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# Newsletter, September/October 2011

IWU Chapter of the AAUP

Michael B. Young

Joerg Tiede

*Chapter President, Illinois Wesleyan University*

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# Illinois Wesleyan Chapter of the AAUP

SEPTEMBER 30, 2011

NEWSLETTER

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## **Chapter Executive Committee:**

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## **In this issue:**

*It Can Happen  
Here by Michael  
B. Young*

*On the  
Upcoming  
Review of IWU's  
Sexual  
Harassment  
Policy by Joerg  
Tiede*

*Irene Mulvey to  
Speak at IWU*

*Upcoming  
Events*

*AAUP  
Membership and  
Early Career  
Faculty by  
Meghan Burke*

## **It Can Happen Here**

By Michael B. Young

When we read the list of institutions censured by the AAUP, it is comforting to note that most are not our peer or aspirational schools. However, this can be false comfort. We may think that we are too good, our procedures too aligned with AAUP policies, our administrators too enlightened for us to worry about joining that infamous list. We may think it cannot happen here. But it can.

Years ago, I became involved in a case that had the potential to land us on the list of censured institutions. A tenured member of our faculty was asked to resign. And when he refused to resign, he was given a terminal contract. In desperation, the faculty member turned to our local AAUP chapter. Members of the chapter gave him moral support and encouraged him to pursue our established grievance procedures. Fortunately, those procedures did eventually work. The faculty member retained his job, retiring of his own volition years later.

At the time of the foregoing episode, IWU subscribed to the 1940 AAUP Statement of Principles on Academic Freedom and Tenure. There were established procedures for dismissal for cause of a tenured faculty member, but in this case those procedures were not strictly followed. Without the existence of a strong local chapter and the prospect of national intervention, it is possible that the recommendation of our informal hearing committee would not have been respected. It is not enough to endorse AAUP standards and documents. It is not even enough to incorporate them into our handbook. We must remain active and vigilant. We must constitute a known quantity on campus to be reckoned with.

I confess that in the intervening years since that distant case, I became complacent. I stopped worrying and let my membership in AAUP lapse. Then, more recently, I witnessed a respected, tenured colleague being treated in a manner that made my blood run cold. Others familiar with that case might interpret it more benignly, but to me it appeared to be a frightening reminder that outrages can happen here on our campus, and they can happen to any of us. For the first time in years, I was scared, really scared. I rejoined AAUP.

The two cases noted above were very different. One involved an effort to terminate a tenured faculty member without following established procedures. The other fell into a gray area where the faculty member was treated in a way that seemed, in my opinion, to be high-handed and cruel but without any clear-cut violation of policies or procedures. On the other hand, both cases involved senior, tenured faculty members, a fact that can only make us wonder how much worse the predicament of a junior, untenured faculty member could be. And both cases took a terrible emotional toll before their final resolution. In such instances, it is

critically important that an aggrieved faculty member have a group of colleagues ready to offer advice and assistance. At best, our presence can prevent an injustice from occurring. At worst, our presence can stop or rectify an injustice that has already happened. But God help us if we have no presence.

Prof. Young is the recipient of the AAUP Chapter's Inaugural James D. Dougan Award for Contributions to Faculty Governance.

## **On the Upcoming Review of Illinois Wesleyan University's Sexual Harassment Policy**

By Joerg Tiede

Illinois Wesleyan University, like all colleges and universities, recently received a so-called "Dear Colleague" letter by the U.S. Department of Education's Office for Civil Rights. The letter, which was widely covered in the press, explains the university's obligations under Title IX regarding sexual harassment and sexual assault. In a response to Assistant Secretary for Civil Rights Russlyn Ali, the AAUP's Committee on Women in the Academic Profession and AAUP President Cary Nelson applauded the Department of Education's letter for "instructing educational institutions to develop clear procedures to address sexual harassment and violence [...]". However, both this AAUP letter and an earlier letter by Gregory Scholtz, Director of the Director of Academic Freedom, Tenure, and Governance, raised concerns about the requirement that the standard of evidence that is to be used in hearings regarding accusations of sexual assault or harassment should be that of "preponderance of evidence" rather than the "clear and convincing evidence" standard that can be found in multiple AAUP-approved statements on academic due process. As Committee A on Academic Freedom and Tenure pointed out in a report entitled *Due Process in Sexual Harassment Complaints*, "sexual harassment - which Committee A certainly does not condone, be the offender a faculty member of anyone else - is not somehow so different from other kinds of sanctionable misconduct as to permit the institution to render judgment and to penalize without having afforded due process." Nevertheless, unless the Department of Education issues a letter changing the requirements for standard of proof, the "preponderance of evidence" standard will have to be employed in sexual assault and sexual harassment hearings at Illinois Wesleyan.

It should be noted that, even if the "preponderance of evidence" standard is used in sexual harassment and sexual assault hearings, the standard of proof for dismissal for cause hearings, which are required before a faculty member can be dismissed, is that of "clear and convincing evidence" and is not affected by the Department of Education's letter. Therefore, it does not appear that adopting the "preponderance of evidence" standard for such hearings makes it easier to dismiss faculty.

In addition to modifying the existing policy to reflect the changes mandated by the U.S. Department of Education, Illinois Wesleyan's existing sexual harassment policy (located in chapter 6 of the Faculty Handbook) was reviewed by the AAUP's Department of Academic Freedom, Tenure, and Shared Governance last year and was found to be deficient in two respects:

1. IWU's policy calls for a committee to be appointed by the Provost to review the allegations of sexual harassment, rather than for the Hearing Committee to review such allegations. It has been the long-standing policy of the AAUP that disciplinary hearings should be conducted by elected faculty committees.

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2. IWU's policy does not make an explicit exception for academic freedom. The AAUP's statement on Sexual Harassment states that speech qualifies as sexual harassment if

such speech or conduct is reasonably regarded as offensive and substantially impairs the academic or work opportunity of students, colleagues, or co-workers. If it takes place in the teaching context, it must also be persistent, pervasive, and not germane to the subject matter. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of academic material.

Thus, in both of these points, IWU's existing policy fails to comport with AAUP-approved statements on the topic. The recently formed administrative task force which is to review the existing sexual harassment policy will hopefully be able to address these shortcomings, in addition to addressing any changes to make the policy compliant with the Department of Education's requirements.

### **Irene Mulvey to Speak At Illinois Wesleyan**

On October 7, Irene Mulvey, Professor of Mathematics, Fairfield University, will give a presentation, entitled "On the Approach of the 2015 AAUP Centennial: a Time for Reflection and a Time to Look Ahead." Prof. Mulvey is very actively involved with the AAUP at the chapter, state conference, and national level. The chapter at Fairfield University has a membership of over 70% of the faculty and is a member in the AAUP's Collective Bargaining Congress, in spite of being at a private university. Prof. Mulvey has served as editor of the award-winning chapter newsletter since 2007. She is president of the Connecticut State Conference. At the national level, Prof. Mulvey represents District IX on the Council and was elected to serve on its Executive Committee. She is also a member of the Committee on College and University Governance.

Her talk will focus on the relationship between the work of strong AAUP chapters and the work of the national AAUP. The talk will begin at 4:00pm in CNS E 103.

### **Upcoming Events**

**October 7:** Irene Mulvey, Fairfield University: "On the Approach of the 2015 AAUP Centennial: a Time for Reflection and a Time to Look Ahead." At 4:00pm in CNS E 103.

**October 17:** Non-Org to follow up on Irene Mulvey's talk. At 12:00 in the Davidson Room.

**November 17:** Workshop on Action-Oriented Meetings and Parliamentary Procedure. At 4:00pm. Location CNS E 106.

## **AAUP Membership and Early Career Faculty**

Meghan Burke

Why would a junior faculty member at a school with good, cooperative administrators and a strong tradition of shared governance join the AAUP?

There are many reasons, but six have been particularly important to me. First, on a very basic level, I believe in, and want to help sustain, a democratic workplace. Democratic workplaces are not only more just, but also healthier, happier, and more productive than those constrained and weighed down by a heavy-handed and micromanaging administration.

My second reason also connects to my career. To be happy and productive in this job for the next 30+ years, I need all parts of my work –my teaching, my research, and my service, to be protected from unwarranted sanctions and supported by my institution. A damper on any one of these three spheres of my work would cause considerably more stress and strain in the others.

Third, I see the AAUP as an important way to begin my career of service to our university. This is service in the most basic sense –not only to faculty colleagues but to all constituents on our campus. For example, the July-August issue of *Academe* had a great article by Greta Perry that outlined 10 ways that faculty and staff issues overlap. Membership in the AAUP helps me see those connections in the issues of workload creep and job security, to name only two. Students also benefit. Our recent letter to the *Argus* in support of the student who had been censored in one way we've making that connection concrete. We are also planning an info and Q & A session where we hope to educate students about the value that tenure contributes to their education. Our ability to teach and model intellectual inquiry is core to a liberal arts education.

Fourth, the national AAUP publications and communications have helped me learn the ropes of higher ed. In graduate school, I had no real understanding of the concrete struggles and strategies related to university governance, the impact of state funds and endowments on our work, or the challenges facing our profession at the national level. I think of the AAUP publication, *Academe*, as our "trade mag", and I find its articles both informative and compelling. In just a short amount of time, I have already come to consider my membership in the AAUP as important as my membership in the American Sociological Association, our national professional organization.

The fifth reason my membership is valuable is that it provides a great way to connect with talented senior colleagues, particularly those outside my division, with whom I might not otherwise work closely this early in my career. These faculty members have the institutional memory, the experience, and the wisdom to make sense of current university decisions and help shape future directions for our work. Several of these folks have also become friends and mentors –not just for AAUP matters but also for other aspects of my career.

Finally, the final and perhaps most crucial reason I've joined the AAUP is to prepare for the fight to defend our work in the face of national attacks on tenure and shared governance. While I believe that our relationships and structures are healthy on this campus, they need to remain healthy, and we need to be able to prepare for the corporatizing and ideological challenges that higher education will face nationally in the coming decades. I can think of no better reason for junior faculty and other early career scholars to join now.