We are contacting you as co-Presidents of the Colorado Conference of the American Association of University Professors (AAUP). Formally, it belatedly, we'd like to thank you for your excellent series, "Fighting for Fair Wages," on *It's the Economy*, especially your program of February 20, 2014, that discussed HB14-1154, our proposed "equal pay for equal work" community college legislation. That segment featured Don Eron, of the Executive Committee of the Colorado AAUP, and the legislator's sponsor, Representative Randy Fisher. Ultimately, the bill was defeated before the House Appropriations Committee. This past session, a revised version of the bill, SB15-094, sponsored by Senator John Kefalas, was defeated before the Senate State Affairs Committee. We're contacting you now about a troubling development that has occurred in part, we believe, as a consequence of your outstanding reporting to expose the working conditions for adjuncts within the Colorado Community College System (CCCS). You may recall that we were originally approached by KGNU through Jim Pullen, Jim, who at the time was an adjunct at Front Range Community College (FRCC,) was concerned about a potential conflict-of-interest and possible repercussions over his involvement and eventually handed the story off to you and Jim Banks. Jim Pullen's concerns were well founded. Subsequently, the most visible adjuncts to advocate for our initiatives have suffered retaliation at the hands of the CCCS and, in particular, the FRCC administration. Caprice Lawless, an adjunct at FRCC, has spearheaded numerous Colorado AAUP initiatives to remedy the exploitive working conditions for adjunct faculty in the CCCS, including our "equal work for equal pay" legislative initiatives, HB14-1154, and SB15-094. As won't surprise you, the CCCS administration has fiercely contested these initiatives to improve adjunct working conditions, which, in their view, place the CCCS in an unflattering light. That's one reason why Caprice's tireless and outspoken advocacy is so courageous.

Recently, Caprice's course load—and corresponding salary—has been reduced by 50% for the forthcoming academic year. Generally, such disciplinary actions by an

Dear Ms. Lane,

Liz Lane
c/o KGNU Radio
4700 Walnut Street
Boulder, CO 80301

August 12, 2015

Letter 8:
In this letter to a public radio interviewer/journalist, who has covered several of our community college initiatives, we advise her of retaliation against activist adjuncts at Front Range Community College. We sent numerous similar letters to our press contacts.

administration pave the way for termination. Caprice's case is disturbing—and clearly punitive. After 16 years of outstanding student and peer evaluations spanning hundreds of courses, to say nothing of frequent "Teacher of the Year" nominations, this past spring Caprice was arbitrarily subjected to a "review" by Tino Gomez, the chair of her department at FRCC (and an outspoken critic of AAUP efforts to reform the community college system). Suddenly, Caprice's teaching was found by Mr. Gomez to be problematic. Her 50% course reduction—and corresponding 50% salary reduction—is explicitly part of Mr. Gomez's prescription to "solidify" Caprice's teaching. Because Caprice is an adjunct, there are, of course, no due process safeguards at FRCC by which she can contest the charges or protest her punishment.

Attached, you'll find the department chair's review of Caprice's class, as well as Caprice's response. You'll also find attached a very strong letter sent by our conference to Andrew Dorsey, the president of FRCC, protesting the punitive action and asking that Mr. Dorsey intercede. Our letter also presents a strong refutation of the negative assessment. However, even were Mr. Gomez's assessment accurate or objective, the remedy (reducing Caprice's compensation by half for the forthcoming academic year) is so disproportional to the nebulous nature of his criticisms as to present by itself a prima facie case for retaliation.

Nor is the retaliation by the FRCC administration limited to Caprice. Mark Ducharme, secretary of the FRCC chapter of the AAUP, and Larry Eson, the vice-president of the FRCC chapter, both of whom have twice testified in the legislature, have also seen their course loads reduced despite their popularity with students and their considerable seniority over part-time colleagues who have been assigned their usual complement of four courses—and who are not openly critical of GCCS working conditions.

Indeed, the punitive actions taken by the FRCC administration against Caprice, Mark, and Larry, exemplify why the Colorado AAUP felt it necessary to resort to legislation. It is also, unfortunately, evidence that the GCCS has little or no interest in reforming on its own initiative.

This is no way to for the GCCS to treat these three outstanding adjunct professors. Any media coverage you could provide to expose these retaliations against adjuncts who have had the temerity to complain publicly about their working conditions would be most welcome.

If you're interested, we'll be happy to provide you with further documentation or information. Or, if you wish, call Caprice (720-939-3094).

Thank you again.

Sincerely,

Letter 9:
Here's the template for a letter we sent to numerous legislators who have worked with us, or voted with us, on our various legislative initiatives, regarding retaliation against adjunct faculty at FRCC.

Dear Representative X,

We are writing to you as co-Presidents of the Colorado Conference of the American Association of University Professors (AAUP) about a case of retaliation against adjunct faculty in the Colorado Community College System (CCCS) with whom you may be familiar. Of course, we know that you are aware of the AAUP, as we very much appreciated your support for HB14-1154, our proposed legislation (sponsored by Representative Fischer) that was designed to remedy the exploitive working conditions for adjunct faculty in Colorado's community colleges. After passing through your committee, HB14-1154 was ultimately defeated before the Appropriations Committee. A version of that bill, sponsored by Senator Kelapas, was defeated before the Senate State Affairs Committee during this past session.

We need your help. As you might imagine, the Colorado Community College System (CCCS) administration has never been happy with their adjuncts who work to improve the desperate conditions for adjuncts within the CCS and who therefore (in the view of the CCS) place the CCS in an unflattering light. That's one reason why the efforts of these adjuncts, in speaking out, have been so courageous. Recently, the CCS has begun retaliating against some of these adjuncts.

You may recall Caprice Lawless, who testified eloquently before your committee in 2014. Caprice is the president of the Front Range Community College (FRCC) chapter of the AAUP. Among numerous efforts to advocate for her adjunct colleagues, Caprice spearheaded our 2014 and 2015 legislative initiatives. Recently, Caprice has had her course load—and corresponding salary—reduced by 50% for the forthcoming academic year. Generally, such disciplinary actions by an administration pave the way for termination. Additionally, Larry Eson, the vice-president of the FRCC AAUP chapter who also testified before your committee, has also seen a reduction in his course load.

Larry has been told that there are no additional classes available for him (despite that he has considerable seniority over part-time colleagues who have been assigned their usual complement of courses—and who are not critics of CCS working conditions). Caprice's case is even more disturbing—and clearly punitive. After 16 years of outstanding student and peer evaluations spanning hundreds of courses, to say nothing of frequent "Teacher of the Year" nominations, this past spring Caprice was arbitrarily subjected to a "review" by the chair of her department at FRCC (and an outspoken critic of AAUP efforts to reform the community college system). Suddenly, Caprice's teaching was found to be problematic. Her 50% course reduction—and corresponding 50% salary

reduction—is explicitly part of her department chair's prescription to "solidify" Caprice's teaching. And because Caprice is an adjunct, there are no due process safeguards at FRCC by which she can contest the charges or protest her punishment. Attached, you'll find the peer review of Caprice's class, as well as Caprice's response. You'll also find attached a very strong letter sent by our conference to Andrew Dorsey, the president of FRCC, protesting the punitive action and asking that Mr. Dorsey intercede. Our letter also presents a strong refutation of the negative assessment. However, even were the chair's assessment accurate or objective, the remedy (reducing Caprice's compensation by half) is so disproportional to the nebulous nature of his criticisms as to present by itself a prima facie case for retaliation.

The retaliation against Caprice and Larry exemplifies why the Colorado AUP felt it necessary to resort to legislation to remedy the enormous problems within the CCCS. It is also evidence that the CCCS, having defeated our two legislative initiatives, has little or no interest in reforming on its own initiative.

Please write to Nancy McCallin (CCCS president), Andrew Dorsey (FRCC president), and Tino Gomez (FRCC English Department chair) and tell them that this is no way to treat these two outstanding adjuncts for summoning the courage to criticize the policies of the CCCS.

If you have any questions, or if we can provide you with more documentation, please don't hesitate to contact either of us.

Sincerely,

September 19, 2016

Dr. Betsy Oudenhoven
President

Community College of Aurora
16000 East CentreTech Parkway
Aurora, Colorado 80011-9036
betsy.oudenhoven@ccc.edu

Dear President Oudenhoven,

Mr. Nate Bork, adjunct professor of philosophy at the Community College of Aurora, has sought the assistance of the American Association of University Professors, Colorado Conference, in the matter of his summary dismissal on September 13, 2016 from a contracted teaching assignment at the Community College of Aurora. The circumstances of his abrupt termination and the absence of due process protections available to adjunct (temporary) faculty at your college suggest a violation of the principle of academic freedom at the heart of American higher education and are thus a concern to the AAUP's Colorado Conference.

Since 1915, the AAUP's purpose has been to advance academic freedom and shared governance, to define fundamental professional values and standards for higher education, and to ensure higher education's contribution to the common good. Our concern in Mr. Bork's case stems from our longstanding belief that academic freedom applies equally to the classroom and the governance of academic institutions and cannot endure in the absence of rigorously practiced due process protections for faculty. Indeed, without such adherence to due process, the protections for academic freedom would be reduced to the possibly self-interested assurances of administrators that they value academic freedom. Furthermore, at a time when 76% of those professoriate hold appointments that are off the tenure track (with the vast majority of those appointments being part-time), it is imperative that protections afforded faculty in defense of academic freedom are extended and enjoyed by part-time faculty as well.

The facts we have gleaned from Mr. Bork and other sources indicate that he was terminated several weeks after the onset of classes on account for, and we quote from his termination letter issued from your Office of Human Resources, "lack of effectiveness in implementing the philosophy curriculum redesign for Introduction to Philosophy, PHI 111-113." We also understand that your decision to dismiss Mr. Bork came immediately after he met with CCA administrators to ascertain their views regarding a letter he contemplated writing to the Higher Learning Commission that expressed his concerns with a new pedagogical protocol at CCA known as Gatekeeper Intervention Strategies that mandated certain changes and procedures in the curriculum and delivery of humanities courses, including PHI 111 and 112 at your institution. We wish to make clear that we do not dispute CCA's authority to adopt and apply pedagogical objectives and procedures, though we should point out that AAUP has long asserted that curricular matters are rightfully to be determined by the faculty and not administrative officials. This AAUP position is germane to Mr. Bork's situation since one of the shared governance

In a multisection course taught by several faculty members, responsibility is often shared among the instructors for identifying the texts to be assigned to students. Common course syllabi and examinations are also typical but should not be imposed by departmental or administrative fiat. The shared responsibility bespeaks a shared freedom, which trumps the freedom of an individual faculty member to assign a textbook that he or she alone considers satisfactory. The individual's freedom in other respects, however, remains undiluted. Individuals should be able to assign supplementary materials to deal with subjects that they believe are inadequately treated in the required textbook.

The freedom to teach includes the right of the faculty to select the materials, determine the approach to the subject, make the assignments, and assess student academic performance in teaching activities for which faculty members are individually responsible, without having their decisions subject to the veto of a department chair, dean, or other administrative officer. Teaching duties that are commonly shared among a number of faculty members require a significant amount of coordination and the imposition of a certain degree of structure, often involving a need for agreement on such matters as general course content, syllabi, and examinations.

The AAFP has long held as a cardinal tenet of academic freedom that faculty in higher education must be able to speak freely in the classroom on matters related to their subject, drawing on their disciplinary expertise, with the authority to determine both the content and the manner in which that content is presented to students. An important corollary to this principle holds that faculty have a professional right to be engaged in the development of rules and practices applicable to their pedagogical responsibilities. These principles follow from the AAFP's 1940 Statement of Principles on Academic Freedom and Tenure, and from its 2013 statement on The Freedom to Teach (see, www.aapp.org). We draw your attention to the 2013 statement in its entirety, placing key points in italics:

With respect to our first concern, the timing of Mr. Bork's termination letter and the absence of any prior notice or warning that he might be terminated in advance of his consultation with CCA administration lends the appearance of retaliation against him for expressing legitimate pedagogical concerns pertaining to the impact of the protocol on student learning, and also suggesting he would express his concerns to the HLC. Our understanding is that Mr. Bork requested this consultation and raised his concerns in a spirit of good faith with the administration.

Our principal concerns are two and center on an apparent disregard for academic freedom by CCA administrators as suggested by the facts at hand. The first problem springs from the appearance if not the fact of retaliation against Mr. Bork for raising concerns with administrators related to the effectiveness of the new protocol as adapted to the philosophy curriculum within the CCA's Social Sciences unit. The second problem that concerns us is the apparent lack of any mediation or grievance procedure available to Mr. Bork at CCA that would ensure adequate due process consideration related your termination decision.

problems the Colorado Conference has identified in Colorado Community College System institutions is the limited involvement of adjunct instructors, who now comprise nearly 80 percent of CCA's faculty, in curricular matters. You should know that AAFP has always treated community colleges as colleges, not as K-12 institutions. As colleges the faculty at community colleges should, in its view, be entitled to the same academic freedom protections as other professors employed in four-year undergraduate and graduate, research intensive universities.

Instructors also have the right to discuss in the classroom what they see as deficiencies in the textbook; doing so could turn out to be as effective in engaging the students as requiring them to use an alternate textbook. *These principles apply equally to faculty in the tenure system and those with contingent appointments. Although, under these circumstances, the deliberations leading to such decisions ought to involve substantial reflection and discussion by all those who teach the courses. The department should have a process for periodically reviewing curricular decisions and altering them based on a consensus of the appropriate teaching faculty, subject to review at other levels of governance.* (AAUP Redbook, 11th Ed., p. 28).

Judged by this standard your decision to terminate Mr. Bork's employment, based at least partly on his articulation of professional concerns arising from CCA's adoption of the new teaching protocol affecting PH 111-113, disregards the principle of faculty primacy in pedagogical matters as well as his right to convey his professional concerns to responsible individuals with oversight authority in the area of college curriculum. While those authorities certainly have the right to question and disagree with Mr. Bork's perspective, disagreement per se does not justify his immediate dismissal. Nor does his interest in raising concerns with external professional parties, justify such treatment. In fact, where reasonable differences on pedagogy are found between administrative personnel and faculty, seeking external professional authority on the matter at hand is arguably the responsibility of both parties to such dispute. Faculty dismissal in the absence of any effort to resolve the professional differences in question through meaningful discussion, or otherwise engage the faculty member in the process of pedagogical development, is a serious violation of Mr. Bork's academic freedom and carries the appearance of retaliation.

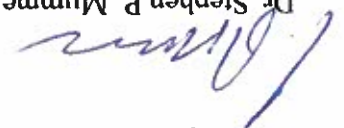
Our second concern bolsters the first. Mr. Bork's summary dismissal, expressed in the CCA's Director of Human Resources letter of September 13, affords Mr. Bork no opportunity to contest or grieve his termination, or to resolve apparent differences with CCA administration through a process of mediation. If such avenues exist, they were not stated in writing or explained to Mr. Bork. The AAUP's Recommended Institutional Regulations on Academic Freedom and Tenure (AAUP Redbook, 11th Ed., Section 13, p. 86) explicitly states,

"In the case of dismissal before the end of the period of appointment, the administration will set forth cause for the action, and the [part-time] faculty member will have the right to a hearing before a faculty committee."

No such hearing was afforded Mr. Bork before his dismissal. Our scrutiny of CCA's webpage and publicly available information suggest that CCA has no such process available to serve the needs of adjunct professors. AAUP has long argued that such procedures are fundamental to guarantees of academic freedom in the classroom and in research (1940 Statement of Principles on Academic Freedom and Tenure, AAUP Redbook, 11th Ed.; Statement on Procedural Standards in Faculty Dismissal Proceedings, AAUP Redbook, 11th Ed., p. 92). In the absence of meaningful due process mechanisms administrators cannot be held accountable for decisions that infringe upon or violate the essential academic freedom that is the foundation of free inquiry and dispassionate quest for the truth. Any respectable claim to advancing human knowledge and enabling students to gain the benefits of that knowledge through a program of higher education rests on this mighty stone.

In sum, the AUP Colorado Conference believes Mr. Bork's abrupt dismissal embodies serious violations of academic freedom by CCA administrators. We urge that Mr. Bork be reinstated and retained as an adjunct instructor of philosophy in the CCA Social Sciences Department and recommend that a process be established by which adjunct instructors may participate in the design and development of curricular procedures and that these procedures respect the principles set out in the AUP's 2013 Statement on Teaching. We further recommend that CCA move expeditiously to develop or extend due process protection to its substantial corps of adjunct faculty, in the absence of which any pretense to the general exercise of academic freedom at CCA is simply a mockery.

Sincerely,



Dr. Stephen P. Mumm, Co-President

AUP Colorado Conference

(www.aupcolorado.org)

Professor

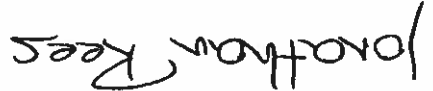
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Dr. Jonathan Rees, Co-President

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Xc:

Mr. Nathaniel Bork [nbork23@yahoo.com]

Mr. David Spiegel [david.spiegel@ccaaurora.edu]

Mr. Bobby Pace [bobby.pace@ccaaurora.edu]

Janet Brandau, Vice President, Academic Affairs [janet.brandau@ccaaurora.edu]

March 3, 2014

Mr. Tino Gomez, MFA, Chair
Department of English & Communications
Front Range Community College-Westminster Campus
3645 West 112th Avenue
Westminster, CO 80031

Dear Professor Gomez,

Please allow us to introduce ourselves. Steve Mummie is a professor of political science at Colorado State University and Jonathan Rees a professor of history at Colorado State University-Pueblo and we are the co-presidents of the Colorado Conference of the American Association of University Professors (AAP). Some members of your faculty have forwarded to us an email in which you express concern about their "using" students to argue in favor of the Community College Pay and Benefits Equity Act of 2014 (HB14-1154).

As you probably know, the AAP has set the standards for the profession of teaching in institutions of higher education for one hundred years now. And the Colorado Conference of the AAP is the chief proponent of HB14-1154, which addresses inequities in the treatment of faculty at Colorado's community colleges.

While it would indeed be a breach of ethics for instructors to ask students to argue on their behalf and to become inappropriately involved with an issue on which they may not be fully informed, according to the faculty members who have contacted us, no such behavior has occurred. In fact, these faculty members maintain that they have been especially careful to avoid engaging in "solicitation or canvassing of any kind during working time," and that they have informed students off-campus about the existence of HB14-1154.

According to the students who testified at the hearing, they did so of their own free will, not to serve as the voice of instructors but to serve their own interests. Students at the community colleges are well aware of the poverty-level wages and lack of health insurance under which their instructors labor, and they also are well aware that these conditions negatively affect their own educations. Most of the students who attended the hearing had no intention of speaking, but the chair of the committee encouraged them to testify. None of them appeared to have been coerced, and all of them spoke as students who are interested in seeing drastic reforms in the community college system for their own sakes.

As for students voicing opinions about issues on which they are not fully informed, we would say that the ones who spoke at the hearing were quite well informed, while the administrators and college presidents who testified against the bill were less so, and yet no one has suggested that these administrators should not be allowed to testify. The concern of our conference is that suppression of the opinions of students about the bill stems from administrative disagreement with those opinions.

As a matter of principle and practice, students must be allowed to express opinions about political issues, both on and off-campus. The following is an excerpt from the AAUP's "Joint Statement on Rights and Freedoms of Students":

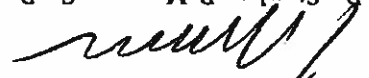
College and University students are both citizens and members of the academic community. As citizens, students should enjoy the same freedom of speech, peaceful assembly, and right of petition that other citizens enjoy and, as members of the academic community, they are subject to the obligations which accrue to them by virtue of this membership. Faculty members and administration officials should ensure that institutional powers are not employed to inhibit such intellectual and personal development of students as is often promoted by their exercise of the rights of citizenship both on and off campus.

In short, students must be allowed to decide for themselves whether to become actively involved in political issues. If there is any evidence that a faculty member has coerced a student to support any political cause, or used the classroom as a venue for propagandizing students on issues irrelevant to the course of study, then of course that faculty member should be reprimanded. In the absence of such evidence, however, faculty and students alike must be permitted the exercise of their academic freedom.

We understand that your email caused one faculty member to discourage a former student, not a current one, from meeting with a Colorado state legislator. The student was very much looking forward to the event and had bought a new suit for the occasion, but the faculty member had been intimidated by your email and so told the student that he could not attend the meeting, thereby inhibiting the intellectual and personal development of a student.

Please do reconsider your stance on students' rights to become actively involved in political issues that affect them personally. We are sharing this letter with the Foundation for Individual Rights in Education which often shares our concerns and lend further insight on matter.

Sincerely,



Dr. Stephen P. Mumme, Co-President
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(www.aaupcolorado.org)

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Xc: Mr. Peter Bonilla, Director, Individual Rights Defense Program
Foundation for Individual Rights in Education (FIRE)
170 S. Independence Mall W., Suite 510
Philadelphia, PA 19106

November 9, 2015

Beverly J. McClure
President
Adams State University
208 Edgemont Boulevard
Alamos, Colorado 81102
Dear President McClure:

We are the Presidents of the Colorado Conference of the American Association of University Professors and we are writing you about your university's treatment of Danny Ledonne. While we recognize that Mr. Ledonne is a former faculty member there, we believe that your school's actions with respect to him affect the conditions under which current faculty can exercise their academic freedom.

As you know, Mr. Ledonne recently received a notice from the university's chief of police, signed by you, barring him from campus. That order mentioned alleged behavior, but did not specify what that behavior was. We have since learned from Mr. Ledonne that this communication was sent as part of a hastily adopted "persona non grata" policy, passed into effect shortly before you sent him that letter.

We have a number of concerns about these actions. First, we find it remarkable that any campus would need a "persona non grata" policy. Existing laws are more than sufficient to deal with anybody engaging in disruptive behavior and disorderly conduct. The fact that your letter did not even bother to suggest what disruptive behavior Mr. Ledonne engaged in strongly suggests that whatever it was would not have met the standards requiring prosecution under existing law. Second, we are deeply concerned that Mr. Ledonne's due process rights as a former professor and a citizen have been grossly violated. It is a basic right of citizenship that you should be informed of the charges against you. Not only that, by barring him from campus, you have sanctioned him without a hearing. Yes, he has the right to appeal this sanction to Denver, but we agree with Mr. Ledonne's statement in *Hisword* that it is impossible to adequately appeal that sanction without understanding why the sanction arose in the first place.

Lastly, and most importantly from our point of view, we believe that your alarming treatment of Mr. Ledonne and the persona non grata policy that enabled that treatment will have a chilling effect on the free speech rights and academic freedom of current faculty members. Universities and other institutions of higher learning carry a greater responsibility for safeguarding the principles and practices that sustain freedom of speech and scholarly inquiry than practically any other organization in a democratic society. Discharging this fundamental responsibility requires a very high level of tolerance for verbal, written, and representational expression as well as respect for due process, even under circumstances that may otherwise seem disturbing to some students, faculty, and administrators. Why would any faculty member feel safe in engaging in any form of protected speech when they know that they could be immediately barred from

campus (in essence, forced to abandon their professional duties) without a hearing or even
warning?

In fact, we believe the very existence of a persona non grata policy is antithetical to the core
principles of academic freedom and shared governance that sustain American public colleges and
universities. The fact that you chose to apply it to a former faculty member first only reinforces
that impression. We believe that this practice not only runs counter to the practice of good
university governance. We think it's fundamentally un-American.

As representatives of the organization that has created and developed the ideas of academic
freedom and shared governance over the last hundred years, we are willing to work with you to
create campus policies that are more respectful of these principles. Should you choose to ignore
our offer, our next step will be to inform possibly concerned Adams State faculty members about
your decision and to pass what we have learned about Mr. Ledonne's treatment on to higher
ranking officers of the AAUP to see if they think this deserves further investigation.

We look forward to reading your response to this letter.



Stephen Mummie
Co-President, AAUP Colorado Conference
Professor of Political Science Colorado State University - Fort Collins



Jonathan Rees
Co-President, AAUP Colorado Conference
Professor of History
Colorado State University - Pueblo

Recommended Institutional Regulations on Academic Freedom and Tenure

The Recommended Institutional Regulations on Academic Freedom and Tenure set forth, in language suitable for use by an institution of higher education, rules that derive from the chief provisions and interpretations of the 1940 Statement of Principles on Academic Freedom and Tenure and of the Statement on Procedural Standards in Faculty Dismissal Proceedings. The Recommended Institutional Regulations were first formulated by Committee A on Academic Freedom and Tenure in 1957. A revised and expanded text, approved by Committee A in 1968, reflected the development of Association standards and procedures. Texts with further revisions were approved by Committee A in 1972, in 1976, in 1982, in 1990, in 1999, in 2005, in 2006, in 2009, in 2013, and in 2018. When such revisions have constituted a change in the Association's policies, they have been adopted by the Council.

The current text is based upon the Association's continuing experience in evaluating regulations actually in force at particular institutions. It is also based upon further definition of the standards and procedures of the Association over the years. The Association will be glad to assist in interpretation of the regulations or to consult about their incorporation in, or adaptation to, the rules of a particular college or university.

Foreword

These regulations are designed to enable the [named institution] to protect academic freedom and tenure and to ensure academic due process. The principles implicit in these regulations are for the benefit of all who are involved with or are affected by the policies and programs of the institution. A college or university is a marketplace of ideas, and it cannot fulfill its purposes of transmitting, evaluating, and extending knowledge if it requires conformity with any orthodoxy of content and method. In the words of the United States Supreme Court, "Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die."

I. Statement of Terms of Appointment

- a. The terms and conditions of every appointment to the faculty will be stated or confirmed in writing, and a copy of the appointment document will be supplied to the faculty member. Any subsequent extensions or modifications of an appointment, and any special understandings or any notices incumbent upon either party to provide, will be stated or confirmed in writing, and a copy will be given to the faculty member.
- b. With the exception of special appointments clearly limited to a brief association with the institution, and reappointments of retired faculty members on special conditions, all full-time

Due process for PT fac increase after 3+7 years (see 13)

#1-10 apply (mostly) to all fac.

1940 statement

1994 statement

2013 Freedom to Teach

RIR #10

On call, likely, as a criterion for fac levels

Academic Freedom Docs:

faculty appointments are of two kinds: (1) probationary appointments; (2) appointments with continuous tenure. All part-time faculty appointments are either (1) probationary appointments; (2) appointments with continuous tenure; or (3) other nontenured appointments.

c. Except for faculty members who have tenure status, every person with a teaching or research appointment of any kind will be informed each year in writing of the renewal of the appointment and of all matters relative to eligibility for the acquisition of tenure.

2. Probationary Appointments

a. Probationary appointments may be for one year, or for other stated periods, subject to renewal. The total period of full-time service prior to the acquisition of continuous tenure will not exceed _____ years,¹ including all previous full-time service with the rank of instructor or higher in other institutions of higher learning, except that the probationary period may extend to as much as four years, even if the total full-time service in the profession thereby exceeds seven years; the terms of such extension will be stated in writing at the time of initial appointment.² Scholarly leave of absence for one year or less will count as part of the probationary period as if it were prior service at another institution, unless the individual and the institution agree in writing to an exception to this provision at the time the leave is granted.

b. The faculty member will be advised, at the time of initial appointment, of the substantive standards and procedures generally employed in decisions affecting renewal and tenure. Any special standards adopted by the faculty member's department or school will also be transmitted. The faculty member will be advised of the time when decisions affecting renewal or tenure are ordinarily made and will be given the opportunity to submit material believed to be helpful to an adequate consideration of the faculty member's circumstances.

c. Regardless of the stated term or other provisions of any appointments, written notice that a probationary appointment is not to be renewed will be given to the faculty member in advance of the expiration of the appointment as follows: (1) not later than March 1 of the first academic year of service if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination; (2) not later than December 15 of the second academic year of service if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination; (3) at least twelve months before the expiration of an appointment after two or more years of service at the institution.

d. The institution will normally notify faculty members whose appointments are being renewed of the terms and conditions of their renewals by March 15, but in no case will such information be given later than _____.

c. (1) Termination of an appointment with continuous tenure, or of a probationary or other nontenured appointment before the end of the specified term, may occur under extraordinary circumstances because of a demonstrably bona fide financial exigency, i.e., a severe financial crisis

Financial Exigency⁵

- b. If termination takes the form of a dismissal for cause, it will be pursuant to the provisions specified in Regulation 5.
- a. Termination of an appointment with continuous tenure, or of a probationary or other nontenured appointment before the end of the specified term, may be effected by the institution only for adequate cause.

4. Termination of Appointments by the Institution

Faculty members may terminate their appointments effective at the end of an academic year, provided that they give notice in writing at the earliest possible opportunity, but not later than May 15, or thirty days after receiving notification of the terms of appointment for the coming year, whichever date occurs later. Faculty members may properly request a waiver of this requirement of notice in case of hardship or in a situation where they would otherwise be denied substantial professional advancement or other opportunity.

3. Termination of Appointment by Faculty Members

Faculty members may terminate their appointments effective at the end of an academic year, provided that they give notice in writing at the earliest possible opportunity, but not later than May 15, or thirty days after receiving notification of the terms of appointment for the coming year, whichever date occurs later. Faculty members may properly request a waiver of this requirement of notice in case of hardship or in a situation where they would otherwise be denied substantial professional advancement or other opportunity.

g. Insofar as the faculty member alleges that the decision against renewal was based on inadequate consideration, the committee⁴ that reviews the faculty member's allegation will determine whether the decision was the result of adequate consideration in terms of the relevant standards of the institution. The review committee will not substitute its judgment on the merits for that of the body or individual that made the decision. If the review committee believes that adequate consideration was not given to the faculty member's qualifications, it will recommend reconsideration by the body or individual that made the decision, indicating the respects in which it believes the consideration may have been inadequate. It will provide copies of its findings to the faculty member, the body or individual that made the decision, and the president or other appropriate administrative officer.

- f. If the faculty member so requests, the reasons given in explanation of the nonrenewal will be confirmed in writing.
- e. When a decision not to renew an appointment has been reached, the faculty member involved will be informed of that decision in writing by the body or individual making the decision; the faculty member will be advised upon request of the reasons which contributed to that decision. The faculty member may request a reconsideration by the body or individual making the decision.

that fundamentally compromises the academic integrity of the institution as a whole and that cannot be alleviated by less drastic means.

[Note: Each institution in adopting regulations on financial exigency will need to decide how to share and allocate the hard judgments and decisions that are necessary in such a crisis.

As a first step, there should be an elected faculty governance body, or a body designated by a collective bargaining agreement, that participates in the decision that a condition of financial exigency exists or is imminent and that all feasible alternatives to termination of appointments have been pursued, including expenditure of one-time money or reserves as bridge funding, furloughs, pay cuts, deferred-compensation plans, early-retirement packages, deferral of nonessential capital expenditures, and cuts to noneducational programs and services, including expenses for administration.⁶

Judgments determining where within the overall academic program termination of appointments may occur involve considerations of educational policy, including affirmative action, as well as of faculty status, and should therefore be the primary responsibility of the faculty or of an appropriate faculty body.⁷ The faculty or an appropriate faculty body should also exercise primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated. These criteria may appropriately include considerations of length of service.

The responsibility for identifying individuals whose appointments are to be terminated should be committed to a person or group designated or approved by the faculty. The allocation of this responsibility may vary according to the size and character of the institution, the extent of the terminations to be made, or other considerations of fairness in judgment. The case of a faculty member given notice of proposed termination of appointment will be governed by the following provisions.]

(2) Before any proposals for program discontinuance on grounds of financial exigency are made, the faculty or an appropriate faculty body will have opportunity to render an assessment in writing of the institution's financial condition.

[Note: Academic programs cannot be defined ad hoc, at any size; programs should be recognized academic units that existed prior to the declaration of financial exigency. The term "program" should designate a related cluster of credit-bearing courses that constitute a coherent body of study within a discipline or set of related disciplines. When feasible, the term should designate a department or similar administrative unit that offers majors and minors.]

(1) The faculty or an appropriate faculty body will have access to at least five years of audited financial statements, current and following-year budgets, and detailed cash-flow estimates for future years.

(7) In all cases of termination of appointment because of financial exigency, the place of the faculty member concerned will not be filled by a replacement within a period of three years, unless

(6) In all cases of termination of appointment because of financial exigency, the faculty member concerned will be given notice or severance salary not less than as prescribed in Regulation 8.

position within the institution.

(5) Before terminating an appointment because of financial exigency, the institution, with faculty participation, will make every effort to place the faculty member concerned in another suitable

result.

extraordinary circumstances where a serious distortion of the academic program would otherwise result. If the institution, because of financial exigency, terminates appointments, it will not at the same time make new appointments, except in extraordinary circumstances where a serious distortion in the academic program would otherwise result. The appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in

(4) If the institution, because of financial exigency, terminates appointments, it will not at the same time make new appointments, except in extraordinary circumstances where a serious distortion in the academic program would otherwise result. The appointment of a faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure, except in extraordinary circumstances where a serious distortion of the academic program would otherwise result.

(iii) Whether the criteria are being properly applied in the individual case.

presumptively valid.

(ii) The validity of the educational judgments and the criteria for identification for termination; but the recommendations of a faculty body on these matters will be considered

(i) The existence and extent of the condition of financial exigency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of a faculty committee in a previous proceeding involving the same issue may be introduced.

(1) The existence and extent of the condition of financial exigency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of a

be observed. The issues in this hearing may include the following:

conducted pursuant to Regulation 5, but the essentials of an on-the-record adjudicative hearing will hearing before a faculty committee. The hearing need not conform in all respects with a proceeding

(3) If the administration issues notice to a particular faculty member of an intention to terminate the appointment because of financial exigency, the faculty member will have the right to a full

members will be informed and invited to respond.

of financial exigency will promptly be informed of this activity in writing and provided at least thirty days in which to respond to it. Tenured, tenure-track, and contingent faculty

(iii) Faculty members in a program being considered for discontinuance because

department, and administrative-unit budgets.

(ii) In order to make informed recommendations about the financial impact of program closures, the faculty or an appropriate faculty body will have access to detailed program,

the released faculty member has been offered reinstatement and at least thirty days in which to accept or decline it.

Discontinuance of Program or Department for Educational Reasons⁸

d. Termination of an appointment with continuous tenure, or of a probationary or other nontenured appointment before the end of the specified term, may occur as a result of bona fide formal discontinuance of a program or department of instruction. The following standards and procedures will apply.

(1) The decision to discontinue formally a program or department of instruction will be based essentially upon educational considerations, as determined primarily by the faculty as a whole or an appropriate committee thereof.

[Note: "Educational considerations" do not include cyclical or temporary variations in enrollment. They must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance.]

(2) Faculty members in a program being considered for discontinuance for educational considerations will promptly be informed of this activity in writing and provided at least thirty days in which to respond to it. Tenured, tenure-track, and contingent faculty members will be invited to participate in these deliberations.

[Note: Academic programs cannot be defined ad hoc, at any size; programs must be recognized academic units that existed prior to the decision to discontinue them. The term "program" should designate a related cluster of credit-bearing courses that constitute a coherent body of study within a discipline or set of related disciplines. When feasible, the term should designate a department or similar administrative unit that offers majors and minors.]

(3) Before the administration issues notice to a faculty member of its intention to terminate an appointment because of formal discontinuance of a program or department of instruction, the institution will make every effort to place the faculty member concerned in another suitable position. If placement in another position would be facilitated by a reasonable period of training, financial and other support for such training will be proffered. If no position is available within the institution, with or without retaining, the faculty member's appointment then may be terminated, but only with provision for severance salary equitably adjusted to the faculty member's length of past and potential service, an amount which may well exceed but not be less than the amount prescribed in Regulation 8.

[Note: When an institution proposes to discontinue a program or department of instruction based essentially on educational considerations, it should plan to bear the costs of relocating, training, or otherwise compensating faculty members adversely affected.]

(1) Pending a final decision by the hearing committee, the faculty member will be suspended, or assigned to other duties in lieu of suspension, only if immediate harm to the faculty member or others is threatened by continuance. Before suspending a faculty member, pending an ultimate determination of the faculty member's status through the institution's hearing procedures, the administration will consult with the Faculty Committee on Academic Freedom and Tenure [or whatever other title it may have] concerning the propriety, the length, and the other conditions of the suspension. A suspension that is

c. A dismissal, as defined in Regulation 5a, will be preceded by a statement of charges, and the individual concerned will have the right to be heard initially by the elected faculty hearing committee [insert name of committee].¹⁰ Members deeming themselves disqualified for bias or interest will remove themselves from the case, either at the request of a party or on their own initiative. Each party will have a maximum of two challenges without stated cause.¹¹

b. Dismissal of a faculty member with continuous tenure, or with a probationary or other nontenured appointment before the end of the specified term, will be preceded by (1) discussions between the faculty member and appropriate administrative officers looking toward a mutual settlement; (2) informal inquiry by the duly elected faculty committee [insert name of committee], which may, if it fails to effect an adjustment, determine whether in its opinion dismissal proceedings should be undertaken, without its opinion being binding upon the president; (3) a statement of charges, framed with reasonable particularity by the president or the president's delegate.

a. Adequate cause for a dismissal will be related, directly and substantially, to the fitness of faculty members in their professional capacities as teachers or researchers. Dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens.⁹

5. Dismissal Procedures

e. In cases of termination of appointment, the governing board will be available for ultimate review.

Review

(4) A faculty member who contests a proposed relocation or termination resulting from a discontinuance has a right to a full hearing before a faculty committee. The hearing need not conform in all respects with a proceeding conducted pursuant to Regulation 5, but the essentials of an on-the-record adjudicative hearing will be observed. The issues in such a hearing may include the institution's failure to satisfy any of the conditions specified in Regulation 4d. In the hearing, a faculty determination that a program or department is to be discontinued will be considered presumptively valid, but the burden of proof on other issues will rest on the administration.

intended to be final is a dismissal and will be treated as such. Salary will continue during the period of the suspension.

(2) The hearing committee may, with the consent of the parties concerned, hold joint prehearing meetings with the parties in order to (i) simplify the issues, (ii) effect stipulations of facts, (iii) provide for the exchange of documentary or other information, and (iv) achieve such other appropriate prehearing objectives as will make the hearing fair, effective, and expeditious.

(3) Service of notice of hearing with specific charges in writing will be made at least twenty days prior to the hearing. The faculty member may waive a hearing or may respond to the charges in writing at any time before the hearing. If the faculty member waives a hearing, but denies the charges or asserts that the charges do not support a finding of adequate cause, the hearing tribunal will evaluate all available evidence and rest its recommendation upon the evidence in the record.

(4) The committee, in consultation with the president and the faculty member, will exercise its judgment as to whether the hearing should be public or private.

(5) During the proceedings the faculty member will be permitted to have an academic adviser and counsel of the faculty member's choice.

(6) At the request of either party or the hearing committee, a representative of a responsible educational association will be permitted to attend the proceedings as an observer.

(7) A verbatim record of the hearing or hearings will be taken, and a copy will be made available to the faculty member without cost, at the faculty member's request.

(8) The burden of proof that adequate cause exists rests with the institution and will be satisfied only by clear and convincing evidence in the record considered as a whole.

(9) The hearing committee will grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.

(10) The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The administration will cooperate with the hearing committee in securing witnesses and in making available documentary and other evidence.

(11) The faculty member and the administration will have the right to confront and cross-examine all witnesses. Where the witnesses cannot or will not appear, but the committee determines that the interests of justice require admission of their statements, the committee will identify the witnesses, disclose their statements, and, if possible, provide for interrogatories.

(12) In the hearing of charges of incompetence, the testimony will include that of qualified faculty members from this or other institutions of higher education.

(13) The hearing committee will not be bound by strict rules of legal evidence and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

(14) The findings of fact and the decision will be based solely on the hearing record.

(15) Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the case by either the faculty member or administrative officers will be avoided so far as possible until the proceedings have been completed, including consideration by the governing board of the institution. The president and the faculty member will be notified of the decision in writing and will be given a copy of the record of the hearing.

(16) If the hearing committee concludes that adequate cause for dismissal has not been established by the evidence in the record, it will so report to the president. If the president rejects the report, the president will state the reasons for doing so, in writing, to the hearing committee and to the faculty member and provide an opportunity for response before transmitting the case to the governing board. If the hearing committee concludes that adequate cause for a dismissal has been established, but that an academic penalty less than dismissal would be more appropriate, it will so recommend, with supporting reasons.

6. Action by the Governing Board

If dismissal or other severe sanction is recommended, the president will, on request of the faculty member, transmit to the governing board the record of the case. The governing board's review will be based on the record of the committee hearing, and it will provide opportunity for argument, oral or written or both, by the principals at the hearing or by their representatives. The decision of the hearing committee will either be sustained or the proceedings returned to the committee with specific objections. The committee will then reconsider, taking into account the stated objections and receiving new evidence, if necessary. The governing board will make a final decision only after study of the committee's reconsideration.

7. Procedures for Imposition of Sanctions Other Than Dismissal

a. If the administration believes that the conduct of a faculty member, although not constituting adequate cause for dismissal, is sufficiently grave to justify imposition of a severe sanction, such as suspension from service for a stated period, the administration may institute a proceeding to impose such a severe sanction; the procedures outlined in Regulation 5 will govern such a proceeding.

b. If the administration believes that the conduct of a faculty member justifies imposition of a minor sanction, such as a reprimand, it will notify the faculty member of the basis of the proposed sanction and provide the faculty member with an opportunity to persuade the administration that the proposed sanction should not be imposed. A faculty member who believes that a major sanction has been incorrectly imposed under this paragraph, or that a minor sanction has been unjustly imposed, may, pursuant to Regulation 16, petition the faculty grievance committee for such action as may be appropriate.

8. Terminal Salary or Notice

If the appointment is terminated, the faculty member will receive salary or notice in accordance with the following schedule: at least three months, if the final decision is reached by March 1 (or three months prior to the expiration) of the first year of probationary service; at least six months, if the decision is reached by December 15 of the second year (or after nine months but prior to eighteen months) of probationary service; at least one year, if the decision is reached after eighteen months of probationary service or if the faculty member has tenure.¹²

This provision for terminal notice or salary need not apply in the event that there has been a finding that the conduct which justified dismissal involved moral turpitude. 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.

9. Academic Freedom and Protection against Discrimination

a. All members of the faculty, whether tenured or not, are entitled to academic freedom as set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure*, formulated by the Association of American Colleges and Universities and the American Association of University Professors.

b. All members of the faculty, whether tenured or not, are entitled to protection against illegal or unconstitutional discrimination by the institution, or discrimination on a basis not demonstrably related to the faculty member's professional performance, including but not limited to race, sex, religion, national origin, age, disability, marital status, or sexual orientation.

10. Complaints of Violation of Academic Freedom or of Discrimination in Nonreappointment

If a faculty member on probationary or other nontenured appointment alleges that a decision against reappointment was based significantly on considerations that violate (a) academic freedom or (b)

governing policies on making appointments without prejudice with respect to race, sex, religion, national origin, age, disability, marital status, or sexual orientation, the allegation will be given preliminary consideration by the [insert name of committee], which will seek to settle the matter by informal methods.

The allegation will be accompanied by a statement that the faculty member agrees to the presentation, for the consideration of the faculty committee, of such reasons and evidence as the institution may allege in support of its decision. If the difficulty is unresolved at this stage and if the committee so recommends, the matter will be heard in the manner set forth in Regulations 5 and 6, except that the faculty member making the complaint is responsible for stating the grounds upon which the allegations are based and the burden of proof will rest upon the faculty member. If the faculty member succeeds in establishing a prima facie case, it is incumbent upon those who made the decision against reappointment to come forward with evidence in support of their decision. Statistical evidence of improper discrimination may be used in establishing a prima facie case.

11. Administrative Personnel

The foregoing regulations apply to administrative personnel who hold academic rank, but only in their capacity as faculty members. Administrators who allege that a consideration that violates academic freedom or governing policies against improper discrimination, as stated in Regulation 10, significantly contributed to a decision to terminate their appointment to an administrative post or not to reappoint them are entitled to the procedures set forth in Regulation 10.

12. Political Activities of Faculty Members

Faculty members, as citizens, are free to engage in political activities. Where necessary, leaves of absence may be given for the duration of an election campaign or a term of office, on timely application, and for a reasonable period of time. The terms of such leave of absence will be set forth in writing, and the leave will not affect unfavorably the tenure status of a faculty member, except that time spent on such leave will not count as probationary service unless otherwise agreed to.¹³

13. Part-Time Faculty Appointments¹⁴

a. After having been reappointed beyond an initial term, a part-time faculty member who is subsequently notified of nonreappointment will be advised upon request of the reasons that contributed to the decision. Upon the faculty member's further request, the reasons will be confirmed in writing. The faculty member will be afforded opportunity for review of the decision by a faculty committee.

b. For part-time faculty members who have served for three or more terms within a span of three years, the following additional protections of academic due process apply:

(1) Written notice of reappointment or nonreappointment will be issued no later than one month before the end of the existing appointment. If the notice of reappointment is to be conditioned, for example, on sufficiency of student enrollment or on financial considerations, the specific conditions will be stated with the issuance of the notice.

(2) When the part-time faculty member is denied reappointment to an available assignment (one with substantially identical responsibilities assigned to another part-time faculty member with less service), if the nonreappointed faculty member alleges that the decision was based on inadequate consideration, the allegation will be subject to review by a faculty body. If this body, while not providing judgment on the merits of the decision, finds that the consideration has been inadequate in any substantial respects, it will remand the matter for further consideration accordingly.¹⁵

c. Prior to consideration of reappointment beyond a seventh year, part-time faculty members who have taught at least twelve courses or six terms within those seven years shall be provided a comprehensive review with the potential result of (1) appointment with part-time tenure [where such exists], (2) appointment with part-time continuing service, or (3) nonreappointment. Those appointed with tenure shall be afforded the same procedural safeguards as full-time tenured faculty. Those offered additional appointment without tenure shall have continuing appointments and shall not be replaced by part-time appointees with less service who are assigned substantially identical responsibilities without having been afforded the procedural safeguards associated with dismissal as set forth in Regulation 5.

14. Graduate Student Employees

a. The length, terms, and conditions of every university appointment of a graduate student employee will be stated in writing at the time of the initial appointment. A copy of the appointment document will be supplied to the appointee.¹⁶

b. The graduate student employee on recurring appointments will be advised at the time of initial appointment of the substantive standards, expectations, and procedures generally employed at the institution in decisions affecting renewal and of any special standards adopted by the graduate student employee's department or school. The graduate student employee will be advised of the time when decisions affecting renewals are made and will be given the opportunity to submit material believed to be helpful to an adequate consideration of his or her circumstances.

c. In a case of dismissal before the end of the period of an academic or professional appointment, the graduate student employee will be provided with a statement of reasons for the action and will have the right to a pretermination hearing before a duly constituted committee. The hearing need not conform in all respects with a proceeding conducted pursuant to Regulation 5, but the essentials of an on-the-record adjudicative hearing will be observed. In such a hearing, the administration will have the burden of showing adequate cause for dismissal.¹⁸ Adequate cause for a dismissal will be related, directly and substantially, to the fitness of the graduate student employee in his or her professional capacity regarding teaching, research, or other academic duties. Dismissal will not be used to restrain graduate student employees in their exercise of academic freedom or constitutional rights.

d. Written notice of reappointment or nonreappointment will be issued to graduate student academic or professional employees no later than one month before the end of the existing appointment.

e. Graduate student academic or professional employees who are notified of nonreappointment will be advised upon request of the reasons that contributed to the decision. Upon the employee's further request, the reasons will be confirmed in writing. The employee will be afforded the opportunity for review of the decision by a duly constituted committee.

f. In a case of nonreappointment, if a graduate student academic or professional employee establishes a prima facie case to the satisfaction of a duly constituted committee that considerations that violate academic freedom or governing policies against improper discrimination based on race, sex, national origin, age, disability, marital status, or sexual orientation significantly contributed to his or her nonreappointment, it is incumbent on those who made the decision to come forward with evidence in support of that decision.

g. If a graduate student employee who is denied reappointment to an available academic or professional position alleges that the decision was based on inadequate consideration, the allegation will be subject to review by a duly constituted body. If this body, while not providing judgment on the merits of the decision, finds that the consideration has been inadequate in any substantial respects, it will remand the matter, recommending to the department that it assess the merits once again, this time remedying the inadequacies of its prior consideration.¹⁹

h. Graduate student academic or professional employees will have access to the faculty grievance committee, as specified in Regulation 16.

15. Other Academic Staff

a. In no case will a member of the academic staff who is not otherwise protected by the preceding regulations that relate to dismissal proceedings be dismissed without having been provided with a statement of reasons and an opportunity to be heard before a duly constituted committee. (A dismissal is a termination before the end of the period of appointment.)

b. With respect to the nonreappointment of a member of such academic staff who establishes a prima facie case to the satisfaction of a duly constituted committee that considerations that violate academic freedom, or of governing policies against improper discrimination as stated in Regulation 10, significantly contributed to the nonreappointment, the academic staff member will be given a statement of reasons by those responsible for the nonreappointment and an opportunity to be heard by the committee.

16. Grievance Procedure

If any faculty member alleges cause for grievance in any matter not covered by the procedures described in the foregoing regulations, the faculty member may petition the elected faculty grievance committee

[here name the committee] for redress. The petition will set forth in detail the nature of the grievance and will state against whom the grievance is directed. It will contain any factual or other data that the petitioner deems pertinent to the case. Statistical evidence of improper discrimination, including discrimination in salary, may be used in establishing a prima facie case. The committee will decide whether or not the facts merit a detailed investigation; if the faculty member succeeds in establishing a prima facie case, it is incumbent upon those who made the decision to come forward with evidence in support of their decision. Submission of a petition will not automatically entail investigation or detailed consideration thereof. The committee may seek to bring about a settlement of the issue(s) satisfactory to the parties. If in the opinion of the committee such a settlement is not possible or is not appropriate, the committee will report its findings and recommendations to the petitioner and to the appropriate administrative officer and faculty body, and the petitioner will, upon request, be provided an opportunity to present the grievance to them. The grievance committee will consist of three [or some other number] elected members of the faculty. No officer of the administration will serve on the committee.

Note on Implementation

The *Recommended Institutional Regulations* here presented will require for their implementation a number of structural arrangements and agencies. For example, the *Regulations* will need support by

1. channels of communication among all the involved components of the institution and between them and a concerned faculty member;

2. definitions of corporate and individual faculty status within the college or university government and of the role of the faculty in decisions relating to academic freedom and tenure; and

3. appropriate procedures for the creation and operation of faculty committees, with particular regard to the principles of faculty authority and responsibility.

The forms which these supporting elements assume will of course vary from one institution to another. Consequently, no detailed description of the elements is attempted in these *Recommended Institutional Regulations*. With respect to the principles involved, guidance will be found in the Association's *Statement on Government of Colleges and Universities*.

Notes

1. Under the "1940 Statement of Principles on Academic Freedom and Tenure," this period may not exceed seven years. However, the Association's 2001 "Statement of Principles on Family Responsibilities and Academic Work" (AAUP, *Policy Documents and Reports*, 11th ed. [Washington, DC: AAUP, 2015], 339-46) provides that "a faculty member be entitled to stop the clock or extend the probationary period, with or without taking a full or partial leave of absence, if the faculty member (whether male or female) is

a primary coequal caregiver of newborn or newly adopted children," that "institutions allow the tenure clock to be stopped for up to one year for each child, and . . . that faculty be allowed to stop the clock only twice, resulting in no more than two one-year extensions of the probationary period."

2. The exception here noted applies only to an institution where the maximum probationary period exceeds four years.

3. April 15 is the recommended date.

4. This committee, which can be the grievance committee noted in Regulation 16, is to be an elected faculty body. Similarly, the members of the committees noted in Regulations 4c(3), 4d(4), 10, and 13 are to be elected. A committee of faculty members appointed by an elected faculty body can substitute for a committee that is elected directly.

5. See "The Role of the Faculty in Conditions of Financial Exigency," *Policy Documents and Reports*, 292–308. The definition of "financial exigency" offered in that report and adopted here is intended to be more responsive to actual institutional conditions and extends the standard of exigency to situations not covered by Committee A's previous definition.

6. See "The Role of the Faculty in Budgetary and Salary Matters," *Policy Documents and Reports*, 289–91, especially the following passages:

The faculty should participate both in the preparation of the total institutional budget and (within the framework of the total budget) in decisions relevant to the further apportioning of its specific fiscal divisions (salaries, academic programs, tuition, physical plant and grounds, and so on). The soundness of resulting decisions should be enhanced if an elected representative committee of the faculty participates in deciding on the overall allocation of institutional resources and the proportion to be devoted directly to the academic program. This committee should be given access to all information that it requires to perform its task effectively, and it should have the opportunity to confer periodically with representatives of the administration and governing board. . . .

Circumstances of financial exigency obviously pose special problems. At institutions experiencing major threats to their continued financial support, the faculty should be informed as early and specifically as possible of significant impending financial difficulties. The faculty—with substantial representation from its non-tenured members, since it is the former who are likely to bear the brunt of the reduction—should participate at the department, college or professional school, and institution-wide levels in key decisions as to the future of the institution and of specific academic programs within the institution. The faculty, employing accepted standards of due process, should assume primary responsibility for determining the status of individual faculty members.

7. See "Statement on Government of Colleges and Universities," *Policy Documents and Reports*, 117-22, especially the following passage: "Faculty status and related matters are primarily a faculty responsibility; this area includes appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal. The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy."

8. When discontinuance of a program or department is mandated by financial exigency of the institution, the standards of Regulation 4c above will apply.

9. For cause relating to physical or mental disability, see "Accommodating Faculty Members Who Have Disabilities," *Policy Documents and Reports*, 374-78.

10. This committee should not be the same as the committee referred to in Regulation 5b(2).

11. Regulations of the institution should provide for alternates or for some other method of filling vacancies on the hearing committee resulting from disqualification, challenge without stated cause, illness, resignation, or other reason.

12. For renewable term appointments not specifically designated as probationary for tenure, see "The Applicability of the 'Standards for Notice of Nonreappointment' to All Full-Time Faculty on Renewable Term Appointments," *Academe* 81 (September-October 1995): 51-54, which states:

While academic institutions commonly adhere to the Association's *Standards for Notice of Nonreappointment* with respect to faculty appointments that they recognize as probationary, in many cases they have not considered those standards to be applicable to those full-time faculty members whose service under non-tenure-track appointments has involved more than "a brief association with the institution" and who continue to serve on annual appointments that are indefinitely renewable at the discretion of the administration. Typically, although the terms of their appointments may stipulate that they are for one year only, the faculty members are given reason to expect that, so long as they perform creditably and so long as enough courses remain available, the appointments will be renewed. Frequently, however, at or near the end of an academic year, these individuals are suddenly notified that their appointments are not in fact being renewed for the following year. Despite what may have been an extended affiliation with the institution, the faculty members are not viewed as entitled to the notice of nonreappointment that would be given to colleagues who hold appointments designated as probationary.

Committee A considers all full-time faculty members holding renewable term appointments, whatever their title or status, to be entitled to notice of nonreappointment as called for in the Association's recommended standards. We do not view it as necessary, or indeed as equitable, to deprive full-time "non-tenure-track" faculty members of the safeguards that the standards for notice are intended to provide.

13. See "Statement on Professors and Political Activity," *Policy Documents and Reports*, 39.

14. There should be no invidious distinctions between those who teach and/or conduct research in higher education, regardless of whether they hold full-time or part-time appointments or whether their appointments are tenured, tenure-track, or contingent. All faculty members should have access to the same due-process protections and procedures; Regulations 1-10, 12, and 16 therefore apply to all faculty members. The reality is, however, that distinctions do exist in the academy. For that reason, Regulation 13 contains recommended provisions that apply only to part-time faculty appointments. This regulation does not apply to faculty members with reduced loads who are probationary for tenure and who have the protections of academic due process that are provided in Regulation 2. It does apply to all other faculty members whose appointments are less than full time, whatever their rank or title and whether they are paid on a pro-rata, a per-course, or any other basis.

15. See "Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments," *Policy Documents and Reports*, 94-98, especially the following passages:

It is easier to state what the standard "adequate consideration" does not mean than to specify in detail what it does. It does not mean that the review committee should substitute its own judgment for that of members of the department on the merits of whether the candidate should be reappointed or given tenure. The conscientious judgment of the candidate's departmental colleagues must prevail if the invaluable tradition of departmental autonomy in professional judgments is to prevail. The term "adequate consideration" refers essentially to procedural rather than to substantive issues: Was the decision conscientiously arrived at? Was all available evidence bearing on the relevant performance of the candidate sought out and considered? Was there adequate deliberation by the department over the import of the evidence in the light of the relevant standards? Were irrelevant and improper standards excluded from consideration? Was the decision a bona fide exercise of professional academic judgment? These are the kinds of questions suggested by the standard "adequate consideration."

If, in applying this standard, the review committee concludes that adequate consideration was not given, its appropriate response should be to recommend to the department that it assess the merits once again, this time remedying the inadequacies of its prior consideration.

16. Universities assume responsibilities when they accept graduate students with a promise of financial support. Graduate student employees have a legitimate expectation of fulfillment of the promise unless legitimate cause to terminate support is shown. If the cause relates to the graduate student employee's work and/or academic performance or progress, the employee should be given sufficient time and opportunity to redress the concern.

17. According to the Association's "Statement on Collective Bargaining" (*Policy Documents and Reports*, 323-24), "Participation in a strike or other work action does not by itself constitute grounds for dismissal or nonreappointment or for imposing other sanctions against faculty members."

18. For comment on the term "adequate consideration" see footnote 16, supra.

19. Nonreappointment conditioned on inadequate academic performance as a graduate student may be reviewed in the manner provided in Committee A's statement "The Assignment of Course Grades and Student Appeals," in *Policy Documents and Reports*, 29–30.

20. Each institution should define with particularity who are members of the academic staff.

