



Prof Notes

The Newsletter of the Kansas Conference

American Association of University Professors

FALL MEETING FOCUSES ON CONTINGENT FACULTY

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Rich Hughen describes the collective bargaining process at FHSU as it applies to contingent faculty.

The fall meeting of the AAUP Kansas conference was held on the campus of Fort Hays State University. Elmer Hoyer and Rich Hughen led a discussion on “Contingent Faculty and Post-Tenure Review with Emphasis on a Collective Bargain Campus.” (See Elmer’s Article on Post-Tenure Review in this issue.)

Four major concerns about non-tenure track faculty are

expressed in the AAUP’s “Red Book.” They are:

1. This erodes the size and influence of the tenured faculty and undermines the stability of the tenure system.
2. Academic freedom becomes more vulnerable to manipulation and suppression.
3. The professional status of faculty suffers when so many are subject to economic exploitation and demeaning working conditions inconsistent with professional standards.
4. Quality of education is at risk when the curriculum, advising, and instructions are not in the control of faculty ‘that have the protection of academic freedom.’

UPCOMING EVENTS

The spring 2009 meeting will be at UMKC. Cary Nelson, AAUP President and Marc Bousquet, National Council Member, will be featured speakers.

CONFERENCE OFFICERS

- President: Rob Catlett
- Past-President: Brigitte Roussel
- President-Elect: Jon Scheinman
- Secretary-Treasurer: Rich Hughen
- Conference Committee A Chair: Elmer Hoyer
- Newsletter Editor: Joe Yanik



ACADEMIC FREEDOM IN KANSAS

BY JOE YANIK

What follows are some items related to higher education in Kansas and around the country. Is there a pattern?

- ◆ The Topeka Capital-Journal, in a recent editorial decrying the state's "budget mess," blamed "big-ticket expenditures" among which was an agreement to spend \$380 million over five years to fix buildings at state universities.
- ◆ Supporters of Vice Presidential candidate Sarah Palin claimed that one of her qualifications was that she is "just like one of us." Barack Obama, who has degrees from Columbia and Harvard, is criticized as an "elitist." Palin's ticket won decisively in Kansas.
 - ◆ In Kansas a committee of K-12 science teachers, science educators, and scientists, drafted a science standards document to guide the public school curriculum. One member of the school board circumvented this process to create an alternative proposal written by a local creation science organization.
- ◆ The Kansas legislature considered enacting an "Academic Bill of Rights" that would root out "bias" in the university. In testimony before the committee considering the bill, David Horowitz spoke disparagingly of faculty as "a highly privileged social and economic elite."

Academic Freedom

- ◆ The Kansas Senate voted to withhold funding from any university department or division that buys or shows "obscene" videos for undergraduate classes in human sexuality. (The bill was vetoed by the governor.)
- ◆ The Council of Faculty Senate Presidents (COFSP) proposed to the Board of Regents that anyone teaching a college course should have a Master's degree or be working towards a Master's degree in the content area. Community College representatives, who wanted to award concurrent enrollment credit for courses taught by high school teachers, implied that such a proposal from the faculty of four year colleges represented an elitist viewpoint. Their view prevailed.
- ◆ The White House was accused of editing reports that were prepared by scientists in order to conform to a political agenda.



Here is one last item:

- ◆ According to a study released September 13 from the Paris-based Organization for Cooperation and Development, among adults 25 to 34, the United States ranks 9th among industrialized nations in the share of its population that has at least a high school degree. Among those same adults, we rank 7th in the share that has a college degree. Twenty years ago we were first in both categories.

CHAPTER REPORTS: FHSU UPDATE

BY RICH HUGHEN

The following is a description of what has transpired on our campus regarding the so-called "temporary" faculty the last few years.

FHSU-AAUP was certified by the PERB as the bargaining agent for faculty May, 2000. We have had a continuing dispute with the Administration regarding which faculty should be included in the bargaining unit. "Temporary" or contingent, NTT faculty are not (were not included) in the unit. To our surprise and dismay, there were a few other (categories of) faculty that were affected by the "temporary" exclusion.

1. When faculty members fail in their quest for tenure, the Administration issues them a terminal one-year contract, refers to them as temporary (contingent) faculty members, and removes them from the bargaining unit. So, such faculty members

are not afforded the protections of collective bargaining at a time that they may need it the most.

2. The Administration removes faculty on "phased retirement" from the bargaining unit and justifies it by calling them part-time, i.e., more like temporary than regular tenured faculty.

3. But, the most serious problem is that many of the faculty referred to as "temporary" contingent or NTT have been at FHSU for 10 to 20 or even 25 years, and that hardly seems temporary. Labor law allows that all employees with the same "community of interest" be included in the bargaining unit. Many of the so-called "temporary" faculty members have their terminal degrees, have the title assistant or associate professors, and teach essentially the same courses as tenure-track faculty. The only significant distinction between

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AAUP KANSAS CONFERENCE COMMITTEE A (KCCA)

BY ELMER HOYER

Since the fall 2007 newsletter was published, the KCCA has been involved with two different faculty situations. One situation came to the KCCA Chair in January of 2007 and involved a complaint by a student against a faculty member. The KCCA Chair went to meet with the faculty member on the issues involved. This situation does not involve sexual harassment but does involve issues of Academic Freedom. This issue was poorly handled by the college dean and the graduate dean and didn't follow the policy for student complaints against a faculty member. This means that the faculty member's due process was also violated. This matter went to a grievance hearing in May and the KCCA Chair appeared as a witness for the faculty member and also presented written *Amicus curiae* statement.

“The grievance committee reported unanimously that the faculty member’s academic freedom was violated...”

There were other issues involved in this case which were brought to the grievance committee but were not academic freedom issues and therefore are not reported here. The grievance committee reported unanimously that the faculty member’s academic freedom was violated by the College Dean and that due process was violated. This unanimous decision was overturned by the university Provost. This was appealed to the President but the Provost’s decision was sustained. The Academic Freedom issue has been brought to the attention of National AAUP.

There were other issues involved in this case which were brought to the grievance committee but were not academic freedom issues and therefore are not reported here. The grievance committee reported unanimously that the faculty member’s academic freedom was violated by the College Dean and that due process was violated. This unanimous decision was overturned by the university Provost. This was appealed to the President but the Provost’s decision was sustained. The Academic Freedom issue has been brought to the attention of National AAUP.



Another situation came to the KCCA Chair just prior to the fall Conference meeting. A meeting was held with the faculty member at the Conference meeting and a second meeting at the faculty member’s institution. While there certainly is issues of Academic Freedom in this case, there appears to be a much larger issue, that of age discrimination. Due process is also an issue here and legal assistance has been obtained by the faculty member. This situation is probably going to a grievance.

The assistance provided by the KCCA comes in various ways and extent. Sometimes it is just a matter of listening to the real or perceived problem and offering encouragement or simply directing the individual to the internal process that can assist them in finding a solution. Other times it may mean that I meet with the faculty member to better assess the situation or that I go with the faculty member as a colleague when meeting with a committee or an administrator. It sometimes means that I appear at a hearing as an AAUP Observer or to give an *Amicus curiae* statement. This assistance always works best if the KCCA is made aware of the problem as soon as possible after the faculty member becomes aware that the problem exists.

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these individuals (as teaching faculty) and “tenure-track” faculty is the label assigned by the Administration.

We requested PERB to clarify our membership and in January, 2006 there was a hearing on our campus in this regard.

The PERB allowed the temporary, contingent, NTT faculty to vote in April, 2008, to see if they wanted to become part of the bargaining unit. There were 76 faculty allowed to vote in the election. The vote was affirmative. However, in June, 2008, FHSU Administration appealed the PERB decision regarding inclusion of NTT faculty in the bargaining unit. There should be a decision within a few weeks.

If and when the NTT faculty are allowed into the bargaining unit, we plan to negotiate several things on their behalf: 1) a promotion system, 2) more notification regarding non-

reappointment, 3) some type of multiple year contracts after some specified period of time, and 4) some type of continuing reappointments except in cases of a demonstrable declines in enrollment and/or financial exigency. Another advantage for the NTT faculty would be that they will be included in the MOA grievance system so FHSU-AAUP can represent them. We also plan to try to convince the Administration to adhere to the recommended numbers of NTT faculty as stated in the 1995 AAUP “Red Book.”

1. NTT faculty should be no more than 15% of the total instructions at FHSU.
2. NTT faculty should be no more than 25% of the total instruction within any given department.

Because of continuing education (Virtual College) courses, especially in China, these numbers may need to be altered or at least qualified for our campus.

AAUP's 2008 ANNUAL MEETING

BY DONNA POTTS

I attended the Ninety-fourth Annual Meeting of the AAUP in Washington, DC from June 12 to 15. The theme was "Scholars in Peril," and among the featured speakers was Adam Habib, deputy vice-chancellor of research, innovation, and advancement at the University of Johannesburg in South Africa. A renowned scholar and political analyst, Habib spoke on the history and status of academic freedom in South Africa. Habib has repeatedly condemned terrorism and has urged governments to respond to the terror threat with policies that are consistent with human rights norms and the rule of law. Until the United States government revoked his visa in October 2006 suddenly and without explanation, he had never experienced any trouble entering the United States. Because Habib continues to be banned from entering the country, he had to participate in the meeting by teleconference. In the Q & A, he expressed his desire for an organization like AAUP in South Africa, and welcomed AAUP's decision to call for a selection of papers that focus on AAUP principles, to be presented at its 2009 meeting (see below).

Professor Yoannis "John" Milios of the National Technical University of Athens, who had only recently been allowed to enter the United States after extended litigation, also spoke. His presentation, "The Right to Academic Discussion. Who is "ineligible" and on whose Decision," is available at http://www.aaup.org/NR/rdonlyres/C71963FF-7FD4-4DC0-98ED-94E80EE67665/0/Milios_AAUP_Washington_08_a.pdf. Professor Milios was blocked from presenting a paper entitled "How Class Works" at the State University of New York at Stony Brook in June 2006. Though he had visited the United States just three years before, upon arriving at JFK airport in New York he was detained and interrogated about his politics. After several hours, he was told that he would have to return to Athens.

Professor Barbara Weinstein, internationally known historian of 20th century Latin America, was the featured speaker at the banquet. Professor Weinstein was president of the American Historical Association in 2007 and now serves as the Association's Immediate Past President.

Academic Papers to be included in 2009 Meeting

Council voted to issue a Call for Papers for the 2009 meeting, in order to promote discussions of the principles that AAUP strives to uphold, and also to increase the chances that faculty members will be able to receive funding from their institutions to attend annual meetings. Electronic invitations to submit proposals for AAUP's next meeting, on "Globalization, Shared Governance, and Academic Freedom," garnered over a hundred paper proposals. As of mid-November, when the National Council met, Martin Snyder, Director of External Relations, had responded to all of the proposals he had received.

2008 Resolutions

This year I served with Leonore Beaky, Jonathan Knight, and Larry Gerber on the Resolutions Committee, which presents resolutions that are usually based on suggestions by AAUP members, and then either adopted or tabled by delegates to the national meeting. Five resolutions were adopted, as well as a sixth, which was specifically (and surreptitiously) designed to honor the contributions of Jonathan Knight.



1. On teaching evolution: local communities and state officials were asked to "reject proposals that seek to suppress discussion of evolution in our public schools as inimical to principles of academic freedom."

2. On campus safety: In response to horrific campus shootings at Virginia Tech and Northern Illinois University, colleges and universities must continue to prohibit firearms and concealed weapons, instead relying on trained and equipped professional law-enforcement personnel to respond to emergency incidents.

3. On higher education in Iran: the meeting urged the government of Iran, consistent with the constitution of Iran, to remove barriers that deny access to higher education on religious or ethnic grounds. This resolution came as a result of discriminatory practices toward Iran's Baha'i community.

4. Loyalty Oaths: in response to two recent cases in the California State University System, the meeting affirmed its belief that refusal to sign a loyalty oath does not, in and of itself, justify the refusal to appoint a faculty member or the termination of a faculty appointment. AAUP supports the efforts of faculty in California and in other states that require such loyalty oaths to take such action as may be necessary to make it possible for public colleges and universities to appoint and retain faculty members as determined by academic considerations, not dictated by legislative enactments.

5. Resolution Honoring Jonathan Knight: Jonathan Knight's planned June 30th retirement, after thirty-one years as a key member of the AAUP staff, was the impetus for the committee's final resolution, included below:

Over the years, Jonathan has handled more than 1,000 individual cases and complaints, and he has staffed thirty-two formal investigations. While Jonathan has had a hand in just about every Committee A policy statement issued during the last three decades, perhaps his largest contributions to policy development have been in the area of academic freedom and government restraints, notable among them his service as a principal staff officer for the post-9/11 Special Committee on Academic Freedom and National Security in a Time of Crisis. He has also concentrated on restraints on academic freedom coming from religious and business interests, and

on academic boycotts. In addition, he has worked to educate faculty members and others on issues of academic freedom, tenure, and government, as is evident from his recent publication, *Navigating Faculty Appointments: Questions and Answers*.

Jonathan Knight's AAUP work has by no means been confined to the programs he has directed. Since 1979 he has staffed the Committee on Professional Ethics and has been chiefly responsible for formulating the statements on plagiarism and *On Professors Assigning Their Own Texts to Students*. He served for fifteen years as *Academe's* Book Review Editor. He took over a member benefits program that did little for members and less for the Association, turning it into a program that produces a fair amount of financial benefit for the individual member and the AAUP coffers alike.

This annual meeting expresses its gratitude for his contributions to the association and the profession and wishes him a long and happy retirement.

Restructuring

Delegates approved the proposed amendments to the AAUP Constitution, following Council's endorsement of the proposed restructuring of the Association as recommended by the Restructuring Task Force, including the legal formation of the three new entities and amendments to the Association's present constitution pursuant to Article X thereof. These amendments to the AAUP constitution were published in the March-April 2008 issue of *Academe*.

Kansas Conference Newsletter Award

The Kansas Conference received the Outstanding Conference Newsletter award, thanks especially to Joe Yanik's diligence in covering events across Kansas, and his well-written and perceptive columns on academic freedom. The newsletter committee was especially impressed with the wide range of local examples and specific details brought to bear on discussions of the general principles that AAUP strives to uphold.

New General Secretary

National Council met for an extra day during the annual meeting, in order to interview two candidates for the position of General Secretary: Estelle Gellman, AAUP's second vice president and professor at Hofstra University, and Gary Rhoades, a professor of higher education at the University of Arizona. By the end of the day, council had voted for Gary Rhoades, who will take office in January, heading the staff of the national AAUP office in Washington, DC. Since 1997, Rhoades has been the director of the U of A Center for the Study of Higher Education. "Among the priorities I hope to see the AAUP address," Rhoades says, "are the expansion of due process rights for contingent faculty and graduate employees; the enhancement of professional development opportunities; the broadening of the Association's membership and diversity; and the positioning of faculty and a faculty perspective more centrally in national and state policy deliberations about higher edu-

cation," Rhoades describes AAUP as being "at the core of what it means to be a faculty member in a democratic society."

For more information, see <http://www.aaup.org/AAUP/pubsres/academe/2008/SO/AW/rhoades.htm>

AAUP Censure

Delegates voted on June 14 to place the University of New Haven on its list of censured administrations. Its investigating team concluded that the university's administration disregarded widely accepted academic standards when it decided to dismiss English professor Marianna M. Vieira last year. Vieira was dismissed by action of the dean of arts and sciences at the same time that she was recommended by her department for retention and promotion. At the time of her dismissal, Vieira had been on the New Haven faculty for fourteen years, six as a part-time instructor and eight on full-time, non-tenure-track appointments.

At the same time, they voted to remove Philander Smith College from the censure list. Censure had been imposed on the Philander Smith College administration in response to the dismissal and banishment from campus of a professor who had informed a reporter about the president's directive stating that faculty contacts with the media without her prior approval would constitute insubordination, resulting in immediate dismissal. The report concluded that the dismissal violated the professor's academic freedom and that the academic freedom of every member of the college faculty was threatened by the very issuance of the directive. Within a year after censure was voted, a new president of the college took office, and promptly rescinded the directive on contact with the media, referring the faculty to the provision in the 1940 Statement of Principles on public utterances as "a fair guideline that we can all support."

The previous year, Hurricane Katrina had been the occasion for several New Orleans area university administrators to capriciously remove faculty under "force-majeure" plans inconsistent with AAUP policy. Southern University at New Orleans was removed from the list, because by last winter, all of the furloughed professors at SUNO where the Association's staff had recommended corrective action received offers of return to tenured SUNO positions. Loyola University New Orleans, Tulane University, The University of New Orleans, Southern University at New Orleans, and Our Lady of Holy Cross College in Louisiana remain on the censure list, and delegates chose to take no action against the administration of the Louisiana State University Health Sciences Center. Censure by the AAUP informs the academic community that the administration of an institution has not adhered to the generally recognized principles of academic freedom and tenure jointly formulated by the AAUP and the Association of American Colleges and Universities and endorsed by more than 200 professional and educational organizations. With these actions, 46 institutions are now on the censure list.

For more information, see <http://www.aaup.org/AAUP/pubsres/academe/2008/MJ/else/>

POST-TENURE REVIEW-AAUP PERSPECTIVE

BY ELMER HOYER



I want to say at the outset that AAUP is not opposed to the periodic review of faculty having tenure (Post-Tenure Review) if done for proper reasons. AAUP's principles guiding this review are: "Post-tenure review ought to be aimed not at accountability, but at faculty development. Post-tenure review must be developed and carried out by faculty. Post-tenure review must not be a reevaluation of tenure, nor may it be used to shift the burden of proof from an institution's administration (to show cause for dismissal) to the individual faculty member (to show cause why he or she should be retained). Post-tenure review must be conducted according to standards that protect academic freedom and the quality of education." Based on this statement, the three principles that are expected by AAUP when conducting any review of a tenured faculty member are: 1) that the review must be developed and carried out by faculty (shared governance); 2) that due process is accorded the faculty member being reviewed; and 3) that academic freedom is protected. My purpose of writing this statement is to present the views of AAUP regarding the review process of a tenured faculty member.

Academic freedom and tenure are two most central tenets of AAUP. In their 1940 statement on academic freedom and tenure, they start with the following statement: "The purpose of this state-

ment is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to ensure them in colleges and universities." It goes on to say, "Teachers are entitled to freedom in the classroom in discussing their subject." In another report, AAUP states: "A central dimension of academic freedom and tenure is the exercise of professional judgment in such matters as the selection of research projects, teaching methods and course curricula, and evaluations of student performance."

This could also become a legal issue if not addressed by the institution. AAUP states a legal precedent on this. "Also, there have been relevant developments in the law itself reflecting a growing insistence by the courts on due process within the academic community which parallels the essential concepts of the 1940 *Statement*; particularly relevant is the identification by the Supreme Court of academic freedom as a right protected by the First Amendment." This goes on to state the individual case which brought about this precedent.

Based on AAUP policy, tenure is primarily a protection of academic freedom for the faculty member and a protection from being arbitrarily or capriciously dismissed from their professional position as a faculty member. Having tenure doesn't mean that a faculty member cannot be terminated but it does mean that dismissal must be for cause and that procedures must be followed in this process. AAUP's principles guiding this process are: "When reasons arise to question the fitness of a college or university faculty member who has tenure or whose term of appointment has not expired, the appropriate administrative officers should ordinarily discuss the matter with the faculty member in personal conference. The matter may be terminated by mutual consent at this point; but if an adjustment does not result, a standing or ad hoc committee elected by the faculty and charged with the function of rendering confidential advice in such situations should informally inquire into the situation, to effect an adjustment, if possible, and, if none is effected, to determine whether in its view formal proceedings to consider the faculty member's dismissal should be instituted."

AAUP further states in this reference:

"There are at least three reasons why the faculty's voice should be authoritative across the entire range of decision making that bears, whether directly or indi-

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rectly, on its responsibilities. For each of these reasons it is also essential that faculty members have the academic freedom to express their professional opinions without fear of reprisal.

“In the first place, this allocation of authority is the most efficient means to the accomplishment of the institution’s objectives.

“The second reason issues from the centrality of teaching and research within the array of tasks carried out by an academic institution: teaching and research are the very purpose of an academic institution and the reason why the public values and supports it.

“The third reason is the most important in the present context: allocation of authority to the faculty in the areas of its responsibility is a necessary condition for the protection of academic freedom within the institution.”

The common thread in all these statements is that the instructor of record is the professional that decides what is taught, how it is taught, what is required of the student, how it is graded and the standards for the grades. This is not the purview

of the student, the department chair, the dean or other administrator or any other faculty member. This is academic freedom.

In the second paragraph of this statement, three principles were stated that are expected by AAUP when a review is conducted of a tenured faculty member. The first statement states that the review must be developed and carried out by faculty. The second statement states that due process is to be accorded the faculty member being reviewed. This includes review by an Affirmative Action Committee or any other committee. The third of these statements states that academic freedom of the faculty member being reviewed is to be protected. Also in this second paragraph it was stated that “Post-tenure review must not be a reevaluation of tenure, nor may it be used to shift the burden of proof from an institution’s administration (to show cause for dismissal) to the individual faculty member (to show cause why he or she should be retained).” All of these principles are very important and are often violated by the institution doing the review.

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membership is rapidly graying, many still cannot see the need to provide childcare services. One member commented at breakfast, "but we hardly ever need babysitters," to which another member immediately responded, "but with that attitude, we'll never attract the younger faculty who are most likely to need babysitters." AAUP's difficulty attracting younger members is in part due to its failure to recognize and accommodate the changing needs of the profession. If AAUP is to survive and indeed thrive as an organization, it must work to provide affordable childcare options not only to council members, but to all of its members, and more generally, work on behalf of faculty members to ensure that campuses create and maintain family-friendly policies and atmospheres. While budget concerns might prevent us from footing the bill for all babysitting needs, we can at least make a list of affordable childcare providers available to our membership. I recently forwarded suggestions for childcare for future national meetings to Larry Gerber, and I plan to pursue this issue as part of my service on council.

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We're on the web!

<http://www.aaup-in-ks.org/>



CHILD CARE AT AAUP MEETINGS

BY DONNA POTTS



My daughter, Isabella Bridget, was born in February, 2007, which also happened to coincide with my first year on AAUP's national council. Council meets twice a year, and while my family was able to accompany me to the June '07 council meeting (which coincides with AAUP's national meetings), I unfortunately found myself on my own when the November meeting rolled around. Because Isabella was not yet weaned, I decided at the last minute to take her with me. I emailed the national AAUP staff and asked whether they knew about babysitting services in the area. When their efforts to locate a babysitter proved to be in vain, I was told to call the hotel, which quickly put me in touch with a babysitting service. The drawback was that the rates were \$20 an hour, plus \$40 a day for traveling expenses for the babysitter. Given that council meetings last at least eight hours on Saturday (9 am to 5 pm), and five hours on Sunday (9 am to 2 pm), I faced a babysitting bill of at least \$340. I decided the expense was worth it, given that Isabella would at least be flying for free, so I managed to arrive at the Sheraton Four Points, baby and bags in tow. To save money, I took Isabella to council breakfasts (8 am) and as well as the after-5 pm receptions, where she was made to feel very welcome by all, including Cary Nelson, who even asked if she would consider serving on a committee. When council members learned of the cost of hotel babysitters, they immediately recommended that AAUP pay my babysitting bill. Despite the warm welcome and the support we received, my experience made me all the more aware of the need to accommodate members who have babysitting needs. AAUP's declining membership is partially the result of changing demographics: when most professors were male, who could count on spouses willing to stay home with the children, babysitting was not an issue. Now that our

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