FACULTY COLLECTIVE BARGAINING:
PAST, PRESENT AND FUTURE

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By:
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"By practice and tradition the members of the faculty are masters and not servants." JUSTICE BENJAMIN N. CARDOZO

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I. INTRODUCTION

Collective bargaining with faculty organizations in the United States is now over thirty years old. When formalized faculty bargaining began, a period of thirty years was the approximate equivalent of the time that industrial collective bargaining had then existed under federal labor law. The purpose of this paper, and the companion oral presentation, is to briefly sketch the history of faculty collective bargaining, to identify some recent developments and trends, and then to make some observations regarding the future, including some practical suggestions for your consideration as you negotiate your future contracts. The paper concludes with two appendices, the first representing a selected bibliography, and the second a reproduction of the "Statement on Government of Colleges and Universities," which was jointly formulated and severally adopted in 1966 by the American Association of University Professors ("AAUP"), the American Council on Education, and the Association of Governing Boards of Universities and Colleges. The latter represents an excellent formulation of principles of shared governance, whether the framework suggested is fitted to a particular institution in a non-union setting, or incorporated by way of tightly drafted language into a collective bargaining agreement.

II. A BRIEF SKETCH OF THE HISTORY OF FACULTY COLLECTIVE BARGAINING

A series of "firsts" will be set forth, followed by discussion of the rapid development in the seventies, and of the root causes of this phenomenon.

A. Historic "Firsts"

Lest any worthy institution be left out of this litany, the following list of "firsts" is qualified by the circumstance that these are all first instances so far as can be discerned from a reasonably comprehensive survey of such reports in the relevant literature, with footnotes to sources as appropriate.

The first higher educational institution of any kind to formally negotiate a collective bargaining unit with an established labor union was Henry Ford Community College, located in Dearborn, Michigan, between the College and an affiliate of the American Federation of Teachers ("AFT"), signed in 1963. This institution also served as the site of the first labor strike at an institution of higher education. The unit was organized under Michigan state law authorizing collective organization of public employees (other than state civil service employees), enacted in 1965 as Public Act 379, an amendment to the existing Hutchinson Labor Mediation Act.\(^1\) The Milwaukee

Technical Institute, a two year institution including K-12 teachers, was organized in 1963 by an unaffiliated local association of faculty.²

The first contract at a four year institution was negotiated by the AFT represented faculty at the Bryant College of Business Administration, a private “special purpose” institution in Rhode Island, in 1967. In 1968, the United States Merchant Marine Academy signed an agreement with an AFT affiliate.³

The first formal agreement at a general purpose four year university occurred in September, 1969, when agreements were finalized between the City University of New York and two units into which instructional faculty had been divided pursuant to procedures administered under New York’s new Public Employment Relations Act, passed in 1967, and known as the Taylor Law.⁴

Other early four year agreements included those at Southeastern Massachusetts University, Central Michigan University, and St. John’s University, all of which took place in 1970.⁵

The first AAUP chapter to convert itself into an organized entity was the Belleville Area College, a two-year institution in Illinois, a state which did not then have a collective bargaining law. The first strike at a four year institution was called by the AAUP affiliated bargaining unit at Oakland University, located in a suburb of Detroit, Michigan. The then President of Oakland had actively been involved in the AAUP chapter as a faculty member.⁶

The first NLRB case recognizing any unit at a university was reported as Cornell University, 183 NLRB No. 41, 74 LRRM 1269 (1970). The NLRB’s first unit determination case regarding a faculty unit was C.W. Post Center of Long Island University, 189 NLRB No. 109, 77 LRRM 1001 (1971).

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² Garbarino, Joseph W. in association with Bill Aussieker; FACULTY BARGAINING: CONFLICT AND CHANGE; McGraw Hill (1975); p. 51.
³ Carr, Robert K. and Van Eyck, Daniel K.; COLLECTIVE BARGAINING COMES TO CAMPUS; ACE (1973); p. 17.
⁴ Carr and Van Eyck at 17; Garbarino at 51.
⁵ Carr and Van Eyck at 18; Garbarino at 52.
⁶ Garbarino at 86-87.
B. Rapid Development In the Seventies

The following table, taken from the excellent monograph entitled FACULTY BARGAINING: CHANGE AND CONFLICT, by Joseph W. Garbarino in association with Bill Aussicker, a report prepared for the Carnegie Commission on Higher Education and the Ford Foundation, at p. 56, graphically demonstrates the rapid growth of collective bargaining on campus from 1966 to 1974:

<table>
<thead>
<tr>
<th></th>
<th>Total Institutions</th>
<th>Total Faculty</th>
<th>Four-year Institutions</th>
<th>Four-year Faculty</th>
</tr>
</thead>
<tbody>
<tr>
<td>1966</td>
<td>23</td>
<td>5,200</td>
<td>1</td>
<td>200</td>
</tr>
<tr>
<td>1967</td>
<td>37</td>
<td>7,000</td>
<td>2</td>
<td>300</td>
</tr>
<tr>
<td>1968</td>
<td>70</td>
<td>14,300</td>
<td>10</td>
<td>3,300</td>
</tr>
<tr>
<td>1969</td>
<td>138</td>
<td>36,100</td>
<td>26</td>
<td>16,100</td>
</tr>
<tr>
<td>1970</td>
<td>177</td>
<td>47,300</td>
<td>40</td>
<td>23,400</td>
</tr>
<tr>
<td>1971</td>
<td>245</td>
<td>72,400</td>
<td>84</td>
<td>45,400</td>
</tr>
<tr>
<td>1972</td>
<td>285</td>
<td>84,300</td>
<td>102</td>
<td>54,600</td>
</tr>
<tr>
<td>1973</td>
<td>310</td>
<td>87,700</td>
<td>121</td>
<td>57,400</td>
</tr>
<tr>
<td>1974</td>
<td>331</td>
<td>92,300</td>
<td>132</td>
<td>60,600</td>
</tr>
</tbody>
</table>

The causes of this development are undoubtedly complex, but almost certainly include the following:

1. The aftermath of President Kennedy’s 1962 Executive Order authorizing limited collective bargaining by certain federal employees;

2. The passage, beginning in 1965 with Michigan and Massachusetts, of state laws permitting collective bargaining in some fashion by public employees, a development which reached thirty-seven states by the end of 1972;

3. The demographics of the baby boom, with the resulting escalation of new faculty members, who were not as wedded to traditional forms of collegial participation, and who began to outnumber more senior colleagues;

4. The lingering existence of the spirit of the Sixties, including anti-establishment attitudes, more receptiveness to social change, etc.;

5. Economic circumstances which caused some institutions to consider painfully novel issues such as financial exigency, retrenchment, and wage increases which could not keep pace with inflation;
6. Miscellaneous circumstances peculiar to particular campuses, where the faculty response to perceived administrative blunders changed from censure to organizing efforts;

7. Enhanced resources and commitment devoted to formal organizing efforts by the principal associations most appealing to local groups of dissatisfied faculty – the AAUP, the AFT, or the NEA;

8. The "covet thy neighbor's wage increase" effect – in major metropolitan areas of industrial states where unions had a strong tradition and influence (e.g., Michigan, New York, Pennsylvania, New Jersey), and where K-12 teacher unions were common, a successful community college wage settlement would often lead to envious scrutiny by the local teachers' college which would then organize and achieve a wage increase higher than the regional university which would then consider unionization.

C. The Major Players On the Union Side

1. The American Association of University Professors

Founded in 1915, the AAUP began as a professional organization, devoted to protecting academic freedom and tenure, and developing thoughtful policy statements. It came late to collective bargaining. The "Red Book" introduction to AAUP policy statements on collective bargaining reads, at p. 215:

"Although collective bargaining in higher education was discussed by the president of the Association in his address to the Annual Meeting in 1919, the issue was not faced directly by the AAUP until the 1960s, when the policy-making committees of the Association began developing statements of principles on the subject. Since collective negotiations by faculty members constituted a form of governance, Committee T on College and University Government or special subcommittees were usually involved in addressing the issues raised by collective bargaining. In 1970, Committee Non Representation of Economic and Professional Interests was established by the Association’s Council. In 1973, the Annual Meeting adopted the AAUP’s first Statement on Collective Bargaining, which recognized formal bargaining as a “major additional way of realizing [the Association’s] goals in higher education.” Revisions to the statement were adopted in 1984. Ten years later, in 1994, Committee N approved further revisions, affirming that “faculties at public and private institutions are entitled, as professionals, to choose . . . to engage in collective bargaining to ensure effective faculty
governance.” The revised statement was adopted by the Council in June 1994 and endorsed by the Eightieth Annual Meeting.

The Association’s collective bargaining chapters have utilized formal negotiation and enforcement of contractual agreements to advance professional standards and to bring legally binding protections to the rights and prerogatives of faculty members, as collective bodies and as individuals. Committees of the Association have periodically developed policy statements to guide implementation of Association standards in collective bargaining settings. In this regard, the Statement on Academic Government for Institutions Engaged in Collective Bargaining was approved by Committees N and T and adopted by the Council in 1988. The report on Arbitration of Faculty Grievances was approved by Committees A and N in 1973. The statement on Dismissal Proceedings in a Collective Bargaining Setting Where Arbitration Substitutes for a Faculty Hearing was approved by Committees A and N and adopted by the Council in 1991.”

Prior to its venture into collective bargaining agreement, there was much internal debate and dissent, typified by the following statement from a member who disagreed with the AAUP’s first formal endorsement of collective bargaining in 1972:

“Once the AAUP becomes substantially and unambiguously involved in competitive collective bargaining, the risk is great that we may see the end to our capacity to make inquiry or investigation into academic freedom and tenure complaints on any campus with a collective bargaining representative other than our own.

... [the] customary manifestations of competitive collective bargaining cannot possibly come free of cost to the Association. In all likelihood, the principal cost would become evident in the loss of our identity and the consequent impairment of our influence in higher education generally, in exchange for limited success as one among several labor agencies.

... When it is borne in mind that nonacademic professionals, who would probably be included in most appropriate bargaining units, amount to one fourth to one third of the total staff of some institutions, the impact on our membership and identity becomes quite clear.

In brief, the consequence of adopting the Council’s proposal may well be to convert the AAUP into the AUUP, the American Union of
University Professionals, with a substantial change in the character of its membership, its identity, and its image, sharp impairment of its ability to carry out its historic role and an indeterminately severe curtailment of the effectiveness of the Association’s staff and of Committee A and other committees in resolving complaints and furthering basic Association principles and standards.

... From a unique national academic association with membership and influence in virtually all institutions of higher education, [AAUP] would become one of several unions with influence largely confined to those campuses it represents.\(^7\)

The AAUP’s most significant organizing has taken place at comprehensive four year universities.

2. The American Federation of Teachers

Joseph Garbarino, a thoughtful scholar on faculty collective bargaining matters, concluded that the AFT “deserves recognition as the pioneer of faculty unionism.”\(^8\) The AFT was chartered by the American Federation of Labor in 1916, and distinguished itself in the education area by organizing very large bargaining units of K-12 teachers in major metropolitan areas (e.g., New York, Detroit, Chicago), and it formed a colleges and universities department in 1967. The AFT’s greatest success has been in organizing community college units and four year units in densely populated urban centers. Of the three major associations, it owed its genesis and traditionally displayed a style of organizing most akin to a trade union.

3. The National Education Association

Founded in 1857, this organization began as a professional organization for K-12 teachers, parallel to the role played by the AAUP for higher education faculty. Although it established a higher education department in 1870 which lasted until the 1920s, it did not emphasize higher education organizing until the plethora of laws allowing for public employee organization were enacted from 1965 to 1974. By 1972, organizing higher education units had become a priority.\(^9\) Most of its successes took place at community colleges and former teachers’ colleges.

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\(^7\) Van Eyck and Carr at 125-126.

\(^8\) Garbarino at 92.

\(^9\) Garbarino at 96-97.
4. Other Unions and Total Membership as of 1995

By 1995, according to Frank R. Annunziato, in addition to the three major players, other entities representing faculty in organized units included independent, unaffiliated associations; the American Federation of Government Employees; the American Federation of State, County, and Municipal Employees; the Communications Workers of America; the Service Employees International Union; and the United Auto Workers. The same source estimates the following totals for the various unions: AFT was the largest, with a membership of 84,706; NEA was next at 69,338; and the AAUP was a collective bargaining agent for 18,632. When the circumstance that some local units are represented by dual national affiliations (e.g. AFT/NEA; AAUP/AFT, etc.), the 1995 “merged” totals became AFT – 102,917; NEA – 88,635; AAUP – 64,298; Independents – 19,552; and the “other” unions with minor representation listed above – 4,620.10

Mr. Annunziato also interestingly notes that unionized membership is concentrated in ten states with large totals – California and New York, by far the largest, with 66,976 and 55,250 respectively; followed by Pennsylvania, Florida, New Jersey, Michigan, Connecticut, Massachusetts, Washington, and Illinois, with a range in 1995 in those states from 11,491 in Pennsylvania to 7,985 in Illinois.11

III. THE PRESENT STATE OF COLLECTIVE BARGAINING ON CAMPUS

One very significant continuing development that has resulted in a very different situation than that which existed in the 1970s has been caused by the landmark Supreme Court decision in NLRB v. Yeshiva University, 444 U.S. 672 (1980). The Court held that under the facts presented at that institution, the faculty were sufficiently involved in decision making regarding such significant issues including academic matters, teaching methods, grading policies, matriculation standards, and the admission, retention, and graduation of students, that they were clearly managers, and as such were excluded from organizing under federal labor law.

This decision had an enormous impact on faculty unionization in the private higher education sector. Again according to Mr. Annunziato’s tabulations, as of 1995, “only 70 private sector college and university collective bargaining agents existed, representing fewer than 5 percent of all unionized professors.” He also observed that as


11 Annunziato at 55.
of that date, approximately 30 institutions were successful in petitioning the NLRB to decertify faculty unions.\textsuperscript{12}

On the other hand, in a few states, including Indiana and Illinois, relatively recent public sector bargaining enactments led to a new flurry of organizing activity.

Since it is obviously impossible to capture everything that is going on in current collective bargaining, some persistent trends will be mentioned.

A. A Trend Away From Traditional Adversarial Models Towards Mutual Gains Bargaining Efforts

When institutions become sufficiently tired, on both sides, of conflict often appearingly for the sake of conflict, non-traditional, non-adversarial approaches are almost always at least considered as an alternative to traditional bargaining models. Whether called “interest based bargaining,” or “mutual gains,” of “win-win,” or “Getting to Yes,” (a Harvard University term) or “no-fault negotiating,” they always share a non-adversarial tone. The U.S. Department of Labor Secretary’s Task Force on Excellence in State and Local Government Through Labor Management Cooperation was sufficiently impressed with the following operational model describing the practical differences between traditional and problem solving approaches that it was included in the 1996 Task Force Report entitled “WORKING TOGETHER FOR PUBLIC SERVICE,” pp. 85-86:

“One View of the Contrast between Traditional Collective Bargaining and Problem-Solving or Interest Based Bargaining* 

<table>
<thead>
<tr>
<th>TRADITIONAL BARGAINING</th>
<th>INTEREST BASED BARGAINING</th>
</tr>
</thead>
<tbody>
<tr>
<td>PREPARATION</td>
<td>PREPARATION</td>
</tr>
<tr>
<td>Scrutinize the existing contract and survey constituencies to identify each and every provision that might be improved.</td>
<td>Consider whether there are compelling concerns related to the existing contract. Discuss those issues openly and widely, well prior to the start of bargaining.</td>
</tr>
<tr>
<td>Prepare formal demands and proposals, often in the form of rewritten or new contract articles.</td>
<td>Focus on major concerns that may require a contract change to resolve. Do not draft contract language or draw up demands, but do contemplate possible solutions.</td>
</tr>
</tbody>
</table>

\textsuperscript{12} Annunziato at 53.
Keep demands and goals more or less “secret” from the other side until they are revealed at the table. Speculate about the other party’s demands and strategy.

COMMUNICATION

Maintain contact with both constituencies and public through various media to promote positions on issues.

After settlement, prepare press releases describing gains.

TRADITIONAL BARGAINING

NEGOTIATIONS

Exchange demands in contract language. Try to obtain all the other party’s demands before revealing all of yours.

Prepare and exchange formal counter-proposals.

Obscure your “bottom line” by keeping many proposals on the table and modifying positions slowly. Settle minor matters first, leaving “real” concerns for later marathon sessions.

Maintain bargaining team discipline. Permit only authorized team members to speak and, especially, to make proposals.

Save sidebar meetings of chief negotiators and/or subcommittees until late in negotiations.

Initial final written agreements. Management prepares new contract for union to review.

Enter high-level, joint, informal, preliminary meetings to discuss broad concerns and goals, identify and limit the issues, and set the tone for negotiations.

COMMUNICATION

Issue joint communications to constituencies and public on progress of negotiations.

Prepare a joint press release describing mutual gains.

INTEREST BASED BARGAINING

NEGOTIATIONS

Enter into a discussion of concerns and possible solutions, keeping written exchanges minimal, informal, and explanatory.

Approach each other’s concerns as joint problems for mutual resolution.

Discuss your major goals immediately and openly.

Encourage the exchange of ideas by team members, recognizing that such discussions can help solve problems.

Use sidebar meetings whenever they appear useful, early or late in the process.

Reach a “meeting of the minds,” then jointly draft contract language in subcommittee for examination and approval by teams. Discuss loose ends (with prior commitment to deal reasonably with any overlooked matters). Jointly prepare, review, and proofread new contract.
B. A Trend Toward More Accountability From External Sources

Whether it is a state legislature, the federal government, or a board of trustees dominated by individuals in the business sector, or pressure from taxpayers, parents, or students, greater accountability is being demanded of higher education institutions and its faculties. At the bargaining table, this has resulted in closer scrutiny of productivity issues, use of part-time faculty, efforts to reduce benefit and retirement costs, examination of merit pay plans, examination of post-tenure review systems, among other issues directly related to cost, productivity, and accountability. None of these issues are particularly easy subjects on which to negotiate changes, and they account at times for enhanced tension at the table.

C. A Trend Toward Consideration of Provision of Benefits for Domestic Partners

To a greater degree than the private business sector, faculty units are frequently proposing the addition of domestic partner benefits. The issue also creates some significant tension between the opinion of local legislators or Board members and the faculty’s position.

D. A Trend Toward Re-Examination of the Role of the Department Chair

Both in State public employment board determinations, and in NLRB determinations, the issue of whether department chairs should or should not be included in bargaining units, and whether they are or are not supervisors at a particular campus presented difficulty and confusion. Various decisions came down on both sides in both
the State and Federal sectors. If for whatever reason department chairs were initially included in a unit determination, by decision or more often by consent, then there is a trend for those institutions to re-examine the role of department chairs so that they function more like real supervisors in order to enhance accountability.

E. A Trend Toward Stiffening Management Perspectives

Given the accountability trend, many institutions which may have previously been successful with one or more contracts using mutual gains models, no longer using these approaches. In order to achieve what Boards demand as necessary change, and what faculty organizations view as concessions, traditional bargaining can at times be more effective.

F. A Continuing Trend to Consider Early Retirement Incentives

Recent amendments to federal law have provided some “safe harbors” for structuring early retirement incentives so that they can, if various conditions are met, decrease as a faculty member’s age increases. A well-planned retirement incentive program will save more, over time, and is generally perceived on both sides as a “win-win” concept.

IV. THE FUTURE

A very recent report, chaired by Charles B. Reed, the Chancellor of the California State University system, and coordinated by John H. Hammang, the Director of Special Projects for the American Association of State Colleges and Universities, represents an eighteen month study. It is entitled FACING CHANGE: BUILDING THE FACULTY OF THE FUTURE. In addition, the report was co-sponsored or contributed to by the following respected organizations or institutions:

American Association of Community Colleges
American Council on Education
Association of Governing Board of Universities and Colleges
California State University
State University System of Florida
State University of New York
University System of Maryland
Minnesota State Colleges and Universities
Pennsylvania State System of Higher Education
State College System of West Virginia
The report includes future-oriented policy recommendations regarding faculty terms of employment, recruitment, separation, development, reward structures, and faculty review policies. These will be discussed in the oral presentation. The report may be accessed at www.aascu.org/fpr.

The following suggestions for effectively conducting faculty collective bargaining at your institution are offered for your consideration, centered upon this presenter’s twenty-five year experience with the negotiation of faculty collective bargaining agreements.

A. Always consider first the approach of mutual gains bargaining, since if it works, it will be quicker, easier, and more pleasant than traditional bargaining.

B. Mutual gains bargaining is doomed from the start if there is not a genuine commitment from both sides to engage in it.

C. Early communication with front-line administrators, including Deans and Department Chairs (when Chairs are mercifully outside the bargaining unit), as to what problems they have experienced with the existing agreement, well before the expiration date of the current contract, is critical.

D. Careful examination of grievances filed and arbitration awards if applicable since the beginning of the current contract is an obviously valuable tool as to whether or not changes need to be proposed relating to such matters.

E. Choosing an experienced or at least qualified chief spokesperson is very important.

F. Selecting your bargaining team is equally important. Composition of the team should include, at the least, the spokesperson, a line academic administrator, a human resources representative, and a budget office representative.

G. Establishing an early deadline reasonably prior to the expiration of the collective bargaining agreement is often a useful technique.

H. However, establishing a deadline which is too far in front of the expiration date will guarantee that all the time allotted will be utilized.

I. Stick to your deadline, and by all means stick to the contract expiration date as something fixed in concrete, unless you wish to bargain forever.

J. Promulgate mutually agreeable ground rules at your first meeting.
K. Communication between your bargaining team and the president, the board, the vice president for academic affairs, the vice president for business and finance, and human resources/benefits functions, and any other powers that be, is critical BEFORE you agree to any proposals.

L. Do not bargain your contract in or utilize the media unless the other side absolutely forces you to do so.

M. Warn the president and board members and significant others that faculty representatives will try to "lobby" informally advocating their position. Tolerating or, even worse, encouraging such efforts will inevitably reduce the credibility of your bargaining team.

N. Always keep in mind and respect the principle of effectively shared governance (see Appendix B).
APPENDIX A

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Statement on Government of Colleges and Universities

Editorial Note: The statement which follows is directed to governing board members, administrators, faculty members, students, and other persons in the belief that the colleges and universities of the United States have reached a stage calling for appropriately shared responsibility and cooperative action among the components of the academic institution. The statement is intended to foster constructive joint thought and action, both within the institutional structure and in protection of its integrity against improper intrusions.

It is not intended that the statement serve as a blueprint for governance on a specific campus or as a manual for the regulation of controversy among the components of an academic institution, although it is to be hoped that the principles asserted will lead to the correction of existing weaknesses and assist in the establishment of sound structures and procedures. The statement does not attempt to cover relations with those outside agencies which increasingly are controlling the resources and influencing the patterns of education in our institutions of higher learning: e.g., the United States government, the state legislatures, state commissions, interstate associations or compacts, and other interinstitutional arrangements. However, it is hoped that the statement will be helpful to these agencies in their consideration of educational matters.

Students are referred to in this statement as an institutional component coordinate in importance with trustees, administrators, and faculty. There is, however, no main section on students. The omission has two causes: (1) the changes now occurring in the status of American students have plainly outdistanced the analysis by the educational community, and an attempt to define the situation without thorough study might prove unfair to student interests, and (2) students do not in fact at present have a significant voice in the government of colleges and universities; it would be unseemly to obscure, by superficial equality of length of statement, what may be a serious lag entitled to separate and full confrontation. The concern for student status felt by the organizations issuing this statement is embodied in a note, “On Student Status,” intended to stimulate the educational community to turn its attention to an important need.

This statement was jointly formulated by the American Association of University Professors, the American Council on Education, and the Association of Governing Boards of Universities and Colleges. In October 1966, the Board of Directors of the ACE took action by which the Council “recognizes the statement as a significant step forward in the clarification of the respective roles of governing boards, faculties, and administrations,” and “commends it to the institutions which are members of the Council.” The Council of the AAUP adopted the statement in October 1966, and the Fifty-third Annual Meeting endorsed it in April 1967. In November 1966, the Executive Committee of the AGB took action by which that organization also “recognizes the statement as a significant step forward in the clarification of the respective roles of governing boards, faculties, and administrations,” and “commends it to the governing boards which are members of the Association.” (In April 1990, the Council of the AAUP adopted several changes in language in order to remove gender-specific references from the original text.)
I. INTRODUCTION

This statement is a call to mutual understanding regarding the government of colleges and universities. Understanding, based on community of interest, and producing joint effort, is essential for at least three reasons. First, the academic institution, public or private, often has become less autonomous; buildings, research, and student tuition are supported by funds over which the college or university exercises a diminishing control. Legislative and executive governmental authorities, at all levels, play a part in the making of important decisions in academic policy. If these voices and forces are to be successfully heard and integrated, the academic institution must be in a position to meet them with its own generally unified view. Second, regard for the welfare of the institution remains important despite the mobility and interchange of scholars. Third, a college or university in which all the components are aware of their interdependence, of the usefulness of communication among themselves, and of the force of joint action will enjoy increased capacity to solve educational problems.

II. THE ACADEMIC INSTITUTION: JOINT EFFORT

A. Preliminary Considerations

The variety and complexity of the tasks performed by institutions of higher education produce an inescapable interdependence among governing board, administration, faculty, students, and others. The relationship calls for adequate communication among these components, and full opportunity for appropriate joint planning and effort.

Joint effort in an academic institution will take a variety of forms appropriate to the kinds of situations encountered. In some instances, an initial exploration or recommendation will be made by the president with consideration by the faculty at a later stage; in other instances, a first and essentially definitive recommendation will be made by the faculty, subject to the endorsement of the president and the governing board. In still others, a substantive contribution can be made when student leaders are responsibly involved in the process. Although the variety of such approaches may be wide, at least two general conclusions regarding joint effort seem clearly warranted: (1) important areas of action involve at one time or another the initiating capacity and decision-making participation of all the institutional components, and (2) differences in the weight of each voice, from one point to the next, should be determined by reference to the responsibility of each component for the particular matter at hand, as developed hereinafter.

B. Determination of General Educational Policy

The general educational policy, i.e., the objectives of an institution and the nature, range, and pace of its efforts, is shaped by the institutional charter or by law, by tradition and historical development, by the present needs of the community of the institution, and by the professional aspirations and standards of those directly involved in its work. Every board will wish to go beyond its formal trustee obligation to conserve the accomplishment of the past and to engage seriously with the future; every faculty will seek to conduct an operation worthy of scholarly standards of learning; every administrative officer will strive to meet his or her charge and to attain the goals of the institution. The interests of all are coordinate and related, and unilateral effort can lead to confusion or conflict. Essential to a solution is a reasonably explicit statement on general educational policy. Operating responsibility and authority, and procedures for continuing review, should be clearly defined in official regulations.

When an educational goal has been established, it becomes the responsibility primarily of the faculty to determine appropriate curriculum and procedures of student instruction.

Special considerations may require particular accommodations: (1) a publicly supported institution may be regulated by statutory provisions, and (2) a church-controlled institution may be limited by its charter or bylaws. When such external requirements influence course content and manner of instruction or research, they impair the educational effectiveness of the institution.
Such matters as major changes in the size or composition of the student body and the relative emphasis to be given to the various elements of the educational and research program should involve participation of governing board, administration, and faculty prior to final decision.

C. Internal Operations of the Institution

The framing and execution of long-range plans, one of the most important aspects of institutional responsibility, should be a central and continuing concern in the academic community.

Effective planning demands that the broadest possible exchange of information and opinion should be the rule for communication among the components of a college or university. The channels of communication should be established and maintained by joint endeavor. Distinction should be observed between the institutional system of communication and the system of responsibility for the making of decisions.

A second area calling for joint effort in internal operation is that of decisions regarding existing or prospective physical resources. The board, president, and faculty should all seek agreement on basic decisions regarding buildings and other facilities to be used in the educational work of the institution.

A third area is budgeting. The allocation of resources among competing demands is central in the formal responsibility of the governing board, in the administrative authority of the president, and in the educational function of the faculty. Each component should therefore have a voice in the determination of short- and long-range priorities, and each should receive appropriate analyses of past budgetary experience, reports on current budgets and expenditures, and short- and long-range budgetary projections. The function of each component in budgetary matters should be understood by all; the allocation of authority will determine the flow of information and the scope of participation in decisions.

Joint effort of a most critical kind must be taken when an institution chooses a new president. The selection of a chief administrative officer should follow upon cooperative search by the governing board and the faculty, taking into consideration the opinions of others who are appropriately interested. The president should be equally qualified to serve both as the executive officer of the governing board and as the chief academic officer of the institution and the faculty. The president’s dual role requires an ability to interpret to board and faculty the educational views and concepts of institutional government of the other. The president should have the confidence of the board and the faculty.

The selection of academic deans and other chief academic officers should be the responsibility of the president with the advice of, and in consultation with, the appropriate faculty.

Determinations of faculty status, normally based on the recommendations of the faculty groups involved, are discussed in Part V of this statement; but it should here be noted that the building of a strong faculty requires careful joint effort in such actions as staff selection and promotion and the granting of tenure. Joint action should also govern dismissals; the applicable principles and procedures in these matters are well established.1

D. External Relations of the Institution

Anyone—a member of the governing board, the president or other member of the administration, a member of the faculty, or a member of the student body or the alumni—affects the institution when speaking of it in public. An individual who speaks unofficially should so indicate. An individual who speaks officially for the institution, the board, the administration, the faculty, or the student body should be guided by established policy.

1See the “1940 Statement of Principles on Academic Freedom and Tenure,” Academe 76 (May–June 1990): 38, and the “1958 Statement on Procedural Standards in Faculty Dismissal Proceedings,” ibid., 44. These statements have been jointly adopted by the Association of American Colleges and the American Association of University Professors; the “1940 Statement” has been endorsed by numerous learned and scientific societies and educational associations.
It should be noted that only the board speaks legally for the whole institution, although it may delegate responsibility to an agent.

The right of a board member, an administrative officer, a faculty member, or a student to speak on general educational questions or about the administration and operations of the individual's own institution is a part of that person's right as a citizen and should not be abridged by the institution.² There exist, of course, legal bounds relating to defamation of character, and there are questions of propriety.

III. THE ACADEMIC INSTITUTION: THE GOVERNING BOARD

The governing board has a special obligation to ensure that the history of the college or university shall serve as a prelude and inspiration to the future. The board helps relate the institution to its chief community; e.g., the community college to serve the educational needs of a defined population area or group, the church-controlled college to be cognizant of the announced position of its denomination, and the comprehensive university to discharge the many duties and to accept the appropriate new challenges which are its concern at the several levels of higher education.

The governing board of an institution of higher education in the United States operates, with few exceptions, as the final institutional authority. Private institutions are established by charters; public institutions are established by constitutional or statutory provisions. In private institutions the board is frequently self-perpetuating; in public colleges and universities the present membership of a board may be asked to suggest candidates for appointment. As a whole and individually, when the governing board confronts the problem of succession, serious attention should be given to obtaining properly qualified persons. Where public law calls for election of governing board members, means should be found to ensure the nomination of fully suited persons, and the electorate should be informed of the relevant criteria for board membership.

Since the membership of the board may embrace both individual and collective competence of recognized weight, its advice or help may be sought through established channels by other components of the academic community. The governing board of an institution of higher education, while maintaining a general overview, entrusts the conduct of administration to the administrative officers, the president and the deans, and the conduct of teaching and research to the faculty. The board should undertake appropriate self-limitation.

One of the governing board's important tasks is to ensure the publication of codified statements that define the overall policies and procedures of the institution under its jurisdiction.

The board plays a central role in relating the likely needs of the future to predictable resources; it has the responsibility for husbanding the endowment; it is responsible for obtaining needed capital and operating funds; and in the broadest sense of the term it should pay attention to personnel policy. In order to fulfill these duties, the board should be aided by, and may insist upon, the development of long-range planning by the administration and faculty.

When ignorance or ill-will threatens the institution or any part of it, the governing board must be available for support. In grave crises it will be expected to serve as a champion. Although the action to be taken by it will usually be on behalf of the president, the faculty, or the student body,

²With respect to faculty members, the "1940 Statement of Principles on Academic Freedom and Tenure" reads: "College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution."
the board should make clear that the protection it offers to an individual or a group is, in fact, a fundamental defense of the vested interests of society in the educational institution.\(^3\)

IV. THE ACADEMIC INSTITUTION: THE PRESIDENT

The president, as the chief executive officer of an institution of higher education, is measured largely by his or her capacity for institutional leadership. The president shares responsibility for the definition and attainment of goals, for administrative action, and for operating the communications system which links the components of the academic community. The president represents the institution to its many publics. The president's leadership role is supported by delegated authority from the board and faculty.

As the chief planning officer of an institution, the president has a special obligation to innovate and initiate. The degree to which a president can envision new horizons for the institution, and can persuade others to see them and to work toward them, will often constitute the chief measure of the president's administration.

The president must at times, with or without support, infuse new life into a department; relatedly, the president may at times be required, working within the concept of tenure, to solve problems of obsolescence. The president will necessarily utilize the judgments of the faculty but may also, in the interest of academic standards, seek outside evaluations by scholars of acknowledged competence.

It is the duty of the president to see to it that the standards and procedures in operational use within the college or university conform to the policy established by the governing board and to the standards of sound academic practice. It is also incumbent on the president to ensure that faculty views, including dissenting views, are presented to the board in those areas and on those issues where responsibilities are shared. Similarly the faculty should be informed of the views of the board and the administration on like issues.

The president is largely responsible for the maintenance of existing institutional resources and the creation of new resources; has ultimate managerial responsibility for a large area of nonacademic activities; is responsible for public understanding; and by the nature of the office is the chief person who speaks for the institution. In these and other areas the president's work is to plan, to organize, to direct, and to represent. The presidential function should receive the general support of board and faculty.

V. THE ACADEMIC INSTITUTION: THE FACULTY

The faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process. On these matters the power of review or final decision lodged in the governing board or delegated by it to the president should be exercised adversely only in exceptional circumstances, and for reasons communicated to the faculty. It is desirable that the faculty should, following such communication, have opportunity for further consideration and further transmittal of its views to the president or board. Budgets, personnel limitations, the time element, and the policies of other groups, bodies, and agencies having jurisdiction over the institution may set limits to realization of faculty advice.

\(^3\)Traditionally, governing boards developed within the context of single-campus institutions. In more recent times, governing and coordinating boards have increasingly tended to develop at the multi-campus regional, systemwide, or statewide levels. As influential components of the academic community, these supra-campus bodies bear particular responsibility for protecting the autonomy of individual campuses or institutions under their jurisdiction and for implementing policies of shared responsibility. The American Association of University Professors regards the objectives and practices recommended in the "Statement on Government" as constituting equally appropriate guidelines for such supra-campus bodies, and looks toward continued development of practices that will facilitate application of such guidelines in this new context. [Preceding note adopted by AAUP's Council in June 1978.]
The faculty sets the requirements for the degrees offered in course, determines when the requirements have been met, and authorizes the president and board to grant the degrees thus achieved.

Faculty status and related matters are primarily a faculty responsibility; this area includes appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal. The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy. Furthermore, scholars in a particular field or activity have the chief competence for judging the work of their colleagues; in such competence it is implicit that responsibility exists for both adverse and favorable judgments. Likewise, there is the more general competence of experienced faculty personnel committees having a broader charge. Determinations in these matters should first be by faculty action through established procedures, reviewed by the chief academic officers with the concurrence of the board. The governing board and president should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail.

The faculty should actively participate in the determination of policies and procedures governing salary increases.

The chair or head of a department, who serves as the chief representative of the department within an institution, should be selected either by departmental election or by appointment following consultation with members of the department and of related departments; appointments should normally be in conformity with department members' judgment. The chair or department head should not have tenure in office; tenure as a faculty member is a matter of separate right. The chair or head should serve for a stated term but without prejudice to reelection or to reappointment by procedures which involve appropriate faculty consultation. Board, administration, and faculty should all bear in mind that the department chair or head has a special obligation to build a department strong in scholarship and teaching capacity.

Agencies for faculty participation in the government of the college or university should be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty. The structure and procedures for faculty participation should be designed, approved, and established by joint action of the components of the institution. Faculty representatives should be selected by the faculty according to procedures determined by the faculty.

The agencies may consist of meetings of all faculty members of a department, school, college, division, or university system, or may take the form of faculty-elected executive committees in departments and schools and a faculty-elected senate or council for larger divisions or the institution as a whole.

Among the means of communication among the faculty, administration, and governing board now in use are: (1) circulation of memoranda and reports by board committees, the administration, and faculty committees, (2) joint ad hoc committees, (3) standing liaison committees, (4) membership of faculty members on administrative bodies, and (5) membership of faculty members on governing boards. Whatever the channels of communication, they should be clearly understood and observed.

**ON STUDENT STATUS**

When students in American colleges and universities desire to participate responsibly in the government of the institution they attend, their wish should be recognized as a claim to oppor-

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*The American Association of University Professors regards collective bargaining, properly used, as another means of achieving sound academic government. Where there is faculty collective bargaining, the parties should seek to ensure appropriate institutional governance structures which will protect the right of all faculty to participate in institutional governance in accordance with the "Statement on Government." [Proceeding note adopted by the Council in June 1978.]*
tunity both for educational experience and for involvement in the affairs of their college or university. Ways should be found to permit significant student participation within the limits of attainable effectiveness. The obstacles to such participation are large and should not be minimized: inexperience, untested capacity, a transitory status which means that present action does not carry with it subsequent responsibility, and the inescapable fact that the other components of the institution are in a position of judgment over the students. It is important to recognize that student needs are strongly related to educational experience, both formal and informal. Students expect, and have a right to expect, that the educational process will be structured, that they will be stimulated by it to become independent adults, and that they will have effectively transmitted to them the cultural heritage of the larger society. If institutional support is to have its fullest possible meaning, it should incorporate the strength, freshness of view, and idealism of the student body.

The respect of students for their college or university can be enhanced if they are given at least these opportunities: (1) to be listened to in the classroom without fear of institutional reprisal for the substance of their views, (2) freedom to discuss questions of institutional policy and operation, (3) the right to academic due process when charged with serious violations of institutional regulations, and (4) the same right to hear speakers of their own choice as is enjoyed by other components of the institution.