

# AAUP

American Association of University Professors

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*Academic Freedom for a Free Society*

November 4, 2009

Professor David A. Ross  
Chair, Manoa Faculty Senate Executive Committee  
Department of Mathematics  
University of Hawaii at Manoa  
Honolulu, Hawaii 96822

Dear Professor Ross:

You have asked us to advise you and your colleagues regarding the widely accepted academic standards recommended by the AAUP in cases of financial exigency. These standards derive from the enclosed 1940 *Statement of Principles on Academic Freedom and Tenure*, which was jointly formulated by the AAUP and the Association of American Colleges (now the Association of American Colleges and Universities), has received the endorsement of more than 210 scholarly and educational organizations, and has been incorporated by reference and/or quotation into most college and university regulations.

According to the 1940 *Statement*, "Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institutions as a whole. The common good depends upon the free search for truth and its free exposition." Academic freedom depends in turn upon the protections of tenure. As the *Statement* goes on to explain, "After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in case of retirement for age, or under extraordinary circumstances because of financial exigency."

Regulation 4c of the Association's derivative *Recommended Institutional Regulations on Academic Freedom and Tenure* (also enclosed) details the procedures necessary to protect academic freedom and tenure when a college or university faces a condition of financial emergency. It states that "[t]ermination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may occur under extraordinary circumstances because of a bona fide financial exigency," defined as "an imminent financial crisis that threatens the survival of the institution as a whole and that cannot be alleviated by less drastic means" than the termination of appointments.

"As a first step," the determination whether such a condition "exists or is imminent and that all feasible alternatives to termination of appointments have been pursued" should be made in

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cooperation with “a faculty body.” Because of the faculty’s expertise in educational matters, any decisions about which programs should be terminated and by what criteria should be the “primary responsibility” of “the faculty or an appropriate faculty body.” A duly constituted faculty body should also determine which appointments will be terminated.

Once the administration notifies a faculty member of termination, that faculty member should be afforded “the right to a full hearing before a faculty committee.” In such a hearing, the affected faculty member may contest (1) “[t]he existence and extent of the condition of financial exigency,” (2) [t]he validity of the educational judgments and the criteria for termination,” and (3) “[w]hether the criteria are being properly applied in the individual case.”

Regulation 4c stipulates, further, that new appointments will not be made at the same time as appointments are being terminated nor will tenured appointments be terminated in favor of untenured appointments “except in extraordinary circumstances where a serious distortion in the academic program would otherwise result.” Administrations should make “every effort” to place faculty members whose positions are designated for termination in “another suitable position within the institution.” Faculty members whose positions are terminated should receive notice or salary commensurate with their length of service, which for those with tenured appointments should be at least one year. And when faculty appointments have been terminated for financial exigency, the vacated positions are not to be filled by a replacement before three years have passed, “unless the released faculty member has been offered reinstatement and a reasonable time to accept or decline it.”

I hope this explanation of our recommended procedural standards in cases of financial exigency proves useful. If you and your colleagues have any questions about the applicability of these standards to the current situation at the University of Hawaii, please do not hesitate to contact me again. To indicate the seriousness with which the AAUP views apparent departures from these standards in particular cases, I should note in closing that the Association has recently conducted a formal investigation of the University of Texas Medical Branch at Galveston after the administration declared a state of financial exigency and implemented a “reduction in force” that resulted in the termination of numerous faculty appointments, a large proportion of them tenured.

Sincerely,



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

Enclosures