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## Dealing with Online Harassment in Collective Bargaining Environments

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*AAUP*

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September 7, 2017

### **Taking a Stand Against Harassment, Part of the Broader Threat to Higher Education**

In recent months a disturbing trend has emerged in American higher education. At a variety of institutions—public and private, large and small—individual members of the faculty have been singled out for campaigns of harassment in response to remarks they have made, or are alleged to have made, in public speeches, on social media, or in the classroom. Vicious threats of violence and even death have been directed against individual faculty members and their families, including their children. A large number of those threatened have been African American.

The threats are often accompanied by calls for college and university administrators to summarily dismiss or otherwise discipline the offending faculty member. Sometimes the threats are also directed at those administrators or the institutions themselves. In some cases the comments made by the faculty member were highly provocative or easily misconstrued, but in other cases the allegedly offensive remarks were misattributed or not even made at all.

In all cases, however, these campaigns of harassment endanger more than the faculty member concerned. They pose a profound and ominous challenge to higher education's most fundamental values. The right of faculty members to speak or write as citizens, free from institutional censorship or discipline, has long been recognized as a core principle of academic freedom. While colleges and universities must make efforts to provide learning environments that are welcoming, diverse, and safe for all members of the university community and their guests, these efforts cannot and need not come at the expense of the right to free expression of all on campus and the academic freedom of the faculty.

We therefore call on college and university leaders and members of governing boards to reject outside pressures to remove or discipline faculty members whose ideas or commentary may be provocative or controversial and to denounce in forceful terms these campaigns of harassment. Some have already taken such a stance. The response of Syracuse University chancellor Kent Syverud to calls for the denunciation or dismissal of a professor who posted a controversial tweet is exemplary. "No," he said. "We are and will remain a university. Free speech is and will remain one of our key values. I can't imagine academic freedom or the genuine search for truth

thriving here without free speech. Our faculty must be able to say and write things—including things that provoke some or make others uncomfortable—up to the very limits of the law.”

Unfortunately, other administrations have been more equivocal in their responses, in a few cases disciplining the faculty member concerned while remaining silent about the terrifying harassment to which that faculty member has been subjected. Some offer hollow homilies in support of the free speech rights of outside speakers while failing to defend the rights of harassed faculty. Often administrators justify their response by appealing to legitimate concerns for the safety of the community. However, anything short of a vigorous defense of academic freedom will only further imperil safety. Concessions to the harassers send the message that such odious tactics are effective. They have a chilling effect on the entire academic community. Academic leaders are therefore obligated to recognize that attacks on the academic freedom of individual instructors pose a risk to the institution as a whole and to the very project of higher education as a public good. As the AAUP’s *Statement on Government of Colleges and Universities* stressed, the protection the college or university “offers to an individual or a group is, in fact, a fundamental defense of the vested interests of society in the educational institution.”

We call upon college and university presidents, members of governing boards, and other academic leaders to resist this campaign of harassment by endorsing this statement and making clear to all in their respective institutions that threats to individual members of the academic community, to academic freedom, and to freedom of expression on campus will not be tolerated.

Signed,  
American Association of University Professors  
American Federation of Teachers  
Association of American Colleges and Universities



## On Institutional Social Media Policies

The American Association of University Professors has long held that academic freedom includes the freedom to address the larger community with regard to any matter of social, political, economic, or other interest, without institutional discipline or restraint, save in response to fundamental violations of professional ethics or statements that suggest disciplinary incompetence. Administrative responses to several recent cases of targeted harassment of faculty members over their postings on social media raise concern that the freedom of faculty members to speak as citizens is insufficiently defended at those affected institutions. Some of the recent cases were reportedly followed by efforts to develop policies on social media use. While details of these efforts have yet to emerge, there is reason to be concerned that such policies could limit academic freedom.

Given that faculty may make social media posts on behalf of their institution, such as on departmental sites, social media policies can reasonably provide guidance to faculty members who post in an official capacity, and the Association's *Academic Freedom and Electronic Communication* recommends that each institution work with its faculty to develop applicable policies. However, any such policies must recognize that social media can be used to address matters of public concern and thus that their use by faculty members speaking as citizens is subject to Association-supported principles of academic freedom. Institutional commitments to academic freedom, without which there can be no higher education, require institutional commitments to the freedom of faculty members to speak and write as citizens.



## What You Can Do about Targeted Online Harassment

Targeted harassment of faculty members because of what they publish or say in the classroom or online is emerging as a serious threat to academic freedom. Harassment campaigns are intended to silence and intimidate those who are targeted, and they can also cause others to censor themselves. Thus, they can effectively curtail discussion of controversial topics in class, pursuit of research in certain areas, and participation of faculty in discussions of matters of public concern.

**Faculty members can take steps to prepare for and respond to targeted online harassment.**

### Before an incident occurs:

- The senate, union, or AAUP chapter should engage with the administration to plan for cases of targeted harassment on campus.
- Institutional regulations or collective bargaining agreements should recognize that academic freedom includes the freedom of faculty members to speak as citizens. *Relying only on the First Amendment may not be sufficient.* At private institutions, the First Amendment provides no protection. At public institutions, the First Amendment may protect faculty members from adverse action by the employer for off-duty speech on matters of public concern and for work-related or classroom speech that is germane to the academic subject matter, so long as such speech is not unduly disruptive.
- Institutional regulations or collective bargaining agreements should include provisions for academic due process for suspensions and dismissals such as those found in the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure*. While institutional provisions for tenured or tenure-track faculty are frequently consistent with AAUP policies, the same is often not true for part-time faculty members or full-time faculty members on contingent appointments.
- Communications staff and other administrators who may be tasked with responding quickly when instances of targeted harassment occur need to have ready access to institutional policies on academic freedom and due process in order to represent them accurately.

### If an incident occurs:

- Encourage the administration to condemn the targeted harassment and speak out in defense of the academic freedom of the targeted faculty member.
- Although the administration is certainly free to express disapproval of the faculty member's speech, the administration may need to be reminded that a number of sensationalized reports of faculty members' speech or online posts have been taken out of context. Reports may not correctly reflect the actual speech.
- Targeted faculty members and administrators at targeted institutions should contact the national AAUP at [academicfreedom@aaup.org](mailto:academicfreedom@aaup.org) for advice. Targeted faculty members should contact the national AAUP especially if the administration has taken action against them.



June 27, 2017

VIA ELECTRONIC MAIL AND USPS

Dr. Joanne Berger-Sweeney  
President  
Trinity College  
300 Summit Street  
Hartford, Connecticut 06106

Dear President Berger-Sweeney:

Dr. Johnny Williams, an associate professor of sociology with twenty-one years of service at Trinity College, has sought the advice and assistance of the American Association of University Professors as a result of a voicemail message left him this past weekend by Dr. Timothy Cresswell, dean of the faculty. The message informed him that he had been placed on a leave of absence, effective immediately. On June 26 you issued "An Update on the Events Concerning Professor Johnny Williams" in which you stated that your administration had "determined that a leave is in the best interest of both Professor Williams and the college" and that a "review by the Dean of the Faculty of the events concerning Professor Williams will continue." Neither the message left by Dr. Cresswell nor your public announcement indicated a terminal date for the suspension, although we understand that Dr. Cresswell had previously asked Professor Williams to take a voluntary leave until January, a proposal Professor Williams declined.

The interest of this Association in the case of Professor Williams stems from our longstanding commitment to academic freedom, tenure, and due process, the basic tenets of which are enunciated in the enclosed 1940 *Statement of Principles on Academic Freedom and Tenure*. That document, a joint formulation of the AAUP and the Association of American Colleges and Universities, has received the endorsement of more than 250 scholarly and educational organizations. Derivative procedural standards relating to the suspension of a faculty member are set forth in Regulations 5 and 7a of the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure* (also attached).

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The AAUP regards the suspension of a faculty member from his or her primary responsibilities as a severely adverse personnel action, because of what it implies about the faculty member's professional fitness and because of the resulting effect on the faculty member's reputation (see the enclosed *Use and Abuse of Faculty Suspensions*). Under AAUP-recommended standards, a faculty member can be suspended for only two reasons—(1) to sanction serious misconduct and (2) to protect the faculty member or others from “immediate harm” during the process leading to dismissal or the imposition of another serious sanction. When an administration wishes to impose a suspension as a stand-alone sanction for serious misconduct, it must first demonstrate adequacy of cause for doing so in an adjudicative hearing before an elected faculty body (Regulation 7a). When an administration is taking steps that may lead to a faculty member's dismissal, which can only be effected after the same sort of faculty hearing just described, it may suspend the faculty member “only if immediate harm to the faculty member or others is threatened by continuance.” Prior to imposing a suspension under these circumstances, the administration must consult with a duly constituted faculty committee “concerning the propriety, the length, and the other conditions of the suspension” (Regulation 5c[1]).

There is nothing in the record to indicate that the administration has imposed a suspension upon Professor Williams as a penalty for misconduct, so Regulation 7a does not appear to be applicable. With respect to Regulation 5, the June 26 announcement does not explain how Professor Williams's suspension is “in the best interest of both Professor Williams and the college.” It does not suggest that the dean's review is a prelude to proceedings that could lead to dismissal or other severe sanction. It does not say that the action responds to a threat of immediate harm, but such a consideration may indeed be an underlying rationale for the decision. If the suspension were indeed intended to address a threat of immediate harm, we are not aware that the administration consulted an appropriate faculty body about its propriety, its duration, or its other conditions. It thus appears that the action taken against Professor Williams is entirely at odds with normative standards of academic due process.

The suspension and the review to be conducted by Dr. Cresswell relate to Professor Williams's postings on Facebook, which have attracted significant attention and resulted in threats against him and against Trinity College. We join others in the higher education community in deploring the targeted harassment to which Professor Williams and Trinity College have been subjected. However, we must stress that the AAUP has long held that academic freedom includes “the freedom to address the larger community with regard to any matter of social, political, economic, or other interest,

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without institutional discipline or restraint, save in response to fundamental violations of professional ethics or statements that suggest disciplinary incompetence" (*Protecting an Independent Faculty Voice: Academic Freedom after Garcetti v Ceballos*). Appendix B.1 of the Trinity College faculty manual includes excerpts from the 1940 *Statement* that similarly recognize freedom of extramural utterance. We are concerned that the actions taken by the administration may have violated Professor Williams's academic freedom.

We appreciate that you may have additional information that might contribute to our understanding of what has occurred. We shall therefore welcome your comments. If the facts as we have recounted them are essentially accurate, we urge Professor Williams's immediate reinstatement to his normal faculty duties. As to any further action in his case, we urge that it be consistent with the procedural standards outlined in this letter.

We look forward to your response.

Sincerely,



Hans-Joerg Tiede  
Associate Secretary

Enclosures by electronic mail

cc: Dr. Timothy Cresswell, Dean of the Faculty  
Professor William Church, Chair, Trinity College Committee on Academic Freedom  
Professor Isaac Kamola, President, Trinity College AAUP Chapter  
Professor Uchenna Nwachuku, President, Connecticut State AAUP Conference





November 28, 2017

VIA ELECTRONIC MAIL AND USPS

Dr. Ronnie D. Green  
Chancellor  
University of Nebraska–Lincoln  
1400 R Street  
Lincoln, Nebraska 68588

Dear Chancellor Green:

Thank you for your letter of October 12, 2017, responding to ours of September 13 and 26, regarding the case of Ms. Courtney Lawton. We had delayed replying to your most recent letter pending the final determination of Ms. Lawton’s teaching assignment for the spring semester. We have since learned from Ms. Lawton and from accounts in the press that you have decided to extend her suspension with pay through the spring semester—the end of the term of her current appointment—an action that we view as tantamount to a summary dismissal.

In your October 12 letter, you wrote that because the case of Ms. Lawton “represent[ed] a personnel matter for the University of Nebraska, there is no formal representative role for the AAUP in this instance” and that you therefore “deem[ed] the matter closed.” Your statement appears to be based on a misunderstanding. Since its founding in 1915, the Association has assumed responsibility for promulgating standards for sound academic practice, particularly in the areas of academic freedom, tenure, due process, and governance. Some of these standards have been jointly developed with other educational associations—such as the Association of American Colleges and Universities, the American Council on Education, and the Association of Governing Boards of Universities and Colleges—and a large number of colleges and universities throughout the United States, including the University of Nebraska, have incorporated them into their institutional regulations. Also since its founding, the Association has assumed responsibility for investigating and reporting on allegations of serious violations of these standards. To this end, the AAUP maintains a list of “censured administrations” to communicate to the academic community and the public at large that conditions for academic freedom, tenure, and due process have been found to be unsatisfactory at a particular institution. The “representative role” of the Association is with respect to these standards, which appear to have been violated by the University

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of Nebraska–Lincoln administration in the case of Ms. Lawton’s suspension. We thus do not deem the matter closed.

Ms. Lawton has reported to us that on November 17 she met with Dr. Donde Plowman, executive vice chancellor and chief academic officer; Professor Marco Abel, chair of the English department; and you. At that meeting you informed her that she would not be permitted to resume teaching. She has further reported that, as the reason for that decision, you cited anticipated threats to her safety and the safety of her students that you expected to result from upcoming press reports about the university’s handling of the incident that led to Ms. Lawton’s suspension. However, in a November 20 public statement, you provided a different rationale for her continued suspension:

The behavior of the graduate student that day was unacceptable; she has not been teaching at the university since that time. We communicated today to the grad student that she will not teach at our university going forward because of this inappropriate behavior.

This statement makes evident that Ms. Lawton’s continued suspension is being imposed as a disciplinary sanction rather than as a means of preserving her safety and that of her students. Further evidence that the suspension is a disciplinary sanction comes from Ms. Lawton, who reports that when Professor Abel asked whether Ms. Lawton could teach online—an arrangement that would certainly not present concerns for the safety of her or her students—you and Dr. Plowman responded that she could under no circumstances be the instructor of record for any course at the University of Nebraska–Lincoln.

As noted in an interpretive comment on the 1940 *Statement of Principles on Academic Freedom and Tenure*, “a suspension which is not followed by either reinstatement or the opportunity for a hearing is in effect a summary dismissal in violation of academic due process.” As we stated in our September 13 letter to you, under widely-accepted principles of academic due process, an administration can terminate an appointment prior to its expiration only after first demonstrating adequate cause for doing so in an adjudicative hearing before a faculty body. Section 4.14 of the Bylaws of the Board of Regents of the University of Nebraska contains applicable procedures, of which, however, the administration has not availed itself.

In addition to the evident procedural issues, we remain concerned that Ms. Lawton was suspended in response to her speech as a citizen, raising questions whether the action infringed upon her academic freedom. These questions remain unresolved in the absence of affordance to Ms. Lawton of any academic due process.

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The summary dismissal of a faculty member in potential violation of that faculty member's academic freedom is a matter of basic concern to this Association under our longstanding responsibilities, as summarized above. Cases of this gravity, if they remain unresolved, may be referred by our executive director to an ad hoc investigating committee charged with examining the available documentation, visiting the campus for discussion with the involved parties, and preparing a report for potential publication. We would therefore welcome any information from you that would indicate that Ms. Lawton has been reinstated to her regular teaching duties and that any further action in this case will be consistent with AAUP-supported procedural standards, thus obviating the need for a formal investigation. If we do not hear from you by Tuesday, December 5, we shall proceed accordingly.

Sincerely,



Hans-Joerg Tiede  
Associate Secretary

cc: Dr. Donde Plowman, Executive Vice Chancellor and Chief Academic Officer  
Dr. Joe Francisco, Dean, College of Arts and Sciences  
Professor Sarah Purcell, President, Faculty Senate  
Professor Marco Abel, Chair, Department of English  
Professor John Bender, President, University of Nebraska–Lincoln Chapter of the AAUP  
Professor Julia Schleck, President, Nebraska State Conference of the AAUP  
Ms. Courtney Lawton



October 12, 2017

VIA ELECTRONIC MAIL AND USPS

Dr. M. Brian Blake  
Provost  
Drexel University  
3141 Chestnut Street  
Philadelphia, Pennsylvania 19104

Dear Provost Blake:

Dr. George Ciccariello-Maher, an associate professor in the Department of Political Science and Global Studies, has sought the advice and assistance of the American Association of University Professors as a result of your October 9, 2017, letter informing him that he was being placed on paid administrative leave, effective immediately. Your letter states, “The Drexel Police Department, after consultation with other law enforcement agencies, has determined that your presence on campus poses a significant public safety risk to the Drexel University community” and refers to “a number of death threats and threats of violence” against Professor Ciccariello-Maher and his family. These threats followed Professor Ciccariello-Maher’s recent postings on the social media site Twitter about the shooting in Las Vegas. Your letter adds that the “situation has heightened concerns for the safety of not only you and your family, but for our students, your faculty colleagues, professional staff and others who are part of the University community.” Despite the stated safety concerns, Professor Ciccariello-Maher has informed us that he did not agree to be placed on leave.

This is not the first time that we have communicated with you with respect to Professor Ciccariello-Maher. On April 12, at your invitation, I conferred by telephone with you and Professor Ludo Scheffer, chair of the faculty senate, regarding his situation at that time and provided both of you with information regarding the principles of academic freedom and due process promulgated by this Association, as set forth in the *Statement on Procedural Standards in Faculty Dismissal Proceedings* and the *Recommended Institutional Regulations on Academic Freedom and Tenure* (both enclosed). On May 18, I wrote to you to convey the Association’s concern over the formation of a committee of inquiry out-

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side the faculty governance structure to investigate Professor Ciccariello-Maher's extramural speech. In that letter I provided additional information about Association-supported principles of academic freedom as they relate to the freedom of extramural utterances.

As our enclosed report on the *Use and Abuse of Faculty Suspensions* notes, the AAUP regards an action to separate a faculty member from ongoing academic responsibilities, whether with pay or without, to be a suspension. It further regards suspensions to be severely adverse personnel actions both because of what they imply about the faculty member's professional fitness and because of the potential effect on the faculty member's reputation. Under AAUP-recommended standards, a faculty member can be suspended for only two reasons: (1) to sanction serious misconduct and (2) to protect the faculty member or others from "immediate harm" during the process leading to dismissal or the imposition of another severe sanction. When an administration wishes to impose a suspension as a stand-alone sanction for serious misconduct, it must first demonstrate adequacy of cause for doing so in an adjudicative hearing before an elected faculty body (Regulation 7a). When an administration is taking steps that may lead to a faculty member's dismissal, which can only be effected after the same sort of faculty hearing just described, it may suspend the faculty member "only if immediate harm to the faculty member or others is threatened by continuance." Prior to imposing a suspension under these circumstances, the administration must consult with a duly constituted faculty committee "concerning the propriety, the length, and the other conditions of the suspension" (Regulation 5c[1] of the *Recommended Institutional Regulations on Academic Freedom and Tenure*).

Although we appreciate that the stated reason for the action to suspend Professor Ciccariello-Maher is a perceived threat of immediate harm, the administration apparently did not consult with a duly constituted faculty committee prior to imposing the suspension. Further, an e-mail message from you to Professor Ciccariello-Maher that accompanies your October 9 letter states that you "hope to have concrete plans by the following week to minimize any disruption" to Professor Ciccariello-Maher's students, implying that his suspension may extend indefinitely. Indeed, you have yet to provide a firm end date for it. Under AAUP-recommended procedural standards, "a suspension which is not followed by either reinstatement or the opportunity for a hearing is a summary dismissal in violation of academic due process" (Interpretive Comment No. 9 on the 1940 *Statement*).

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In his October 10 *Washington Post* op-ed, Professor Ciccariello-Maher wrote that, by suspending him, the Drexel administration “bow[ed] to pressure from racist internet trolls” and “sent the wrong signal,” namely, that “you can control a university’s curriculum with anonymous threats of violence.” He further suggested that the suspension threatened his academic freedom and tenured status. We share these concerns, which remain unaddressed absent consultation with an appropriate faculty body, as required under Regulation 5c(1).

We appreciate that you may have additional information that might contribute to our understanding of what has occurred. We shall therefore welcome your comments. If the facts as we have recounted them are essentially accurate, we urge the administration to consult as soon as possible with an elected faculty body concerning the propriety, the length, and the other conditions of the suspension so as to ensure that it is not extended beyond any threat of immediate harm. We further urge the administration to inform Ciccariello-Maher in writing of the outcome of this determination.

We look forward to your response.

Sincerely,



Hans-Joerg Tiede, PhD

Associate Secretary

Enclosures by electronic mail

cc: Mr. John A. Fry, President  
Dr. Donna Murasko, Dean, College of Arts and Sciences  
Professor Ludo Scheffer, Chair, Faculty Senate  
Professor John Hinshaw, President, Pennsylvania State Division of the AAUP  
Professor George Ciccariello-Maher



August 30, 2017

VIA ELECTRONIC MAIL AND USPS

Dr. Ronald L. Vaughn  
President  
The University of Tampa  
401 West Kennedy Boulevard, Box A  
Tampa, Florida 33606-1490

Dear President Vaughn:

This Association has been advised by Dr. Kenneth Storey, a visiting assistant professor of sociology in his first semester of full-time appointment at the University of Tampa, of a letter by Dr. Jack M. Geller, Dean of the College of Social Sciences, Mathematics, and Education, dated August 29, 2017, informing him that “the university has decided not to retain [his] services going forward.” We understand that the apparent reason for the decision to terminate Professor Storey’s appointment are posts that he made on Twitter that have generated controversy. We further understand that he has not been afforded a hearing in the matter.

Assuming that the information we have been provided is accurate, we are writing to advise you that the administration’s action to dismiss Professor Storey without having first demonstrated adequacy of cause in a faculty hearing is fundamentally at odds with basic standards of academic due process as set forth in the enclosed 1940 *Statement of Principles on Academic Freedom and Tenure* and the complementary *Statement on Procedural Standards in Faculty Dismissal Proceedings*. We are particularly concerned that the apparent reason for the dismissal raises a basic issue of academic freedom—that of freedom of extramural utterance. We note that the faculty handbook of the University of Tampa explicitly endorses the 1940 *Statement* and contains the AAUP’s *Committee A Statement on Extramural Utterances* (also enclosed). The summary action and the apparent reason for it are matters of key concern to this Association under its longstanding responsibilities.

We urge that you rescind the notice of dismissal issued to Professor Storey immediately and that any subsequent action be consistent with the above-referenced standards.

Dr. Ronald L. Vaughn

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We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Hans-Joerg Tiede". The signature is written in a cursive style with a large initial "H".

Hans-Joerg Tiede  
Associate Secretary

cc: Dr. David Stern, Provost and Vice President for Academic Affairs  
Dr. Jack M. Geller, Dean of the College of Social Sciences, Mathematics, and Education  
Professor Kenneth Storey