



June 13, 2017

VIA ELECTRONIC MAIL AND USPS

Dr. Elizabeth L. Hillman
President
Mills College
5000 MacArthur Boulevard
Oakland, California 94613

Dear President Hillman:

Thank you again for your May 31 letter responding to ours of May 25. This letter is occasioned by our learning that on June 6 Dr. Chinyere Oparah, provost and dean of faculty, notified as many as eleven faculty members of the termination of their appointments, effective July 1, 2017, pending final approval by the board of trustees. We understand that at least seven of the faculty members so notified hold appointments with indefinite tenure and that at least two others, one full-time and one less than full-time, are in the midst of three-year term appointments. Eight affected faculty members have thus far sought the advice and assistance of the American Association of University Professors.

As we noted in our letter, because the AAUP has long acknowledged that tenured appointments may be terminated because of a demonstrably bona fide condition of financial exigency, our Association has developed procedural standards designed to protect academic freedom and tenure when terminations of appointments occur under such a condition. As our letter also pointed out, these standards are set forth in Regulation 4c of the *Recommended Institutional Regulations on Academic Freedom and Tenure*. They also apply to full-time non-tenured appointments that are terminated prior to their expiration.

We are concerned that the actions taken by the administration in terminating these non-tenured and tenured appointments are not consistent with the above-cited standards. And while we recognize that the college's policies, as you noted, "need not" comply with AAUP-recommended academic standards, we would be remiss if we did not point out that recent years have seen multiple instances in which institutions citing financial stringency have terminated faculty appointments. In several of these instances, the administration disregarded key Association-supported procedural standards, and the AAUP was compelled to conduct investigations and impose censure (see the enclosed case reports of investigations at National Louis University [2013], Felician College [2015], and the College of Saint Rose [2016]).

We appreciate your assurance that you regard collaborative work with faculty leaders to address the financial difficulties of the college to be “among [your] most important . . . priorities.” As our letter noted, Regulation 4c(1) of the *Recommended Institutional Regulations* requires that the faculty play a central role in determining that a condition of financial exigency exists and that “all feasible alternatives to termination of appointments have been pursued.” The Faculty Executive Committee provided a list of alternatives that it believed would obviate the need to terminate faculty appointments, thus calling into question whether the declaration of financial emergency was demonstrably bona fide. We are not aware that the administration has provided a rationale for declining to consider these alternatives to terminating faculty appointments.

Regulation 4c(1) also requires that “[j]udgments determining where within the overall academic program termination of appointments may occur involve considerations of educational policy, including affirmative action, as well as of faculty status, and should therefore be the primary responsibility of the faculty or of an appropriate faculty body.” We understand Provost Oparah alone determined which faculty appointments to terminate and did so without involving the Appointment, Promotion, and Tenure Committee. On May 22, members of that committee wrote the provost to convey their concerns over this process, calling it “problematic” and observing that it “raised questions about the status of tenure at Mills.” We share the committee’s concerns.

Regulation 4c(3) provides that affected faculty members be afforded a faculty hearing, in which the following issues, among others, may be raised:

- (i) The existence and extent of the condition of financial exigency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of a faculty committee in a previous proceeding involving the same issue may be introduced.
- (ii) The validity of the educational judgments and the criteria for identification for termination; but the recommendations of a faculty body on these matters will be considered presumptively valid.
- (iii) Whether the criteria are being properly applied in the individual case.

As we noted in our previous letter, the appeal procedures for faculty layoffs in the Mills College faculty handbook fall short of these Association-recommended procedural standards by severely restricting the issues that may be raised in such proceeding.

Under Regulation 4c(5), “[b]efore terminating an appointment because of financial exigency, the institution, with faculty participation, will make every effort to place the faculty member concerned in another suitable position within the institution.” The faculty handbook stipulates that the president must “make a demonstrated effort to find alternative employment for faculty at the College” before issuing layoff notices. While this policy is generally consistent with Regulation 4c(5), we are not aware of such efforts having been made.

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Our letter also noted that the Mills College faculty handbook is silent regarding the amount of severance salary to be paid to faculty members whose appointments are terminated. We understand that faculty members were notified on June 6 that at least six months of severance salary will be provided, which falls short of the amount specified in Regulation 8. That regulation assures tenured professors and nontenured faculty members with two or more years of full-time service “at least” a year of notice or severance salary, unless moral turpitude is involved.

The information in our possession concerning the termination of faculty appointments has come to us exclusively from faculty members at Mills College, and we realize that you may have additional information that would contribute to our understanding of what has occurred. We would accordingly welcome your comments. Assuming that the foregoing account is essentially accurate and that the board of trustees will approve the termination of these appointments, we would urge the administration to afford all affected faculty members a faculty hearing that comports with the above-cited Association-supported standards. In such a procedure, faculty members will be able to raise the kinds of concerns enumerated above. We would further urge the administration to make a “demonstrated effort” to find alternative positions elsewhere in the institution for these faculty members and, should those efforts not succeed, to provide them with severance salary no less than what is required under Association-supported procedural standards.

We look forward to your response.

Sincerely,



Hans-Joerg Tiede
Associate Secretary

Enclosures by electronic mail

cc: Ms. Katie Sanborn, Chair, Mills College Board of Trustees
Dr. Chinyere Oparah, Provost and Dean of the Faculty
Professor Roger Sparks, Chair, Faculty Executive Committee
Professor Mary-Ann Milford, Chair, Appointment, Promotion and Tenure Committee
Professor Priya Shimpi, Appointment, Promotion and Tenure Committee
Professor Jared Young, Appointment, Promotion and Tenure Committee
Professor Diane Ketelle, President, Mills College Chapter of the AAUP
Professor Alexander Zukas, President, California Conference of the AAUP
Professor Henry Reichman, Chair, Committee A on Academic Freedom and Tenure