

AAUP/TULANE

CORRESPONDENCE

January 26, 2006 – September 11, 2006

AAUP/TULANE CORRESPONDENCE

January 26, 2006 through September 11, 2006

The following copy of letters are a summary of all correspondence between the AAUP and Tulane University concerning issues of the release of tenured faculty at that institution, Post-Katrina and the claim of financial exigency by the university.

VIA FACSIMILE (504-865-5202)

January 26, 2006

Dr. Scott S. Cowen
President
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Ms. Catherine D. Pierson
Chair, Board of Administrators
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Dear President Cowen and Chair Pierson:

Together with other groups and individuals throughout American higher education, we at the American Association of University Professors have been deeply concerned over what Tulane University as well as other New Orleans universities and colleges have had to endure in the debacle of Hurricane Katrina and its aftermath. The decision at Tulane to eliminate more than 200 full-time faculty positions, by far the largest number of mass terminations of faculty appointments ever, is of course a key concern for the AAUP under our longstanding responsibilities. Thus we appreciate your telephone call to our general secretary, Roger Bowen, expressing interest in adhering to applicable AAUP-recommended standards. We similarly appreciate that a need to meet our recommended standards had been a consideration in deciding on processes to be followed.

Following the issuance of notifications of termination, each action based on a declaration of financial exigency and the resulting "Plan for Renewal" adopted by the university's board of administrators, numerous affected tenured professors in the Schools of Business, Engineering, and Medicine have sought our assistance. We have also been kept abreast of developments, beyond what the media continue to report, by officers of the Tulane AAUP chapter and by others in the

Dr. Scott S. Cowen
Ms. Catherine D. Pierson
January 26, 2006
Page Two

Tulane academic community. We write now to address the matter of adherence to AAUP-supported standards, both in what appears to have happened thus far and in what lies ahead.

As you doubtless know, the AAUP's recommended criteria and procedural standards in this area, deriving from the provision in the 1940 Statement of Principles on Academic Freedom and Tenure that "[t]ermination of a continuous appointment because of financial exigency should be demonstrably *bona fide*," are set forth in Regulation 4(c) of our enclosed Recommended Institutional Regulations on Academic Freedom and Tenure.

The standards set forth in Regulation 4(c), many of them incorporated in Tulane's official policies, call for meaningful faculty involvement in arriving at a decision that a condition of financial exigency is at hand, and that all feasible alternatives to the termination of appointments have been pursued. They provide for a primary faculty role in determining the criteria for identifying the individuals whose appointments are to be terminated, and they place responsibility for identifying the individuals who are to receive notice of termination of appointments in "a person or group designated or approved by the faculty." If notices are then issued, these standards afford affected faculty members with opportunity for an on-the-record adjudicative hearing before an elected faculty committee. At the hearing, the burden rests with the administration to prove the existence and extent of the financial difficulty, the validity of the criteria for identification for termination, and the proper application of the criteria in the individual case. The standards also require that the services of a faculty member with tenure 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. They further require that the administration, before terminating appointments, make every effort to place those affected in other suitable positions in the institution.

That last fall's disaster plunged Tulane into a state of financial exigency has not been seriously disputed, although some have asserted that the magnitude of the exigency did not warrant so many terminated appointments. Affected faculty members and others at the university have, however, criticized the degree of faculty participation in the decisions on where within the university terminations were to occur. In addition, affected faculty members have sharply challenged the actions taken in their individual cases. They contend that in many instances their appointments as tenured members of the faculty are being terminated, contrary to the applicable AAUP-recommended standard, in favor of retaining nontenured colleagues, and that they are qualified to teach courses and carry out other academic responsibilities that will be assigned instead to nontenured faculty. They further contend that the administration, here, too, in disregard of the AAUP's applicable standard, has made no apparent effort to relocate the affected faculty members elsewhere in the institution.

Dr. Scott S. Cowen

Ms. Catherine D. Pierson
January 26, 2006
Page Three

Finally, they have also complained about the adequacy of the procedures available to them for contesting these actions, having thus far been offered only opportunity to appeal to the administrative officer who notified them of termination, with the burden of proof on them to demonstrate why their services should not be terminated. If the notices of termination on the uptown campus are not to take effect until spring 2007, and if the affected faculty in the medical school continue to be compensated until that time as well, it would seem to us still timely for the administration to offer to demonstrate, in a hearing of record before an elected faculty body, that financial exigency necessitates the termination of these particular appointments. Adding to our concerns in this regard are documents we have received and media accounts we have read which appear to indicate that the appointments of some of these individuals are being terminated because the administration has arrived at unilateral judgments on their relative merit. We see terminating tenure on grounds of fitness of performance to be tantamount to dismissal for cause, to be pursued under different procedures.

* * * * *

Beyond the concerns posed by the announced terminations of faculty appointments, we have additional concerns relating to the development and promulgation of the "Plan for Renewal" itself, which involves a major reorganization of the university's academic structure, with resulting curricular and programmatic changes affecting the entire university, but especially the Faculty of the Liberal Arts and Sciences and the Schools of Business and Engineering.

After Hurricane Katrina struck New Orleans, the university's faculty and administration were dispersed across the country, but we understand that a good many faculty members have returned to the campus with the start of the new semester. At a faculty forum sponsored by Tulane's AAUP chapter last Thursday, faculty members in attendance reportedly questioned why the administration acted in December to announce the "Plan for Renewal," thereby seeming to foreclose the opportunity for meaningful faculty participation in commenting on a proposed restructuring framework. Whatever the merits of the reorganization plan—and we note that members of the faculty have also questioned both the rationale for the changes and their academic soundness—the faculty, it seems to us, are understandably disturbed about the process that was followed.

* * * * *

The information in our possession on the matters discussed in this letter has come to us primarily from press accounts and from faculty sources at Tulane University, and we realize that you may have additional information which would contribute to our understanding of what has occurred.

Dr. Scott S. Cowen

Ms. Catherine D. Pierson

January 26, 2006

Page Four

Assuming the essential accuracy of the facts as we have presented them, we would hope and expect that the administration and governing board of the university will be open to further consideration and potential hearings on notification of termination that are being contested. We would also urge opportunity for further consideration of decisions that have been made to discontinue and or reorganize academic programs.

We may well be back to you with concerns relating to specific cases. Meanwhile, we shall welcome your comments on the concerns this letter conveys.

Sincerely,

B. Robert Kreiser
Associate Secretary

BRK:id
Enclosure

cc: Dr. Lester A. Lefton, Senior Vice President for Academic Affairs and Provost
Dr. Paul K. Whelton, Senior Vice President for Health Sciences and Dean,
School of Medicine
Dr. Nicholas J. Altiero, Dean, School of Engineering
Dr. James W. McFarland, Dean, School of Business
Dr. James M. MacLaren, Acting Dean, Faculty of the Liberal Arts and Sciences
Professor Manjit Kang, President, Louisiana Conference AAUP
Professor Parviz Rastgoufard, President, AAUP Chapter
Professor Linda L. Carroll, AAUP Council, District V

Scott S. Cowen
President of the University

February 7, 2006

B. Robert Kreiser
Associate Secretary
American Association of University Professors
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Washington, DC 20005-3465

Dear Dr. Kreiser:

We respond here, as President and Board Chair of Tulane University, to your January 26 letter. Feedback on any concerns that members of the Tulane faculty have is important to the University and to us. This is why President Cowen voluntarily reached out twice to the AAUP Secretary, Roger Bowen, most recently calling him to relate and discuss developments at Tulane, before we received your letter or knew that a letter was being sent to us from AAUP. We appreciated Secretary Bowen's acknowledgment that he was not aware of any evidence that Tulane has failed to follow its Faculty Handbook or other University policies in the course of addressing the University's post-Katrina restructuring.

We also welcome the opportunity to correct several of the inaccurate premises in your letter. Before we address them, however, we wish to remind you of the conditions to which colleges and universities in our area have been subjected for the last five months as a result of Hurricane Katrina. We believe that your letter does not reflect a full understanding of the unprecedented devastation this area and its institutions have suffered. We also want to tell you how disappointed we are that the AAUP did not give us a courtesy call before sending and widely distributing the letter that has now become a public document.

Hurricane Katrina was the worst natural disaster in American history. It resulted in the destruction of civic infrastructure, housing, and other assets of a major city and its institutions as well as the lives of its citizens. The financial loss is the largest a natural disaster has caused in the history of the United States, totaling in the tens of billions of dollars. The hurricane resulted in the largest metropolitan diaspora in U.S. history, such that the population of New Orleans is currently about one-third of its pre-Katrina size. Katrina caused Tulane University to close for over four months, the first time in over a century that a major research university has had to close for such a period due to a natural disaster. During this time, our faculty and staff were scattered across the United States and the world. The University reopened a few weeks ago, although certain programs cannot yet return to New Orleans. The University will sustain property

damages and operating losses in excess of \$300 million in this fiscal year alone. In addition, the university stood to suffer tens of millions of dollars of operating losses in the years ahead if no corrective action was taken.

To ensure the academic and financial survival of the institution after Hurricane Katrina, Tulane has adopted a Renewal Plan that we anticipate will help it to emerge as a viable -- indeed, eventually a stronger -- institution. This plan now gives us a basis for optimism about Tulane's future. However, the depopulation of New Orleans, uncertainty about the city's prospects, and other critical factors make it impossible to predict with certainty what the financial footing of the University will be in coming years. Therefore, from our perspective, we must give the Renewal Plan time to work to ensure that Tulane's future will be secure.

Any suggestion that the decisions about securing Tulane's future could have been postponed until the reopening of the university or beyond fails to grasp the gravity of the catastrophe the University has faced. The degree of damage to Tulane and the situation in New Orleans required the University to move decisively to stop the financial bleeding and adopt a plan for the future. Every day we waited to take corrective action jeopardized the survival and future of the University. We owed it to our current and prospective students, faculty, and staff to develop and present a plan before they decided whether to return to New Orleans. To emphasize this point, we sent out two e-mail messages to the Tulane community well in advance of the December board meeting to inform everyone of the necessity for a renewal plan. In these messages, we described the process to be followed and outlined the goals to be accomplished.

We strongly disagree with the suggestion that faculty interests were not appropriately accounted for in the decision-making process. Notwithstanding the unprecedented dispersal of the Tulane faculty and the need to adopt without delay a plan to save Tulane, no major decision was made without close faculty involvement. Throughout the process, there was frequent and substantive consultation with the President's Faculty Advisory Council (PFAC), a body elected by the University Senate and created precisely, according to the Senate Constitution, for the purpose of advising the President "when subjects of great urgency or delicacy require immediate consultation." The PFAC was consulted concerning the declaration of financial exigency and the Renewal Plan. In fact, every member of the PFAC volunteered, without being requested by the administration or the Board, to sign the declaration of financial exigency.

Decisions at Tulane since Katrina have been characterized by adherence to the Faculty Handbook and other University policies. Notwithstanding that terminated faculty can be expected to be very unhappy about termination decisions, the University believes that the termination decisions were taken in full compliance with its Faculty Handbook.

Termination of faculty is a difficult and painful experience for all concerned, including us. In many instances the University afforded terminated faculty treatment more favorable than that which the Faculty Handbook required. The University separated all terminated faculty on terms equal to or greater than those called for in its policy. Tenured medical faculty who are terminated are receiving twelve months' severance, in accordance with the Handbook. Separated

non-tenured clinical medical faculty are receiving three to twelve months' severance, based on length of employment, although University policies do not require that. Throughout the four months when the University was closed, all of its faculties were paid full salary and benefits although they were not able to teach Tulane students or treat patients in our hospital. The University decided that medical faculty salaries during the closure and severance payments should include a clinical component, even though there was no clinical revenue to cover it. Likewise, the University has provided options for pre-K-12 schooling and low cost housing for any faculty family needing these accommodations for their return to the area. In light of the consideration it has given its faculty in the face of the devastating impact of Hurricane Katrina, to suggest that Tulane has been less than concerned for and considerate of its faculty is at odds with the facts.

We should also note for the record that the number of separated or to be separated tenured, tenure track and clinical faculty is 166, far less than the 200 plus you cited in your letter. As a result of the depopulation of New Orleans and other health related factors beyond our control, the vast majority of the separated faculty is from the School of Medicine.

To suggest that any Tulane faculty member has been denied access to the appeal procedure set forth in the Faculty Handbook is also incorrect. Although some faculty members have chosen to discuss their particular circumstances with the AAUP or perhaps others on our campus, no faculty member that we know of has been denied an opportunity to initiate a formal appeal.

Also incorrect is the suggestion that decisions to terminate faculty were somehow terminations "for cause." The terminations were predicated on the need to address the financial circumstances of the University and on the University's programmatic needs, and objectives, that those circumstances and the aim to save this institution entail.

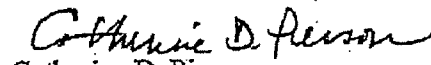
In sum, Tulane and other Gulf Coast colleges and universities confront acute circumstances of a kind and to an extent never before experienced in the history of American higher education. At Tulane, even under these trying conditions, faculty have been involved in key decisions, the University has diligently adhered to its institutional policies, and in many instances the University has afforded faculty an extent of consideration beyond the requirements of University policy. While we appreciate and understand the AAUP's interest in assisting its members, we respectfully submit that at this pivotal period in our University's history, public statements by the AAUP about Tulane that lack sound basis damage the University and threaten to harm, among others, current Tulane faculty, staff and students, all of whom have a compelling interest in seeing the University emerge from the crisis as a desirable place to work, study, teach, and learn. We hope and expect that AAUP does not desire to harm Tulane, and that the goals we share will be advanced, not impeded.

Finally, we hope and expect that the AAUP has not singled out Tulane University for public comment during this unprecedented historical moment while Tulane is doing everything humanly possible to secure its future for the current and next generation of faculty, staff, and students.

Sincerely,



Scott S. Cowen
President



Catherine D. Pierson
Chair, Board of Tulane University

Cc: Secretary Roger Bowen
Dr. Lester A. Lefton, Senior Vice President for Academic Affairs and Provost
Dr. Paul K. Whelton, Senior Vice President for Health Sciences
and Dean, School of Medicine
Dr. Nicholas J. Altiero, Dean, School of Engineering
Dr. Angelo Denisi, Dean, School of Business
Dr. James M. MacLaren, Acting Dean, Faculty of the Liberal
Arts and Sciences
Professor Parviz Rastgoufard, President, AAUP Chapter
Professor Linda L. Carroll, AAUP Council, District V

February 15, 2006

Dr. Scott S. Cowen
President
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Ms. Catherine D. Pierson
Chair, Board of Administrators
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Dear President Cowen and Chair Pierson:

Thank you for your letter of February 7, responding to mine of January 26, concerning the issues of Association concern at Tulane University. We welcome having your comments on the statements made in my letter as well as your observations on the situation in New Orleans and developments at Tulane in the wake of the hurricane.

We are in the process of obtaining comments on your letter from members of the Tulane faculty, both those who were issued notices of termination and others who were not. After we hear from faculty and have had an opportunity to review their comments, we will be back in touch with you.

Sincerely,

B. Robert Kreiser
Associate Secretary

BRK:id

cc: Dr. Lester A. Lefton, Senior Vice President for Academic Affairs and Provost
Dr. Paul K. Whelton, Senior Vice President for Health Sciences and Dean,
School of Medicine
Dr. Nicholas J. Altiero, Dean, School of Engineering
Dr. James W. McFarland, Dean, School of Business
Dr. James M. MacLaren, Acting Dean, Faculty of the Liberal Arts and Sciences
Professor Manjit Kang, President, Louisiana Conference AAUP
Professor Parviz Rastgoufard, President, AAUP Chapter
Professor Linda L. Carroll, AAUP Council, District V

Report of the Faculty Tenure, Freedom and Responsibility Committee regarding the letter from the AAUP dated January 26, 2006 and the response from Tulane dated February 7, 2006

At the last faculty meeting a resolution was passed that asked the FTFR Committee to review the letter from the AAUP dated January 26, 2006, and make recommendations regarding its content. Since that time, the University has responded to that letter in correspondence dated February 7, 2006, and the committee has reviewed this as well.

First and foremost, the committee recommends that each Senator (and each faculty member) familiarize themselves with the Faculty Handbook (<http://www.tulane.edu/~fachand/index.html>) and with the pertinent policies (and findings) of the AAUP with regard to procedures surrounding situations of financial exigency (<http://www.aaup.org/statements/REPORTS/Financial.htm>). The Tulane University Faculty Handbook contains a subset of the AAUP guidelines, but not all of them; this makes navigation between Handbook requirements and AAUP guidelines problematical, although the University suggests a willingness to follow AAUP guidelines as well as the Faculty Handbook (Cowen/Pierson letter, p. 1).

The first substantive issue brought by the AAUP letter is the issue of “meaningful faculty involvement.” This is augmented by reference to “a primary faculty role in determining the criteria for identifying the individuals who are to receive notice of termination” and placing responsibility for identifying the individuals to be terminated in a person or group designated or approved by the faculty.

The University’s response is that “frequent and substantive consultation” was made with the President’s Faculty Advisory Committee. According to several PFAC members, four meetings of the PFAC were held between October and December, 2005, for a total of some twelve hours. The meetings consisted of the administration presenting the then-current condition of the plans to cut the budget and the plan for renewal, and the committee providing feedback on those presentations. The committee met by itself only at the end of the last meeting to draft a statement; they did not meet separately to discuss the issues presented at the meetings with the administration.

It does not appear that the level of consultation with the PFAC meets the level of faculty involvement in dismissal decisions suggested in AAUP guidelines. It is clear that the PFAC was the committee established to consult with the President in situations requiring immediate consultation and was therefore the logical choice to meet with. It is not, however, a committee designated or approved by the faculty to determine criteria for or having the responsibility for identifying individuals to be terminated as AAUP guidelines call for. In any event, some members of the PFAC report they were not asked to determine such criteria or to participate in the identification of individuals to be terminated.

The AAUP questions whether a hearing process was in place following the faculty terminations, and the University responds that all normal appeals procedures are

functioning. A terminated faculty member might become frustrated when (in the case of medical faculty) the letter of dismissal was received in early December with a dismissal date of January 31st and the appropriate appellate bodies would not be reconstituted until the middle of January at the earliest. An issue of timely access to an appeal process could be raised.

To the extent that the AAUP letter raises issues of individual cases, the reassignment of tenured faculty to other duties they are qualified to undertake, and retention of untenured faculty while dismissing tenured faculty, these issues must be addressed on an individual (or specific group) basis and are best brought as individual or group complaints to the appropriate appellate group. The University has stated that it "believes that the termination decisions were taken in full compliance with the Faculty Handbook."

Similarly, the question of whether a genuine state of financial exigency existed, or whether it was sufficiently grave to require all of the terminations that were made, is one that is difficult to resolve even now. Uncertainty is a centerpiece of the declaration of financial exigency: What percent of the students would return? What faculty and staff would return? What would the city's infrastructure be able to support? Would a viable city population return to provide the case load necessary for the hospital? Will sufficient numbers of high-quality students apply to Tulane in the future? As time moves forward, experience replaces uncertainty and what looked bleak becomes merely lackluster, what looked optimistic becomes attainable.

The University's letter states that "every member of PFAC volunteered, without being requested by the administration or the Board, to sign the declaration of financial exigency." This characterization of the PFAC action may be misleading. According to some PFAC members, what they each signed was a statement that, given the information provided to it by the administration on December 3rd, 2005, Tulane was in a state of financial exigency. A version of that statement was originally drafted by the University counsel but was radically altered by the committee before it was adopted. It originated with a question from a single PFAC member about whether such a statement would be helpful to the President, and the President made it clear that it would be welcomed on the part of the administration. Thus, as University's letter states, the statement was not signed as the result of a request from the administration or the Board; however, the President did encourage the committee to undertake this initiative. While every member of the committee signed the committee's resolution, the committee's resolution was not an unqualified declaration of financial exigency, but only a declaration of it given the financial data provided by the administration.

The University letter calls attention to the unprecedented conditions that existed in New Orleans and at Tulane following Hurricane Katrina. AAUP policies and guidelines, and the Tulane Faculty Handbook, were not prepared with a view towards these conditions. In the aftermath of Katrina, Tulane operated in an environment for which no manuals exist and in extreme uncertainty. The administration was required to make decisions in challenging circumstances, with the information available at the time. In the opinion of the FTFR committee, the existence and extent of a state of financial exigency and the

measures required to survive such a condition are issues that cannot be resolved without the overview of impartial outside experts. The answers to these questions reside only within the detail of the financial information available to the administration and until it is examined, the existence and extent of, and remedial action required for, a state of financial exigency at Tulane University will remain a dispute that cannot be resolved.

For the Committee:

Edward C. Strong, Chair

VIA FACSIMILE (504-865-5202)

March 14, 2006

Dr. Scott S. Cowen
President
Tulane University
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New Orleans, Louisiana 70118

Ms. Catherine D. Pierson
Chair, Board of Administrators
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Dear President Cowen and Chair Pierson:

Since we last wrote to you on February 15, we have continued to hear from numerous faculty members at Tulane who have provided comments on your February 7 letter to us along with additional documents relating to their particular situations. The information and papers we have received, including the report dated February 22 that was prepared by the Faculty Tenure, Freedom, and Responsibility Committee (FTFR) in response both to our letter of January 26 and to yours of February 7, do not allay the concerns we conveyed to you previously. Many of those concerns relate to what has been reported to us about the faculty role in the decision-making processes that were followed by the administration and board. Other concerns arise from reports that we have received regarding the specific decisions.

We begin with the issue of financial exigency. In your letter you state that "every member of the President's Faculty Advisory Committee [PFAC] volunteered, without being requested by the administration or the Board, to sign a declaration of financial exigency." The FTFR's February 22 report states, however, that "[t]his characterization of the PFAC action may be misleading. According to some PFAC members, what they each signed was a statement that, given the information provided to it by the administration on December 3, 2005, Tulane was in a state of financial exigency." One PFAC member has written to us that the committee was afforded "no opportunities for meaningful discussion of the finances of the university." While there seems no doubt that the university was seen in the fall as having suffered a massive financial blow, faculty members continue to question whether it was so severe, and whether it remains so severe, as to justify all of the notifications of termination that have been issued.

Dr. Scott S. Cowen
Ms. Catherine D. Pierson
March 14, 2006
Page Two

Whatever the extent of the condition of financial exigency as of this past fall, faculty members have asserted that the university's current and projected financial condition may not be so parlous. As you state in your letter, it is "impossible to predict with certainty what the financial footing of the university will be in coming years." Faculty members, however, have noted that Tulane has both property and business-interruption insurance and is the recipient of substantial funds from the Federal Emergency Management Agency, other federal granting agencies, and the Bush-Clinton relief effort. They contend that at some point the university is expected to recoup much of its losses. According to the FTFR report,

The administration was required to make decisions in challenging circumstances, with the information available at the time. In the opinion of the FTFR committee, the existence and extent of a state of financial exigency and the measures required to survive such a conditions are issues that cannot be resolved without the overview of impartial outside experts. The answers to these questions reside only within the detail of the financial information available to the administration and until it is examined, the existence and extent of, and remedial action required for, a state of financial exigency at Tulane University will remain a dispute that cannot be resolved.

We hope that the administration and board will provide the appropriate faculty bodies with detailed information concerning the university's current financial condition and agree to involve the faculty promptly in a review of these important matters.

We turn next to the issue of the role of faculty in deciding where within the university's academic programs terminations would occur, in determining the criteria for identifying the individuals whose appointments were to be terminated, and in identifying individual faculty members who were to be released. You state that you "strongly disagree with the suggestion [in our letter] that faculty interests were not appropriately accounted for in the decision-making processes." You go on to state that "no major decision was made without close faculty involvement. . . . Throughout the process, there was frequent and substantive consultation with the . . . PFAC."

According to the February 22 report of the FTFR, however,

It does not appear that the level of consultation with the PFAC meets the level of faculty involvement in dismissal decisions suggested in AAUP guidelines. It is clear that the PFAC was the committee established to consult with the President in situations requiring immediate consultation and was therefore the logical choice to meet with. It is not, however, a committee designated or approved by the faculty to determine criteria for or having the responsibility for identifying individuals to be terminated as AAUP guidelines call for. In any event, some members of the PFAC report that they were not asked to determine such criteria or to participate in the identification of individuals to be terminated.

We remain troubled if indeed there was scant faculty involvement in these crucial aspects of the decision-making process, and if, as a consequence, these decisions, affecting the careers of scores of faculty members, were made exclusively or primarily by various administrative officers.

Dr. Scott S. Cowen
Ms. Catherine D. Pierson
March 14, 2006
Page Three

With regard to the "Plan for Renewal" and its major reorganization of the university's academic structure, we noted in our January 26 letter that issuing the plan in December served to "foreclose the opportunity for meaningful faculty participation in commenting on a proposed restructuring framework." Commenting after the issuance of the plan, faculty members have asserted that many of the curricular and organizational changes contained in the plan closely resemble restructuring efforts and proposals long advocated by the administration but consistently opposed by the faculty. They wonder why, if the plan was presented in December, it could not have been brought to the faculty in January. You have pointed out to us that the PFAC was consulted in the adoption of the renewal plan, but it seems to us that the issue of consultation with faculty goes beyond the role that the PFAC may have played in the fall.

Our Association's *Statement on Government of Colleges and Universities*, which embodies standards widely upheld in American higher education, rests on the premise of appropriately shared responsibility and cooperative action among governing board, administration, and faculty in determining educational policy and in resolving educational problems within the academic institution. It refers to "an inescapable interdependence" in this relationship which requires "adequate communication among these components, and full opportunity for appropriate joint planning and effort." It further asserts that "the interests of all are coordinate and related, and unilateral effort can lead to confusion or conflict."

As one facet of the "interdependence" called for under the *Statement on Government*, Section II of the document provides that "[s]uch matters as major changes in . . . the relative emphasis to be given to the various elements of the educational and research program should involve participation of governing board, administration, and faculty prior to final decision." Section V of that statement emphasizes the faculty's central role and primary authority in academic and educational matters, with the implicit expectation that the faculty should play a fundamental role in any decision involving a significant change in an institution's academic structure that would change the basic character and purpose of the institution. Whatever the merits of a particular reorganization plan, it seems to us inimical to sound principles of academic government for an administration and governing board to develop, announce, and implement a plan for a major academic reorganization of the institution without the significant involvement of the faculty, through its appropriate bodies, in the planning and decision-making processes. This would seem especially so in a restructuring of such magnitude as to be characterized by President Cowen, in an article published in the January-February 2006 issue of *Trusteeship*, as involving the "reinvention" of Tulane University.

* * * * *

Another issue raised in our initial letter to you of January 26 but not addressed in your February 7 response concerns complaints from faculty members in business, engineering, and the medical school that tenured professors were released while nontenured faculty colleagues were retained, that no explanation was given for designating particular individuals for retention and others for release, and that little or no effort was made to assign affected individuals to other suitable positions for which they were qualified, even where such positions, in some cases involving teaching courses required in the newly configured programs or departments, are available. Each of

Dr. Scott S. Cowen
Ms. Catherine D. Pierson
March 14, 2006
Page Four

these matters presents potentially troubling concerns under Association-supported standards of academic due process, and we hope to have your comments on them.

With regard to the affordance of opportunity for an on-the-record, adjudicative hearing in which the affected professors could contest the actions being taken against them, your letter states that "no faculty member that we know of has been denied an opportunity to initiate a formal appeal." In its report of February 22, however, PFAC commented as follows:

The AAUP questions whether a hearing process was in place following the faculty terminations, and the University responds that all normal appeals procedures are functioning. A terminated faculty member might become frustrated when (in the case of medical faculty) the letter of dismissal was received in early December with a dismissal date of January 31 and the appropriate appellate bodies would not be reconstituted until the middle of January at the earliest.

Given the timing of the notices issued in the medical school, many affected professors who might have wished to contest the administration's actions seem to have had no real opportunity for a hearing after the notices were issued but before the effective date of separation. We appreciate that affected professors in business and engineering were given eighteen months' notice of termination rather than, as was the practice in the medical school, immediate termination of appointment accompanied by severance pay, and that for these uptown faculty that should permit normal grievance proceedings to occur. We understand that several faculty members have initiated individual or group appeals of the actions in their cases.

Last but not least among our concerns, President Cowen is reported as having stated at the February 6 meeting of the Faculty Senate that the decisions to terminate particular appointments, including those held by tenured professors, were motivated by both "financial and strategic" considerations. Elsewhere, the president is quoted as having stated that "underperforming departments" were to be eliminated. And an article in the December 9, 2005 issue of the *Chronicle of Higher Education* reported as follows: "'We basically cut the programs that were not the strongest,'" he [Cowen] said. In a way, the hurricane prompted the university to make decisions it could not make before the storm hit. 'Under the current way universities operate, you can't make these decisions under normal circumstances,' he [Cowen] said. 'It takes an event like this.'" In our letter to you of January 26, we wrote that, "[a]dding to our concerns" about the lack of pretermination hearings afforded to faculty members being released

are documents we have received and media accounts we have read which appear to indicate that the appointments of some of these individuals are being terminated because the administration has arrived at unilateral judgments on their relative merit. We see terminating tenure on grounds of fitness of performance to be tantamount to dismissal for cause, to be pursued under different procedures.

Dr. Scott S. Cowen

Ms. Catherine D. Pierson
March 14, 2006
Page Five

In your February 7 response you state that we were "incorrect" in our "suggestion that decisions to terminate faculty were somehow terminations 'for cause.'" And yet, as we have stated in one of our published reports, "An administration's judgment that faculty members who comprise a particular program are less meritorious than their colleagues in other programs to continue at the institution suggests a commentary, intended or not, on the fitness of the particular faculty members who are affected." To the extent that the administration of Tulane University relied on considerations of relative merit in terminating the appointments of faculty members in the schools of business or engineering, we believe that it is obliged to afford them opportunity for a hearing in which it bears the burden of proving adequacy of cause.

* * * * *

We urge that you give further consideration to the areas of concern that we have identified. We shall doubtless be writing again as additional developments unfold.

Sincerely,

B. Robert Kreiser
Associate Secretary

BRK:id

cc: Dr. Lester A. Lefton, Senior Vice President for Academic Affairs and Provost
Dr. Paul K. Whelton, Senior Vice President for Health Sciences and Dean,
School of Medicine
Dr. Nicholas J. Altiero, Dean, School of Engineering
Dr. James W. McFarland, Dean, School of Business
Dr. James M. MacLaren, Acting Dean, Faculty of the Liberal Arts and Sciences
Professor Edward C. Strong, Chair, Senate Committee on Faculty Tenure, Freedom,
and Responsibility
Professor Graeme Forbes, Secretary, Faculty Senate
Professor Parviz Rastgoufard, President, AAUP Chapter
Professor Linda L. Carroll, AAUP Council, District V
Professor Manjit Kang, President, Louisiana Conference AAUP

Scott S. Cowen
President of the University

April 17, 2006

B. Robert Kreiser
Associate Secretary
American Association of University Professors
1012 Fourteenth Street, N.W., Suite 500
Washington, DC 20005-3465

Dear Dr. Kreiser:

This letter responds to your correspondence of March 14. We continue to be interested in the concerns of all Tulane faculty, and regularly meet with faculty groups to discuss issues of interest. We certainly understand that some faculty members are unhappy with decisions made in the wake of Hurricane Katrina. At the same time, we have been encouraged by the support expressed by many faculty and others in the Tulane community for the actions we have taken to secure Tulane's future.

Your most recent letter, while perhaps well intentioned, seems to us to once again reflect a lack of appreciation and understanding for the magnitude of the Katrina disaster and the circumstances in which Tulane found itself. Likewise, you seem to underestimate the continuing challenge facing the future of our city and the people who live and work in it. In the face of severe damage and uncertainty about whether our 172-year-old university would survive, necessary steps were taken to ensure Tulane's future. We could not afford to wait until the faculty returned to reduce expenses and stop the financial losses we were suffering. In addition, we needed to present a comprehensive plan for addressing the emergency before faculty and students made the decision whether to return to New Orleans. These and related issues were addressed in our last letter and will not be repeated again in this correspondence.

Throughout the period since Katrina struck, we have focused on adherence to our Faculty Handbook. The Handbook, approved by Tulane's faculty, has guided our actions during this unprecedented chapter of our history. To the extent AAUP guidelines are incorporated in the Handbook, they have been followed. Otherwise, we have used our best judgment given the facts and extraordinary circumstances we face as a result of Hurricane Katrina. For us to deviate from our Handbook would be to undermine the very document approved by Tulane faculty. We are not aware of any instance of substantial noncompliance with the Handbook, or any serious allegation of noncompliance. Indeed, your letter cites no deviation from the Handbook. In many respects, Tulane has gone well beyond what the Handbook requires – for example, in matters of

severance pay and notice of termination, continuing the incentive salary component for clinical faculty, and additional benefits provided to those returning to New Orleans.

We note your observations that "faculty members have asserted that the University's current and projected financial condition may not be so parlous" and, while allowing that the University "was seen last fall" to have suffered a "massive blow," that faculty members question whether it "remains so severe." The Board of Tulane University, which is the body with ultimate fiduciary responsibility for the institution, declared financial exigency in December with the concurrence of the administration and President's Faculty Advisory Committee (PFAC), a University Senate-elected body. The declaration was warranted in December based on the information available to us and no significant changes have occurred since then to call into question the wisdom of that decision. We reiterate that the University will sustain property damage and operating losses in excess of \$300 million in this fiscal year alone. The extent to which insurance will cover the losses remains very much in doubt. Despite the claim in your letter, we have received no FEMA funds, and the referenced donation from the Clinton-Bush Fund in the amount of \$750,000, while appreciated, equals less than one-quarter of one percent of our projected losses this year. You are misinformed about our financial situation and continue to make unsubstantiated claims about it. More fundamentally, it would be a grave mistake to assume that the cost reductions set in motion last December can now be rescinded.

During the University's time of closure, we worked in close consultation with the President's Faculty Advisory Committee. President Cowen spent many hours meeting with PFAC, on several occasions. (The FTFR report you cite states that the PFAC was consulted for 12 hours.) Although you characterize the PFAC statement regarding financial exigency, that document in fact states in full:

As a result of Hurricane Katrina, Tulane University has experienced significant financial losses.

Based upon the facts and circumstances known on December 3, 2005, which were presented by the President and the senior administration to the President's Faculty Advisory Committee (PFAC), the members of the PFAC concur with the administration that the University faces an imminent financial crisis which threatens the survival of the institution as a whole, and

THEREFORE, the members of the PFAC concur with the administration that the University is in a state of financial exigency.

The PFAC members were briefed extensively and were in a position to observe first-hand the conditions in New Orleans, and to review the local situation from a range of sources, including the daily newspaper. They were aware of grave predictions on the future of our city, including projections of profound and unprecedented population loss. Unfortunately, our projections of December have not dramatically changed for this year and are only improved for next year as a result of our Renewal Plan.

Notwithstanding the extremely difficult circumstances in which we found ourselves after Katrina and the unique and uncertain nature of the challenges we continue to face, we have followed our Faculty Handbook throughout and will continue to do so. The Handbook calls, for example, for a review of the issues for separated faculty members who request one. Medical faculty have this opportunity, as do faculty in the other affected divisions. The economic reality we faced in December and continue to face would not allow the University to retain the entire pre-Katrina medical faculty on the payroll until they exhausted the grievance process. It bears noting that Tulane paid clinical faculty members full salary (including base and incentive components) for five months after Katrina struck although clinical revenue had virtually ceased and many of them were not teaching. Any suggestion that Tulane has afforded less than fair treatment to any faculty member who received notice of termination as the result of the declaration of financial exigency is inaccurate. In fact, as a result of following our Handbook, we have been more generous to departing faculty in comparison to others separated by other universities in the region.

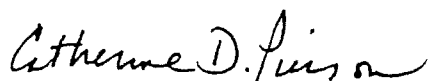
Finally, one of the many unsubstantiated allegations you make in your letter is that the administration included items in the Renewal Plan that had previously been "advocated by the administration but consistently opposed by the faculty". We know of no such example of this occurring during Dr. Cowen's tenure as President and feel that this statement, as are others in your letter, is not accurate.

The Board and administration are extraordinarily proud of our faculty, staff and students for their commitment to the university during this very difficult time. Hurricane Katrina has had a dramatic impact on their personal and professional lives and we are doing everything in our power to stabilize the university so it can fully recover as quickly as possible for the thousands of people who depend on us. This is an arduous challenge never before faced by a major research university. We are optimistic in our ability to make this a stronger institution despite the hardships we have faced and we are totally committed to this goal. Any suggestion to the contrary does not square with the realities of what has happened to us and the challenges we still face.

Sincerely,



Scott S. Cowen
President



Catherine D. Pierson
Chair, Board of Administrators
of the Tulane Educational Fund

AAUP

American Association of University Professors

Academic Freedom for a Free Society

April 21, 2006

Dr. Scott S. Cowen
President
Tulane University
6823 St. Charles Avenue
New Orleans, LA 70118-5698

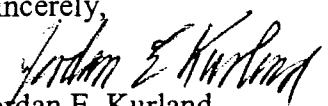
Dear President Cowen:

Your letter of April 17, addressed to my colleague Robert Kreiser who has been corresponding with you, has just reached us. Dr. Kreiser is away until next week, and this letter is not in direct response to yours. Rather, I am writing at this time, and writing similarly to the chief administrative officers of the other New Orleans universities, to inform you of a broader undertaking by our Association.

Reacting to an array of AAUP concerns that have presented themselves at the several universities in the aftermath of Hurricane Katrina, a special committee of the Association to inquire into and report on these concerns is being formulated. The special committee has been authorized by the chair of AAUP's Committee A on Academic Freedom and Tenure, Professor of American History David A. Hollinger at the University of California, Berkeley, with the concurrence of General Secretary Roger W. Bowen. Chairing the special committee will be Professor of Law Robert M. O'Neil of the University of Virginia. The committee will be meeting next month to discuss its mission and determine how it will go about its task. Meetings and interviews in New Orleans are anticipated, beginning late in the summer. We expect to be writing again shortly to inform you of the full membership of the special committee and say more about its operation.

Your cooperation will certainly be welcomed.

Sincerely,


Jordan E. Kurland
Associate General Secretary

cc: Ms. Catherine D. Pierson, Chair, Board of Administrators
Professor Parviz Rastgoufard, President, AAUP Chapter
Professor Linda L. Carroll, AAUP Council, District V
Professor Alvin Burstein, President, Louisiana Conference AAUP

VIA FACSIMILE (504-865-5202)

May 10, 2006

Dr. Scott S. Cowen
President
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Ms. Catherine D. Pierson
Chair, Board of Administrators
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Dear President Cowen and Chair Pierson:

Thank you for your letter of April 17, responding to mine of March 14, regarding the issues of AAUP concern at Tulane University.

This letter focuses on two areas of continuing concern, one of them addressed in your last letter, the other not addressed. The first relates to the degree to which the Tulane administration has adhered to our Association's recommended standards for dealing with financial exigency, particularly with regard to the hearing procedures afforded to faculty members who contest the actions to terminate their services. When President Cowen telephoned General Secretary Roger Bowen in the fall to discuss the university's response to Hurricane Katrina, he expressed interest in adhering to the AAUP's pertinent standards. Those standards, as we have emphasized in previous correspondence, call *inter alia* for affected faculty members to be afforded opportunity for an on-the-record adjudicative hearing before an elected faculty committee at which the burden rests with the administration to prove the existence and extent of financial exigency, the validity of the criteria for identification for termination, and the proper application of the criteria in the individual case. We have been informed by faculty members who have appealed to the Faculty Tenure, Freedom, and Responsibility Committee (FTFR) that the administration has expressly declined to provide them with opportunity for a full hearing nor to present and/or confront witnesses before the hearing committee. As Provost Lester Lefton has recently written to the FTFR, the faculty handbook "does not provide for any right to a hearing or presentation and/or cross-examination of witnesses." The FTFR, he added,

Dr. Scott S. Cowen
Ms. Catherine D. Pierson
May 10, 2006
Page Two

"should conduct its review on written submissions by the parties." We urge Tulane's administration officers to reconsider the position conveyed by Provost Lefton and adhere to our recommended standards in this fundamental area.

Not addressed in your April 17 letter, nor in your letter of February 7, but raised in my letters of January 26 and March 14, are the concerns we have expressed about "complaints from faculty members in business, engineering, and the medical school that tenured professors were released while nontenured faculty colleagues were retained, that no explanation was given for designating particular individuals for retention and others for release, and that little or no effort was made to assign affected individuals to other suitable positions for which they were qualified, even where such positions, in some cases involving teaching courses required in the newly configured pro-grams or departments, are available." Again, we solicit a response from you to these concerns.

Sincerely,

B. Robert Kreiser
Associate Secretary

BRK:id

cc: Dr. Lester A. Lefton, Senior Vice President for Academic Affairs and Provost
Dr. Paul K. Whelton, Senior Vice President for Health Sciences and Dean,
School of Medicine
Dr. Nicholas J. Altiero, Dean, School of Engineering
Dr. James W. McFarland, Dean, School of Business
Dr. James M. MacLaren, Acting Dean, Faculty of the Liberal Arts and Sciences
Professor Edward C. Strong, Chair, Senate Committee on Faculty Tenure, Freedom,
and Responsibility
Professor Graeme Forbes, Secretary, Faculty Senate
Professor Parviz Rastgoufard, President, AAUP Chapter
Professor Linda L. Carroll, AAUP Council, District V
Professor Alvin Burstein, President, Louisiana Conference AAUP

VIA FACSIMILE (504-865-5202)

June 14, 2006

Dr. Scott S. Cowen
President
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Ms. Catherine D. Pierson
Chair, Board of Administrators
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Dear President Cowen and Chair Pierson:

We have received a copy of the June 12 report that was issued by the Tulane University Senate Committee on Faculty Tenure, Freedom and Responsibility (FTFR) in response to the appeal that faculty members in the Department of Mechanical Engineering filed in early March against the administration's decision to discontinue their department and, as a consequence, terminate faculty appointments.

We note that the FTFR has sustained the faculty petitioners on most of the key issues they had raised in their appeal. The report rejects the financial information provided by the administration as valid grounds for discontinuing the mechanical engineering department and concludes that, necessarily, "the decision was based on other factors." The report finds that the department's "elimination served to worsen rather than resolve any condition of financial exigency that may have existed." The report further finds that the Tulane faculty was denied a meaningful role in the development of the administration's "Plan for Renewal," which formed the basis for most of the actions taken with regard to the discontinuance or modification of academic programs and the termination of faculty appointments. Finally, the report concludes that the administration has made "no attempt to place terminated faculty in other suitable positions [in the university] despite the explicit charge to do so contained in the Faculty Handbook."

The findings and conclusions in the FTFR's report appear to confirm the mechanical engineering faculty's complaints that they conveyed to our Association and that have been among the concerns

Dr. Scott S. Cowen
Ms. Catherine D. Pierson
June 14, 2006
Page Two

we have addressed in the several letters we have written to you beginning in late January. We note the committee's recommendations that: (1) "[s]ince a decision to eliminate an academic program for other than financial reasons directly involves academic and curricular issues," the administration's decision to eliminate the Department of Mechanical Engineering be referred for review to the Senate Committee on Educational Policy, (2) the department be retained pending that body's review of the decision, and (3) the administration make every effort to place the affected faculty in other suitable positions.

Unless and until the administration is willing and able to demonstrate to the FTFR that the specific action to discontinue the mechanical engineering department was warranted by financial exigency, we urge you to comply with the recommendation to rescind the decision on discontinuance, assuming that this can be feasibly done, pending the appropriate faculty body's evaluation of the educational considerations. Should you demonstrate to the FTFR that continuing the department is no longer feasible because of steps to discontinue it that have already been taken, we urge you to relocate the affected faculty in suitable positions elsewhere in the university.

Sincerely,

B. Robert Kreiser
Associate Secretary

BRK:id

cc: Dr. Lester A. Lefton, Senior Vice President for Academic Affairs and Provost
Dr. Nicholas J. Altiero, Dean, School of Engineering
Professor Edward C. Strong, Chair, Senate Committee on Faculty Tenure, Freedom
and Responsibility
Professor Robert M. Hill, Vice-Chair, Senate Committee on Faculty Tenure, Freedom
and Responsibility
Professor Graeme Forbes, Secretary, Faculty Senate
Members of the Department of Mechanical Engineering
Professor Parviz Rastgoufard, President, AAUP Chapter
Professor Linda L. Carroll
Professor Alvin Burstein, President, Louisiana Conference AAUP



Office of the President

June 22, 2006

B. Robert Kreiser
Assistant Secretary
American Association of University Professors
1012 Fourteenth Street, NW, Suite 500
Washington, DC 20005-3465

Dear Dr. Kreiser:

We have received your letter dated June 14, 2006. Comment on the FTFR report you reference would be inconsistent with University policy because FTFR proceedings are confidential unless all parties involved in a hearing agree otherwise. Furthermore, the report has not been vetted by all parties involved in the hearing. The administration will review and respond to the report in due course consistent with the procedures set forth in the university's Faculty Handbook. Those procedures then call for the Board of Tulane to decide any controverted issues.

Further, we feel it is inappropriate for an outside organization to urge the administration to take actions that would short-circuit the procedures in the Faculty Handbook, a document approved by the Tulane faculty, administration and Board. We are surprised that you would ask us to follow a procedure in conflict with our own Faculty Handbook.

Finally, we once again question the ability of your organization to comprehend the trying circumstances this university has been through and continues to endure. People of good faith at Tulane are working to address the concerns of our faculty members, including following the procedures in the Faculty Handbook. Efforts by an external organization to publicize confidential documents produced pursuant to those procedures and to influence internal processes are counter-productive, as are suggestions that we rescind the very decisions that have enabled the university's survival and renewal.

Sincerely,

A handwritten signature in cursive script, reading 'Scott S. Cowen'.

Scott S. Cowen
President

A handwritten signature in cursive script, reading 'Catherine D. Pierson'.

Catherine D. Pierson
Chair, Board of Tulane University

VIA FACSIMILE (504-865-5202)

June 27, 2006

Dr. Scott S. Cowen
President
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Ms. Catherine D. Pierson
Chair, Board of Administrators
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Dear President Cowen and Chair Pierson:

Thank you for your letter of June 22, responding to mine of June 14, concerning the report issued by the FTFR sustaining the appeal submitted by the Department of Mechanical Engineering against the Tulane administration's decision to discontinue the department and terminate the appointments of its faculty.

You state that the "FTFR proceedings are confidential unless all parties involved in a hearing agree otherwise." There appears to be no provision in the Tulane Faculty Handbook stipulating that a hearing conducted under Article V, Section 2 is "confidential." Likewise, the document is silent as to whether a resulting report has to be "vetted by all parties involved in the hearing" before it may be shared with third parties, in this case the AAUP.

You go on to state that "the administration will review and respond to the report in due course consistent with the procedures set forth in the . . . Handbook," and that the governing board will ultimately be called upon "to decide any controverted issues." You then question the appropriateness of the AAUP, as "an outside organization[,] to urge the administration to take actions that would short-circuit the procedures in the Faculty Handbook." By urging you to consider accepting the hearing committee's report, we do not see us as short-circuiting any procedure. Our Association is committed to sound policies and sound practice, and it would be contrary to our longstanding practice for us to await the final results of a process before offering our comments as a kind of post-mortem. We believe it is incumbent upon us to offer our advice and recommendations in situations like this where time is of the essence, and where we believe they might be useful for the well being

Dr. Scott S. Cowen
Ms. Catherine D. Pierson
June 27, 2006
Page Two

of the institution and the parties concerned. And given the strong and unequivocal findings and recommendations contained in the FTFR report, we do not believe we would be carrying out our responsibilities were we not to speak out promptly.

It is, of course, the prerogative of the Tulane administration to decide whether or not to follow our recommendations. We continue, however, to urge that you do so.

Sincerely,

B. Robert Kreiser
Associate Secretary

BRK:id

cc: Dr. Lester A. Lefton, Senior Vice President for Academic Affairs and Provost
Dr. Nicholas J. Altiero, Dean, School of Engineering
Professor Edward C. Strong, Chair, Senate Committee on Faculty Tenure, Freedom
and Responsibility
Professor Robert M. Hill, Vice-Chair, Senate Committee on Faculty Tenure, Freedom
and Responsibility
Professor Graeme Forbes, Secretary, Faculty Senate
Members of the Department of Mechanical Engineering
Professor Parviz Rastgoufard, President, AAUP Chapter
Professor Linda L. Carroll
Professor Alvin Burstein, President, Louisiana Conference AAUP
Members of the AAUP's Special Committee

Sep. 15. 2006 11:03AM

No. 1177 P. 2

AAUP

American Association of University Professors

Academic Freedom for a Free Society

August 4, 2006

VIA FACSIMILE (504-865-5202)


Dr. Scott S. Cowen
President
Tulane University
6823 St. Charles Avenue
New Orleans, LA 70118-5698

Dear President Cowen:

I have called your office to arrange a meeting with our special committee while it is in New Orleans, but have not received a definite response.

How about 9:00 a.m. (Bourbon Orleans Hotel) on August 30? (We could do it at the end of that morning if it suits you better).

Sincerely,


Jordan E. Kurland
Associate General Secretary

1012 Fourteenth Street, NW • Suite 500
Washington, DC 20005-3465
Phone: 202.737.5900 • Fax: 202.737.5526
Web: www.aaup.org

SEP 15 '06 04:27

PAGE 02

SEP 13 2006 11:03AM

NOV 03 2006 WED 06:50 AM TULANE-PRESIDENTS OFFICE

FAX NO. 504 865 5202

No. 1177

P. 3. 02



Scott S. Cowen
President of the University

August 8, 2006

Dr. Jordan E. Kurland
Associate General Secretary
American Association of University Professors
1012 Fourteenth Street, NW, Suite #500
Washington, DC 20005

Dear Dr. Kurland:

I will not be able to meet at the end of the month with the AAUP Special Committee on Hurricane Katrina and New Orleans universities. The Committee's visit to New Orleans coincides with the one-year anniversary of Hurricane Katrina and the beginning of the Tulane semester, which causes a scheduling problem for me and other senior administrators at the university.

If we can find a mutually agreeable time in the future, I may meet with the Committee if we clearly define and agree upon, in advance, the purpose and scope of the meeting, including the topics and questions to be discussed. As you are aware, Tulane University, like all the other universities in the area, is singularly engaged and focused on its recovery in the wake of the worst natural disaster in the history of the U.S. Tulane's recovery is my single highest priority for the foreseeable future. I am certainly willing to work with persons equally committed to assisting us to achieve this goal in a collegial and fair manner.

If you would like to schedule a personal meeting in the future as I have described above and on a mutually agreeable date, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Scott Cowen'.

Scott S. Cowen

VIA FACSIMILE (504-865-5202)

August 24, 2006

Dr. Scott S. Cowen
President
Tulane University
6823 St. Charles Avenue
New Orleans, Louisiana 70118

Dear President Cowen:

You wrote in your August 8 letter to my colleague, Jordan Kurland, that you will not be able to meet with our Special Committee when it is in New Orleans next week, but that you might be willing to do so in the future "if we can find a mutually agreeable time," and "if we clearly define and agree upon, in advance, the purpose and scope of the meeting, including the topics and questions to be discussed." We regret your having taken this position, especially because the heads of the city's public universities are arranging to meet next week with us without any prior agreement on the agenda.

Our Special Committee, following its discussions next week and its analysis of the voluminous written materials it has examined and dozens of individual interviews that committee members and staff conducted with current and former Tulane faculty members and others over the past two weeks, will begin formulating its report. We have sought, and continue to seek, from you and your fellow administrative officers at the university, both current and former, a fuller understanding of what you perceive to be the long-range ramifications of Hurricane Katrina and of how you believe the steps that have been taken regarding academic programs and personnel—in Tulane's case based in large measure on the adoption and implementation of the Plan for Renewal and involving the termination of numerous faculty appointments—will strengthen the university in coping with what lies ahead.

As you know from our previous correspondence, dating back to last January, our Association's concerns have focused on several key issues, including the adequacy of the faculty role in the decision-making processes that were followed by the administration and the board, the adequacy of the hearing procedures afforded to faculty members notified of the termination of their services, and the reported failure of the administration to make every effort to find other suitable positions for affected tenured faculty. Beyond these issues, we have several additional concerns arising from the interviews we had in New Orleans the past two weeks. First, we understand that the administration told members of the President's Faculty Advisory Committee (five members of that body have spoken to us) not to communicate with other Tulane faculty members, including members of the faculty senate, about their discussions with the administration, and that documents distributed during the PFAC-administration meetings could not leave the meeting room. Assuming the accuracy of the foregoing, and while appreciating that there may have been a need to limit the dissemination of confidential financial information, we are interested in knowing why the administration insisted on these restrictions. Second, some faculty members in the medical school who were issued

President Scott S. Cowen
August 24, 2006
Page Two

termination notices reportedly drew none of their salaries from Tulane but instead received salaries from grants, endowments for named chairs, and the like. The severance money paid to them would seem to have exceeded any remuneration they might have received from the university. How did these appointment terminations help offset the university's financial problems? Third, from what we gather occurred, some department chairs were informed of, but did not participate in, decisions about where within the university terminations were to occur and which individual faculty appointments were to be affected. In other departments, the chairs were apparently actively involved in these decisions. What accounts for these seeming differences? What steps did the administration take to ensure that all termination decisions were fairly reached and fairly carried out? Fourth, is the university still in a condition of financial exigency? Fifth, under the university's new "professors of practice" program, these professors are expected to be "brilliant" teachers. Inasmuch as these faculty members are not eligible for tenure, how will their academic freedom be safeguarded? These are among the matters we would hope to discuss with you and Tulane's other academic leaders.

Following our standard practice with investigations, before we publish a report we shall share a draft text with you and other principal parties at Tulane, inviting corrections and comments. We do believe, however, that it will be to our mutual advantage and contribute to the quality of our report if we have a candid discussion of our concerns while the preparation of the report is still in process rather than after a draft has been completed and approved for circulation. Accordingly, I ask that you give further thought to a meeting in New Orleans with you and other responsible Tulane administrative officers. It will probably not be feasible for our entire Special Committee to reassemble for that purpose, but we can send two or three members and a member of our staff. Select a date in September or early October that suits you, with a couple of alternatives, and let me know.

Sincerely,

B. Robert Kreiser
Associate Secretary

BRK:id

cc: Mr. Philip Greer, Chair, Board of Administrators
Mr. Paul Barron, Interim Senior Vice President for Academic Affairs and Provost
Ms. Yvette Jones, Senior Vice President for External Affairs and Chief Operating Officer
Dr. Paul K. Whelton, Senior Vice President for the Health Sciences and Dean,
School of Medicine
Dr. Nicholas J. Altiero, Dean, School of Science and Engineering
Dr. George L. Bernstein, Dean, School of Liberal Arts
Dr. Angelo S. DeNisi, Dean, School of Business
Professor Linda L. Carroll, President, AAUP Chapter
Professor Alvin Burstein, President, Louisiana Conference AAUP
Special Committee on Hurricane Katrina and New Orleans Universities

AAUP

American Association of University Professors

Academic Freedom for a Free Society

September 1, 2006

VIA PRIORITY MAIL

Dr. Scott S. Cowen
President
Tulane University
6823 St. Charles Avenue
New Orleans, LA 70118-5698

Dear President Cowen:

A week ago my colleague Robert Kreiser wrote to convey our regret that you had chosen not to meet with our Special Committee during its impending visit to New Orleans. He noted that the heads of the public universities in the city were arranging to meet with us without the prior agreement on the meeting's purpose and agenda that you proposed as a prerequisite.


Though the good offices of Commissioner of Higher Education Savoie, our Special Committee during its August 28-30 visit was able to meet and discuss AAUP's concerns with the chief officers of the three public New Orleans universities, Chancellors Hollier, Ryan, and Ukpolo, as well as with the Commissioner himself and with various system-level and additional campus-level administrative officers. There were no pre-set agendas and no resulting public statements. General agreement was expressed that the discussions were constructive and useful, and we anticipate informal follow-up communications as the Special Committee proceeds with the formulation of its report.

Again, I ask on behalf of the Special Committee that you agree to a meeting so that we can have an enhanced understanding of your position on our key concerns before we arrive at a draft text that has been approved for circulation among the principal parties with an invitation for their corrections and comments.

Do let us work out a suitable date.

President Scott S. Cowen
September 1, 2006
Page Two

Sincerely,


Jordan E. Kurland
Associate General Secretary

cc: Mr. Philip Greer, Chair, Board of Administrators
Professor Linda L. Carroll, President, AAUP Chapter
Special Committee



Scott S. Cowen
President of the University

VIA FACSIMILE: 202/737-5526

September 7, 2006

Dr. B. Robert Krciscr
Associate Secretary
American Association of University Professors
1012 Fourteenth Street, NW, Suite 500
Washington, DC 20005-3465

Dear Dr. Krciscr:

As your August 24 letter requests, I have given further thought to whether a meeting in New Orleans with members of AAUP's committee and Tulane senior administrators would at this point be to Tulane's and AAUP's mutual advantage. Presently, I am still inclined against such a meeting for the reasons cited in this letter. However, I will reexamine the possibility of a meeting again after we review a copy of your draft report.

Your request comes at a time when grievances and appeals of grievances by faculty are pending. To proceed now with the review AAUP seeks could abridge the right to due process, carry the potential for invasion of individual faculty members' privacy, and interfere with the University's orderly review of these matters. Second, as I express below, I question the timing of your review as well as the process followed given the unprecedented nature of the event that prompted the review. Finally, the entire senior administration team is currently focused on the high priority tasks necessary for Tulane's recovery and finding a mutually agreeable time for us to meet will be difficult.

Before I respond to the questions raised in your letter, I want to express a few concerns I have with the AAUP process to date. AAUP appears to be handling the Katrina-related situation as if it were similar to the host of other situations AAUP has investigated over the years-when, in fact, neither AAUP nor other higher education groups have previously seen a situation that closely resembles what we in New Orleans confront in the wake of Katrina, because there has not previously been such a situation.

I fully understand and accept AAUP's traditional mission of seeking to advance faculty interests. Likewise, I do not question AAUP's motives for involvement. But I am concerned that AAUP, unlike the rest of the national higher education community (which has been extraordinarily understanding, flexible, and supportive in this crisis), appears to be taking a "business as usual" approach to this unprecedented event.

Dr. B. Robert Kreiser
September 7, 2006
Page 2

Further, AAUP appears to be dissatisfied with Tulane's faculty handbook notwithstanding that the faculty, through the University Senate, approved the handbook and that the University has scrupulously followed the handbook's provisions (and in some respects has accorded faculty even more extensive protections and perquisites than the handbook requires). This is a point I have repeatedly mentioned to you in previous correspondence.

Now let me turn to the questions raised in your August 24 letter. You cite a "reported failure of the administration to... find suitable positions for affected senior faculty"; those concerns were addressed in previous correspondence to you and in other correspondence provided to affected faculty.

You ask why the administration put confidentiality restrictions on the PFAC. The administration put no restrictions on the PFAC that weren't the modus operandi of this committee prior to Katrina. PFAC discussions with the president have always and for sound reasons been confidential during the eight-plus years I have been president.

You question the criteria used to make decisions with respect to School of Medicine faculty, and the role of department chairs. We have described the criteria used in documents available to the affected faculty. Those criteria are subject to review through our standing review procedures, which are ongoing and which guarantee the right of faculty to be heard.

You ask whether the University is still in financial exigency. It is and will continue to be until there is a significant and sustainable change in the university's financial situation which demonstrates to the Board of Administrators that the university's state of financial exigency can be lifted. We aim to restore the University's financial health and stability as soon as possible. That we face myriad challenges has been described in many publicly available documents and is well known to University faculty.

Finally, you ask about the University's Professor of Practice program, a program adopted after Katrina and not mandated by the renewal plan. This program was thoroughly vetted and approved by our University Senate under its standing governance processes.

I now await a draft of your report.

Sincerely,



Scott S. Cowen
President

Dr. B. Robert Kreiser

September 7, 2006

Page 3

Cc: Mr. Philip Greer, Chair, Board of Administrators
Dr. Paul L. Barron, Interim Senior Vice President for Academic Affairs and Provost
Ms. Yvette M. Jones, Senior Vice President for External Affairs and Chief Operating Officer
Dr. Paul K. Whelton, Senior Vice President for Health Sciences and Dean, School of Medicine
Dr. Nicholas J. Altiero, Dean, School of Science and Engineering
Dr. George L. Bernstein, Dean, School of Liberal Arts
Dr. Angelo S. Denisi, Dean, School of Business
Professor Linda L. Carroll, President AAUP Chapter
Professor Alvin Burstein, President, Louisiana Conference AAUP
Special Committee on Hurricane Katrina and New Orleans Universities



Scott S. Cowen
President of the University

September 11, 2006

VIA FACSIMILE: 202/737-5526

Dr. Jordan E. Kurland
Associate General Secretary
American Association of University Professors
1012 Fourteenth Street, N.W., Suite 500
Washington, D.C. 20005-3465

Dear Dr. Kurland:

I received your letter dated September 1, 2006 on the same day that I responded to Dr. Kroiser. I have enclosed a courtesy copy of my response, which also addresses the same issue raised in your letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott S. Cowen'.

Scott S. Cowen
President

SSC/bd

cc: Mr. Philip Greer, Chair, Board of Administrators
Professor Linda L. Carroll, AAUP Chapter
Special Committee



Scott S. Cowen
President of the University

VIA FACSIMILE: 202/737-5526

September 7, 2006

Dr. B. Robert Kreiser
Associate Secretary
American Association of University Professors
1012 Fourteenth Street, NW, Suite 500
Washington, DC 20005-3465

Dear Dr. Kreiser:

As your August 24 letter requests, I have given further thought to whether a meeting in New Orleans with members of AAUP's committee and Tulane senior administrators would at this point be to Tulane's and AAUP's mutual advantage. Presently, I am still inclined against such a meeting for the reasons cited in this letter. However, I will reexamine the possibility of a meeting again after we review a copy of your draft report.

Your request comes at a time when grievances and appeals of grievances by faculty are pending. To proceed now with the review AAUP seeks could abridge the right to due process, carry the potential for invasion of individual faculty members' privacy, and interfere with the University's orderly review of these matters. Second, as I express below, I question the timing of your review as well as the process followed given the unprecedented nature of the event that prompted the review. Finally, the entire senior administration team is currently focused on the high priority tasks necessary for Tulane's recovery and finding a mutually agreeable time for us to meet will be difficult.

Before I respond to the questions raised in your letter, I want to express a few concerns I have with the AAUP process to date. AAUP appears to be handling the Katrina-related situation as if it were similar to the host of other situations AAUP has investigated over the years-when, in fact, neither AAUP nor other higher education groups have previously seen a situation that closely resembles what we in New Orleans confront in the wake of Katrina, because there has not previously been such a situation.

I fully understand and accept AAUP's traditional mission of seeking to advance faculty interests. Likewise, I do not question AAUP's motives for involvement. But I am concerned that AAUP, unlike the rest of the national higher education community (which has been extraordinarily understanding, flexible, and supportive in this crisis), appears to be taking a "business as usual" approach to this unprecedented event.

Dr. B. Robert Kreiser
September 7, 2006
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Scott S. Cowen
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