

UNC Faculty Assembly September 17, 2010

The UNC Faculty Assembly held the first meeting of the 2010–2011 year on September 17, 2010 at the UNC General Assembly Building in Chapel Hill.

1 Resolution of Thanks to Erskine Bowles

The assembly passed a resolution of thanks to President Erskine Bowles by acclamation.

2 President's Remarks

Erskine Bowles, President, University of North Carolina

Bowles said that this was the last time he would address the Faculty Assembly. He said that presidents and chancellors come and go. The new president is terrific, but faculty make the difference. Students come to the University because of the faculty. Bowles said he has learned a lot from the faculty. He has tried to do the right thing on compensation. He will do anything he has to do to protect faculty and not to cut salaries (i.e., furloughs). He asked the Assembly to give the new president all the support possible because he will need it. Next year will be tough, but the faculty will be OK. Bowles added that there will probably not be furloughs.

3 Budget Update

Ernie Murphrey, Vice President for Finance

The recession ended in 2009 according to economists, but the aftermath is huge. Collections and revenue have dropped and are significantly below projections. There are three significant state budget problems: expiring temporary taxes (\$1.3 billion), expiring federal stimulus funds (\$1.6 billion), and a weakened economy (\$0.3 billion).

The Governor has asked Universities to submit 5% and 10% budget-cut scenarios. She asked other state agencies (but not the Universities) to submit 15% scenarios also. Campuses may consider more drastic cut scenarios in order to find options for inclusion in the 5% and 10% scenarios.

State budget request prescribes three categories: continuing operations, academic salary increases (we are unlikely to get any of these), expansion/improvement items (e.g., new and expanded programs, capital improvements).

The Board of Governors role is to present comprehensive financial plans to General Assembly, to modify plans based on resources made available by legislature, to establish annual budgets for constituent institutions, and to advocate for the University System.

2011–2013 Budget: The campuses will work directly with the NC Office of Budget and Management on the budget. The campuses submitted budget priorities in September. The General Administration will review the priorities in September–October. The chancellors and affiliates will

have a budget discussion in September–October. The Board of Governors will hold budget workshops in October–November, and the final budget recommendations will be in November.

The General Administration try to protect the academic core as much as possible. The problem is the administration has made significant budget cuts. We may have programatic cuts, but we do not want across the board cuts. Hopefully, we will look at programatic cuts on campuses.

The tuition increase revenue (after taking out financial aid contribution) reduced this year's flex budget cuts to \$26 million. The legislature deserves thanks for this because it allowed us to avoid severe cuts.

Questions

Q: One of the possible responses could be the elimination of nonproductive programs and re-assigning faculty. Would that save any money? Chancellors can eliminate faculty from eliminated programs, would that not be the only way to save money when we eliminate programs?

A: We have to do everything we can to protect our faculty. We have not seen this happen very many times.

Q: We have been responding the the baby boom echo for the past several years. Has the decline of enrollment due to the end of the echo been considered in planning?

A: Yes.

Q: Is there somewhere we can review and provide feedback on budget cut plans?

A: Campuses have submitted expansion budgets, but overall budgets are not due until November. Campuses should have methods for faculty feedback on their budget plans.

Q: Should we be advising our colleagues that there will not be any salary increases in this budget?

A: We have low expectations for the size of any increase. Salary increases from state funds are unlikely, but there could be something that is put together. We have broadened the authority to use non-state funds for salary increases.

Q: Can we carry over funds between budget years?

A: The legislature has given us more ability to carry over funds between budget years. Campuses probably do not want to carry over a lot of funds this year because legislature will be looking at these funds for next year (for other uses). Much of the one-time money has come because we did not have the medicaid cuts we anticipated and campuses planned for more significant budget cuts than we received this year. Universities can carry forward some funds while other state agencies cannot do that. Most campuses are using carry-forward money wisely.

Q: Cuts during the year with returns at the end of the year can take money from academic programs and put them into other areas. How can we protect the academic core?

A: Campuses need to use their money wisely.

Q: Have we looked at increasing F&A (overhead) funds to increase revenue?

A: F&A rates are negotiated by campuses with the federal government. We do not have control over this.

4 Legislative Update

Anita Watkins, Vice President for Governmental Relations

There is an anti-incumbent mood, and that could result in changes in the Legislature. We could end up with a new Speaker of the House and leadership. We will be playing a lot of defense this year.

Budget: Our priority is protecting academic core. The budget process is a five-part dance: our (Board of Governor's) budget, the Governor's budget, the house budget, the senate budget, the conference committee budget. In the end, the Governor may not sign the final budget. Higher education, community colleges, and K-12 comprise 63% of the NC budget.

Our highest priority is to retain statutory authority to set tuition rates and maintain funds on campuses. If we lose this, the legislature will set tuition, and tuition money will go into general fund.

Financial Aid: Funding for financial aid comes from escheats fund (unclaimed money), which has become depleted. This year the state used one-time money from the lottery for financial aid. We have had increases in lottery revenues, but not enough to fully fund financial aid.

Enrollment increase money: Enrollments have started to flatten out. Enrollment funding has been tied to retention and graduation. This will impact funding for campuses.

F&A Funds: F&A (grant overhead funds) is a sensitive issue. Some legislators believe that we can rely on these funds to offset budget cuts, but F&A funds are dedicated money. We must educate our new legislators about how we obtain and use funds.

State Health Plan: There has been a commission studying this.

Open Records Law: The open records law has changed significantly. Now much more information must be released including salary history and reason for dismissal. What do we do when there are no records for someone? We are currently studying this issue.

Other Items: We have a separate, non-budget agenda. Last year we had a bill to retain energy savings. The Governor did not sign it, but it still went into effect. Campuses should feed recommendations for the legislative agenda through campus processes to GA to be put on Board of Governors agenda.

Q&A

Q: Will we be getting training on new personnel rules (to address the open records law)?

A: There should be some guidance for campuses. Information will be sent to Faculty Assembly delegates.

Q: What about retroactive portion (of the open records law)?

- A: This was not the intent of the legislation. Information will only be released if requested.
- Q: Would budget money to catch up lowest salaries be considered?
- A: Salaries are a sensitive issue. We have tried to keep salary guidelines as broad as possible to give campuses flexibility. Salary increases are highly unlikely. Legislators are very sensitive to the issue of giving salary increases in tough budget times.
- Q: How do lottery funds work?
- A: Historically funds are used for financial aid among other items.
- Q: There has been a discussion of the return of lost furlough funds. Is that still ongoing?
- A: There are concerns that it would cost more than the savings we received from the furlough. The Governor has said that they would look for other ways to compensate employees.
- Q: Are expansion budgets tied to retention and graduation rates?
- A: Enrollment budgets are tied to retention and graduation rates, not expansion funds.
- Q: Does the new law on dismissal (open records law) include denial of tenure?
- A: We are not sure, but that is a concern. Denial of tenure could be interpreted as an end of a contract and not dismissal.
- Q: What happens to the furlough authority expires on June 30, 2011? Will this be renewed and will faculty and staff be treated differently than other state employees?
- A: This was essentially a pilot program, and this could be renewed or extended this year. We are not sure what will happen under a new president.
- Q: Can you tell us how we can help you with the legislature?
- A: Faculty have tremendous expertise. One example is the concerns about the SBI lab. We have experts on our campuses who can be used to help with this. This is one way we can show lawmakers some of the the University's value to the state. This is one way for faculty to be engaged with legislature. Other things include briefing sessions for legislators. One example is our interface with the military. We are looking for new ways to create faculty relationships with legislators.
- Q: What did you say to legislator who did was not aware oft the difference between University and K-12 tenure?
- A: We took an expert to the legislator to explain the tenure and promotion process.

5 Academic Updates

Alan Mabe, Senior Vice President for Academic Affairs

We do a biennial degree program review. We set expectations for number of degrees produced and look at program productions. We understand the importance of key programs and departments (example a physics program that graduates two people each year) to a campus. New programs and

discontinued programs are part of a regular process that is not strange, unusual, or unexpected. Now we have tough circumstances, though.

In this decade our enrollment projections were off, but we were funded for all of our students through our funding formula. We have to get through the tough times and preserve the good things about our system.

The list of programs that do not meet the Board of Governors standards will be released to campuses this month. Campuses will look at these programs and decide what to recommend. Campuses are beginning to think about discontinuing programs. (He specifically mentioned the ECU Board of Trustees.)

UNC Tomorrow discussed the importance of liberal arts. Campuses have traditionally protected liberal arts programs such as philosophy and physics. We have to keep explaining the importance of these programs to the University.

It is not unheard of for faculty in programs that are eliminated to get leave for a year to retool and join another department.

Program review and the identification of low-productivity programs is an ordinary process, but it may be mixed up with some tough budget decision making. Sometimes consolidation of several programs makes sense. Discontinuing some programs helps our case to the Board of Governors to add new programs.

What is the relation of enrollment, performance, and funding? We have 61,000 more students in the last decade. Do we need to continue to increase? A retention increase will have a large impact on enrollment and funding. Quality is important, too. There are many ways to increase enrollment. We may also see increases in community college transfers. All growth goes into enrollment formula. The legislature has sent signals that they may not fully fund our enrollment formula. We need to be very careful with enrollment growth. Campuses will be rewarded for success with retention and graduation.

We are seeing a leveling off in high school graduates, but our projections show that we will see an increase of about 50,000 students in the next decade. Much of our growth is due to migration to NC from other states. We expect continued demand for the University. We want to add eight more years to our enrollment plan to bring our plans to ten-year plans.

Targets for baccalaureate production are trendy. Some reports (e.g., a recent report from the Bill and Melinda Gates Foundation) have recommended 60% of population should have baccalaureate degree. UNC has not incorporated this recommendation into its planning. Instead, we have asked campuses to project baccalaureate production and set goals for it. We often forget the economic impact due to the value of having a college diploma.

Q&A

Q: What happens to UNC Tomorrow when the new President takes over?

A: We should ask the new president, who was on the UNC Tomorrow Commission. Any new president will have new ideas, but we have institutionalized many parts of UNC Tomorrow. Those things are there for the duration.

- Q: Where might we turn around budget talk to increase foreign and out-of-state enrollment? These students bring more money and knowledge/skills.
- A: The only limit currently is the 18.5% cap on out-of-state freshman enrollment. Increases in out-of-state student tuition has been discussed. It would be politically disastrous to promote out-of-state and international students to the legislature because they would think we are displacing NC students.
- Q: What happens when programs that support general education are eliminated. Where would faculty be tenured when program is discontinued?
- A: Faculty are tenured in a department, and decisions are made on that level.
- Q: President Bowles has a fund used to recruit and retain excellent faculty. Will this continue?
- A: We have \$10 million in this fund, and we expect it to continue. We have about \$400,000 available right now. The other \$600,000 is committed to support faculty.
- Q: Can you discuss post-secondary certification?
- A: We are partnered with community college system. We are working on baccalaureate part and community college system in working on certificates (e.g., welding certificates) so we have a reasonable projection of the number of credentials we will award.
- Q: Why is the argument of fair value never used to justify faculty (to the legislature and others)?
- A: President Bowles has used this argument very well. We came out pretty well this year. We may get a lot of new legislators, and we need to educate them.
- Q: What happened with the high school initiative and why was it so disruptive?
- A: Online courses are offered to high school students. Community colleges offer courses to high school students, and we have early college high schools. The legislature had previously limited non-online courses to STEM disciplines. This year we were told very late that only STEM courses could be used for the online program. We had to cancel courses that did not fit the legislature's criteria. These courses are funded through K-12 funds, not the UNC enrollment formula. The legislators argued that the students were double-funded, but we argued differently. We are working on a better funding structure, and it should be back next year.
- Q: Has there been discussion at GA about requiring Master's programs to be completed in two years?
- A: Not to my knowledge.
- Q: How are second majors counted for low-enrollment programs?
- A: We count double-majors. Some campuses only identify one major while the students are enrolled. We count all majors when students graduate. There will be more information on this distributed.

6 Old Business

Resolutions passed last year and the results are posted on the Faculty Assembly Web page, <http://www.uncfacultyassembly.org/resolutions.html>.

7 Honoring Past Chair Judith Wegner

Resolution

A resolution honoring and thanking past Faculty Assembly Chair, Judith Wegner was passed in April 2010. This resolution was presented to Wegner, and she was formally recognized for her service.

Judith Welch Wegner Shared Governance Fund and Award

The Judith Welch Wegner Shared Governance Fund and Award has been established to support the work of Faculty Assembly and endow shared governance.

8 Business Session

Academic Freedom Resolution

The Faculty Assembly passed a resolution in support of academic freedom (included at the end of this report). This resolution suggests changes to the UNC Code to protect the academic freedom of faculty. There is a perception that federal courts (*Garcetti v. Ceballos* 2005) are limiting the constitutional protection of faculty and that more institutional protection is necessary to offset this.

9 Small Group Discussions

The Assembly broke into small groups for discussion of four important topics. Afterward each group presented a brief summary to the entire Assembly.

Furloughs

- The legislature should be careful with furloughs.
- How do we highlight the impact of furloughs? We must emphasize that furloughs have consequences, for faculty and staff but also for the University. Furloughs must result in the loss or reduction of some University function.
- In the future we should explore the possibility of voluntary furloughs (i.e., unpaid leave) before having mandatory furloughs.

Budgeting Plans

- TAs/RAs should get in-state tuition.
- Look at evaluation of funding formulas. Include startup costs.
- Every campus should have a budget advisory committee that includes faculty. The Assembly should have a resolution in support of this.
- The concepts in the Faculty Assembly Academic Core statement (see Resolution 2010-4 at <http://www.uncfacultyassembly.org/resolutions.html>) should be communicated with campuses.
- The Faculty Assembly should have an oversight committee for academic core issues.
- There should be a GA-level workload policy.
- Our campuses need another bond package.

Workplace Innovation

- Faculty Assembly should take on workplace innovation as a task to make a positive impact.
- We should look at what type of technology is beneficial to us before buying new software packages.
- Academic policies should be communicated between campuses. This may save time when writing and revising campus policies
- We must identify administrative flexibilities.
- The Faculty Assembly should post information that can be used as a resource for faculty and administrators.

Employee Health Plan

- The issue is that the health plan for University employees is tied to all state employees. It is unlikely that the University will be able to leave the state health care plan.
- It is easy to keep employees' contributions zero by lowering the quality of our benefits.
- It is unheard of in other university systems for no employer contribution to spousal and family health care.
- The legislature does not consider the state contribution to the health care plan to be part of the employee's overall contribution to employee benefits. They should consider both employer and employee contribution for the entire family's plan.
- BCBS operates the State Health Plan differently than any other plan. The risk is not on the insurance company. There is an incentive to inflate costs because they are compensated using a cost plus fee model. There is no economic incentive for employees to participate in innovative plans.

- We should compare our income to the incomes of our peers by looking at total compensation package (including benefits) instead of just salary. Problem: Benefits data are hard to obtain.
- **Recommendation:** Put together a blue ribbon panel using university faculty and outside experts to study the State Health Plan. This must include an effort to make more efficient use of state resources.
- **Recommendation:** Have forums on overall compensation including health care on each campus. Develop a list of talking points for campus discussions.
- **Recommendation:** Consider not paying insurance administrator on a cost plus fee basis.

A resolution endorsing these health plan recommendations was passed by the Faculty Assembly.

10 Adjourn

The meeting adjourned at 3:30 p.m. The next meeting of the UNC Faculty Assembly will be on November 12, 2010. Please contact a Faculty Assembly representative if you have any questions or concerns that should be addressed at the meeting.

Respectfully submitted,
Mark Sprague

Resolution on Academic Freedom

Whereas, academic freedom is fundamental to the University's goal of advancing and transmitting knowledge; and

Whereas, academic credentials and quality are evaluated by scholarly peer review; and

Whereas, academic freedom also encourages "best-interest" decision making and the creation of a safe and open learning environment by enabling faculty - who are on the frontline of a variety of academic and community issues and are therefore critical players in making decisions that are in the best interest of both the institution and the community - to be fully involved in institutional decision-making; and

Whereas, faculty involvement in institutional decision-making and implementation is essential to ensuring the success of institutional initiatives; and

Whereas, students, faculty, and administration are all best served if faculty are free to express themselves on institutional and other matters without institutional control or intrusion; and

Whereas, section 600 of *The CODE of the University of North Carolina* has long expressed institutional support for academic freedom by stating that academic freedom is "essential" to "the transmission and advancement of knowledge and understanding;" and

Whereas, it is the policy of the University (section 601 of *The CODE*) "to support and encourage full freedom, within the law, of inquiry, discourse, teaching, research, and publication for all members of the academic staffs of the constituent institution;" and

Whereas, there is a perception that federal courts (*Garcetti v. Ceballos* 2005) are currently abridging the constitutional protection of faculty so that a heightened degree of institutional protection is now required, not as a matter of law, but as a principle vital to the effective functioning of institutions of higher learning; now therefore

Be it Resolved that, on behalf of faculty in the University of North Carolina system, and in light of recent threats to academic freedom, the UNC Faculty Assembly reaffirms the *UNC CODE* statements regarding academic freedom, and adopts the definition and standards of academic freedom outlined in the following "Statement on Academic Freedom."

Be it Further Resolved that the Board of Governors, the General Administration, and the constituent institutions of the UNC System are requested to incorporate an understanding of the "Statement on Academic Freedom" into the *UNC CODE* and other relevant policies and practice of the institution.

Statement on Academic Freedom

Academic freedom is the liberty that faculty members must have if they are to practice their scholarship in accordance with the norms of that profession. Although some aspects of academic freedom are also protected by the First Amendment to the United States Constitution, academic freedom exists, independent of any external protection, as a basic prerequisite for universities to fulfill their mission to our society. Academic freedom is most commonly applied to individual faculty members, but remains first and foremost a professional prerequisite of faculty members as a group.

Academic freedom includes the following specific freedoms:

- *Freedom of Research and Publication.* Within the broad standards of accountability established by their profession and their individual disciplines, faculty members must enjoy the fullest possible freedom in their research and in circulating and publishing their results. This freedom follows immediately from the university's basic commitment to advancing and transmitting knowledge and understanding. Restrictions on research and publication should be minimal and unobtrusive.
- *Freedom of Teaching.* This freedom is an outgrowth of the previous one. Faculty members must be able not only to disseminate to their students the results of research by themselves and others in their profession, but also to train students to think about these results for themselves, often in an atmosphere of controversy that, so long as it remains in a broad sense educationally relevant, actively assists students in mastering the subject and appreciating its significance.
- *Freedom of Internal Criticism.* Universities promote the common good not through individual decision or bureaucratic calculation, but through broad-based engagement in the scholarly endeavor. Faculty members, because of their education and their institutional knowledge, play an indispensable role as independent participants in university decision making. By virtue of this role, they are entitled to comment on or criticize University policies or decisions, either individually or through institutions of faculty governance. Academic freedom should not be used as a means to subvert normal professional evaluations.
- *Freedom of Participation in Public Debate.* Both within and beyond their areas of expertise, faculty members are entitled to participate in public forums and debates, with all of the same rights and privileges accorded to all other residents of the state of NC and without fear of institutional discipline or restraint, so long as they are not acting or speaking for the University – as specified in section 601(1) of *The UNC Code*.

Because academic freedom derives from the institutional structure of American universities, it may be qualified in various respects. However, when academic freedom is so qualified, it is of critical importance that restrictions be drawn up and implemented with substantial faculty input, in such a way as to minimize infringement of academic freedom. In large part, this goal should be accomplished by ensuring that institutional discipline of faculty members is in proportion to the severity and persistence of misconduct, and by insisting that alleged offenses be handled with appropriate standards of due process, including the judgment of competent peers. For the rest, however, it must be recognized that contemporary threats to academic freedom are constantly evolving. This University — its faculty, administration, and students alike — must exercise constant vigilance in resisting such threats, whether they arise within the university or from outside.

Background and Discussion

Bibliography. The conception of academic freedom articulated in this document derives chiefly from two statements issued by the American Association of University Professors (AAUP): the 1915 *Declaration of Principles on Academic Freedom and Academic Tenure* and the 1940 *Statement of Principles on Academic Freedom and Tenure*, with the 1970 Interpretive Comments on this statement. These fundamental statements are now supplemented by "Protecting an Independent Faculty Voice: Academic Freedom after *Garcetti v. Ceballos*," *Academe* 95 (Nov./Dec. 2009) 67-88. (All three documents are available on-line at the AAUP website.) The formulations of this conception as presented here were crafted by faculty at the University of Michigan and much of the wording in this resolution was taken from their resolution. Their work was heavily influenced by Matthew W. Finkin and Robert C. Post, *For the Common Good: Principles of American Academic*

Freedom (Yale Univ. Press, 2009), which also discusses at length cases arising under the AAUP principles. For contemporary sources of pressure on academic freedom, the authors of this document relied primarily on Robert O'Neil, *Academic Freedom in the Wired World: Political Extremism, Corporate Power, and the University* (Harvard Univ. Press, 2008). Stephen H. Aby and James C. Kuhn IV, *Academic Freedom: A Guide to the Literature* (Greenwood Press, 2000), contains an extensive, fully annotated bibliography. A much longer (but unannotated) bibliography is Terrance Karran, *Academic Freedom: A Research Bibliography* (2009), available at <http://eprints.lincoln.ac.uk/1763/>.

Scope of statement. For purposes of this statement, faculty members are the members of the University of North Carolina System represented by the UNC Faculty Assembly, as defined in the *Charter of the University of North Carolina Faculty Assembly*. Although the AAUP's 1940 statement associates academic freedom with tenure, it needs stress that academic freedom applies equally to all faculty members, regardless of rank or tenure. However, those faculty who serve the University as senior officers or administrators, or who are on their immediate staffs, are normally expected to support publicly the University's policies, procedures, goals, and programs; therefore they have more limited freedom to speak about these matters without institutional restraint or discipline. Nevertheless it is critical that even such persons are protected when speaking the truth in matters that require whistle blower protection.

Other non-faculty claims to academic freedom. The present statement, although applicable only to those faculty and professional staff represented by the UNC Faculty Assembly, does not preclude other claims. Above all, the University of North Carolina itself, as a system of institutions of higher learning, has an independent claim, long recognized both in national and state law, to institutional academic freedom and autonomy, the freedom to budget, hire, select students, determine curriculum, set salaries, and so on. Further, by virtue of their participation in the process of education, members of the University community who are not represented by the Faculty Assembly, such as part-time lecturers, adjunct teachers, clinicians, researchers, and students, also have legitimate claims to academic freedom, by analogy with the present statement.

Academic freedom and free speech. This statement adopts the stance of the 1915 AAUP *Declaration*, which describes academic freedom not as an individual protection from any and all constraints, but rather as the freedom to pursue a scholarly profession in accord with the standards of that profession. As the *Declaration* states, academic freedom is meant to defend "not the absolute freedom of utterance of the individual scholar, but the absolute freedom of thought, of inquiry, of discussion and of teaching, of the academic profession." See Finkin and Post, 38-39. In this respect, academic freedom is distinct from the constitutional right to free speech as guaranteed by the First Amendment to the Constitution. However, in some instances modern courts have construed the right to free speech as protecting aspects of academic freedom, particularly within public universities. The present statement is occasioned, in part, by a perception that federal courts are currently abridging the constitutional protection of faculty, so that a heightened degree of institutional protection is now required. See O'Neil, 43-77, and also the AAUP's 2009 article cited above, which makes the point that, because of a number of recent judicial decisions permitting university administrators to treat faculty members on the model of ordinary employees, "the case for academic freedom at both public and private institutions [should now be made], not as a matter of law, but as a principle vital to the effective functioning of institutions of higher learning."

Professional standards of accountability. As has often been observed, the AAUP's conception of academic freedom accords with normal practice at American universities, where faculty members are, for instance, hired and promoted in large part based on evaluations by their peers, including faculty members at other institutions.

Qualifications on academic freedom. Assertions of academic freedom can come into conflict with other basic institutional values of a modern university. Academic freedom is not a defense against allegations of professional misconduct in research or teaching, nor does it provide protection against illegal or otherwise justifiably prohibited conduct or speech, particularly if it significantly

disrupts teaching, research, administration, or other authorized activities on the campus. Academic freedom would not, for example, provide a defense to harassment of a student, nor would it in itself justify offensive speech in a classroom that is irrelevant to the subject matter being taught. Further, although academic freedom entails a high degree of faculty autonomy in organizing and teaching courses, it may also be limited by the requirements of curricula and of responsible teaching and collegiality, within an environment of tolerance and mutual respect. For example, as the AAUP acknowledged in its 1940 *Statement*, faculty members "should be careful not to introduce into their teaching controversial matter which has no relation to their subject." Finally, academic freedom is not inconsistent with reasonable institutional regulation of such areas as the performance of externally sponsored research, the conduct of research on human subjects, the use of the University's logo and trademarks, the deposit of faculty research in computer archives, and so on; but such regulations must be tightly defined so as to ensure that they are justified by important university policies, that they do not reflect hostility to particular viewpoints, and that they restrain academic freedom no more than is necessary.

Academic freedom and disciplining faculty members. The primary thrust of the AAUP's statements on academic freedom is that faculty members are not ordinary employees subject to the usual discipline of the American workplace. Rather, because of the nature of the educational enterprise, they are more accurately described as "appointees" (1915 *Declaration*) or "officers" (1940 *Statement*) of the institutions they serve; therefore administrative retaliation for the exercise of academic freedom is impermissible. In accord with this view, faculty members play a large role in disciplinary procedures at the University; they provide the sole membership of grievance and hearing panels and they also comprise the primary evaluators in tenure and/or promotion decisions and in cases involving removal of tenure, demotion, and dismissal of faculty members (*UNC Code* sections 603, 604, 605, and 607). In fulfilling this function, faculty members, when hearing and deciding cases, are expected to know and implement the present statement; and the institutions of faculty governance should also periodically review and update this statement so as to provide it with currency. In addition, the issue of whether faculty disciplinary proceedings across the University adequately protect academic freedom should be the subject of thorough consideration as current grievance and disciplinary procedures are revamped.

Threats to academic freedom. These threats, which are described and documented at length in O'Neil's (2008) book, are constantly evolving as universities respond to a changing world. For instance, over the past several decades various universities have experienced an internal drift toward political orthodoxy and intolerance of dissent; this drift should be stoutly resisted, even as the bounds of orthodoxy themselves shift. Recurrent as well are the conflicts between a university's claims to autonomy and authority on the basis of its academic freedom, and faculty claims to independence on the basis of their own freedom. However, larger long-term dangers to academic freedom are now emerging, and they are often less easy to recognize and diagnose. These dangers include, for instance, increasing intrusions (judicial, administrative, and legislative) on independent faculty research; controversies stemming from the ubiquity of modern media, in particular the internet; the attempts of corporate sponsors to control university-based research; the efforts of self-appointed watchdogs to harass individual teachers through websites and blogs; and demands that universities demonstrate political "balance" when appointing faculty. A great deal will depend on precisely how this and other universities adapt to their changing environment without losing basic institutional values such as academic freedom. When these values are confronted by fresh challenges, all members of our educational community must take care not only to understand but to defend them vigorously.

Suggested Revisions to *The CODE of the University of North Carolina*

- Incorporate the definition and standards of academic freedom outlined in the "Statement on Academic Freedom" into *The CODE* 601 "Academic Freedom and Responsibility of Faculty".
- Revise *The CODE* 604 section B.(a), as well of the quote of this statement in UNC Policy 101.3.1 section II.A, to read as follows:

In no event shall a decision not to reappoint a faculty member be based upon (a) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution, **or by the principles articulated in the Statement on Academic Freedom, found in The CODE 601.**

- Revise *The CODE* 605 section 4 to read as follows:

A reconsideration procedure shall be provided that affords the faculty member whose employment is to be terminated a fair hearing on the termination if the faculty member alleges that the decision to terminate was arbitrary or capricious **or based upon (a) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution, or by the principles articulated in the Statement on Academic Freedom, found in The CODE 601, or (b) the faculty member's race, color, sex, religion, creed, national origin, age, disability, veteran's status, or other forms of discrimination prohibited under policies adopted by campus Boards of Trustees, or (c) personal malice. For purposes of this section, the term "personal malice" means dislike, animosity, ill-will, or hatred based on personal characteristics, traits or circumstances of an individual. See Policy 101.3.1 II.B. for details.**

- Revise *The CODE* 607 section 3 to read as follows:

"Grievances" within the province of the committee's power shall include matters directly related to a faculty member's **academic freedom**, employment status and institutional relationships within the constituent institution, including matters related to post-tenure review. However, no grievance that grows out of or involves matters related to a formal proceeding for the suspension, discharge or termination of a faculty member, or that is within the jurisdiction of another standing faculty committee, may be considered by the committee.

- Revise UNC Policy 101.3.2 section I to read as follows:

The Purpose of the Grievance Procedure

Section 607 of *The Code* provides a process for faculty members to seek redress concerning **academic freedom and** employment related grievances. The function of the grievance procedure is to attempt to reach a consensual resolution of the dispute and, if that fails, to determine whether the contested decision was materially flawed, in violation of applicable policies, standards or procedures. The grievance process is not intended to second-guess the professional judgment of officers and colleagues responsible for making administrative decisions.