

The Administration Responds to the AAUP

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Dear Drs. Bergmann, Pratt, and
Benjamin:

Over the past eleven months there have been increasing misunderstandings and polarization between the American Association of University Professors (AAUP) and Loma Linda University (LLU) revolving around a very complex faculty issue and a most unfortunate sequence of events and exchanges. . . .

You are undoubtedly very familiar with the perspectives and rationale behind the decisions made on your behalf by the staff of AAUP. However, as an academician, you would not be surprised that the incongruity between the stated mission of LLU . . . and the reported performance is easily explained by the fact that there

is "another side of the story." I am sure you would also agree that under the circumstances the merits of these cases cannot be discussed outside the appropriate institutional forums for due process or other appropriate legal forums.

This letter is not intended as a rebuttal to all the issues raised in the Report of the Committee on Academic Freedom and Tenure ("Report") (*ACADEME* 78 (3): 42-49, May-June, 1992) nor does it attempt to address all the errors of fact in that "Report." Rather, before the AAUP annual meeting acts further on the "Report," I wish to speak to some issues which cause me grave concern at this time.

I think it appropriate to directly inform you of the following relevant facts:

- Formal predissmissal meetings occurred in each case during which administration provided, to a faculty committee, the reasons and the documentation for the dismissal of each faculty member. Further, the vote by the faculty members of that committee to support the recommendation of the termination was conducted by secret ballot and was unanimous.
- The grievance component of the faculty academic due process could have been initiated prior to the effective date of the termination of their faculty appointment. Specifically, this could have occurred in the intervening 30 days from notice of this intended action and its taking effect which was a provision expressly designed for this purpose.

In actuality, the formal predissmissal meetings, the 30-day notice, the lengthy opportunity for grievance after the 30-day period, and provision for arbitration clearly provided due process in these three dismissals.

- Each faculty member's opportunity to grieve continued beyond the time of the discontinuation of their faculty appointment.
- Suspension of their faculty activities did not jeopardize their access to any faculty due process.
- Faculty appointment and employment for clinical faculty at LLU are with separate 501(c)(3) corporations. This relationship is well publicized and clearly defined and has existed since 1978.
- For each of the three dismissed faculty, policies relating to the terms of their employment and termination were enumerated in their employment contract.
- Termination of the faculty appointments did not terminate the individuals' salaries which continued beyond the entire time available to them to initiate a grievance. It should be further noted that, at the subsequent time when their employment was discontinued, there was additional payment to these individuals as per their employment contract.
- The policies on academic freedom were not breached in determining the cause for termination for any of the cases mentioned. More

specifically, none of the faculty that were dismissed for cause were terminated for reasons that involved academic freedom.

Further, it is important to remind AAUP of the following relevant facts:

- The LLU policy on academic freedom clearly incorporates the components of the AAUP 1940 statement on academic freedom. . . .
- LLU most particularly believes that academic freedom is the right of every member of our academic community, whether the individual is an instructor, a non-tenured, or a tenured professor.
- The AAUP 1958 statement on procedural standards for faculty dismissal proceedings states that these "are presented rather as a guide to be used according to the nature and traditions of particular institutions in giving to both faculty tenure rights and the obligations of faculty members in the academic community" (underlining supplied). We recognize that the policies of Loma Linda University may be different from those to which Brown and Bessman are accustomed. The investigation of Loma Linda University by AAUP has failed to respect the differences in institutional policy.

The administration and faculty governance bodies find no excuse for the persistent refusal of the dismissed faculty members to use grievance procedures developed by the faculty and available to them.

- Whether or not Brown, Bessman, or the staff of AAUP like them, the policies and procedures that govern the faculty of the School of Medicine were initiated by faculty and have been in place since 1978. They were revised with considerable faculty input in a way even more favorable to the faculty and on the recommendation of the 1990-91 Faculty Policies Committee.
- The administration and faculty governance bodies find no excuse for the persistent refusal of the dismissed faculty members to use grievance procedures developed by the faculty and available to them.
- Instead of urging the grievants to file a grievance and follow a course which provided for adjudication, the AAUP has chosen to interfere in the internal affairs of Loma Linda University. Why did AAUP staff refuse to urge the grievants to use the policy available to them that would have provided for proper adjudication as noted previously? The grievants were urged by their colleagues through the faculty governance bodies, by the administration, and by the Board chairman to use the grievance procedure. Such an intrusion by AAUP into the affairs of LLU has been unwarranted and unfair and has significantly contributed to the failure to bring resolution to the matter.
- The October 1991 accreditation site visiting team of the Western Association of Schools and Colleges (WASC) also reviewed the question of the use of the grievance procedure and commented as follows:

"We raise this issue of models of governance because it relates to an ongoing conflict at LLU between a group of faculty and administration. This site-visiting team received a great deal of documentation about various aspects of the dispute from this group, and spent a

significant amount of time discussing it with a variety of individuals and groups during the site visit. We found that neither the nature of the conflict nor its impact—it is almost completely restricted to a single department in one school, though there was a scattering of sympathizers from other units—merit detailed mention at this time. Grievance procedures currently in place should be adequate to resolve the issues, and certainly should be tried by the aggrieved faculty before they resort to appeals to external agencies." (Report to the Accrediting Commission for Senior Colleges and Universities, WASC, page 35.)

- Brown and Bessman incorrectly state that "The selection of the Loma Linda University grievance panel, in contrast, is largely controlled by the president, . . ." (page 46). This statement is poorly informed and reflects ignorance of the policy. The president has very little control over the grievance panel. For each open seat on the grievance panel, Clinical Science Faculty Advisory Council (CSFAC) provides the president with two nominees. "The president, in collaboration with the vice president for medical affairs and the dean of the School of Medicine, will appoint the faculty grievance panel from these nominations" (FACULTY HANDBOOK, page 67). Thus CSFAC largely controls membership of the grievance panel, and the panel serves as an independent standing committee. Brown and Bessman appear to have missed this important fact.
- Further, the prejudging by the AAUP staff, not only of the policies and procedures for due process at LLU relative to the grievance procedure but also the prejudging of the integrity of the faculty peers who are members of the Grievance Panel, is grossly unfair. Most particularly, you should be aware that the members of that panel enjoy the unconditional confidence

of their peers and of the administration.

- It is true that at LLU, as in a number of other schools of medicine, faculty in the clinical departments of the School of Medicine are not eligible for tenure. The policy not to provide tenure for clinical faculty of the School of Medicine relates to the faculty practice model used by the School of Medicine to provide much of the financial support for the educational program of this private church-related school. This faculty practice plan is essential to maintain the tuition at less than average for private schools in the U.S. because the school depends upon sacrificial support of members of the Seventh-day Adventist Church. The clinical faculty in the school have willingly foregone tenure in the interests of the faculty practice model which they have created and which has been highly successful.
- The statement in the "Report" that LLU faculty governance is "an impressive-seeming facade of councils" is grossly misleading. It should be noted that these councils conduct much serious business including the specific action of both the school and University-wide councils which urged their colleagues to utilize the due process available to them. It is an insult to the LLU faculty governance councils to have the AAUP staff disregard the significant actions taken by these faculty governance bodies. Specifically, the AAUP staff refused to urge dismissed faculty to utilize available due process in direct opposition to the independent vote of the faculty governance bodies.
- It should be further noted that the LLU system of faculty governance provides a productive interface between faculty and administration for planning and implementation of the various aspects of academic life at LLU rather than an independent potentially antagonistic relationship. In this system, there is provision for faculty to express

their independent vote.

- In our opinion, your Committee on Academic Freedom and Tenure has failed to demonstrate careful scholarship, moderation, fairness and thorough analysis in its report. They have not been open to understanding appropriate differences between institutions nor have they followed your published statements in reaching their conclusions. This has led to the publication of an inaccurate and biased report. These facts are extremely disappointing to us and have several important implications.

I believe you are in a unique position to respond to this situation. In my opinion you have two choices, each with significant consequences:

- Your organization can proceed, on the basis of incorrect, incomplete and biased information to censure LLU, in what I have been given to understand, is the usual pro forma action taken at your annual meeting. If you do, it will have no impact on the resolution of the dispute. By contrast, it will only further insult our faculty governance councils and our entire academic community, engender further disrespect for your organization, and will potentially destroy your credibility in the minds of our faculty.
- You could, however, not censure LLU but rather seek to understand LLU, not in the context or through the eyes of those whose conduct has led to dismissal, but in its true historical and contemporary context. You could also discover the reality of the true relationship that exists between LLU faculty and administration which facilitates responsive and responsible shared governance. When this relationship was independently reviewed in depth by the site-visiting team from WASC, they reported:

"In summary, a model for faculty involvement in institutional governance has been developed

since the reestablishment of LLU as a health sciences university, and it appears to allow for faculty participation at all levels. Faculty involvement in governance is stated as an expectation, and policies and committee structure as described in the FACULTY HANDBOOK, the self-study, by faculty and administration, and by the Board of Trustees appears to be appropriate for the current stage of development of this reconstituted institution.

"It is clear that the Faculty Forum and IFAC are intended to be advisory to the President. The institution acknowledges this difference from some other institutions but views this difference as a variation on a theme, not a violation of any academic standard. This site-visiting team concurs. There exists across institutions, both public and private, a broad spectrum of models of shared governance. At one end are institutions which are extensively faculty driven. At the other are institutions which are dominated by administration. Each can be a valid model which

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allows and encourages participation in governance by faculty."

(Report to the Accrediting Commission for Senior Colleges and Universities, WASC, page 34.)

Regardless of what actions are taken or are not taken by AAUP:

- The LLU faculty and administration will continue their effective partnership which has always existed between our campus constituencies and which enables us to fulfill the mission of this institution in its local and global outreach.
- The faculty and administration will continue to enjoy a healthy academic climate with vigorous and free interchange of ideas that engenders creative planning and development of the institution and communicates the values and attitudes of its faculty of scholars to its students.
- The faculty and administration will continue the refinement of all policies and procedures to correctly enunciate our commitment to ensure fairness and justice

for all. University administration is open to improvement of policies and procedures and utilizes the policy developed by the Interschool Faculty Advisory Council (IFAC) for faculty participation in policy revisions.

- The faculty and administration will implement all policies and procedures with fairness and justice.
- The administration will continue to respect, value, nurture, and protect all the members of our campus community not only in the fullest sense of the academic community, but also according to the Christian philosophy which is foundational to our institution and our church.

We deeply regret that our current experience with AAUP has been so negative and frustrating. Rather than developing a stronger appreciation for what AAUP has contributed to the academic community, we have experience blatant interference not only with administration but also with valid faculty committee recommendations. We feel that this discredits the best traditions of the role of the AAUP

in the academic community. We urge you not to censure LLU at your upcoming annual meeting but to respect our freedom as we continue our strong commitment to academic freedom and due process for our faculty.

Sincerely,

B. Lyn Behrens, M.B., B.S.
President

cc: Jordan Kurland, Associate
General Secretary, AAUP
Members, LLU Board of Trustees
Members, LLU Interschool Faculty
Advisory Committee
Members, LLU School of Medicine
Clinical Science Faculty
Advisory Council.

Editor's Note: Limited space precludes publication of five attachments that accompanied the original letter and can be obtained by writing directly to Loma Linda University: (1) Correspondence with AAUP; (2) LLU Mission Statement; (3) 1940 AAUP Statement of Principles; (4) LLU Policy on Academic Freedom; and (5) Faculty Participation in Faculty Policy Development.