

May 31, 2022

VIA ELECTRONIC MAIL

Dr. Jaffus Hardrick  
President  
Florida Memorial University  
15800 Northwest Forty-Second Avenue  
Miami Gardens, Florida 33054

Dear President Hardrick:

Dr. William Hopper, a tenured professor of chemistry and environmental science with thirty-eight years of service at Florida Memorial University; Dr. Abbass Entessari, a tenured professor of economics with thirty-three years of service; and Dr. Richard Yaklich, a tenured associate professor of music with twenty-one years of service, have sought the advice and assistance of the American Association of University Professors as a consequence of having received identical February 9 letters from the director of human resources notifying them that their positions were “included in the **program closure, effective May 14, 2022**” (emphasis in original). The closure of the unnamed programs, the letter explains, is the result of “a review of academic feasibility” and “a necessary step to strengthen our programs, regain financial stability, and stabilize enrollment.”

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Our Association’s interest in these three cases is based, first, on our longstanding commitment to fundamental tenets of academic freedom, tenure, and due process, as enunciated in the enclosed 1940 *Statement of Principles on Academic Freedom and Tenure*, jointly formulated by the AAUP and the American Association of Colleges and Universities and endorsed by more than 250 disciplinary societies and higher-education organizations.

The second basis for our interest in these cases is our commitment to the principles of shared governance set forth in the enclosed *Statement on Government of Colleges and Universities*, the joint formulation of the American Council on Education and the Association of Governing Boards of Universities and Colleges. The *Statement on*

Dr. Jaffus Hardrick

May 31, 2022

Page 2 of 6

*Government* asserts that “the faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process.” The *Statement on Government* also declares that while the power of final decision in these areas will often rest with the governing board or administration, such power “should be exercised adversely only in exceptional circumstances, and for reasons communicated to the faculty.” According to the *Statement*, these reasons should be compelling, and they should be stated in detail. In those exceptional instances when the administration and governing board declines to accept a faculty recommendation in the faculty’s area of primary responsibility, the faculty should have an “opportunity for further consideration and further transmittal of its views” to the president and governing board.

These academic freedom and governance interests are intertwined. As the AAUP’s statement *On the Relationship of Faculty Governance to Academic Freedom* (also enclosed) observes, “Sound governance practice and the exercise of academic freedom are closely connected, arguably inextricably linked. While no governance system can serve to guarantee that academic freedom will always prevail, an inadequate governance system—one in which the faculty is not accorded primacy in academic matters—compromises the conditions in which academic freedom is likely to thrive” (emphasis added).

AAUP-supported standards derived from the 1940 *Statement* and the *Statement on Government* are set out in the enclosed *Recommended Institutional Regulations on Academic Freedom and Tenure*. Under these standards, there are only three legitimate bases for terminating a tenured faculty appointment: dismissal for cause; bona fide financial exigency; and the “bona fide formal discontinuance of a program or department of instruction” for educational reasons. Regulation 4d articulates procedural standards for the third category, and its provisions are as follows.

Under Regulation 4d(1), a bona fide program discontinuance “will be based essentially upon educational considerations, as determined by the faculty as a whole or an appropriate committee thereof” (emphasis added). “Educational considerations” exclude “cyclical or temporary variations in enrollment”; instead, they “must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance” of a department or program.

As noted in the enclosed report *The Role of the Faculty in Conditions of Financial Exigency*, AAUP-supported governance standards hold that “program closure is very much a

matter of educational policy.” As a result, “the faculty should . . . be accorded an *initial and decisive* role in any deliberations over program closure and release of tenured faculty members” (emphasis in original). Thus, Regulation 4d requires that the discontinuance of an academic program and the potential ensuing terminations of faculty appointments constitute a collective faculty judgment that such sacrifices are on balance necessary for the long-term benefit of the educational mission of the institution rather than serving as a budgetary maneuver.

Under Regulation 4d(2), “Faculty members in a program being considered for discontinuance will promptly be informed of this activity in writing and provided at least thirty days in which to respond to it.”

Under Regulation 4d(3), “Before the administration issues notice of its intention to terminate an appointment” because of program discontinuance, “the institution will make every effort to place the faculty member in another suitable position,” including providing financial and other support for a reasonable period of retraining. This regulation also requires the administration to pay “severance salary equitably adjusted to the faculty member’s length of past and potential service,” which “may well exceed but not be less than” one year of salary for faculty members with indefinite tenure.

Finally, under Regulation 4d(4), affected faculty members have the right to contest any relocation or termination in an adjudicative hearing of record before an elected faculty hearing committee. Contestable issues include the “institution’s failure to satisfy any of the conditions” of Regulation 4d. In such a hearing, the burden of proof rests with the administration on every issue except a faculty determination that a program should be discontinued, which “will be considered presumptively valid.”

The AAUP regards adherence to these procedural standards as essential for protecting academic freedom and tenure, as well as for retaining the faculty’s primary responsibility for the curriculum and faculty status. Any action to discontinue programs and terminate appointments effected in disregard of these standards robs tenure of its meaning; gives all faculty members good reason to believe that their appointments are in jeopardy; and thus weakens, if not destroys, the climate for academic freedom, upon which we claim educational excellence depends.

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Regrettably, the evidence available to us suggests that the Florida Memorial administration's actions in the cases of Professors Entessari, Hopper, and Yaklich have fallen well short of the standards set forth in Regulation 4d, as well as in the relevant part of section III of the *Florida Memorial University Faculty Handbook* ("Program Discontinuance and Replacement").

First, contrary to Regulation 4d(1), the decision to discontinue the unnamed programs was evidently not undertaken by the Florida Memorial faculty or its representatives.

Second, Professors Entessari, Hopper, and Yaklich do not appear to have been given at least thirty days to respond to the administration's written intention to consider their programs for discontinuance.

Third, there is little indication that the administration met the standard, articulated in Regulation 4d(3), of making every effort to find any of the three professors a suitable alternative faculty position—including financial and other support for a reasonable period of retraining (a weaker version of Regulation 4d[3] is also incorporated in section III of the faculty handbook).

This last departure from AAUP-recommended standards heightens the concern raised above, since, as *The Role the Faculty* observes, this provision is "crucial to determining whether a program is being discontinued for sound, legitimate educational reasons or whether it is being discontinued simply in order to shed its tenured faculty members." Since tenure, under AAUP-supported standards, is held within an institution rather than within a particular department or program, an administration should work creatively with affected faculty to find or develop alternative positions, including looking at interdisciplinary programs and other areas that might not previously have housed tenured faculty appointments.

Moreover, if courses from a discontinued program remain in the curriculum, affected tenured faculty members should be offered the opportunity to teach them. Indeed, the Association's case report in its investigation of National Louis University (attached) noted that "the release of tenured faculty members who were qualified to teach available courses was a violation of Association-supported policy and of the commonly accepted understanding of tenure."

Fourth, Professors Entessari, Hopper, and Yaklich report that they have appealed the decision to terminate their appointments under section III of the faculty handbook.

Dr. Jaffus Hardrick

May 31, 2022

Page 5 of 6

However, the hearing committee has not yet communicated its findings or recommendations in any of the three cases.

We note that while section III of the faculty handbook provides that “a faculty member whose appointment is terminated by reasons of program discontinuance has the right to appeal such action to a hearing committee,” we also note that the committee members are jointly appointed by the president and faculty senate president and that the policy does not specify that the administration bears the burden of proof. By contrast, the procedure set forth in Regulation 4d(4) requires the administration to bear the burden of demonstrating before an elected faculty committee that it has complied with the procedural standards outlined above. Since the faculty of Florida Memorial University does not appear to have determined that the programs should be discontinued, Regulation 4d(4) would require the administration to bear the burden of proof on that issue as well.

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It is also important to emphasize that the roughly three months’ worth of notice that Professors Entessari, Hopper, and Yaklich received is severely deficient vis-à-vis AAUP-recommended standards and Florida Memorial’s policies. Regulation 8 (“Terminal Salary or Notice”) of the *Recommended Institutional Regulations* requires that when an appointment is terminated, “the faculty member will receive salary or notice . . . [of] at least one year, if . . . the faculty member has tenure.” Similarly, section III of the university’s handbook provides, “In case of discontinuance of a program, concentration, or instructional department, the tenured faculty member shall be given a minimum of twelve months of notice in writing, commencing with the end of the current academic year.”

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The information in our possession regarding this case comes to us entirely from Professors Entessari, Hopper, and Yaklich, and we appreciate that you may have additional information that might improve our understanding of what has occurred. We would therefore welcome your response.

However, assuming the accuracy of the above account, we urge that the Florida Memorial administration withdraw its notices of termination of the three faculty members’ tenured appointments and to make every effort to find suitable alternative

Dr. Jaffus Hardrick

May 31, 2022

Page 6 of 6

faculty positions for Professors Entessari, Hopper, and Yaklich. Finally, we strongly urge the administration to afford the faculty members a hearing that comports with the provisions of Regulation 4d or, at the very least, to allow the current hearings to reach a conclusion and to abide by the hearing committee's recommendations.

We look forward to your timely response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael DeCesare', with a stylized, flowing script.

Michael DeCesare

Senior Program Officer

Department of Academic Freedom, Tenure, and Governance

Enclosures by electronic mail

cc: Mr. William C. McCormick, Jr., Chair, Board of Trustees  
Dr. Jacqueline Hill, Provost and Executive Vice President  
Dr. Samuel A. Darko, Dean, School of Arts and Sciences  
Dr. J. Preston Jones, Dean, School of Business  
Professor William Hobbs, Chair, Department of Arts and Humanities  
Professor Rose Mary Stiffin, Chair, Department of Health and Natural Sciences  
Professor Mildred E. Berry, President, Faculty Senate  
Professor Abbass Entessari  
Professor William Hopper  
Professor Richard Yaklich