

## An Evolution of Principled Futility: The AAUP and Original Sin<sup>1</sup>

Don Eron

### Abstract

The AAUP's founding document, the 1915 *Declaration of Principles on Academic Freedom and Academic Tenure*, theorizes academic tenure as the safeguard of academic freedom and codifies multiple levels of due process as the foundation of tenure. The success of the AAUP concept, reiterated and refined in the 1940 *Statement of Principles on Academic Freedom and Tenure*, peaked in 1975. In the forty years since, the tenure system has “all but collapsed”<sup>2</sup>—a decline rooted in the 1915 and 1940 statements, both of which, to justify a unique protection for academics, sanctify the academic profession as two distinct tiers, divisible by rights and privileges. The result is that the conflicted 1915 and 1940 statements have incentivized institutions to hire part-time rather than full-time faculty. They have also stymied a succession of AAUP reports on contingency that, with increasing degrees of alarm, seek to provide part-time faculty with academic freedom protections that are substandard and self-defeating. If academic freedom is to endure, all proven faculty must have access to the same fundamental rights.

On July 9, 1915, Livingston Farrand, president of the University of Colorado (CU), wrote to John Dewey, president of the newly established AAUP. Farrand complained to Dewey that he was unjustly accused of violating the academic freedom of James Brewster, who had been, according to Farrand, “temporarily” filling a position in the CU Law School.<sup>3</sup> Brewster had published an open letter, nominally addressed to the faculty at the University of Michigan (where Brewster had previously taught), demanding that the CU Board of Regents reveal the true cause of Brewster's dismissal from the CU faculty. Farrand claimed that Brewster's

letter contained numerous errors falsely impugning CU and asked the AAUP to clear the university's reputation.

It was to be the first and only time that the AAUP would initiate an investigation directly at the request of a university president.<sup>4</sup> But the Brewster case would also prove unusual in other ways. The investigation quickly revealed a series of misunderstandings between two men of the "highest reputation."<sup>5</sup> For one thing, Brewster had assumed upon his hiring that he was to be a permanent member of the faculty, only to later discover that his appointment was temporary. For another, much of the conflict stemmed from differing recollections of a conversation between Farrand and Brewster regarding an invitation Brewster had received in 1915 to testify before a congressional commission, the Commission on Industrial Relations (CIR). Brewster had previously testified before the CIR in 1914 and severely criticized labor practices in the mining industry—at the time a powerful industry in Colorado. That testimony received extensive press coverage, much of it negative, enraging the CU regents and provoking the governor to demand Brewster's immediate dismissal from the university. Farrand responded by defending Brewster's academic freedom.

Regarding the new invitation, however, Brewster noticed a different attitude in Farrand. He claimed that, after he advised Farrand of his intention to testify again, Farrand urged that Brewster make the terminal nature of his CU appointment clear, so as to temper further public outrage at the university—a demand that Brewster found odious. Farrand also, according to Brewster, intimated that Brewster was likely to be dismissed from CU due to outrage over Brewster's previous testimony. Farrand vehemently denied the charge. However, Farrand did agree with Brewster's recollection on two points: Farrand had discouraged Brewster from testifying again before the CIR and he had offered no assurance of Brewster's reappointment, regardless of whether Brewster testified again.

After conferring with Farrand, Brewster chose not to testify again. When his term ended at the conclusion of the academic year, he was dismissed from the university. According to Farrand and other Colorado officials, Brewster's dismissal was not due to outrage over his testimony before the congressional commission but rather to a reorganization within the law school.

On the basis of the "he said, he said" nature of the evidence, Arthur Lovejoy, the AAUP's first general secretary, recommended that the investigation not proceed, as neither the Committee on Academic Freedom and Tenure (soon to be renamed Committee A) nor its investigative subcommittee was in a position to determine whether Farrand or Brewster had the stronger claim to accuracy.<sup>6</sup> Ultimately, however, the committee proceeded with the investigation and published the report, in part due to the newfound organization's interest in justifying tenure as the sine qua non of the academic profession, which, argued committee member Frank Fetter, required that "a distinction . . . be made between temporary appointments

and regular professorships.”<sup>77</sup> The report itself, a tour de force of circular reasoning, while never directly impugning Brewster, consistently excuses Farrand, relying heavily on the committee’s understanding of psychology and motive. That President Farrand discouraged Professor Brewster from testifying before the congressional commission on a second occasion was not in dispute. Nor was Brewster’s standing as temporary faculty. As such, the report finds no infringement of academic freedom, concluding that “the implied intimation of President Farrand [as inferred by Brewster] . . . that permanent members of the Colorado faculty do not . . . have full liberty in the performance of their duties, while deplorable, was purely inferential and probably unconscious.”<sup>78</sup>

After the completion of the Brewster investigation but before the publication of its report, the committee would publish the initial statement of AAUP principles, eventually known as the 1915 *Declaration of Principles on Academic Freedom and Academic Tenure*.<sup>9</sup> This seminal document theorized tenure as the safeguard of academic freedom and codified academic due process as the foundation of tenure. Indeed, future AAUP investigations would cease to emphasize questions of substance (such as what Farrand really communicated to Brewster) and focus instead on defending the sanctity of tenure through questions of procedure: Was the aggrieved faculty member granted academic due process consistent with AAUP principles? In stipulating protections for tenure, the 1915 principles enumerated the rights of eligible faculty members, whose positions were to become permanent after ten years of service and whose appointments could thereafter be terminated only after they were granted the “full opportunity” to present evidence in a “fair trial” before a “special or permanent judicial committee” chosen by the faculty. Correspondingly, faculty members at the rank of instructor or below were not eligible for permanent appointment (tenure) or for academic due process in the event of their nonreappointment. Thus the 1915 *Declaration* drew academic freedom as the chief distinction between permanent faculty and temporary faculty, as Fetter had urged in the Brewster investigation.

In the context of 1915, the sanctification of the academic profession as two distinct tiers with differing rights and privileges was, if not justified, understandable. Among other purposes, the *Declaration* posed an argument that the general public might have been reluctant to accept—that, unlike those in other professions and trades, who serve a private interest (namely, to make money for themselves and their employer), the responsibility of university professors is to serve the good of society; such unique responsibility requires a unique protection—academic freedom, safeguarded by numerous levels of due process. The 1915 *Declaration*, in advancing this argument, assuaged public skepticism with numerous strategies, including an emphasis on the “corresponding duties” of professors to “set forth” their conclusions with “dignity, courtesy, and temperateness of language”; to take measures not to indoctrinate immature students; to avoid, in their extramural utterances, “exaggerated statements, and to refrain from intemperate or sensational modes of expression”; and, collectively, “to purge [their] ranks of the incompetent and the unworthy.” As another

---

strategy, the *Declaration* offered the assurance that the unique protection would be difficult to attain—professors would not acquire permanent status until “after ten years of service,” and, even then, not all faculty members would be eligible for academic due process, regardless of length of service, should the institution choose not to renew their appointments.

Regarding the crucial distinction between the two tiers, the 1915 *Declaration*—and the committee of distinguished senior professors who composed the AAUP’s founding document—should not be seen as justifying privileges for one sector of the profession (senior professors) while throwing another sector to the wolves. If, in military parlance, the committee saw temporary faculty as collateral damage in their quest to secure academic freedom, it may have been a fair calculation in the context of their time and purpose.

In 1915, as now, the professorial rank was in a free fall. While professorial ranking wasn’t yet standardized, there were tenured appointments, held by professors, that were informally presumed to be continuous (subject to the pleasure of the president or board) and annual appointments, held by instructors. In 1900, professors accounted for 65 percent of the faculty at public institutions with enrollments exceeding two thousand.<sup>10</sup> By 1920 that figure had fallen to 41 percent.<sup>11</sup> During the same period the percentage of instructors rose from 21 to 38 percent.<sup>12</sup> The data regarding private institutions was similarly ominous. At the very least, if the 1915 principles were widely adopted, professorships would be stabilized. And these principles would more likely be accepted—by a skeptical public, boards of trustees, and other senior professors—if the AAUP was perceived as a self-regulating professional association, rather than as a self-interested and protectionist labor union.

The role of self-interest in sanctifying the profession into the two tiers, divisible by rights and privileges, however, cannot be overlooked. As Hans-Joerg Tiede discusses in *University Reform*, his indispensable account of the founding of the AAUP, status anxiety among professors, resentful of being confused by the public with less accomplished instructors, played a role in the Association’s initial requirement that membership be restricted to professors with records of distinguished scholarship.<sup>13</sup> One can easily surmise that the 1915 principles might be different had instructors been eligible for membership. One may also surmise that if instructors had been invited to join, many professors would have declined membership.

There are two fatal flaws at the heart of the 1915 *Declaration* that, more than one hundred years later, cripple the academic profession. First, that academic freedom is the necessary precondition for the transmission and pursuit of knowledge, yet academic due process (the safeguard of academic freedom) is the privilege of only one tier, stands as an egregious contradiction. Either academic freedom is necessary to the transmission and pursuit of knowledge (for the good of society) or it is not necessary. Thus, the *Declaration*’s central argument self-destructs. Second, considering that academic freedom is apparently not necessary, at

least for most of the profession, it is difficult to view tenure as anything other than a reward. In this view, the argument that academic freedom is the justification of tenure is nullified.

An additional flaw in the 1915 definition of academic freedom, along with its elaboration in the 1940 *Statement of Principles on Academic Freedom and Tenure*, has framed subsequent understanding. According to the *Declaration*, academic freedom “comprises . . . freedom of inquiry and research; freedom of teaching within the university or college; and freedom of extra-mural utterance and action.” No one interested in a robust professoriate would dispute the necessity of these three elements. However, it was not until the 1994 document *On the Relationship of Faculty Governance to Academic Freedom* that the Association explicitly identified the right of faculty members to “express their views . . . on matters having to do with their institution and its policies” as a distinct category of academic freedom.<sup>14</sup> That many, even within the professoriate, remain unaware of this fundamental right has been demonstrated to me numerous times. Once my program director attempted to discipline me for expressing my ideas about a program policy. After I argued to the associate dean that this disciplinary action violated my academic freedom, the program director—who at a previous institution had been a member of the AAUP—told the associate dean that my understanding of academic freedom was mistaken. In other instances, when I have tried to persuade contingent activists to work to expand tenure rights, they have replied that academic freedom is not their primary concern—although each has agreed that a major impediment to improving working conditions for contingent faculty is the extreme reluctance of most contingent faculty to express dissenting views on matters of institutional policy, for fear of dismissal or nonreappointment.

The 1915 *Declaration* has long been superseded by the 1940 *Statement* (including the 1970 interpretations) as the fundamental AAUP expression. To date, the 1940 *Statement* has been endorsed by over 250 educational and disciplinary organizations and is the basis of institutional policy at almost every major college and university. Essentially, the 1940 *Statement* is a more efficient, less ponderous, restatement of the *Declaration*, although the argument is slightly reframed. The 1915 distinction between professors and instructors is recast as a division between full-time faculty (including instructors)<sup>15</sup> and part-time faculty. Due process privileges for full-time faculty whose service has exceeded seven years are spelled out, as are those for all faculty members who are dismissed prior to the end of their terms. Thus, as with the *Declaration*, if an institution wishes to dismiss a full-time faculty member with a continuous appointment (tenure), it must grant numerous levels of academic due process, to be adjudged “by both a faculty committee and the governing board of the institution.” If an institution wishes to dismiss a part-time teacher without running afoul of AAUP principles, it must wait until the end of the term.

For better and for worse, the success of the 1940 *Statement* in defining and transforming the academic profession can be seen in ways both impressionistic and measurable. As I have mentioned, it has framed

understandings of what academic freedom is and what it is not. By 1975, with 57 percent of the professoriate tenured or on the tenure track,<sup>16</sup> the AAUP conception of continuous employment, safeguarded by academic due process, was so well established as the gold standard of the profession that many faculty believed it had always been so. As for the exclusion of part-time faculty from tenure eligibility, the 1973 Commission on Academic Tenure in Higher Education, jointly established by the AAUP and the Association of American Colleges, summarized a widely accepted justification that reflects the ambivalence of the 1940 *Statement*: “This practice [of excluding part-time faculty] derives fundamentally from the theory of the profession—that only the regular faculty, by virtue of their full commitment to professional service in an institution, can make a valid claim to the unique privileges and responsibilities associated with academic tenure.”

If it is a truism that students are better served by faculty with a “full commitment” to their institution, it is also a truism that formalizing the faculty into two tiers, divisible by rights and privileges, incentivizes administrations to hire faculty entitled to fewer rights and privileges. As I have noted, the 1940 *Statement* has become the basis of institutional policy at most major colleges and universities—to the incalculable benefit of the professoriate. But between 1975 and today the percentage of the professoriate who are tenured or on the tenure track has plummeted to nearly pre-AAUP levels (30 percent).<sup>17</sup> Many factors contribute to this decline, but the original AAUP principles, in creating a part-time loophole, have enabled the “perma-temping” of the academic profession.

Subsequent AAUP documents, responding to the decline of tenure with increasing degrees of alarm, have attempted a forlorn balance: resolving the original contradiction while maintaining significant distinctions between part-time and full-time faculty. As such, these statements recommend partial measures (increased but limited protections) that often conflict with the accompanying rhetoric.

The first tentative attempt to bolster protections—the 1973 commission report—reflected what would become a common theme in early statements: evolving attitudes toward women in the workplace. For example, the 1940 *Statement* identified a second justification (other than safeguarding academic freedom) for tenure: to provide a “sufficient degree of economic security to make the profession attractive to men and women of ability.” As with other aspects of the *Statement*, this rationale reflected the Association’s ideals more than the practices of a profession aggressively inhospitable to women (especially in the natural sciences). In restricting tenure eligibility to full-time faculty with lengthy records of full-time service, the commission implicitly acknowledged the 1940 *Statement’s* indifference to women with “marriage and family responsibilities.” Thus the 1973 report recognized that the requirements for tenure eligibility—designed in part to make the profession attractive to women of ability—may pose a “serious obstacle to the pursuit of academic careers by women.”<sup>18</sup> Primarily in this context, for the first time an AAUP-associated document

recommended that institutions consider permitting “tenure positions to be held by faculty members who for family or other appropriate reasons cannot serve on a full-time basis.”

That tenure eligibility for part-time faculty be confined to a “special class” is characteristic of most subsequent Association statements. Indeed, anyone reading these statements can be excused for surmising that the bedrock principle of the AAUP is the participation of faculty in “teaching, research, and administrative duties.” Such readers, also noting frequent references to academic freedom, might wonder why this apparent conflict of AAUP principles always resolves in favor of the contractual requirement for faculty to participate in teaching, research, and administrative duties. *The Status of Part-Time Faculty* (1980), *Senior Appointments with Reduced Loads* (1987), *The Status of Non-Tenure-Track Faculty* (1993), and *Contingent Appointments in the Academic Profession* (2003) each lament the damage to the professoriate when one tier functions without appreciable academic freedom, and, to stanch the bleeding, each recommends that institutions consider implementing systems of part-time tenure for that “special class” of part-time faculty whose appointments stipulate that they participate in the full-range of faculty activities. As for those not in the special class, these AAUP statements recommend “Security of Employment,” a system of measures that make part-time employment more palatable but that wouldn’t have saved James Brewster in 1915 and can’t protect the academic freedom of “temporary” faculty today.

One reason for the diffidence of the recommendations may be that AAUP statements traditionally begin with respectful summaries of previous statements and often view the recommendations of these statements with reverence. Additionally, although the “theory of the profession” is nowhere in the original documents, it has clearly been internalized. For example, the 1980 statement begins with the astonishing declaration that the AAUP protects the academic freedom of all faculty, part-time or full-time, but that “due process is a flexible concept and . . . the extent of procedural protections depends, in part, upon the magnitude of the contemplated abridgement of rights.” In other words, the academic freedom of someone with tenure is more important than the academic freedom of someone who teaches part-time, who therefore deserves a lesser degree of protection. For substantiation, the 1980 statement references the *Recommended Institutional Regulations on Academic Freedom and Tenure* (RIR),<sup>19</sup> then as now the AAUP rulebook (at least regarding due process protections of tenured faculty). In 1980, as now, the due process protections for part-time faculty, as enumerated in the RIR, demonstrate the flexibility of the concept by allowing part-time faculty to be dismissed without recourse at the end of the term—unless they can make a prima facie case that they were fired for voicing their opinions. Should they successfully make a prima facie case (a nearly impossible task), their dismissal will be referred back to the authority that dismissed them. Thus, the AAUP, via the RIR, grants part-time faculty academic due process on a lesser scale. It is difficult to imagine a part-time faculty member, given these lesser protections, thinking that he or she has any academic freedom at all.

---

Perhaps these statements tolerate the dissonance because, as each discusses, the problem of tenure is always “complex and difficult.” Indeed, from the 1973 report through the 2003 statement, the complexities and difficulties of instituting tenure systems for part-time faculty are a standard refrain. After all, there are different kinds of institutions with different kinds of requirements and constraints, just as there are different kinds of part-time faculty—from those in the “special class” to adjuncts whose regular employment is outside the academy. Should one size fit all? In fact, do part-time faculty need or desire tenure? What about compensation and benefits, as well as inclusion in faculty governance? Always, there is the “theory of the profession” to reconcile. In contrast to the head-scratching that dominates these contemplations, the 1915 *Declaration* didn’t worry over the complexities of implementing tenure systems for full-time faculty, although in 1915 tenure as codified in the *Declaration* did not yet exist.

While the questions remain constant, the crisis has deepened. The 1973 report identified the part-time predicament as a woman’s issue. The 1980 statement, noting with concern that 32 percent of the faculty were now part-time, declared that this wasn’t merely a women’s issue, but it offered the reassurance that “the large majority of part-timers neither need nor desire the privileges of tenure and . . . for the most part colleges and universities have used part-time faculty service in a manner compatible with the health and quality of the institution.” Accordingly, the statement advised institutions to use their best judgment. The 1987 statement reiterated the gospel—that many part-time faculty members are not and should not be candidates for tenure—but suggested that institutions might benefit from providing part-time tenure for the “special class,” as well as for senior faculty contemplating retirement.

When one has concerns but is uncertain if the concerns amount to a legitimate issue (and the issue is not really one’s own anyway), one might recommend, as a rational approach to the possible problem, small steps, rather than sweeping changes that risk unforeseen consequences. But small steps also risk consequences—namely, that the problem grows until it becomes one’s own problem after all, and it may be too late for sweeping changes. The 1993 report, noting that 38 percent of faculty appointments were now part-time (with another 20 percent of faculty full-time but off the tenure track), identified the moment as “critical.” No longer was the treatment of part-time faculty a curiosity, potentially problematic; instead, it was now “the barometer whereby the general status of the professoriate may be measured.” Thus, the 1993 report offered language that departed from “the theory of the profession” by recognizing the need for institutions to “develop more than one model of the tenurable professor”—models not constrained by “measure[ing] faculty against a dominant model of the traditional professor.” Still, when it comes to offering concrete recommendations, the 1993 report backtracked. For the sake of the “integrity” of the profession, tenure eligibility for part-time faculty should only be for the “specialized class.” A decade later, the 2003 statement



recognized that “faculty work has become [even] more fragmented, unsupported, and destabilized.” The statement asserted that “tenure can be granted at any professional rank (or without rank),” yet tenure eligibility must be restricted to the special class, as academic activities were not “completely divisible.” For part-time faculty whose appointments did not encompass the full range of activities, “Security of Employment” was again recommended. By 2010, *Tenure and Teaching Intensive Appointments* identified a “collapsing faculty infrastructure.” The profession was at a “tipping point,” and “the tenure system has all but collapsed.”<sup>20</sup>

Despite being burdened by the fatal contradictions of the original documents, the 2003 statement is an important bridge between previous reports and *Tenure and Teaching Intensive Appointments*—and eventually, I hope, the *Recommended Institutional Regulations*. It is remarkable in at least three ways: First, the statement hints at the elephant in the room: “Both faculty and administrators participated in the decisions that have resulted in heavy reliance on contingent faculty.” When previous statements discussed the endless complexities of tenure eligibility for part-time faculty, they neglected one obvious difficulty: Many tenured faculty do not want part-time faculty to have academic freedom—particularly if academic freedom includes the right of part-time faculty to express their views “on matters having to do with their institutions and its policies.” The exploitation of part-time faculty has always served the short-term interest of full-time faculty, including that program directors and department chairs can enjoy bossing underlings with impunity, with little or no need to contend with their opinions. Part-time faculty, knowing that their bosses only have to wait until the end of the term to get rid of them, will usually do as they are told, or pretend to do so. They are not likely to speak out at a faculty meeting against a tenured faculty member’s proposal, even if they know the proposal to be harmful or specious. The authors of these AAUP statements, with their hesitant recommendations, may not personally oppose academic freedom for part-time faculty—in my experience, they do not—but they may believe that stronger recommendations will be disregarded, by tenured faculty and by institutions, at the cost of the Association’s credibility.

A second remarkable aspect also addresses, at least by implication, the assessment of difficulties. Previous statements are notably solicitous of the presumed desires of part-time faculty. For example, “The large majority . . . neither need nor desire the privileges of tenure.” However, this consistent finding may be a matter of the question itself. Instead of asking, “Do these part-timers need or desire tenure?,” another approach might be to ask, “Do these part-timers need or desire the freedom to advocate on their own behalf? To speak critically of their working conditions without the near certainty that, if they complain, they will be fired at the end of the term?” If the question were thus reframed, the answers might differ. At any rate, the 2003 statement offers a useful rebuke: “While many individuals with [part-time] appointments may find the conditions of part-time academic employment acceptable, *their situation is the exception rather than the norm, and*

---

*therefore should not serve as the primary model for a policy discussion*” (italics mine).

Similarly, the third advancement of the 2003 statement also addresses a complexity that stymied previous reports. In recognizing the culpability of faculty, the 2003 statement asserts that “both faculty and administrators now share the responsibility for reducing such reliance [on contingent faculty] while minimizing the costs of change to current contingent faculty.” Much of the statement is dedicated to minimizing those costs, including the suggestion (as one possibility) that part-time faculty with “teaching-only positions . . . be ‘grandfathered’ into tenured . . . positions,” with the workload responsibilities of those positions expanding—to protect the integrity of the profession—only after attrition has taken its course. Such a strategy might reconcile the quandary: The long-serving part-time faculty member gains academic freedom, and the integrity of the profession is not permanently compromised as a result.

However, the 2003 statement advances no further strategies to resolve the paradox. On the one hand, the transmission and the pursuit of knowledge are better served when faculty participate in the full range of academic activities. Thus, the Association should not endorse (as tenurable) faculty positions that do not encompass the full range. On the other hand, faculty members hired into restricted positions also require academic freedom, for which tenure is the only viable protection. As an additional nuance, “the vast majority” of contingent faculty, according to the 2003 statement, “do not have professional careers outside of academe.” To slightly recast the proposition in light of faculty culpability: It is not the fault of part-time faculty if appointments that encompass the full range of professional activities have disappeared through the part-time loophole. Nor is it their fault if the professional activities they may perform (scholarship, advising, mentoring, and/or involvement in disciplinary/professional organizations) are not recognized, or compensated, by their institutions. To deprive this tier of academic freedom, in the high-minded name of professional coherence, amounts to a double penalty. It also irrevocably damages the ability of these faculty to improve their working conditions, an endeavor that may include advocating for institutional recognition of—and compensation for—their professional activities.

Thirty-seven years after the commission report recommended that institutions consider permitting “tenure positions” for a special class of part-time faculty, the 2010 statement *Tenure and Teaching-Intensive Appointments* concluded that “the best practice for institutions of all types is to convert the status of [all] contingent appointments to appointments eligible for tenure with only minor changes in job description.” With 70 percent of faculty appointments off the tenure track, the statement recognizes the moment as a “tipping point.” The statement makes no predictions as to which direction the academic profession might tip—toward the elimination of tenure altogether or toward its reemergence as “the norm”—but if the latter prevails, it will be in part due to this statement, which departs not only from previous Association statements

on contingency but also from AAUP thought as expressed in most major documents. While many crises face the profession, few can be more indistinguishable from the identity of the AAUP than the disappearance of tenure as codified in the 1915 and 1940 statements. The disappearance was set in motion when the 1915 *Declaration* sanctified the establishment of the two tiers, with one disposable as collateral damage to enable the rights of the other. If tenure reemerges as the norm, it will be because the 2010 statement has gained traction as a corrective to the original statements.

If the 2010 statement's congruence between rhetoric and recommendation exceeds that of previous AAUP statements, it may be because the rhetoric mostly skirts the internal conflicts. The statement bows to the "special class" orthodoxy in recommending that converted appointments have "minor changes in job description" (but changes that don't punish "current faculty"). Otherwise, in justifying a dramatic expansion of tenure rights, the statement asserts, "The tenure system was designed as a big tent" and "not . . . as a merit badge for research-intensive faculty or as a fence to exclude those with teaching-intensive commitments." It "was conceived as a right rather than a privilege." Would that it were so! Nonetheless, the 2010 statement recognizes that the disappearance of tenure has resulted in the "majority of faculty work[ing] in subprofessional working conditions," including a "compensation scheme" (as reduced faculty responsibilities mean reduced faculty compensation) that "has turned the professoriate into an irrational economic choice." Even without the unmistakable echo, this statement stands as the inevitable postscript to the founding documents.

In an article in *Inside Higher Ed* published shortly after the release of the 2010 statement, Cary Nelson, president of the AAUP at the time, summarizes the report: "The AAUP believes the solution is . . . to grant [tenure] to everyone who has taught full-time or part-time for a standard probationary period. We're not talking about making a few tenured slots available to faculty serving in contingent positions. We are talking about granting full-time or part-time tenure to everyone with more than six years of local teaching experience. We are urging ending contingency as we know it. The solution is to find the solidarity necessary to achieve that goal."<sup>21</sup>

Nelson refers to *Tenure and Teaching Intensive Appointments* as a "policy paper" and calls the report the "AAUP's proposal."<sup>22</sup> Nelson's overstatement at the release of a breakthrough document is understandable, but in the seven years since the report's publication I have seen no evidence that its recommendations are the belief, the policy, or the proposal of the Association. These recommendations are certainly not reflected in the *Recommended Institutional Regulations on Academic Freedom and Tenure*, the AAUP rulebook.

In 2006, the Association added a new provision to the *RIR*, Regulation 13, to bolster academic freedom protections for part-time faculty. As Nelson describes elsewhere, Regulation 13 was the product of "negotiation," "collaboration" and "facilitation," resulting in an "evolution" of AAUP policy, rather than

---

“revolutionary change.”<sup>23</sup> Careful deliberation should inform any alterations to the *RIR*, but Nelson is describing a process of compromise, or the finding of a middle position, on an issue that has no viable middle position. As such, Regulation 13 is characteristic of other measures that seek to balance academic freedom for part-time faculty with other perceived Association imperatives. As the 2010 statement characterizes such halfway measures, “A potentially crippling development in these arrangements is that many—while improving on the entirely insecure positions they replace—offer limited conceptions of academic citizenship and service, few protections for academic freedom, and little opportunity for professional growth.”

Regulation 13 is plagued by two crippling developments. One is that, after completion of a probationary period, part-time faculty “shall be provided a comprehensive review with the potential result of (1) appointment with part-time tenure where such exists, (2) appointment with part-time continuing service, or (3) nonreappointment.” A “comprehensive review” at the end of a long probationary period may be a very good idea, and institutions, if they wish, should be permitted to require one, but there is no *RIR* stipulation that requires institutions to provide a comprehensive review for full-time faculty. There may be rational reasons for this disparity, but in the absence of an explicit corresponding requirement for full-time faculty, this stipulation is another example of the Association’s century-long disdain for the professionalism of faculty on “temporary” appointment. Another additional protection in Regulation 13 identifies new hurdles that academic units must clear if they wish to dismiss a part-time faculty member and still remain in accord with AAUP principles: Part-time faculty with “continuing appointments . . . shall not be replaced by part-time appointees with less service who are assigned substantially identical responsibilities.” In other words, Regulation 13 marks another incremental improvement, although any part-time faculty member can still be fired at the end of the term, providing his or her courses are reassigned to a full-time faculty member, to a part-time faculty member with more service, or to anyone who rewords the course description.

In 1915, the Association sanctified the academic profession into distinct tiers, divisible by rights and privileges. Then there was a plausible rationale—but today there is not. I hope that Regulation 13 is the last stage of the AAUP’s experiment in attempting to reconcile the original contradictions by providing part-time faculty with academic freedom protections that are useless. The trend toward the disappearance of academic tenure might not be reversible, but one step in the right direction would be to revise Regulation 13 to incorporate the 2010 statement. A more elegant step might be to close the part-time loophole by rescinding Regulation 13, then further erasing all references in the *RIR* that distinguish between full-time and part-time faculty. If so, all proven faculty members will have access to the same fundamental rights. At the very least, such a step would eliminate, from AAUP authorship, the major incentive for institutions to hire part-time rather than full-time faculty.

*Don Eron is a long-time contingent activist and a member of the AAUP's Committee A on Academic Freedom and Tenure. He is the primary author of the Colorado Conference's "Report on the Termination of Ward Churchill," published in JAF, Volume 3. His essay "Professor Salaita's Intramural Speech" appeared in JAF, Volume 6. His writing on academic freedom has been cited in petitions before the US Supreme Court, the Inter-American Commission on Human Rights of the Organization of American States, and the National Labor Relations Board, among other venues.*

---

## Notes

<sup>1</sup> I am grateful to Suzanne Hudson for her help in the preparation of this essay, and in the formulation of these ideas over the past fifteen years.

<sup>2</sup> AAUP, "Tenure and Teaching-Intensive Appointments" (2010), <https://www.aaup.org/report/tenure-and-teaching-intensive-appointments>.

<sup>3</sup> AAUP, "Report of the Committee of Inquiry Concerning Charges of Violations of Academic Freedom at the University of Colorado," part 2, appendix D, "President Farrand's Request for an Inquiry," *AAUP Bulletin* 2, no. 2 (1916): 90.

<sup>4</sup> One other investigation (Middlebury College, 1921) was initiated at the request of a president, but in circumstances far less direct. Arthur Lovejoy sent a letter of inquiry to the president of Middlebury, who responded by urging the AAUP not to drop the investigation before arriving at a judgment. A letter (signed by "A Liberal") had appeared in the *New Republic* accusing an anonymous college—clearly Middlebury—of forcing the resignation of a tenured professor (who admitted to writing the letter), and not reappointing an instructor, because several trustees suspected them of being "socialists and Bolsheviki." The investigation determined that Middlebury had not violated the academic freedom of these two faculty members. The report concludes by calling the published letter "exaggerated," "misleading," and "gravely unjust to the authorities of Middlebury College" (AAUP, Report of the Sub-committee of Inquiry for Middlebury College, *AAUP Bulletin* 7, no. 5 (May, 1921): 28-37).

<sup>5</sup> AAUP, "Report of the Committee of Inquiry Concerning Charges of Violations of Academic Freedom at the University of Colorado," part 2, *AAUP Bulletin* 2, no. 2 (1916): 77.

<sup>6</sup> Hans-Joerg Tiede, *University Reform: The Founding of the American Association of University Professors* (Baltimore: Johns Hopkins University Press, 2015), 112.

<sup>7</sup> *Ibid.*

<sup>8</sup> AAUP, "Report of the Committee of Inquiry Concerning Charges of Violations of Academic Freedom at the University of Colorado," part 2, 78–79.

<sup>9</sup> According to the 1915 *Declaration*, all five of the initial investigative reports (regarding the Universities of Utah, Colorado, Montana, and Pennsylvania, as well as Wesleyan University) were "either completed or in an advanced stage of preparation" prior to the publication of the 1915 *Declaration*.

<sup>10</sup> Tiede, *University Reform*, 14.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> AAUP, "On the Relationship of Faculty Governance to Academic Freedom" (1994), <https://www.aaup.org/report/relationship-faculty-governance-academic-freedom>. The statement identifies two other separate categories of academic freedom: The right of faculty members to express their opinions on "academic matters in the classroom and in the conduct of research" and "on issues of public interest generally." One reason that the freedom of faculty members to speak out on "matters having to do with their institution and its policies" is not better known as a distinct element of academic freedom may be because in previous AAUP documents it was acknowledged only by implication or under the umbrella of extramural utterance. For example, Matthew Finkin and Robert Post argue that the 1940 *Statement's* characterization of faculty members as "officers of an educational institution" implies that academic freedom includes the right of faculty members to express opinions on matters of institutional governance and policy (*For the Common Good* [New Haven, CT: Yale University Press, 2009]: 123-4). As another example, the AAUP's 1966 *Statement on Governance of Colleges and Universities* classifies such speech as extramural evidence, listing faculty members—along with trustees, administrative officers, and students—as having the right to speak about "the administration and operation of the individual's own institution [as] a part of that person's right as a citizen."

<sup>15</sup> According to the 1970 interpretations of the 1940 *Statement*, "The concept of 'rank of full-time instructor or a higher rank' is intended to include any person who teaches a full-time load, regardless of the teacher's specific title."

<sup>16</sup> John W. Curtis and Monica F. Jacobe, *AAUP Contingent Faculty Index, 2006* (Washington, DC: AAUP, 2006).

<sup>17</sup> AAUP, *Trends in Instructional Staff Employment Status, 1975–2011* (Washington, DC: AAUP, 2013).

<sup>18</sup> Keist and Macy, "Faculty Tenure," 79.

<sup>19</sup> AAUP, "The Status of Part-Time Faculty" (1980), 82, <https://www.aaup.org/file/status-of-part-time-faculty.pdf>.

<sup>20</sup> AAUP, "Tenure and Teaching-Intensive Appointments" (2010), <https://www.aaup.org/report/tenure-and-teaching-intensive-appointments>.

<sup>21</sup> Cary Nelson, "Solidarity vs. Contingency," *Inside Higher Ed*, September 7, 2010.

<sup>22</sup> Ibid.

<sup>23</sup> Cary Nelson, *No University Is an Island* (New York: New York University Press, 2010), 241.