

Faculty Handbook Committee Recommendation on the Proposal from the Board of Directors to amend the Handbook with regard Budgetary Hardship and effectively end the protections of tenure

Background

The Board of Directors proposed amending Part Four of the Faculty Handbook, relating to termination of contract because of financial exigency or budgetary hardship. We found the criteria used to determine budgetary hardship ambiguous in the original proposal. We also found the proposal somewhat backwards, as it made it easier for the administration to terminate tenured faculty due to budgetary hardship than due to financial exigency, a far more serious fiscal emergency. Extensive faculty input is required to establish criteria for termination under financial exigency, but under budgetary hardship departments could be closed and individual faculty terminated (with no right of appeal) by the Provost and President after consultation with the Board. Faculty involvement in setting criteria was not required. And finally (and most importantly), the amendment would effectively remove the protections provided by tenure. Tenured Faculty could be terminated and it would not be termination for cause (which has right of appeal) nor would it be termination for financial exigency.

We communicated to the Board that this proposal was very troubling. We concurred with the letter sent to the President of the JCU Chapter of the AAUP from the national office of AAUP. We indicated that counter to the Board's contention, their proposal was not representative of best practice. We indicated that although we recognized the university was facing budgetary hardship we could not accept the proposal because of what it meant for academic freedom and tenure. We recommended they consider an alternative proposal prepared by a group of faculty on campus that protected tenure, but still provided options for recognizing budgetary hardship and a more limited set of remedies in the event of budgetary hardship.

The Revised Proposal

The revised proposal incorporated some of the elements of the counterproposal prepared by faculty. It did provide criteria for recognizing budgetary hardship, although the bar is low. Budgetary Hardship could be declared by the Board if a projected cumulative shortfall of 6% over three years (e.g. a 2% annual shortfall) was predicted. The Faculty will recommend criteria for identifying individuals who would be terminated rather than determining the criteria (advice without consent) in the event of financial exigency. In the event of Budgetary Hardship, tenured faculty can be terminated within departments without elimination of the department. The board's letter stated that they had "inserted consideration of relevant factors such as years of service . . ." in determining which faculty will be terminated, but those "considerations" are not binding. The amendment merely requires that the Provost/AVP make "good faith efforts" to follow the priorities it establishes. That toothless language means that the Provost/AVP can select for termination whomever he or she wishes, for any reason. This clause (like the one in the benefits amendment that establishes a benefits committee that merely makes non-binding

suggestions) fatally undermines the practice of cooperative government at JCU and establishes the president as an autocrat. Recommendations are formulated by the Provost/Academic Vice President to the President, who makes the final determinations, which are sent to the Board for approval or disapproval. If the Board approves the terminations, the President and/or Provost notifies the faculty members. After a good faith effort to relocate the affected faculty members to another suitable position within the University, the Faculty member can be terminated. The decision is not subject to appeal.

This proposal removes the protection of continued employment from tenure, and renders every faculty member an at-will employee. Academic freedom would be destroyed; the freedom to speak one's mind responsibly -- particularly if a position is considered, but not popular -- in the classroom, in one's scholarship, in the course of committee work, or as a public intellectual would be imperiled. The protection of continued employment is integral to the definition of tenure, and consequently, this amendment would effectively end tenure at John Carroll University. Faculty would become at-will employees during times of budgetary hardship, which by the lax criteria given in the proposal, has been almost a continual state for at least the past decade. We strenuously object to this proposal and recommend all Faculty vote against its adoption.