



FURMAN AAUP

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THE AAUP AND EMPLOYMENT AT WILL AT FURMAN UNIVERSITY

In June, 2004, all non-tenured Furman faculty and staff employees received notice that on the advice of legal counsel they were required to sign a statement that would be included in their personnel files. This statement acknowledged that Furman's published policies and procedures are not contractual. It further acknowledged the status of non-tenured faculty as "at-will" employees. (See accompanying story, "What Was the Flap About?")

At least one department chair, along with the president of the Furman chapter of the AAUP, objected to this course of action.

From the perspective of the AAUP, the disclaimers in the statement seemed to threaten the rights of non-tenured faculty to academic freedom and due process.

In general, faculty believe that these rights, and others, are contractually guaranteed to them by policies in the *Faculty Handbook*.

Dean Tom Kazee, in the light of the objections, instructed non-tenured faculty not to sign the disclaimers, pending further discussion.

After conversations with legal counsel and with members of the Furman chapter of the AAUP, Kazee recommended to President David Shi that non-tenured faculty not be required to sign the disclaimers.

After discussing the issue with members of the Board of Trustees, Shi approved Kazee's recommendation, thus

making the issue of at-will employment a dead issue for most Furman faculty.

The status of professional librarians at Furman remains unclear. Librarians are identified as members of the faculty in university documents, but they are currently considered by the administration to be at-will employees. (See accompanying story, "What is 'Employment at Will'?")

How Did This Happen?

According to Susan Zeiger, Furman Director of Personnel, Furman retains the services of Ogletree, Deakins, Nash, Smoak & Stewart to provide legal advice. The firm advertises itself on its website as "advocates for management."¹

Last year, an "at-will" employment bill came before the South Carolina legislature that seemed unfriendly to higher education and potentially destructive of the tenure system (see accompanying story "The Background of the New Law").

Since then, according to Zeiger, both Ogletree Deakins and Zeiger herself had been keeping up with legislative action concerning at-will employment in the state.

A new law concerning at-will employment became effective on May 15, 2004 (see accompanying story "The New Employment-at-Will Law"). Zeiger received an update about the new law from Ogletree Deakins. The firm advised that

From the Editor

The purposes of AMPERSAND are (1) to inform the Furman community about issues of concern to the national organization and to the local chapter, and (2) to interpret Furman's policies and practices in the light of AAUP principles.

In this issue of the newsletter, for example, we examine the concept of "employment at will" and the contractual status of the *Faculty Handbook*. The President's Column addresses this and other issues related to faculty fringe benefits and faculty governance.

The local chapter of AAUP now has more than 50 members, almost one-fourth of the full-time faculty. A chapter constitution has been adopted, which will permit the chapter as a whole to take positions on issues whenever that seems appropriate. Another task for the newsletter, then, will be to articulate the chapter's positions to the Furman community.

The officers of the Furman chapter of AAUP serve as the editorial board of AMPERSAND. The newsletter is distributed to faculty, academic administrators, and trustees.

The editorial board welcomes response, commentary, and suggestions for topics to be explored in future issues.

Furman require staff and non-tenured faculty to sign disclaimers such as those that were distributed in June.

Zeiger and Kazee asserted that the position of the administration is that policies in the *Faculty Handbook* having to do with faculty status, benefits, and performance are in fact contractual.

The belief of the administration, based on the advice of Ogletree Deakins, was that signing the disclaimers would not affect these contractual rights. Faculty contracts specifically reference particular policies in the *Faculty Handbook*. Ogletree Deakins had advised that the contracts would take precedence over the disclaimers.

According to Zeiger, in recent memory no faculty have in fact taken or threatened legal action outside the range of the policies that the university agrees are contractual. In deciding to require faculty to sign the disclaimers, the administration was not reacting to something perceived as an existing problem, but instead to legal advice received, Zeiger said.

The plan to require non-tenured faculty to sign the disclaimers was discussed at a meeting of the President's Council, with Kazee and Dr. David Rutledge, chair of the faculty, in attendance.

Kazee said that at that point he perceived no need to consult with department chairs or faculty committees, because Ogletree Deakins had advised that the disclaimers would not alter the contractual relationship between non-tenured faculty and the university. Of this decision not to consult with faculty, Kazee said, "I dropped the ball."

Faculty Objections

Dr. Stanley Crowe, chair of the English Department, became aware of the distribution of the statement to non-tenured faculty, when his spouse, Janis Crowe, a lecturer in the English Department, received a copy.

Crowe wrote to Kazee, suggesting that the statement undermined the job security of non-tenured faculty, objecting to the procedure by which the statement was promulgated, and expressing his feeling that the doctrine of employment at will is in general repugnant.²

WHAT WAS THE FLAP ABOUT?

The statement that non-tenured Furman faculty were asked to sign in June was as follows:

I acknowledge that the policies and procedures are not a contract of employment and that my employment with Furman University is a voluntary one and is subject to termination by me or Furman at will. I further acknowledge that all employee handbooks, manuals or policy compilations, whether in written or electronic form, issued before June 30, 2004 are rescinded and are considered of no force or effect as of June 30, 2004.

The rescinding and reissuing of the university documents is necessary in order for Furman to take advantage of the provisions of a new "employment-at-will" law, and to prevent the possibility of legal action based on previous versions of the university documents.

An explanatory statement accompanying this disclaimer said that Furman's legal counsel had advised this course of action because of the passage into law of the new "employment at will" bill (see accompanying story, "The New Employment-at-Will Law"). The explanatory statement also informed employees that salary letters for the 2004-05 fiscal year would incorporate an additional disclaimer:

This document is not a contract of employment. Your employment with Furman University is a voluntary one and is subject to termination by you or Furman at will.

The explanatory statement asserted that "your employment has been at-will for the duration of your time here at Furman," and employees were told that "you are now required (on the advice of our legal counsel) to formally acknowledge this fact."

The explanatory statement assured employees, however, that "The impact of this new bill will not change the way that Furman University interprets or implements its employment policies."

This course of action had been discussed earlier in a meeting of the President's Council where Dean Tom Kazee and Faculty Chair David Rutledge were present, but neither the department chairs nor any faculty committees had been consulted about this course of action.

In his response to Crowe, Kazee explained that it was his understanding that "signing this form DOES NOT change the relationship between non-tenured faculty and the University. All non-tenured employees, whether faculty or staff, are currently (and have been since they were hired by the University) at-will employees."³

In this same response, Kazee said, "it is clear that my judgment about the need for discussion of the issue was mistaken. It pains me to say so, for I am deeply committed to faculty consideration and consultation. . . . Moreover, and more importantly, I . . . would be ardently opposed to any

change in the status of faculty that would make them more vulnerable to arbitrary or capricious administrative or faculty action."⁴

Kazee informed Crowe that he would ask faculty not to sign the form until fuller discussion had occurred.

At this point, Dr. Dan Slougher, then president of the local chapter of the AAUP, entered the conversation.

Slougher wrote to Kazee to argue that faculty "are definitely not at-will employees. We have contracts, backed up by policies and procedures, which grant certain rights."⁵ Slougher said, "to ask faculty to become at-will employees in effect denies them academic freedom."⁶

Slougher then communicated with the national office of the AAUP to obtain an opinion about the legal force of the disclaimers that non-tenured faculty had been asked to sign.

Contrary to the advice that the university had received from Ogletree Deakins, the legal counsel for the national AAUP opined that "signing the disclaimer removes the protections in the handbooks and personnel policies as a contractual right."⁷ (See related story, "The New Employment-at-Will Law.")

Furthermore, although the contracts of full-time non-tenured faculty do reference the *Faculty Handbook*, the contracts of lecturers and adjuncts currently do not.

Handbook Protections

The major concerns of the AAUP in this situation are preserving rights of academic freedom and due process for all faculty.

Faculty at Furman are guaranteed academic freedom by File 100.0 ("Faculty Security") of the *Faculty Handbook*: "The trustees understand that the principle of academic freedom is vital to the faculty member's pursuit of truth in his or her discipline and to effectiveness in the educational process. Therefore, the trustees guarantee the right as stated in File 137.8 of the *Faculty Handbook*" (*Faculty Handbook*, File 100.0, B.2).

WHAT IS "EMPLOYMENT AT WILL"?

"The employment-at-will doctrine avows that, when an employee does not have a written employment contract and the term of employment is of indefinite duration, the employer can terminate the employee for good cause, bad cause, or no cause at all."¹ In general, "since the last half of the 19th century, employment in each of the United States has been 'at will,' or terminable by either the employer or the employee for any reason whatsoever."²

Typically, staff employees at a college or university who are not unionized are at-will employees. They do not have written contracts and are not eligible for tenure; thus, "they may leave their employment or be terminated by the institution, with or without notice, for any reason or no reason at all."³

For faculty at private institutions, on the other hand, normal practice is that "the primary relationship is contractual," and the contract "can be evidenced by a formal document (such as an appointment letter), by the oral promise of an institution official (for example, a department chair or dean) with apparent authority to bind the institution, or by the terms of a faculty handbook or other policy manual."⁴

At-will employees are afforded certain protections by law: "these employees may not be terminated because of race, color, religion, national origin, sex, disability, age (and, in some cases, sexual preference), or for having exercised a right guaranteed by law (for example, for exercising free speech rights, whistle blowing, availing themselves of Family Medical Leave Act rights, or filing a worker's compensation claim)."⁵

In most states, state law creates other exceptions to the doctrine of employment at will:

The most widespread exception prevents terminations for reasons that violate a State's public policy. Another widely recognized exception prohibits terminations after an implied contract for employment has been established;

such a contract can be created through employer representations of continued employment, in the form of either oral assurances or expectations created by employer handbooks, policies, or other written assurances. Finally, a minority of States has read an implied covenant of good faith and fair dealing into the employment relationship.⁶

As of October, 2000, 38 of the 50 states recognized the implied-contract exception to the doctrine of employment at will.⁷

A recent South Carolina law regarding employment at will addresses primarily the implied-contract exception. The law specifies what an employer in the state must do in order to prevent employer handbooks, personnel manuals, policies, procedures, or other documents issued by the employer from being construed as implied contracts. (See accompanying story, "The New Employment-at-Will Law.")

NOTES

¹Charles J. Muhl, "The employment-at-will doctrine: three major exceptions," *Monthly Labor Review*, January 2001, 3.

²*Ibid.*

³Fernando Gomez, "Legal Principles Relevant to Supervision," American Council on Education Department Chair Online Resource Center, 2003. Department Leadership Project. <<http://www.acenet.edu/resources/chairs/>>.

⁴*Ibid.* See also American Association of University Professors, *Faculty Handbooks As Enforceable Contracts: A State Guide*, 3rd edition (Washington, DC: American Association of University Professors, 2003), ix.

⁵*Ibid.*

⁶Muhl, 4.

⁷*Ibid.*

Both File 100.0 and File 137.8 (“Individual Rights and Responsibilities”) of the *Faculty Handbook* are specifically referenced in the contracts of all full-time faculty, whether on tenure-track or temporary appointment.

File 137.8 itself references the 1940 AAUP statement concerning academic freedom, a copy of which is available in the *Faculty Handbook* as Exhibit E in the Appendix.

Faculty at Furman, including probationary faculty, are guaranteed due process in File 131.5 (“Due Process”) of the *Faculty Handbook*, and elsewhere—for example, File 157.4 (“Probationary Appointment”).

File 157.4 specifically guarantees academic freedom to all faculty: “All members of the faculty, whether tenured or not, are entitled to academic freedom as set forth in the 1940 Statement of Principles on Academic Freedom and Tenure, formulated by the Association of American Colleges and the American Association of University Professors, and adopted by the Board of Trustees of Furman University” (File 157.4, B).

File 157.4 also guarantees the right of due process to probationary faculty, referencing File 131.5.

“Contractual” Policies

Files 137.8 and 131.5, among others, are listed in C.6.f of File 100.1 (“Administration - Faculty Relationships”) of the *Faculty Handbook* as “files which contain policy statements regarding faculty status, benefits, and performance.” Such policies are the ones that are commonly referred to as “contractual.” File 100.1 is specifically referenced in the contracts of all full-time faculty.

The national AAUP publishes a booklet entitled *Faculty Handbooks as Enforceable Contracts: A State Guide*.⁸ The booklet summarizes recent case law in the separate states that has to do with the contractual status of provisions in faculty handbooks.

Faculty handbooks are in fact often treated as contractual or quasi-contractual in the courts in most of the 50 states. However, the AAUP was unable to find any published case law in South Carolina having to do with faculty handbooks.⁹

The Outcome

After consultation with legal firms other than Ogletree Deakins, with deans at other institutions, and with members of the local AAUP, Dean Kazee recommended to President Shi that non-tenured faculty not be asked to sign the disclaimers.

Kazee said that he was working from two principles: first, that Furman should not do anything to remove the protections for non-tenured faculty that are already in place; and second, that Furman should do what is in the best interest of the university, insofar as that is consistent with the first principle.

Kazee said of the final decision, “By signing their initial contracts and then their annual salary agreements, non-tenured faculty are covered by the sections of our Policies and Procedures statement referenced in those documents. Signing an at-will statement can create confusion and anxiety about their status, so we think it best that these faculty not be asked to sign the statement.”

The disclaimers potentially provide “protection against frivolous lawsuits,” Kazee said, “but we should not pay the price of faculty perception that their relationship with Furman has changed or that protections have been removed.”

To take advantage of whatever protections the new law might offer seems to mandate a re-issuing of policies and procedures after June 30, 2004. The plan is to accomplish the re-issuing in conjunction with moving the *Policies and Procedures Manual* to the Furman Intranet, Zeiger said. The only change in the manual will be the addition of a disclaimer statement for the staff portion of the manual.

Zeiger stressed that Furman still intends to follow its policies as in the past, and is currently doing so. The disclaimers that staff are asked to sign, Zeiger points out, merely constitute formal acknowledgement of a long-existing situation: namely, that staff are in general at-will employees without contracts of employment.

So far, Zeiger said, the administration’s efforts to communicate about this issue and to maintain the trust of staff are working well.

The Professional Librarians

Professional librarians at Furman are at the moment a problematic category,

in that they are identified as members of the faculty in some official documents (for example, the Faculty Constitution, Article II, Section 1), and yet, for example, they are not eligible for tenure (*Faculty Handbook*, File 158.4, “Tenure,” C.1.c).

The current position of the administration, according to Zeiger, is that librarians are professional staff employees. Librarians do not have contracts of appointment. Instead, they have annual letters specifying salary for the year.

Librarians, therefore, including those who may from time to time teach classes, have no contractual guarantees, Zeiger said.

This year, Zeiger reported, all librarians signed the disclaimer included in their salary letters. The disclaimer acknowledges that the salary letter is not a contract of employment and that the librarian is an at-will employee.

Kazee said that his perception is that the faculty are not of a single mind concerning the status of librarians. The administration is “open to the discussion of the status of librarians,” according to Kazee, and is currently awaiting a recommendation from Dr. Janis Bandelin, Director of the Library, and her staff.

NOTES

¹Ogletree Deakins, Attorneys at Law. <<http://www.ogletreedekins.com/>>. Accessed 08/17/04.

²Stanley Crowe, e-mail to Kazee and others, 05/25/04.

³Tom Kazee, e-mail to Stanley Crowe and others, 05/25/04.

⁴*Ibid.*

⁵E-mail to Kazee, 05/25/04.

⁶*Ibid.*

⁷Mark Smith (Director of Government Relations, AAUP), e-mail to Dan Slougher, 06/04/04.

⁸American Association of University Professors, *Faculty Handbooks as Enforceable Contracts: A State Guide*, 3rd ed. (Washington, DC: American Association of University Professors, 2003).

⁹*Ibid.*, p. vii.

THE NEW EMPLOYMENT-AT-WILL LAW

On May 15, 2004, Governor Mark Sanford signed into law the following emendation to the *Code of Laws of South Carolina*:

Section 41-1-110. It is the public policy of this State that a handbook, personnel manual, policy, procedure, or other document issued by an employer or its agent after June 30, 2004, shall not create an express or implied contract of employment if it is conspicuously disclaimed. For purposes of this section, a disclaimer in a handbook or personnel manual must be in underlined capital letters on the first page of the document and signed by the employee. For all other documents referenced in this section, the disclaimer must be in underlined capital letters on the first page of the document. Whether or not a disclaimer is conspicuous is a question of law.¹

The Greenville News for Sunday, June 27, 2004, printed a guest column by State Representative Harry Cato (R, District 17), praising the new law for improving the business climate in the state by removing "limitations on employers."

Cato asserted that decisions by the South Carolina Supreme Court since the mid-1980s had "substantially eroded" the doctrine of employment at will in the state, since "the appellate courts in South Carolina have taken the position over the last 20 years that virtually any handbook or policy manual distributed to employees creates a contract of employment"²

The Greenville News for July 9, 2004, printed a rejoinder to Cato by W. Andrew Arnold, an employment lawyer in Greenville and chairman of the Greenville County Democratic Party.

Arnold's column, entitled "Moving backward: the law of master and servant," argued that the recent

legislation "permits employers to publish handbooks that make promises and then to break the promises with impunity," where *employment at will* is "merely the politically correct term for 'the law of master/servant.'"³

The controversial new legislation came on the heels of an even more controversial bill that got as far as passage by the South Carolina House in 2003.

This previous bill, when applied to faculty of colleges and universities in the state, seemed to threaten tenure by mandating that *all* employees in the state be at-will employees. The bill was opposed by the national AAUP, by local chapters of the AAUP at colleges and universities in South Carolina, and by higher-education lobbyists in the state.

This bill ultimately failed to be voted into law. (See accompanying story, "The Background of the New Law.")

Legal Commentary

Comments of legal firms specializing in labor law indicate that the new legislation intends to make it easier for employers to terminate employees without fear of legal actions arising from the employers' failure to follow provisions of handbooks, policy manuals, and other such documents. For example, before the bill was signed into law, Wade E. Ballard of Edwards, Ballard (Spartanburg, SC) characterized some of the "positives" of the bill as follows:

- Handbook cases, which have been the most heavily litigated exceptions to employment at will, may be reduced in number
- Whether or not a disclaimer is conspicuous is now declared to be a "question of law," meaning that a judge and not a jury will decide this issue
- It may be easier for employers to defend cases based on policies and procedures issued after June 30, 2004.⁴

A legal update posted online by the Jackson, Lewis firm, which characterizes itself on its website as "A National Workplace Law Firm," describes the new legislation as follows: "the Act provides some, but not all, of the relief and answers desired by the business community. It is a product of two years of legislative debate and compromise. Technical compliance will result in significant administrative burden, which must be balanced with the litigation risk of non-compliance, which is very real"⁵

Furman and the Law

The non-tenured Furman faculty were asked this past June to sign a disclaimer of the sort specified in the new law. The question for these faculty is whether signing such a disclaimer would surrender the rights spelled out in the *Faculty Handbook* concerning faculty status, benefits, and performance that have commonly been referred to as "contractual." (See File 100.1 of the *Faculty Handbook*.)

Legal opinion seems divided on the question of the legal force of the disclaimer that Furman faculty were asked to sign. According to Susan Zeiger, Furman's Director of Personnel, Furman's attorneys (Ogletree, Deakins, Nash, Smoak, & Stewart) say that signing the disclaimer would not change the relationship of non-tenured faculty to Furman, and that the written contract that non-tenured faculty have with Furman would take precedence over the disclaimer.

The written contract for full-time non-tenured faculty contains references to particular policies in the *Faculty Handbook*. The contract for lecturers and adjuncts, however, contains no such references.

Disagreeing with Furman's attorney, the legal counsel for the national AAUP says that "from a legal standpoint signing the disclaimer removes the protections in the handbooks and personnel policies as a contractual right."⁶ An examination of the AAUP booklet *Faculty Handbooks as Enforceable Contracts: A State Guide*

(2003) suggests that provisions in faculty handbooks in other states are often considered by courts as contractual, but the AAUP was unable to locate any published faculty-handbook cases in South Carolina.⁷

Given the legislative history of the new law and the present murkiness of the legal situation, then, it seems uncertain at this point exactly how the new law applies to faculty handbooks or to non-tenured faculty at institutions of higher education.

NOTES

¹South Carolina General Assembly, 115th Session, A185, R214, H3348. Available at <http://www.scstatehouse.net/sess115_2003-2004/bills.3448.htm>.

²"Protecting 'employment at will' good for state, workers," 17A.

³15A.

⁴"Flawed Employment-At-Will Bill Awaits Governor Sanford's Signature." <<http://www.edwardsballard.com/news/No53.htm>>. Accessed 07/21/04.

⁵"South Carolina Legislature Enacts Protection for At-Will Employment Relationship," May 12, 2004. <<http://www.jacksonlewis.com/legalupdates/default.cfm>>. Accessed 07/21/04.

⁶E-mail, Mark Smith (Director of Government Relations, AAUP) to Dan Slougher, June 4, 2004.

⁷American Association of University Professors, *Faculty Handbooks as Enforceable Contracts: A State Guide*, 3rd ed. (Washington, DC: American Association of University Professors, 2003), p. vii.

THE BACKGROUND OF THE NEW LAW

by Dan Slougher

On January 29, 2003, the Labor, Commerce and Industry Committee of the South Carolina House introduced a bill (HR 3448) to reaffirm the at-will nature of employment in the state. The bill defined the "employment-at-will doctrine" as "the right of an employee or an employer to terminate the employment relationship with or without notice to the other and with or without cause."

In particular, the bill sought to address a concern of the South Carolina Chamber of Commerce that recent court rulings implied that employee handbooks modified the at-will relationship between employee and employer. To this end, HR 3448 specified that the policies in an employee handbook would in no way change the at-will status of employment unless both employee and employer explicitly agree to modify their at-will relationship:

(3) No handbook, policy, procedure, or other document issued by an employer or its agent may form an express or implied contract of employment, except as described in item (4).

(4) An employee and an employer may enter into a contract of employment to which item (2) does not apply if:

(a) the contract is in writing;

(b) the contract is signed by the employee and an authorized agent of the employer; and

(c) the contract expressly provides that the parties intend to alter their at will employment relationship.

By mid-February, the bill had passed the State House and was pending before the Senate Labor, Commerce and Industry Committee. At this point, professors at the University of South Carolina Law School raised an alarm. It appeared the bill would have the (most likely, unintended) consequence of abolishing tenure at all public and private colleges and universities in the state.

Professor Robert Wilcox, Chair of the USC Faculty Senate, asked USC lobbyists to see if the bill could be amended to exempt college and university faculty. Professor Greg Adams contacted faculty around the state to urge them to contact their state senators.

The Furman Chapter of the AAUP contacted Mark Smith, Director of the AAUP Government Relations Office, who declared the bill to be "most troubling" and immediately sent out word to AAUP members to join in the effort to have the bill amended. In addition, the chapter contacted President Shi, who in turn enlisted the aid of Jim Byrd, President of

South Carolina Independent Colleges and Universities.

Over the next week, thanks to the lobbying efforts of Furman AAUP members and faculty from all over the state (most notably, from the USC Law School), the national AAUP office, Jim Byrd, and many others, the Senate Labor, Commerce and Industry Committee amended the bill so that it would not "affect the rights and policies regarding tenure for public and private college and university faculty."

The minutes of the March 2003 meeting of the Furman faculty report that President David Shi "thanked the members of Furman's AAUP chapter for their contributions toward securing this amendment."

Eventually, because of concerns unrelated to tenure issues, the State Senate did not vote on HR 3448 in 2003.

However, the bill reappeared in 2004 in much different form. (See related story, "The New Employment-at-Will Law.")

Whereas the 2003 version specified that provisions of a handbook would modify the at-will employment relationship only if the intention to do so was explicitly stated, the new version stated that a handbook would modify the at-will employment relationship unless expressly disclaimed by the employer.

The legislature passed this new form of the bill, and Governor Mark Sanford signed it into law on March 15, 2004.

AAUP ONLINE

The national AAUP maintains a website at the following URL.

<http://www.aaup.org>

The website says that “AAUP’s purpose is to advance academic freedom and shared governance, to define fundamental professional values and standards for higher education, and to ensure higher education’s contribution to the common good.”

The site reports on the ongoing activities of the national organization in furtherance of this purpose. The site includes news releases, policy statements, and accounts of the AAUP’s legal, lobbying, and organizing activities.

Also available are full-text versions of articles from current and past issues of the AAUP journal *Academe*, as well as summaries and selected tables from current and past reports of the AAUP’s annual study of faculty compensation.

The site is a handy archive for AAUP’s statements and reports, including material from the so-called *Redbook*. Some of these documents—for example, the “1940 Statement of Principles of Academic Freedom and Tenure”—are referenced in Furman’s *Faculty Handbook* and in faculty contracts. These documents provide the foundations upon which guarantees of academic freedom and due process for Furman faculty rest.

Statements available on the site that articulate the AAUP’s positions concerning academic freedom and shared

governance are important reading for anyone involved in the enterprise of higher education, whether or not one is interested in joining the AAUP.

If one is interested in joining the AAUP, however, one can join the organization or renew one’s membership online.

Dan Slougher maintains the website of the Furman chapter of the AAUP, at the following URL.

<http://math.furman.edu/~dcs/aaup/>

This site provides handy links to the website of the national AAUP and to documents included in the Furman website—for example, Furman’s strategic plan, the “Furman FactBook,” and the Furman Common Data Set.

The site includes the bylaws of the Furman chapter of the AAUP. It also archives PDF versions of the issues of AMPERSAND.

The site provides a series of comparisons of Furman with peer institutions: salaries, total compensation, fringe benefits, and athletic expenditures. The salary and compensation data are especially useful, in that they go back to 1981.

The site also alerts visitors to upcoming activities of the local chapter.

YOUR DUES AT WORK

Last Year’s Accomplishments

- ◆ Hosted question-and-answer forum with Dean Tom Kazee
- ◆ Hosted Fall Assembly of the South Carolina Conference of the AAUP
- ◆ Hosted forum on the NSSE data about student engagement at Furman University
- ◆ Hosted forum on academic dishonesty policies
- ◆ Published first issue of AMPERSAND, focusing on contingent faculty
- ◆ Intervened in the implementation of South Carolina at-will legislation

On the Agenda for the Current Year

- ◆ To ensure academic freedom for non-tenured faculty by strengthening their contractual rights
- ◆ To work with the professional librarians at Furman to resolve their status as faculty
- ◆ To advocate expanded child-care options for faculty and staff
- ◆ To research and make recommendations about gender equity
- ◆ To evaluate the *Faculty Handbook* for compliance with AAUP policies
- ◆ To strengthen ties with other South Carolina chapters
- ◆ To respond to faculty concerns by hosting open forums, chapter meetings, and informal gatherings

President's Column

Robin Visel

As a tenured professor, I have taken for granted my immunity to South Carolina laws that define the relationship between employers in the state and their employees who do not work under contracts.

Then, in 2003 and 2004, the South Carolina legislature considered bills that seemed to threaten the guarantees of academic freedom and due process that are traditionally extended to college and university faculty.

In 2003, a bill that would have designated all employees in the state (including tenured professors) as at-will employees, subject to termination for any reason or no reason, was defeated in the state legislature. The defeat of the bill was attributable, in part, to protests by the national AAUP and local chapters of the AAUP.

However, a revised version of this bill, containing provisions that could potentially threaten the rights of non-tenured faculty, was signed into law in March 2004. On the advice of legal counsel, Furman asked non-tenured faculty to sign disclaimers that seemed to surrender contractual rights.

The Furman chapter of the AAUP, on the watch of Dan Slougher, past president, challenged the administration over the implementation of this retrogressive legislation.

Dean Tom Kazee, persuaded in part by further research and in part by the arguments put forward by the AAUP and others, recommended to President Shi that non-tenured faculty not be asked to sign disclaimers identifying them as at-will employees. President Shi concurred.

Dean Kazee admitted that he had made a mistake not to consult with appropriate faculty committees before allowing the disclaimers to be circulated. Dean Kazee deserves praise for his openness to rational argument, for his willingness to admit mistakes, and for his decisive action to head off problems that might have arisen in this situation.

As this issue of AMPERSAND explains, the position of the Furman administration is that non-tenured faculty, as well as tenured faculty, are recognized as contractual employees with the rights of academic freedom and due process, and thus cannot be terminated at will.

The contracts of all full-time faculty reference policies in the *Faculty Handbook* that guarantee these faculty academic freedom and due process. The contracts of lecturers and adjuncts, however, contain no such references.

Therefore, I intend to advocate contractual guarantees for part-time faculty that safeguard their rights to academic freedom without fear of arbitrary dismissal. I also advocate these rights for the professional librarians, whose faculty status is incomplete.

As your new president, I intend to pursue the activism of previous presidents Dan Slougher, Jean Horney, and John Shelley. With fellow officers Tim Fehler, Denise Crockett, and Dennis Haney, I hope to build on our already strong membership base by keeping the AAUP involved in issues that concern the Furman faculty.

Family issues, especially the need for accessible, affordable childcare, are important to me, as is the issue of gender equity in recruitment, retention, tenure, promotion, and compensation.

Other concerns which have emerged from our members include the evaluation of the *Faculty Handbook* from the perspective of AAUP policies, and the invigoration of the other South Carolina chapters of the AAUP.

As the events of the past year have shown, Furman faculty have benefited from the services of the national AAUP, which has provided us a wealth of information and legal expertise. If you are not yet a member, you should be.

The Furman AAUP is in many ways the conscience of our institution. Please contact me with your concerns. We host an informal gathering before each faculty meeting, in addition to membership meetings and open forums each term (for which our refreshments are legendary).

The chapter owes Bill Rogers a huge debt for writing, editing, and publishing AMPERSAND. And we are very grateful to Dan Slougher for maintaining our website. Thank you to all of our active members for keeping the AAUP at the forefront of faculty issues at Furman. Join us!