

# Academic Freedom, Tenure, and Program Discontinuance: An AAUP Primer

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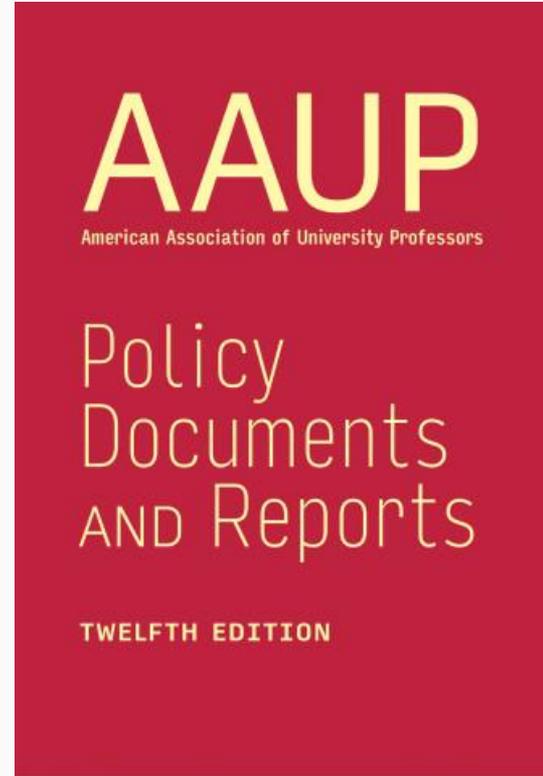
Department of Academic Freedom, Tenure, and Governance

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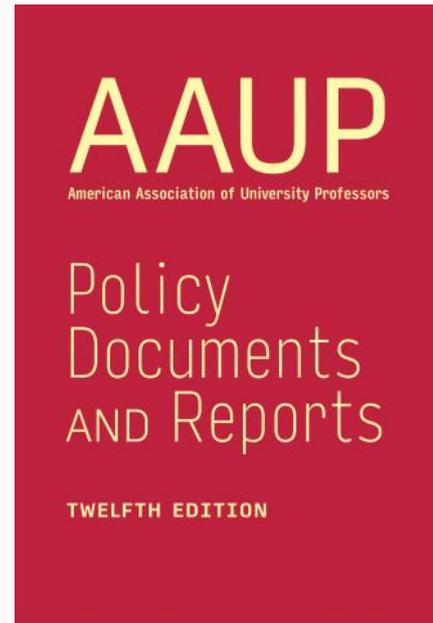


# The Redbook

## *AAUP Policy Documents and Reports*

Nearly 80 of the Association's most useful policy documents

Sections on academic freedom, tenure, and due process; college and university government; professional ethics; faculty status; evaluation of faculty members; faculty work; intellectual property, copyright, and outside funding; budgets, salaries, and benefits; collective bargaining; work and family; discrimination; and students



# Academic Freedom and Tenure

## *1940 Statement of Principles on Academic Freedom and Tenure*

“Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition.”

“Academic freedom is essential to these purposes.”

# Academic Freedom and Tenure

## *1940 Statement of Principles on Academic Freedom and Tenure*

“Tenure is a means to certain ends, specifically (1) freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability.”

# Academic Freedom and Tenure

## *1940 Statement of Principles on Academic Freedom and Tenure*

1. “Teachers are entitled to full freedom in research and in the publication of the results....”
2. “Teachers are entitled to freedom in the classroom in discussing their subjects....”
3. “College and university teachers are citizens, members of learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline....”

# Academic Freedom and Tenure

*Protecting an Independent Faculty Voice: Academic Freedom after Garcetti v. Ceballos*

**“Academic freedom is the freedom** to teach, both in and outside the classroom, to conduct research and to publish the results of those investigations, and **to address any matter of institutional policy or action whether or not as a member of an agency of institutional governance.** Professors should also have 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.”

# Academic Freedom and Tenure

## *1940 Statement of Principles on Academic Freedom and Tenure*

1. “After the expiration of a probationary period, teachers or investigators [researchers] should have permanent or continuous tenure, and their service should be terminated only for adequate cause...”
2. “Beginning with appointment to the rank of full-time instructor...the probationary period should not exceed seven years....”
3. “Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution” in a hearing of record

# Academic Freedom and Governance

## *On the Relationship of Faculty Governance to Academic Freedom*

- Faculty participation in governance is “inextricably linked” to academic freedom.
- Maintaining academic freedom requires faculty participation in governance.

# Academic Freedom and Governance

## *On the Relationship of Faculty Governance to Academic Freedom*

- Faculty participation in governance is protected by academic freedom: intramural speech.
- The best protection of academic freedom, and thus of governance, is tenure.

# *Recommended Institutional Regulations on Academic Freedom and Tenure*

The AAUP recognizes three legitimate bases for terminating a tenured appointment or a probationary or special appointment before the end of the specified term:

1. Adequate cause (Regulations 4a-b and 5)
2. Financial exigency (Regulation 4c)
3. Discontinuance of program or department for educational reasons (4d)

# Regulation 4d, “Discontinuance of Program or Department for Educational Reasons”

Contains two basic kinds of standards among its specific provisions:

- Those that ensure that the collective faculty plays a meaningful role in all decision-making (governance)
- Those that ensure that the affected faculty members have the opportunity to contest the decision with an elected faculty hearing body (due process)

# Regulation 4d, “Discontinuance of a Program or Department for Educational Reasons”

“Termination . . . may occur as a result of bona fide formal discontinuance of a program or department of instruction.”

Regulations 4d(1)-(4) set out the recommended standards and procedures.

## Regulation 4d(1)

“The decision to discontinue formally a program or department of instruction **will be based essentially upon educational considerations, as determined primarily by the faculty** as a whole or an appropriate committee thereof.” (Emphasis added)

## Regulation 4d(1)

“[Note: ‘Educational considerations’ do not include cyclical or temporary variations in enrollment. They must reflect long-range judgments that the educational mission of the institution as a whole will be enhanced by the discontinuance.”]

## Regulation 4d(2)

“Faculty members in a program being considered for discontinuance . . . will promptly be informed of this activity in writing and provided at least thirty days in which to respond to it. Tenured, tenure-track, and contingent faculty members will be invited to participate in these deliberations.”

## Regulation 4d(3)

“Before the administration issues notice to a faculty member of its intention to terminate an appointment . . . , the institution will make every effort to place the faculty member concerned in another suitable position. If placement in another position would be facilitated by a reasonable period of training, financial and other support for such training will be proffered.”

## Regulation 4d(3)

“If no position is available within the institution, . . . the faculty member’s appointment then may be terminated, but only with provisions for severance salary equitably adjusted to the faculty member’s length of past and potential service, an amount which may well exceed but not be less than the amount prescribed in Regulation 8.”

## Regulation 4d(4)

“A faculty member who contests a proposed relocation or termination resulting from a discontinuance has the right to a full hearing before a faculty committee . . . [in which] the essentials of an on-the-record adjudicative hearing will be observed.”

## Regulation 4d(4)

“The issues in such a hearing may include the institution’s failure to satisfy any of the conditions specified in Regulation 4d. In the hearing, a faculty determination that a program or department is to be discontinued will be considered presumptively valid, but the burden of proof on other issues will rest on the administration.”

# Resources

[1940 Statement of Principles on Academic Freedom and Tenure](#)

[Protecting an Independent Faculty Voice: Academic Freedom after Garcetti v. Ceballos](#)

[On the Relationship of Faculty Governance to Academic Freedom](#)

[Recommended Institutional Regulations on Academic Freedom and Tenure](#)

# Thank you!

If you have questions or need assistance, please contact our department at [academicfreedom@aaup.org](mailto:academicfreedom@aaup.org).