

23 May 2001

Jack R. Ohle
President
Wartburg College

Dear President Ohle:

On May 22 the Wartburg Chapter of the American Association of University Professors held an emergency meeting to discuss reports of unwarranted interference by the administration in a faculty search conducted by the Department of Music. According to these reports, this interference involved a number of procedural irregularities, several of them in direct violation of contractual portions of the faculty handbook. After discussion, the chapter unanimously authorized me to send you this letter, the purpose of which is to protest these administrative actions and to state the reasons for our disappointment.

The chapter, which comprises more than 40 percent of the ranked faculty at Wartburg College, is obligated to defend the academic principles articulated by the AAUP whenever those principles are threatened. In this case, the principle of shared governance seems particularly endangered.

The facts, as they have been reported to us, are as follows: First, in regard to the tenure-track position in music education, the administration required the search committee, despite their objections, to interview a candidate whose credentials did not meet the minimum requirements for the position. Second, when the search committee conveyed the name of its recommended candidate to the dean, more than a week passed before the dean extended an offer, despite the committee's concerns about the delay's resulting in the loss of the only viable candidate. During that time, the administration, without notifying the search committee, flew the candidate back to campus solely to meet with administrative officers. Third, when a contract was finally offered (without the review by AR&T required in section 2.2.5.1 of the faculty handbook), the candidate, evidently, was told not to communicate with the search committee, and the chair of the search committee was told not to communicate with the candidate. Fourth, without consulting "all department faculty"—as required in section 1.5.4 of the faculty handbook and against the strenuous objections of the search committee, which was informed after the fact—the administration offered the chairmanship of the department to the candidate, even though the current chair is in the first year of a three-year term. (After your May 17 meeting with the music department, this offer was withdrawn.) Fifth, the administration summarily cancelled the tenure-track position in high brass, which the department, Faculty Council, the dean, and you had approved for search this year. Sixth, without consulting the department or Faculty Council, you converted this position into a one-year appointment in an unspecified field of music. Seventh, without following the search procedures in the faculty handbook, as required by college policy (section 2.2.2), you offered this position to an unsuccessful candidate for the music education position. This offer was made, finally, against the express wishes of the search committee and without review of the contract by the

Appointment, Rank, and Tenure Committee, as required in section 2.2.5.1 of the faculty handbook.

We should note that most of these actions were completed despite the protests of the music education search committee. On May 7, after being told of your plans, the committee wrote a letter to the administration stating its opposition to the deposing of the department chair, the offering of the chairmanship to a new faculty member (a policy the department has long opposed), the canceling of the high brass position, and the creation of a new position in music, the duties of which were unclear. The May 7 letter also identified several instances where your actions violated college policy.

These facts have been communicated to us by members of the search committee and by our Faculty Council representatives, whom the dean informed on May 11. These facts have also been confirmed by members of the faculty of the Department of Music, who met with you and Dean Menzel on May 17 to discuss these matters. We have, therefore, no reason to doubt the accuracy of the information contained in this letter. We would nevertheless be pleased to consider any corrections that you might wish to offer.

Assuming these facts are essentially accurate, the chapter finds that your actions reveal both disrespect for faculty as participants in shared governance and disregard for college policy, as set forth in the faculty handbook. In the opinion of the chapter, these actions are without parallel during the last twenty years of Wartburg's history.

According to the 1966 *Statement on Government of Colleges and Universities* (enclosed), which was jointly formulated by the AAUP, the American Council on Education, and the Association of Governing Boards,

[f]aculty status and related matters are primarily a faculty responsibility; this area includes appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal. The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy. Furthermore, scholars in a particular field or activity have the chief competence for judging the work of their colleagues.

The statement also asserts that

[t]he governing board and the president should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail.

These principles are reflected throughout the *Wartburg College Faculty Handbook*. For example, section 1.5.2, Responsibilities and Obligations of the Faculty, states that "the faculty shall have primary responsibility for . . . guidelines, standards, and procedures for the appointment of faculty." Section 2.2.2 states that "all initial faculty employment contracts shall be issued in accordance with the search and appointment procedures described in this Faculty Handbook. . . ." Those procedures, which are set forth in Appendix D, detail a process that honors the faculty's primacy in the area of faculty status and recognizes the fact that "scholars in a particular field or activity have the chief competence for judging the work of their colleagues."

It is an inescapable conclusion that the administration's interference with the music education search violated these widely accepted principles of shared governance and the Wartburg policies and procedures that reflect them. And, because this sort of unwarranted interference, if it became habitual, would eventually destroy shared governance and consequently the academic quality of this institution, we find this conclusion to be profoundly troubling.

We should note here that you have asserted that your interference was justified by procedural irregularities in the conduct of the search, which you reportedly characterized as "dirty." However, the search committee has rejected this assertion, and the department reports that you have yet to supply any evidence to support it.

Please note also that we fully acknowledge that the power delegated to the president by the board of regents gives him final authority "on all policy, fiscal, and personnel matters" (1.5.1). But "final," we would contend, is not the same as "total" and therefore does not permit a president to circumvent or subvert policies jointly approved by faculty and administration and adopted by the board of regents. To believe otherwise would be to place the college president above the law and render meaningless all the procedural safeguards contained in the faculty handbook, including those that protect tenure and academic freedom. As the handbook itself clearly states, administrative officers are as subject to college policy as are members of the faculty: "[T]he faculty member and the College [i.e., the administration] shall adhere to the policies and procedures set forth in this Faculty Handbook" (section 2.2.2[g]). And because Iowa courts consider faculty handbooks to be legally enforceable contracts (see *University of Dubuque v. Faculty Assembly, et al*, No. EQCV090784 [Iowa Dist. 1999]), we are concerned that these violations of college policy may also have exposed the college legally.

Please understand that this letter is motivated by the chapter's desire to maintain the academic quality of this institution by defending widely accepted academic standards. It is clear to us that departures from those standards have affected the academic integrity of this institution and that greater harm will occur if similar departures take place in the future. It is also clear to us that the bond of trust between faculty and administration has been weakened and will require your attention in the coming academic year, if the administration values the good will of the faculty. We welcome your response to our concerns.

Sincerely,

Warren T. Zemke, President
Wartburg AAUP

cc: Ferol Menzel, Vice President for Academic Affairs
Fred Hagemann, Chairman, Board of Regents
Marilyn Flachman, Chair, Academic Affairs Committee, Board of Regents