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## **Statement by the Executive Board of the DePaul Chapter of the American Association of University Professors to the DePaul University Faculty Council**

March 3, 2004

The DePaul chapter of the American Association of University Professors wishes to insure that the rights of our colleagues in Barat College of DePaul University be guaranteed. We call particular attention to the following section of the Faculty Handbook under the heading "Discontinuance or Substantial Reduction of an Academic Unit."

"The University is obligated to make an effort to place the faculty member concerned in another suitable University position for which the person is qualified, especially when the financial exigency is limited to a particular academic unit; if the faculty member is not qualified, but is willing to become so, the University shall offer reasonable opportunity and financial support toward this end."

This passage represents DePaul University's minimal contractual obligation to our Barat colleagues. It does not fully specify the best practices consistent with the AAUP's commitment to academic freedom and shared governance. Those standards are more fully specified in the AAUP Redbook (more formally: American Association of University Professors, Policy Documents and Reports, 9th ed., Washington, D.C., 2001).

The most pertinent regulations are found in the "Recommended Institutional Regulations on Academic Freedom and Tenure," Regulation 4(d) "Discontinuance of Program or Department Not Mandated by Financial Exigency." (In this context, it is important to remember that the university in making this decision, specifically disclaimed financial exigency, defined in 4(c) of this document as "an imminent financial crisis which threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means.")

To quote from the document:

(d) Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may occur as a result of bona fide formal discontinuance of a program or department of instruction. The following standards and procedures will apply.

(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.

[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.]

The DePaul chapter of AAUP notes in passing that the university has already departed from the practice specified in this regulation, since the Faculty Council found in its February meeting that educational considerations did not justify closure of the Barat campus. Nonetheless, the Board of Trustees, in contravention of the faculty’s judgment, chose to close the campus.

(2) Before the administration issues notice to a faculty member of its intention to terminate an appointment because of formal discontinuance of a program or department of instruction, the institution will make every effort to place the faculty member 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. If no position is available within the institution, with or without retraining, the faculty member’s appointment may then be terminated, but only with provision for severance salary equitably adjusted to the faculty member’s length of past and potential service.

[NOTE: When an institution proposes to discontinue a program or department of instruction, it should plan to bear the cost of relocating, training, or otherwise compensating faculty members adversely affected.]

Three comments on this regulation are in order:

First, closing the Barat campus is not the same as discontinuing a program or department of instruction. We are not, for example, discontinuing political science, sociology, or English simply because those courses will no longer be taught on the Barat campus. Those courses, as currently taught, are valid across the university, not simply within Barat college. For faculty members who teach in Barat departments and programs with direct counterparts elsewhere within DePaul University, therefore, “another suitable position” means a position, at the same rank, within that department or program.

Second, for Barat programs without direct counterparts elsewhere within DePaul University, “another suitable position” should mean a position at the same rank in the closest available counterpart department or program, with appropriate university-funded training where necessary.

Third, termination with severance is the last alternative, not a co-equal alternative. The severance salary should be generous enough that it will be unattractive to the University to offer severance as a cost-saving alternative to transfer within the institution.

(3) A faculty member may appeal a proposed relocation or termination resulting from a discontinuance and has a right to a full hearing before a faculty committee. The hearing need not conform in all respects with a proceeding conducted pursuant to Regulation 5 [the document’s regulation on dismissal procedures], but the essentials of an on-the-

record adjudicative hearing will be observed. The issues in such a hearing may include the institution's failure to satisfy any of the conditions specified in Regulation 4(d). In such a 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.

The DePaul chapter of AAUP affirms the right of the faculty to choose who will be hired and retained. AAUP DePaul also supports the ability of individual departments to determine program membership and needs. We also note that this right was violated when DePaul entered into the Barat "alliance" without faculty approval. Condition 4(d)(3) makes it clear that if a program or department strongly protests the transfer of a Barat faculty member to its unit, that faculty member has the right to a full hearing. In this case, there was no faculty determination that departments and programs at Barat College should be discontinued, so there should be no presumptive validity to terminations resulting from discontinuance. Moreover, the university's failure to satisfy condition 4(d)(1) should be considered a valid issue in any such hearing.

For the DePaul Chapter of the American Association of University Professors:  
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