



VIA ELECTRONIC MAIL

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By this letter, the California Conference of the American Association of University Professors (CA-AAUP) formally communicates its objection to the continuing violations of shared governance by the administration of National University over the past several years.

These violations have recently culminated in President Andrews' announcement on May 22, 2020 of the unilateral rescinding of the agreed-upon *Faculty Policies* and all full-time faculty contracts on June 15 and June 30, 2020 respectively.

These violations, detailed below, show a consistent pattern of unilateral decision-making by the Boards of National University and the National University System¹ in areas that should involve faculty input and participation according to the principles and guidelines of the American Association of University Professors (AAUP), the nation's leading authority on policies of shared governance and academic freedom. As a "vendor support organization," the System Board should not be making decisions on curriculum or anything related to faculty work and welfare.

Full-time faculty at National University, of whom there are approximately 240, are not tenured but have long-term contracts of between 2 and 10 years (depending on rank) renewable through a reappointment process detailed in the *Faculty Policies*. The terms of the appointment letter and the *Faculty Policies* constitute the faculty member's contract. The Faculty Policies include detailed requirements for shared governance in accordance with the 1966 AAUP *Statement on the Governance of Colleges and Universities*, as well as outlining faculty rights and responsibilities, including processes for terminating faculty and due process protections. Violations of shared governance have occurred over the last several years. As the most recent of these are the most egregious and the most threatening to faculty welfare, we focus on them:

¹ The legal name of the National University System is the System Management Group, Inc. (SMG). National University is defined as an "affiliate" of that entity. However, the membership of the Board of Trustees of the System and the Boards of Trustees of National University and other affiliate System universities are identical. As a result, the affiliates (such as National University) do not have a genuine separate existence.

1. Rescinding of All Full-time Faculty Contracts

On May 22, 2020, National University's President Andrews sent an e-mail to all full-time faculty in which he informed them that their contracts would be unilaterally terminated and rewritten with a start date of July 1, 2020. The letter also stated that these new contracts "would not be covered by" the existing *Faculty Policies*, which up to now have been incorporated by reference as part of the faculty contract through the faculty appointment letters, and which have been agreed to and voted upon by the National University Faculty Senate, the National University faculty, and the National University Board of Trustees in a process of deliberative shared governance. In place of existing faculty policies, the President's letter projects that "this new contractual relationship will include an Interim Faculty Handbook, which will be available on June 15, 2020."

Faculty were not consulted about this decision. Article 10.2 of the agreed upon *Faculty Policies* sets limits on how the administration can reduce positions and allow early termination of individual faculty appointments after seeking to find new positions for faculty, and Article 16 sets out a shared governance process for amending the *Policies*. Neither the faculty appointment letters nor the *Faculty Policies* permit wholesale nullification of faculty contracts nor the rescission of the *Faculty Policies* themselves.

The President claims that these actions follow from a "charge" from the National University Board of Trustees. These actions were not the result of any shared governance processes as required by WSCUC, the National University *Faculty Policies*, and the 1966 *Statement on Government of Colleges and Universities*. In fact, faculty contracts are being violated by these failures to include faculty in "academic decisions."

The Faculty Senate has repeatedly sought to hold the administration to the requirements of Faculty Policies 10.2 with regard to program closures and the elimination of faculty positions but to no avail. The Senate's request for formal documentation of the conditions that necessitated the administration's actions taken pursuant to Article 10.2 as well as the plan developed to reassign the affected faculty members required by Article 10.2.1 went unheeded.

Section 2c of the 1966 *Statement on Government of Colleges and Universities*, which the AAUP formulated in cooperation with the Association of Governing Boards of Universities and Colleges (AGB) and the American Council on Education (ACE), maintains that "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... 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." Section 3 notes, "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."

2. Unilateral Change to the "Academic Model" of the University

In his letter of May 22, 2020, President Andrews also informed faculty that the most fundamental decisions about reshaping the university's curriculum and the faculty's role in governance and curriculum will be taken out of faculty control: "*National University's academic model will be reorganized. The goal of this reorganization is to... move beyond the traditional classroom model. The academic reorganization will have a substantial impact on the faculty*

model, program offerings, modality, curriculum development and approval... The delivery model will use a 'learning team' approach, with full-time faculty members as subject-matter experts supported by a team of andragogy and student support experts." There was no consultation with faculty or with faculty shared-governance bodies in making these changes which directly and profoundly affect instruction and student learning throughout the University.

Section 5 of the 1966 *Statement* affirms that "The faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction... The... [faculty's] judgment is central to general educational policy."

3. Merger of System Management Group (SMG) Affiliate Libraries

On March 9, 2020, the Chancellor of the National University System informed the faculty that all System affiliate libraries were being merged into one central library. Eleven librarians, including the Director (who had been with NU for 40 years) were laid off. This merger occurred without consultation with the faculty. This action has significant implications for academic program quality, the use of library resources in courses, and faculty and student research efforts. The Faculty Senate asked that the President of National University provide the required Service Level Agreements for the Library, Enrollment Management, Information Technology and Human Resources. These Agreements have not been provided.

Important considerations, in addition to those in Section 2c of the 1966 *Statement* quoted above, are, "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."

Finally, the *Joint Statement on Faculty Status of College and University Librarians* by Association of College and Research Libraries, the Association of American Colleges (now the Association of American Colleges and Universities), and the AAUP contends that, "The character and quality of an institution of higher learning are shaped in large measure by the nature and accessibility of its library resources as well as the expertise and availability of its librarians. Consequently, all members of the faculty should take an active interest in the operation and development of the library. ...the scope and character of library resources should be taken into account in such important academic decisions as curricular planning and faculty appointments..." Continuing, "Librarians perform a multifaceted role within the academy [by] providing access to information, whether by individual and group instruction, selecting and purchasing resources, digitizing collections, or organizing information. In all of these areas, librarians impart knowledge and skills to students and faculty members both formally and informally and advise and assist faculty members in their scholarly pursuits. They are involved in the research function and conduct research in their own professional interests and in the discharge of their duties. Their scholarly research contributes to the advancement of knowledge valuable to their discipline and institution."

4. Closure of Academic Centers

National University is a distributed institution with academic centers, where classes were offered and faculty assigned, throughout the State of California and in Henderson, Nevada. In late March, all University buildings were closed due to the COVID-19 outbreak, and several significant centers were closed permanently. These permanent closures occurred without notice or faculty consultation. President Andrews in a Zoom Town Hall on April 9, 2020 noted that while "*Some of these decisions [like the closing of academic centers] were being considered*

prior to the COVID-19 outbreak but were accelerated by the crisis... Our traditional timeframe for faculty consultation and shared governance was truncated on a number of these issues.” He also acknowledged in the same Town Hall that *“Upon closing the Stockton and Bakersfield campuses two years ago, we agreed to a process of sharing information and intentions to close future campuses with faculty and faculty leaders as leases came due.”*

That information-sharing did not happen. It is also not credible that there was a careful analysis of each location in a few weeks and that there was no time to consult with the faculty at the locations or with Senate officers to get their input. In fact, with COVID-19, consultation using and conferencing technologies is quite simple and transparent and does not carry the burden of travel.

CA-AAUP believes that administration is using the COVID-19 pandemic as a smokescreen to carry out plans already developed without shared governance, such as but not limited to Academic Center closures, cutting library services and staff, and terminating faculty. This announcement just made what had been an improper *de facto* practice of violating shared governance *de jure*.

A joint administrative-faculty taskforce worked hard in Spring 2019 to come up with a clear process by which center closures would be considered and decided upon, including a timeframe for when faculty would be notified of impending closures. This agreed-upon process has been completely ignored by the administration and Academic Center closures were only announced after they were a *fait accompli*. In a recent faculty meeting, one faculty member learned from colleagues that her center had been closed - nobody in the administration notified her that her office was no longer accessible.

At this recorded town hall, President Andrews also confirmed that the university was in good financial shape, with over \$500 million of “reserve”; the University also recently received an unprecedented and widely publicized gift of \$350 million dollars from a single donor.

Section 2c of the 1966 *Statement* recommends that “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.”

5. “Emergency Powers” Delegated by SMG to Affiliate Presidents

Ahead of President Andrews’ April 9, 2020 Town Hall with faculty, he distributed a Resolution from *“the NU and NUS Boards authoriz[ing] Chancellor [of the System] Cunningham to take more definitive action, and to delegate the same authority to affiliate presidents.”* The System Management Group (SMG) is not empowered to make decisions for National University. The SMG is a service provider to NU and explicitly does not operate under shared governance, but its Board and Chancellor often make decisions for NU and “system” affiliates, as in the cases noted above.

Section 2a of the 1996 *Statement* argues that “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.”

In addition, “AAUP Principles and Standards for the COVID-19 Crisis” lays out AAUP principles when it comes to universities dealing with the COVID-19 crisis and maintaining shared governance and academic freedom. They may be accessed at <https://www.aaup.org/aaup-principles-and-standards-covid-19-crisis>. In particular the principles state that “The COVID-19 pandemic should not become the occasion for administrations to circumvent widely accepted principles of academic governance, as some faculty members have reported has happened at their institutions.” Quoting the *Statement on Government* it notes that, “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.”

6. Termination of Academic Programs in Violation of Board-Approved Shared Governance Processes

In 2018-19, at the President’s request, a joint Small Program Planning Task Force (SPPT), comprised of faculty and administrators was convened to develop a process for evaluating the viability of and making recommendations for small programs. The Task Force recommended a process that involved careful consideration of multiple factors and discussion with program faculty before deciding whether to terminate small programs or continue to offer and attempt to grow them.

At his April 9, 2020 Town Hall, the President announced that the process would be revived and expedited to generate recommendations for program terminations by June 30, 2020. The process is attempting to short circuit the final report and recommendations developed by the SPPT. No consultation occurred with program faculty. Instead Academic Program Directors (APDs) reported that they are being informed that their programs are slated for termination based solely on annual Students in Program (SIP) numbers. In the climate of expected layoffs, faculty serving as APDs of programs with fewer than 500 student majors are under pressure from Deans to agree to program closures; faculty are discouraged from appealing the decision to the faculty governing bodies, and are informed that the Provost will have the final say in deciding whether to submit programs for termination. Many APDs believe that he has already decided the ones he wants to close before the process is completed. These actions violate the work of the joint administrative and faculty taskforce that spend six months last year developing the process and criteria for closing or reviving small programs.

Section 3 of the 1966 *Statement* advises, as a best practice, that “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.”

Conclusion

In conclusion, CA-AAUP believes that the University administration, the SMG, and their respective (and identical) Boards have repeatedly violated the requirements of shared governance set forth in the University’s own *Faculty Policies* as well as in the AAUP’s standards. These actions have been accompanied and facilitated by sudden announcements of radical changes to faculty work and the academic structures and processes at the University, such as the President’s letter of May 22, 2020. Though faculty were repeatedly assured by the President that the University is in strong financial shape, these measures have frequently been justified under the guise of financial concerns.

We believe these actions will result in irrevocable, serious, and unnecessary harm to National University and to its faculty and students. In addition, these actions diminish the value of

faculty, and the work they do, as well as the value of higher education whose effective contribution is essential to the economy and society. These one-sided decisions will create a vicious downward cycle.

Accordingly, we strongly recommend that National University comply with its own standards of shared governance and those of the general academic community. This requires the immediate revocation of the President's letter of May 22, 2020 in its totality and all related announcements and unilateral management plans.

Sincerely,

Steven Filling, President

Jesse Drew, Vice President, University of California

Diane Klein, Vice President, Private Colleges and Universities

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