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VIA ELECTRONIC MAIL

October 20, 2015

Professor Frann Michel  
President, Willamette University AAUP Chapter  
Willamette University  
Salem, Oregon 97301

Dear Professor Michel:

You have asked for our comments on the Willamette University College of Liberal Arts full-time, and the part-time and temporary, faculty handbooks. The versions you sent us to review are respectively the August 1999, and August 2012, versions.

I have commented on sections of these documents which most implicate AAUP-recommended standards in the areas of academic freedom, tenure, due process, and shared governance, and I have limited my observations mainly to noting departures from key AAUP-supported standards.

For the most part, I find that the regulations outlined in the WU handbooks comport with Association-supported standards, and am pleased to see AAUP policy documents cited at key points. However, I have noted a few important departures from our recommendations to which I want to draw your attention and that of your colleagues. I cite them in the order in which they appear, first in the full-time, and then in the part-time and temporary, handbooks.

*CLA Faculty Handbook*

We note at the outset that the handbook does not incorporate procedures for revision and emendation of the faculty handbook, a critical, yet often overlooked, set of procedures, which we recommend developing.

Section 2.3.III.A.3. Continuing Non-Tenure-Track Appointments.

This section states, "Faculty members holding continuing appointments receive renewable one-year contracts, based on curricular demand and favorable reviews. They may be re-appointed indefinitely, but they are not eligible for tenure."

According to our *Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments*, “except for special appointments clearly designated at the outset as involving only a brief association with the institution, all full-time faculty appointments are either with continuous tenure or probationary for tenure.” The 1940 *Statement of Principles on Academic Freedom and Tenure* provides, “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. . . .” The AAUP therefore does not favor retention of full-time faculty members beyond seven years of service without affording them the due-process protections that accrue with tenure. Therefore, we strongly encourage institutions to limit strictly their reliance upon contingent faculty appointments.

#### Section VII.A. Tenure Policies and Criteria.

Tenure is defined herein as “the right of a faculty member to hold a teaching position without discriminatory reduction of salary and not to suffer loss of such position, except for the reasons and in the manner provided herein.”

I would be remiss if I did not contrast this somewhat incomplete definition to that set forth in the AAUP’s 1940 *Statement of Principles on Academic Freedom and Tenure*, which the WU handbook endorses:

“Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition. Academic freedom is essential to these purposes and applies to both teaching and research . . . . Tenure is a means to certain ends; specifically: (1) freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.”

#### Section IX.E. Termination After Tenure.

This section, which purportedly addresses the termination of the services of tenured faculty members due to program discontinuance, and financial exigency is virtually silent with regard to due process protections that would obtain in either case.

By contrast, Association-supported standards, as set forth in our *Recommended Institutional Regulations on Academic Freedom and Tenure (RIR)* 4, define a condition of bona fide financial exigency as “a severe financial crisis that fundamentally compromises the academic integrity of the institution as a whole and that cannot be alleviated by less drastic means.” It further states: “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.”

Additionally, under AAUP policy, if the administration issues notice to a particular faculty member of an intention to terminate the appointment due to financial exigency, the faculty member will have the right to a full hearing before a faculty committee where the administration bears the burden of proving the existence and extent of the condition. At the same time, the institution should make every effort to place the affected faculty member(s) in suitable alternative positions.

See *RIR 4.d* for due process procedures applicable to discontinuance of program or department for educational reasons.

Section IX.F. Dismissal After Tenure.

These procedures essentially follow AAUP-recommended standards with one major exception. They are silent with regard to the burden of proof in faculty dismissal hearings, an omission which might be interpreted as placing the burden of refuting dismissal charges on the faculty member.

*RIR 5* on dismissal procedures provides that, importantly, “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.”

This handbook section also states that the decision to suspend a faculty member who is being dismissed is taken at the president’s discretion without faculty consultation.

By contrast, *RIR 5* calls for administrative consultation with a faculty committee prior to suspension on grounds of immediate harm. *RIR 7* on Procedures for Imposition of Sanctions Other Than Dismissal provides for faculty consultation in cases where the conduct of a faculty member, although not constituting adequate cause for dismissal, is sufficiently serious to justify imposition of a severe sanction such as suspension.

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*CLA Part-Time and Full-Time Temporary Handbook*

Several sections of these policies appear to diverge - in one case significantly - from applicable Association-supported principles and procedural standards, as set forth in our *RIR* and in other pertinent AAUP policy documents and reports attached for your information.

The handbook is silent with regard to due process protections afforded full-time temporary and part-time faculty members against whom the administration initiates dismissal action.

The procedures set forth in *RIR 5* are applicable, by contrast, to dismissal of faculty members with tenure, or with a special or probationary appointment before the end of a specified term. We consider full-time contingent appointments to be a form of special appointment, and thus faculty who so serve should be eligible for the due process protections delineated in this regulation.

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For Association-recommended standards with regard to dismissal of faculty serving on part-time appointments, see *RIR* 13.

### 5.7 Harassment Policy

This policy addresses harassment involving staff and/or faculty of Willamette University, and states that harassment complaints should be reported to human resources. That department apparently leads the investigation into the complaint regardless of whether the alleged harasser is a staff or faculty member.

Our standards recommend that sexual harassment complaints against faculty members be adjudicated under a separate set of procedures in order to ensure the protection of academic freedom. In our view, it is absolutely crucial that allegations of sexual harassment against a faculty member be reviewed by a committee consisting exclusively of elected faculty peers.

If a minor sanction is imposed upon a faculty member, he or she should be able to file a grievance with a faculty committee. If a major sanction is proposed—such as suspension, demotion, reduction in pay—the faculty member should be afforded the opportunity for an adjudicative hearing of record before a body of elected peers in which the administration demonstrates adequacy of cause for the sanction. See, *Sexual Harassment: Suggested Policy and Procedures for Handling Complaints* and *Due Process in Sexual Harassment Complaints*, and Regulation 7 of the *Recommended Institutional Regulations*.

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I hope these comments and documents I have cited will assist you and your colleagues in improving the Willamette University handbooks. If you have any questions, don't hesitate to contact me.

Sincerely,



Anita Levy, Ph.D  
Senior Program Officer