

AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS

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September 13, 1995

Dr. Edward S. Macias
Executive Vice Chancellor and Dean of Arts and Sciences
Washington University
Campus Box 1122
One Brookings Drive
St. Louis, Missouri 63130-4899

Dear Vice Chancellor Macias:

Professor Jeffrey Kurtzman, a tenured member of the Department of Music at Washington University, has sought the advice and assistance of the American Association of University Professors as a result of being notified by you on July 19, 1995, that he was being formally censured and sanctioned pursuant to your finding that he had "engaged in a pattern of self-interested management and bad judgment which has had a lasting and deleterious effect on the Department." You informed Professor Kurtzman that, effective immediately, he was being relieved of any administrative duties and declared ineligible to serve as chair or in any other administrative capacity; he was being separated from the Department of Music "for at least three years"; and both a \$10,000 research award and public relations stipend were being discontinued. You indicated that additional sanctions would be imposed effective July 1, 1996, including reduction by 20% of his base salary (by only 10% if he enters counseling) and no raises for three years. On September 8, Professor Kurtzman requested that the imposed sanctions be reviewed by the Advisory Committee to the Senate Council.

The Association's interest in Professor Kurtzman's case stems from its long-standing commitment to principles of academic freedom and tenure, which are set forth in the enclosed joint 1940 Statement of Principles on Academic Freedom and Tenure. Derivative standards are contained in the Association's Recommended Institutional Regulations on Academic Freedom and Tenure (also enclosed). We have noted the relevant provisions of the 1994 edition of the Washington University Faculty Information.

According to information provided to us by Professor Kurtzman, in March 1995 you convened a "review team" of faculty members and outside counsel to advise you

Dr. Edward S. Macias
September 13, 1995
Page Two

concerning the allegations of sexual harassment, and in June you asked the Senate Council to advise you concerning allegations of conflict of interest and related matters. Those being asked to conduct the review worked from the written accusations and available documents. According to Professor Kurtzman, no hearing of record has been held on the charges and he has not been provided with copies of the findings and recommendations of these investigative bodies. He further states that he has been suspended (with pay) from all teaching duties at Washington University for the current academic year.

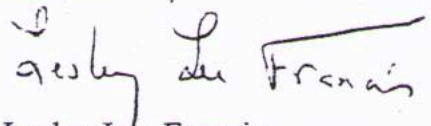
In defining tenure, the 1940 Statement of Principles recognizes that the right of a teacher to continue to teach students is basic to tenure and thus to the academic freedom which tenure protects. A professor might well be called upon to assume a different mix of teaching and research duties from those he or she has customarily held without violating the professor's rights as a tenured member of the faculty. A suspension from all previously held teaching responsibilities, however--either independently or in conjunction with the other previously cited sanctions--is tantamount, in our judgment, to a severe sanction. According to Regulation 7(a) (Procedures for the Imposition of Sanctions Other Than Dismissal) of the Recommended Institutional Regulations, 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, as set forth in Regulation 5 of the RIR.

The Washington University Faculty Information, Section VIII.C.3., states that a faculty member "may be suspended, or assigned to other duties in lieu of suspension, only if there is reason to believe that he/she may harm him/herself or others. . . . Suspension is appropriate only pending a hearing." In our view, the imposition of a severe sanction (such as suspension) on a professor under these regulations requires the institution to assume the burden of demonstrating cause in accordance with the hearing procedures set forth in Section IX of the handbook. During such a proceeding, the accused faculty member may be represented by legal counsel, is provided a transcript of the hearing, has access to "necessary documents and other evidence," and has the right to cross-examine all witnesses. Although an appeal to the Advisory Committee, as provided for in Section XII.B.4 of the regulations, does not satisfy the due process standards of RIR 7(a), it does state that the review must be conducted "before such sanctions are implemented."

Dr. Edward S. Macias
September 13, 1995
Page Three

We appreciate that our information in this matter has come to us primarily from Professor Kurtzman, and we realize that you may have additional information that would contribute to our understanding of what has occurred. We would therefore welcome your comments on the statements we have made. Assuming their essential accuracy, we would recommend that the administration demonstrate cause, through procedues as set forth in Regulation 7(a) of the RIR and Section IX of the faculty handbook, for the sanctions it wishes to impose.

Sincerely,



Lesley Lee Francis
Associate Secretary

LLF:mcd
Enclosures

cc: Chancellor Mark S. Wrighton
Professor Jeffrey Kurtzman

The Association's interest in Professor Kurtzman's case stems from its long-standing commitment to principles of academic freedom and tenure, which are set forth in the enclosed 1940 Statement of Principles on Academic Freedom and Tenure. Current standards are contained in the Association's Recommended Institutional Regulations on Academic Freedom and Tenure (also enclosed). We have noted the relevant provisions of the 1994 edition of the Washington University Faculty Information

According to information provided to us by Professor Kurtzman, in March 1995 you convened a "review team" of faculty members and outside counsel to advise you