

AAUP ADOPTS ZERO TOLERANCE FOR NO DUE PROCESS UMDNJ IGNORES FACULTY DUE PROCESS RIGHTS

Over the past year, UMDNJ has terminated and suspended with and without pay 8 faculty members without adequate due process. The faculty received no specification of the charges against them - no opportunity to respond – a simultaneous presumption and finding of guilt and a swift kick out the door. All 8 have appealed the University discipline via the AAUP contract. Some have settled with the University – others are pursuing their claims to arbitration.

The most recent example of this egregious behavior is the suspension without pay of a tenured faculty member with over 23 years of service. The faculty member was required to hand over his ID; denied access to email, locked out of his office; denied health insurance benefits; denied malpractice insurance; and grants transferred to others. UMDNJ PROVIDED NO SPECIFICATION OF THE ALLEGATIONS AND NO OPPORTUNITY TO RESPOND. For all intent and purpose, UMDNJ has terminated his employment. UMDNJ's action against this faculty member VIOLATES its' own bylaws – that “obligate them to continue to provide a salary to a tenured faculty member until retirement or dismissal for cause.” Dismissal with cause requires UMDNJ to comply with the procedures set forth in the AAUP contract, which requires setting forth all charges pending against a faculty member; a meeting and an opportunity to respond to ascertain the validity of the charges; and the right to stay the discipline if the faculty member decides to appeal an unfavorable decision.

UMDNJ HAS SIMPLY IGNORED THEIR OBLIGATIONS UNDER THE VERY BYLAWS IT HAS PROMULGATED AND THE COMMITMENTS IT HAS MADE TO YOU IN THE AAUP CONTRACT.

UMDNJ HAS FAILED TO CODIFY AN INVESTIGATORY PROCESS THAT INCORPORATES BASIC PRINCIPLES OF DUE PROCESS.

Such principles include:

1. Preliminary Review/Assessment (Vetting) of the Complaint to ascertain whether a full investigation is warranted or whether the matter should be dismissed or referred to Chairperson, Dean, or School Faculty Affairs Committee.
2. Peer oversight of the investigatory process.
3. Written notice of charges with specificity to Respondent.
4. Time frame by which investigations are concluded.
5. Right to an advisor/ legal representative during investigatory process.

6. Providing written investigatory report and findings to respondent and complainant.
7. Identification and elimination of conflicts of interest in investigatory process.
8. Opportunity for respondent to be heard by the individual making the final determination.
9. Notice of Right to Appeal determination and how to do so.
10. Peer review of findings (if and when warranted).
11. Dissemination of written investigatory process policy.

Since November 2007, the AAUP has met with President Owen and members of his Leadership team more than 4 times to advocate for the codification of the University's investigatory procedure and the inclusion of the above due process principles. At a meeting with President Owen on January 5, 2009, Dr. Owen committed to the codification of the investigatory procedure. On February 5, 2009, the AAUP contacted Mr. James Rowan, Interim VP for Ethics and Compliance, to ascertain the status of the codification. Mr. Rowan advised the AAUP that "UMDNJ is working on it" and "[w]hen we have finished, it will be reviewed by Legal and **WHEN APPROPRIATE**, [it will be shared] with the unions and the faculty organization."

UMDNJ is currently utilizing a secretive investigatory process that provides them with unrestricted flexibility to do what they want however they want and whenever they want. This lack of process impacts the substantive determination that is the basis of the disciplinary actions taken against faculty. This lack of process allows for the potential manipulation of findings to suit UMDNJ's needs and jeopardizes your ACADEMIC FREEDOM.

The AAUP has advised Dr. Owen on several occasions that the AAUP and the faculty we represent will not condone objectively inappropriate behavior by the faculty, but that the process that the University utilizes to make its determinations must be balanced and fair. Given the lack due process and the manner by which faculty have been disciplined in the recent past, the University's delay in codifying an investigatory procedure that fails to incorporate the above-referenced due process principles is unacceptable. You should not accept it! Moreover, the codification should be your participation and input.

In his February 2008 communication to you on ZERO TOLERANCE, Dr. Owen stated that "[o]ur investigative process will be balanced and fair and, both the accused and the accuser will be actively protected from malicious, capricious, or retaliatory actions. [. . .] Penalties for wrongdoing, including those against otherwise innocent individuals, for the purposes of malice or revenge will be developed fairly and with balance."

PRESIDENT OWEN – SHOW US – DON'T TELL US

President Owen's February 2008 assurances are far from the truth. If the investigatory process were balanced and fair as he assures us it is, the University would welcome its

codification and the inclusion of the above-referenced due process principles. Until and unless that is done, you should not accept it.

The AAUP is doing everything it can to address this issue. We have filed unfair practice charges; filed arbitrations; advocated for these changes; advised faculty individually; contacted National AAUP for assistance; and assisted faculty organizations in understanding the importance and impact of the issue. It is now time for you to act and to speak out against this – with your colleagues - at your department meetings – at your faculty organization meetings – with your Dean – at President Owen’s forums and at Board of Trustee Meetings. UMDNJ Board of Trustee meetings are scheduled for February 17, March 17, April 21, May 12, June 16, July 21, September 15, October 20, November 17, and December 15. Only you can hold the University accountable to the standards they should be holding themselves to.

If you elect to be silent on this, it will be viewed as acceptance of the status quo and will embolden the University to continue to act in the egregious manner that it is.

If things do not change, it is not so much a matter of IF, but rather WHEN it will impact you directly.

NOW IS THE TIME TO ACT !

ADVOCATE FOR YOUR DUE PROCESS RIGHTS !