

State of Kansas Conference of the American Association of University Professors (AAUP) Statement on the Kansas Board of Regents Social Media Policy

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On December 18, 2013 the Kansas Board of Regents voted to adopt new rules under which faculty and other employees may be suspended, dismissed or terminated from employment for “improper use of social media.” The American Association of University Professors issued a statement (<http://aaup.org/news/social-media-policy-violates-academic-freedom>) which the AAUP’s State of Kansas Conference fully endorses and echoes.

Because the State of Kansas Conference of the AAUP is composed of practicing faculty members who are most seriously affected by this and other Regents policies, both the Conference as a whole and faculty across the State as individuals feel compelled to respond to ensure a vibrant academic community of scholars at Kansas universities. There is, however, a gross inequity in that the policy itself precludes such a response and threatens the loss of employment for those who do so. Speaking as the only state-wide representative of faculty members across the State of Kansas, the KSAAUP finds that this policy is a direct affront to faculty members’ rights to academic freedom and freedom of speech as assured in Regents Policies. Furthermore, it undermines the fundamental principles of academic tenure and due process.

Under this policy, the “CEO” of the university has the right to dismiss even tenured faculty members based solely on his or her own opinion of what constitutes “the best interests of the University” or “has a detrimental impact on close working relationships.” The university administration is not required to bring charges of misconduct against the faculty member through established procedures, which include a hearing before a faculty body with ample opportunity to present a defense. Instead, this policy presumes that the person accused of a violation is guilty (rather than the presumption of innocence that is fundamental to our legal system), and denies the accused a trial of any sort—much less a trial before a jury of peers—before the imposition of sanctions. The policy grants the faculty member only the right to file a grievance after action, including dismissal, has already been taken. This is a policy in tune with the values of an authoritarian state, not those upon which the state of Kansas has historically been based.

Since 1947, the Kansas Board of Regents (KBOR) has included in its Policy Manual the first statement under Academic Tenure from the AAUP 1940 Statement of Principles on Academic Freedom and Tenure. This statement ensures that all faculty members who have been hired over the past 66 years will receive the “Precise Terms and Conditions” of their appointment prior to the consummation of said appointment. The new policy, however, is inherently at odds with this and other of the Board’s own publicly posted policies and conflicts directly with the spirit and letter of many of the Board’s own statements. In short, this is a grossly adverse and unilateral change in employment conditions enacted with neither the consent of nor compensation to the employee. Indeed, the KBOR’s own Policy Manual (the one under which nearly all faculty at Kansas Regents institutions were hired, referenced above) in §D.7.a.(3)(c) professes to protect the academic freedom of faculty members who archive and publish their scholarly works electronically. But under this new policy, if faculty members publish something that “impairs harmony among co-workers,” they can be fired.

Aside from the fact that this policy is conflicted and inappropriate in many ways, the KSAAUP is alarmed that it was implemented with neither faculty input nor serious consideration of the consequences to the institutions that the Kansas Board of Regents professes to serve. Kansas universities were established on the principle of shared governance: the administration and the faculty work together to determine appropriate standards of conduct and appropriate policies. However, this Social Media Policy did not originate with the universities at all, and it is not in keeping with the spirit of free inquiry and unhampered exchange of ideas that are central to the academic enterprise at the university level. A policy reflecting this spirit would not substitute the CEO's opinion of what is in "the best interests of the University" for the considered judgment of the university community as a whole. The best interests of the University frequently requires employees to dissent from the opinions of their superiors, and to take stances that may disquiet some co-workers. No university policy should value "personal loyalty" to a given administrator or administrative structure over the fundamental responsibilities academicians bear.

The KSAAUP is gravely concerned that the Board's Social Media Policy has damaged, is damaging and no doubt will continue to damage all of the Regents institutions across the State both indirectly by harming the reputations of these institutions and directly via lost educational and scholarly productivity. The chilling effects of this policy are certain to harm professors' abilities to engage students, especially when it comes to applying critical thinking in emerging forms of communication. Much in the same way that the ban on the teaching of evolution in Kansas schools led to wide-scale adverse international publicity and harmed the greater public's perception of the state of education in Kansas, this debacle is sure to have a similar effect, but on a higher level. Indeed, faculty members across the nation and perhaps the world will fear Kansas as a place where a misplaced word or statement critical of an administrator can end a career. What is more is that just as the institutions across the state are working to "hire for excellence," potential faculty candidates are bound to think twice before taking a position in Kansas, leaving the universities with far weaker candidates to choose from. Similarly, retention of outstanding current faculty members will also be challenged, as most other institutions around the world subscribe to at least minimum levels of assurance of freedom of speech and academic freedom for faculty. This, no doubt will lead to both cherry picking and flight of Kansas' best faculty members and expose Kansas universities to a debilitating form of "brain drain."

In short, the Kansas Conference of the AAUP strongly rejects the premise of this ill-conceived Social Media Policy and calls upon the Kansas Board of Regents to withdraw it immediately before any more reputational damage is done to the State's otherwise excellent Regents institutions. In the interim, we call upon the leadership structures and administrations of the Regents institutions to pledge publicly not to enforce the provisions of this policy. The AAUP's recently released "Academic Freedom and Electronic Communications" provides valuable guidelines which, in the spirit of shared governance, the Kansas Board of Regents could share with faculty, staff, and students, who could then develop their own policies that reinforce and truly uphold our cherished academic and American values.