

**American Association of University Professors
Washington University Chapter
c/o Edward Greenberg, Box 1208**

September 29, 2014

Dean Barbara Schaal
Arts & Sciences

Dear Dean Schaal:

Prof. Jeffrey Kurtzman of the Music Department has written to the Executive Committee of the Washington University Chapter of the AAUP, requesting it to revisit the fairness of the procedures that led to punitive steps taken against him in 1995, the consequences of which still affect him today. He also appeared before several members of the Committee. This letter explains our Committee's view of the situation then and now.

On 20 October 1995, three members of the AAUP Executive Committee wrote to Dean Macias; a copy of that letter is attached. The members had interviewed both Prof. Kurtzman and Dean Macias before reaching their conclusions. As you can see from that letter, the members found that the University's procedures for cases of this sort were not followed in Prof. Kurtzman's. A document called "Discrimination and Sexual Harassment Hearing Procedures" specifies the relevant procedures. These procedures apply to several standing committees, one of which, the Faculty Affirmative Action Committee (FAAC), hears complaints of discrimination or sexual harassment against a faculty member. A copy of the procedures is attached.

In brief, if the FAAC decides that harassment may have occurred, the procedures require that "the Committee shall schedule a hearing, notify the complainant and the person against whom the complaint is made (respondent) of its time and place, and send the respondent a copy of the complaint." The procedures also stipulate the format of the hearing "in the interest of fairness to all parties involved." The requirement for fair procedures also appears in Article I of the Washington University Policy on Academic Freedom, Responsibility and Tenure, which states that "Procedures for arriving at professional, personnel, and academic decisions affecting faculty members shall assure fair consideration of the substance of the decision...What is required of such procedures is that they be basically fair."

The hearing procedures of the FAAC give both parties the right to be present during all presentations of evidence and to have a fair opportunity to present evidence and to make opening and closing statements. They also require that the evidentiary hearing be recorded and copies made available to the parties and require the committee to submit its findings of fact, conclusions, recommendations or sanctions (if appropriate) and other recommendations in writing to all parties, including the reasons for the decision made by the Committee.

As noted in the letter to Dean Macias, the FAAC was not convened for Prof. Kurtzman's case, although several members of the FAAC were appointed to the committee that advised the Dean about the case. The AAUP committee that looked into these issues in 1995 concluded that, as a matter of fairness, the investigation should have followed the procedures outlined above even though the FAAC itself did not conduct the investigation. On the basis of its interviews with Prof. Kurtzman and Dean Macias, the AAUP committee concluded that the administration did not follow the procedures; in particular, no written complaint was given to Prof. Kurtzman, no hearing was held, he was not allowed to call witnesses in his defense, he was not allowed to be present when evidence was presented by the complainants, and he was not given a written account of the committee's findings.

Because the procedures adopted by the University were instituted for the purpose of insuring fairness, the fact that they were not followed in important ways suggests a lack of fairness. The AAUP committee found that the shortcomings in procedures described in the previous paragraph were not consistent with the University's standards of fairness.

In addition to contacting the WU chapter in 1995, Prof. Kurtzman contacted the national AAUP. An Associate Secretary of that organization, Lesley Lee Francis, wrote to Dean Macias on 13 September 1995 of the AAUP's concern that the procedures followed in this case are inconsistent with AAUP's Recommended Institutional Regulations, which stipulate that "a severe sanction may be imposed only after the administration demonstrates cause through a hearing of record before an appropriate body of the faculty and with other requisite safeguards of academic due process." Ms. Francis made similar comments to Chancellor Wrighton in letters dated 8 and 27 November 1995. (We presume that Prof. Kurtzman will furnish you with copies of her letters.)

Based on our review of the history of this case, the undersigned members

of the current Washington University AAUP Executive Committee concur with the central conclusion of the 1995 letter to Dean Macias that the procedures followed did not satisfy the principle of fairness to all parties that is required by the University's written procedures. We further agree with Prof. Kurtzman that the punitive measures taken against him in 1995 continue to affect his status as a faculty member. Accordingly, we respectfully request that you review his case and consider possible ways to ameliorate his situation.

Sincerely,

Edward Greenberg
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