

*The Association's Special Committee on Hurricane Katrina and New Orleans
Universities served as the investigating body in the following four cases.*

University of New Orleans, 2007

A sharp drop in student enrollment when the university reopened after the hurricane, coupled with a poor prognosis for funding for the next academic year, led the administration to formulate a restructuring plan to cut programs, faculty, and staff. The plan was approved that spring by the university's governing board together with a declaration of financial exigency and implementing procedures. The report on the investigation found that the protections of tenure were largely disregarded in selecting professors for unpaid furlough and potential dismissal. It found that the professors could have a hearing only by a body consisting mostly of the same administrative officers who furloughed them. Moreover, the need for the actions appeared to lessen steadily as the time for commencing furloughs approached. In late February 2006, when an initial draft of the restructuring plan first appeared, an administration estimate indicated that the full-time faculty would be reduced by more than eighty positions. An unexpectedly large quantity of faculty resignations and retirements occurred that spring, however. By early June, after notifications had been issued, the provost reported the number as reduced to sixteen, seven of whom submitted appeals that they pursued, unsuccessfully in each case, through the level of the system's president. The Association's report concluded that the administration had not shown a need for placement and continuance on furlough in any of these cases.

The furloughs were scheduled to end by July 2007 with either reinstatement or dismissal. Immediately after censure was imposed that June, the Association was advised of reinstatement offers in some cases. The AAUP staff talked with university administrative officers about potential reinstatement or an alternative resolution in additional cases. By late summer, only two of the cases known to the Association were being processed for dismissal, and final action on these cases was deferred pending further efforts to agree on a settlement.

With the cases of concern largely resolved, the Association turned its focus toward modifications in the official university policies on financial exigency and the resulting suspension or termination of faculty appointments. An Association letter, proposing

specific revisions in the 2006 procedures the board had approved, was sent in late November to the university's administrative and faculty officers. The letter emphasized the need for provisions protecting tenure rights and ensuring opportunity in a contested furlough or termination for a hearing before a body of faculty peers. The administration's reply, sent in March, was confined to expressing thanks for sharing the proposed revisions and saying that they had been carefully considered.

Southern University at New Orleans, 2007

Among the investigated universities, Southern University at New Orleans (SUNO) suffered the most from the hurricane's assault. The institution's buildings, flooded by ten feet of water, have remained unusable for three and a half years now, with temporary trailers serving as classrooms, laboratories, administrative offices, and student housing. SUNO reopened with a student body reduced by over one third and with an externally imposed curriculum that involved eliminating nineteen degree programs in the arts and sciences.

As to the faculty, fifty-five professors, thirteen with tenure, were placed on unpaid furlough. The actions were taken under a new "force-majeure" policy, adopted by the governing board of the Southern University System to supersede, at SUNO, the system's existing policy on financial exigency which largely conforms with AAUP-supported standards. The "force majeure" policy denied the faculty any significant role in determining how many would be furloughed and who these persons would be. An appeal of placement on furlough could be taken only to the administrative officers who had issued the notifications of furlough. Appeals were filed by a few tenured professors who, among other allegations, claimed that courses they were qualified to teach were being assigned to nontenured faculty. SUNO's chancellor rejected the appeals, giving no reason either for the decision to furlough the particular professor or for the rejection of the professor's appeal. The investigating body's report concluded that the furloughed professors were denied academic due process and that the actions of administrative agencies and officers fundamentally affecting academic programs and faculty status disregarded the faculty role in academic governance as set forth in the *Statement on Government of Colleges and Universities*.

Prior to the 2007 annual meeting, at which Committee A would be reporting on the SUNO investigation, the SUNO administration indicated interest in dealing with the

AAUP's stated concerns. Those concerns were discussed at a May meeting of administrators and faculty senate officers, with candid and constructive exchanges that both parties saw as a welcome step toward sound academic governance. The remaining seven unresolved cases of tenured professors were reviewed at the meeting, with particular attention to three of the cases that the AAUP staff had recommended for corrective action. The attorney for SUNO informed the group of an intention to withdraw the "force-majeure" policy after potential resolutions of the cases had been pursued further.

A May 29 letter from the chancellor informed the staff that a process to consider further reinstatements had been established and that he hoped it could be completed, and the "force-majeure" thereby ended, by the conclusion of the calendar year. With Committee A about to convene, the staff pressed the chancellor and the administration's attorney for a prompt statement identifying the procedures to be followed if a new need to release tenured faculty should arise before the lifting of "force-majeure." The attorney's law firm replied that they were not in a position to make the requested statement. Committee A informed the 2007 annual meeting that it could not "countenance the possibility of the 'force-majeure' procedures, as applied at SUNO in December 2005, being applied again," and the annual meeting imposed censure.

Over the ensuing months, two of the remaining furloughed professors have been recalled to tenured faculty positions and a third has been offered reinstatement effective next fall. The Southern University System's governing board voted in October to accept a joint administration-faculty SUNO proposal that the "force-majeure" policy be terminated, the termination became official in November, and the Association subsequently received confirmation from the chancellor that the SUNO policy on financial exigency is again the Southern University System policy that had been temporarily superseded. These encouraging developments will be reviewed by Committee A at its June meeting.

Loyola University New Orleans, 2007

Loyola University New Orleans suffered less hurricane damage than did the city's other investigated universities. Faculty and staff received salaries while the university was closed, and more than 90 percent of the students returned when it reopened in January 2006. In April 2006, the administration circulated a plan formulated in the provost's office, called "Pathways," that had the stated purpose of making the university's

operations and programs more effective in the post-hurricane city. The Pathways plan included the discontinuance of a number of academic programs, not on grounds of financial exigency (the grounds for cutbacks at the other New Orleans universities) but rather on grounds of discontinuance primarily because of educational considerations. Eliminating the programs was to result in terminating the appointments of eleven tenured professors and six probationary professors who had been reappointed for the following academic year.

The university's published procedures for program discontinuance, which are fully consistent with AAUP-recommended standards, require evaluation of proposed actions by an elected faculty body under senate-established criteria. The administration went forward with the Pathways plan without the participation of these two faculty bodies, both of which sharply criticized the plan's substance as well as the process the administration was following. Successive "no confidence" votes by the senate and by an overwhelming majority of the faculty of the university's largest college, with the latter urging postponement of board of trustees action on the plan at least until the fall, did not deter the administration from obtaining adoption of the plan by the trustees at the board's May meeting.

Notifications of termination, sent to the seventeen professors in June, informed them that they would receive a year of severance salary but would have no further teaching or other responsibilities, that they were to vacate their offices within two weeks, and that they would no longer have access to the campus or its various facilities. Some of the professors pointed out that they had already been assigned courses for the next term and that new instructors would need to be engaged to teach them.

Eleven of the affected professors, eight with tenure, filed for a hearing. Proceedings before the faculty's elected hearing body in each case took place between November 2006 and March 2007, and by May the hearing body had issued its reports on all of the cases. It found unanimously in all of them that the administration had failed to follow required procedures, had failed to relocate the professor in an available suitable position, and, regarding those with tenure, had failed to provide adequate severance salary. With respect to all of the tenured professors, the hearing body recommended reinstatement.

In June, with the administration not yet having responded to the hearing body's report and with the Association's investigators having concluded that the administration had

effectively dismissed the professors summarily, thereby violating the 1940 *Statement of Principles on Academic Freedom and Tenure*, the 2007 annual meeting imposed censure.

The response to the hearing body came in a letter late in June from the university president to the body's chair, declining the body's recommendations in each case. Several of the professors initiated litigation. Depositions were taken this past fall and winter, and as of this writing dates for trial have yet to be scheduled. The Association's staff had written to Loyola's president in early October, encouraging settlement discussions, and a resolution of the senate's executive committee, adopted shortly afterward, urged all parties at the university to work to remove the AAUP censure "with all deliberate haste." "While we hope one day to be removed from AAUP's censure list," the president stated in a subsequent letter to the staff, "our focus for now will be on rebuilding and reshaping our university."

Tulane University, 2007

Tulane University's uptown campus, the location of most of its colleges and schools, was able to reopen in January 2006 despite substantial flooding brought on by Hurricane Katrina. The downtown medical school and university hospital, flooded much more extensively, were not able to reopen completely until the following fall.

The university's governing board, with concurrence of the president's Faculty Advisory Committee, had acted on December 8 to declare a state of financial exigency. On the next day notifications of release were issued to approximately two hundred faculty members, most of them clinical faculty in the medical school. The two hundred included fifty-eight with tenure, thirty-four of them in the medical school, eighteen in the engineering school, and six in the business school.

The AAUP investigators found that the medical school decisions were made by the vice president for health sciences with little regard for tenure and often without having informed the professor's department chair. Only one of the medical school cases was pursued to a grievance, and the school's grievance committee did not question the existence of financial exigency and decided that evaluating the criteria for termination was beyond its scope.

A grievance regarding the engineering school was pursued much further, although it too eventually failed. The largest department in the school that was notified of discontinuance, mechanical engineering, complained as a body to the Senate Committee on Faculty Tenure, Freedom and Responsibility (FTFR), arguing that the department was self-sustaining and nationally competitive. The administration declined to have anyone present at the hearing, submitting a written statement that commented on the financial situation in general terms without explaining why mechanical engineering was selected for closure. The FTFR Committee found that the discontinuance could not have been for financial reasons and that the administration had made no effort to relocate the affected professors in other suitable positions. It recommended retaining the department as a unit pending an evaluation of its academic performance. The case then went to Tulane's governing board, which scheduled a hearing at which both sides could argue and offer rebuttal. The board's decision, issued a fortnight later, was concurrence in the administration's position on all counts.

The investigating body concluded that the administration acted in disregard of the 1940 *Statement of Principles* and derivative AAUP-supported standards in the following ways: declining to provide reasons for selecting particular programs and faculty appointments for termination; declining to seek relocation of released professors in other suitable positions; and in releasing professors making no distinction, except for providing notice or severance salary, between tenure and nontenured members of the faculty. On the basis of these conclusions, the 2007 annual meeting imposed censure.

Following the appearance of the AAUP report with its critique of certain Tulane University policies and procedures, the University Senate established a Special Committee on Interim Principles and Procedures for Faculty Terminations Due to Financial Exigency. The principles and procedures apparently were to be "interim" because Tulane's president had expressed unwillingness to ask the governing board to change the provisions on financial exigency before the existing state of financial exigency was ended. The Special Committee formulated a draft document that the full senate approved at a meeting last October 1. Its provisions stressed the need to protect tenure and particularly to proceed from nontenured to tenured faculty in determining the order of layoff. They also specified, on the matter of relocation in another position, that released tenured faculty will have a preference over any other applicants.

In December, the governing board approved a recommendation of the president “end the state of financial exigency.” As of March, the senate had not yet addressed the matter of including the “interim” provisions in the Faculty Handbook as official university policy.