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# The Use and Abuse of Faculty Suspensions

The report that follows is excerpted from a longer report of the same title, which was prepared by a subcommittee of Committee A on Academic Freedom and Tenure and approved for publication by Committee A in August 2008.

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I. (c)ntb igro 0 m 3l5ior from certain areas and activities. Although the committee in the 1966 suspension of a faculty member from some of the case of St. John's University: duties is not a new phenomenon, it has been The profession's entire case for academic freedom increasingly common in recent years; and although Association policy severely limits its use, it appears to have become almost a routine recourse for administrations seeking to discipline faculty members regardless of the seriousness of the alleged cause. The subcommittee has reviewed the development of Association policy since the issuance of the 1948 Statement of Principles on Academic Freedom and Tenure, some forty published Committee A reports, a limited number of university task-force reports that examined the use of suspension, and other available material.

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Suspension has been used in different ways both in institutional regulations and by administrations at the time the penalty is imposed on the faculty member. Sometimes, as we will show, administrators decline to use the term and claim that in fact what they are imposing is not a suspension at all. An examination of some of these claims will be useful in restating the central tenets of Association policy. In addition, suspension has sometimes been employed as a sanction independent of dismissal, here termed "freestanding" suspension (see Section IV).

Historically, suspension has been regarded in Association policy as a severe sanction second only to dismissal, because it has been seen primarily in terms of removal of a faculty member from teaching. As one case report put it, "Barring a teacher from his classroom inflicts ignominy upon the teacher and is destructive to the morale of the academic community." An eloquent statement on the adverse effects of suspension, one that has been cited in several subsequent Committee A investigations, was the



Suspending a faculty member is a very serious



be demonstrated in a timely manner through a full due process hearing. When, as seems increasingly to be the case, suspension is justified either by invoking the threat of immediate harm or by relying on some verbal formula that falls far short of that but is nonetheless taken as self-justifying, such a justification is used to trump the necessity, desirability, or even the possibility of consulting with a faculty body. The language of the provision and its placement under Regulation 5 presupposes that the context is one of pending dismissal proceedings preceded by a statement of charges. In the situations considered in this report, however, suspension tends to take place before any formal charges are filed, and may or may not be followed later by a dismissal proceeding.<sup>22</sup>

sufficiently serious to justify the imposition of a severe sanction.

A University of New Hampshire case offers the kind of situation in which freestanding suspension might conceivably have been the object of a disciplinary proceeding. In that case, a faculty member in the Department of English was suspended, initially without pay, and told to undergo weekly counseling for at least a year at his own expense with a professional psychotherapist approved by the university for having allegedly violated a policy on sexual harassment by using sexually charged metaphors to describe the nature of establishing a topic in technical writing. "Shadow sections" were set up for the students who were upset by what they regarded as his inappropriate sexual innuendoes. The reprimand that went with the suspension required that in addition to undergoing mandatory counseling the professor (1) reimburse the university for the cost of those sections, (2) not retaliate against the students who had filed charges, and (3) apologize in writing, by a specified date, to the protesting students for having created a "hostile and offensive academic environment." Since he denied the factual basis of the charges that led to these sanctions, the faculty member refused to comply. In this case, suspension was initially imposed but put in abeyance pending a faculty hearing on the procedures. Though the faculty committee was found that the professor's grievance had merit and that he had

the administration) occurred, are of the kind that contribute to an intolerable atmosphere for faculty members already under the normal pressures consequent upon termination of services.

## VI. Concluding Comments

This subcommittee has provided an examination of historical experience within the AAUP and what can be drawn from it by way of policy discussion. Such a discussion might turn on the question whether there are changes in campus climate sufficient to call for a review, from the ground up, of at least the rhetorical adequacy of

an administration. College and universityes doubtless contain instances of reprimands accompanied by the threat of more serious penalties if the behavior is repeated (the principal author of this report is aware of



Linda University, *Academe*78 (May...June 1992): 42...49.

15. •Academic Freedom and Tenure: University of South Florida, *AAUP Bulletin* 50 (Spring 1964): 54.

16. •College of the Ozarks, *Academe* 358; •Adelphi University, *Academe* 281; •Academic Freedom and Tenure: Amarillo College, *AAUP Bulletin* 53 (Autumn 1967): 300; •Academic Freedom and Tenure: Elmira College, *AAUP Bulletin* 61 (Spring 1975): 66...70; •Academic Freedom and Tenure: Birmingham-Southern College, *Academe*65 (May 1979): 237.

17. •Birmingham-Southern College, *Academe* 237.

18. •Academic Freedom and Tenure: Oklahoma College of Osteopathic Medicine and Surgery, *Academe*71 (May...June 1985): 39.

19. •Academic Freedom and Tenure: Philander Smith College, *Academe*90 (January...February 2004): 61.

20. •Academic Freedom and Tenure: University of South Florida, *Academe*89 (May...June 2003): 67. In a recently publicized incident at Saint Xavier University (Chicago), the campus was closed temporarily because of a graf to threatening violence on a speci date. If an incident like this led to the identi cation of a faculty malefactor, the demonstration of immediate harm to institu.

N.W.2d 557, 559 (Iowa 1999), that paid administrative leave did not trigger due process protections under the state and federal constitutions because [the professor] was not deprived of any economic bene (278).

24. A reasonably typical case is that of the King's College, in which suspension with pay for a terminal year was followed neither by reinstatement nor by opportunity for a hearing (Academic Freedom and Tenure: The King's College [New York], *Academe*76 [July...August 1990]: 45...52). Also relevant are cases, like a number of the ones we have reviewed, involving nontenured faculty members who have been given notice of nonreappointment and then had a terminal suspension added to that notice, even though their salary may have been continued.

25. The case was complicated by the fact that it was heard ultimately by mixed faculty-student-staff committees; in one case the chair was a student.

26. The New Hampshire case was ultimately resolved in the courts, which found that the sanctions against the professor, taken as a whole, constituted more than a de minimis deprivation of [the faculty members'] due process rights, and that his suspension without pay provided an independent basis for a continuing irreparable harm to the faculty member (Silva v. New Hampshire, 888 F. Supp. 293 (D.N.H. 1994); Euben and Lee, Faculty Discipline, *Academe* 281). See also Euben and Lee's discussion of a related case, Delahoussaye v. Board of Supervisors of Community and Technical College, 906 So. 2d 646 (La. Ct. App. 2005); the two cases together seem to provide evidence encouraging institutions to continue the payment of salary to a suspended faculty member in order to avoid claims of economic damage.

27. •Academic Freedom and Tenure: Tennessee State University, *Academe*73 (May...June 1987): 43.

28. •Academic Freedom and Tenure: Dean Junior College (Massachusetts), *Academe*77 (May...June 1991): 28.