

## Report

# Academic Freedom and Tenure: Benedict College (South Carolina) A Supplementary Report on a Censured Administration<sup>1</sup>

This report concerns actions in summer 2004 by President David H. Swinton of Benedict College in Columbia, South Carolina, to dismiss Professors Milwood Motley and Larry Williams for having refused to grade students in their courses in accordance with a grading policy promulgated by the president.

The Benedict College administration was placed on censure by the Association's 1994 annual meeting after an investigating committee found that it had acted inappropriately in terminating the services of three professors. Litigation initiated by the professors resulted in an out-of-court settlement in each case, but the censure has remained in effect because deficiencies in the college's official policies on academic freedom and tenure have not been corrected. President Swinton, formerly dean of the School of Business at Jackson State University, took office as president of the college in summer 1994, shortly after the censure was imposed.

At the beginning of the spring 2002 semester, President Swinton distributed a new policy on student grading, entitled the Success Equals Effort (SEE) Project, effective as of that semester. The Benedict faculty had not approved the policy, and indeed had not been afforded an opportunity to review it. The SEE document's introductory statements refer to a large number of newly admitted students with poor high school preparation and poor study habits, to an "excessive number" of D's, F's, and withdrawals in the grading of first-year and

sophomore students during the eight years of President Swinton's tenure, and to losses during each of those years of 33 to 51 percent of the first-year class and another 15 to 25 percent of sophomores. Requisite steps for remedying the situation, according to the SEE policy, include an increase in student efforts, an increase in the connection between efforts and grades, improvement in student grades, and a resulting increase in learning and retention among first-year and sophomore students.

Under the SEE policy, first-year and sophomore students thus were to be graded according to a combination of their knowledge (as demonstrated by test scores and written assignments) and their effort (as shown by attending class, handing in homework, and participating in study and tutoring sessions). The grades for first-year courses were to allot 60 percent to effort and 40 percent to knowledge acquired. Sophomore grades were to be based 50 percent on effort and 50 percent on knowledge. Junior and senior grading was to be determined by the respective schools and departments.

Professors Milwood Motley and Larry Williams, members of Benedict College's Biology, Chemistry, and Environmental Health Science Department, spoke out against the SEE policy and resisted instructions to assign grades in compliance with the policy. Professor Motley, who taught biology, did his undergraduate work at Hampton University and received his PhD in microbiology from the University of Louisville. He taught for fourteen years at the Morehouse School of Medicine before beginning in 1999 at Benedict College, where for his first three years he served as department chair. Professor Williams, who taught environmental health, is an alumnus of Benedict College who received a master's degree from the University of South Carolina and a PhD in environmental science from the University of Alabama. He began on the Benedict College faculty, in his first teaching position, in 1996.

Professor Motley, despite strong misgivings, implemented the SEE policy in grading his "Principles of Biology" class for

1. The text of this report was written in the first instance by the Association's staff on the basis of available documentation. In accordance with Association practice, the text was submitted to the Association's Committee A on Academic Freedom and Tenure. With the approval of Committee A, it was then sent to the professors whose cases are reported, to the Benedict College administration, to the president of the Association's local chapter, and to other persons concerned in the report. In light of the responses received, this final report has been prepared for publication.

the spring 2002 semester. He has described having to give a "C" final grade to a student whose highest grade on any test was less than 40 percent but who regularly attended class and participated in laboratory exercises. His experience that semester with the SEE policy led him to disregard it in subsequent semesters, and he made no secret about his doing so. Professor Williams, who declined from the outset to adhere to the policy, also made his position known.

### **Moves to Compel Compliance**

By the end of the fall 2003 semester, it had apparently become clear to Benedict administrative officers that the SEE policy was not being universally applied. Dean Stacy Franklin Jones of the School of Science, Technology, Engineering, and Mathematics sent communications early in 2004 to faculty members in the school, calling on those who were not adhering to the policy to identify themselves and explain why. Professor Motley replied on March 5, expressing his belief

that the policy will undermine the academic integrity of my classes and my professional standards as an instructor. A student has to learn. He can't simply try to learn, he has to learn period. Otherwise, we will have Benedict graduates who lack sufficient knowledge and skills to hold jobs in their majors and who will be at severe disadvantages in graduate and professional school. . . . I cannot obey the request to implement the SEE grading policy in my classes.

Replying to Professor Motley, Dean Jones instructed him to change his fall 2003 grades in accordance with the SEE policy lest he face the consequences of insubordination. In a March 29 letter to the dean, Professor Motley expanded on his reasons for not complying. He wrote that although he fully supported the mission of Benedict College, he had

become increasingly concerned about the manner in which the college has performed its mission, particularly its willingness to sacrifice academic quality to maintain enrollment. . . . I, like you, want our students to succeed in achieving their professional goals. In order to succeed, our students need a strong educational foundation that is provided by our faculty. By placing a heavier emphasis on helping students to pass a course rather than to learn the course material, the SEE policy threatens to erode that foundation. The priority *must* be on learning. . . . You will probably consider my refusal to implement the SEE policy as an act of insubordination. Needless to say, I disagree with that assessment. As I said earlier, I believe that the SEE policy undermines the academic reputation of Benedict College. I therefore will not be involved in any policy that may prove detrimental to this college.

Professor Williams did not at first respond to Dean Jones's memorandum about adherence to the SEE policy. Another memorandum from her, stating that "nonresponse by March 26, 2004, will be construed as insubordination," led to his reply on that date. He characterized the SEE policy as a choice "to continue a form of social promotion" for students with poor high school preparation. He questioned the premise "that lower standards for freshmen and for sophomores will miraculously produce students who are prepared for junior and for senior level courses."

"To clarify my intentions," Professor Williams concluded in his March 26 letter, "I will not make any changes in grades assigned during the fall of 2003. The students who received passing grades earned them. Those who decided that they were not going to do the work earned theirs also." Dean Jones's reply, dated March 29, was relatively terse:

Once again, the SEE grading policy has been officially adopted by the college. Consequently, the implementation or lack thereof is not subject to the opinion of individual faculty. Please submit to my office either your letter of resignation or [compliance] with the request to revisit your fall 2003 and spring 2004 semester grades. . . . Should I not receive either of the requested responses by 5 p.m. on April 2, 2004, you will be recommended for termination, effective immediately.

### **Dismissal Proceedings**

Professor Motley neither resigned nor changed his grades, whereupon a committee appointed by Richard C. Miller, senior vice president for academic affairs, recommended that he be dismissed. By letter of June 8, 2004, President Swinton notified Professor Motley of his dismissal on grounds of insubordination. (An administration spokesperson has stated that, after a similar recommendation from Vice President Miller's committee, notification of dismissal was also sent to Professor Williams on that date. Professor Williams, however, had left town after his last class in the spring in order to teach a summer course at a college near Charleston, and he was not aware of his dismissal until the press reported it much later.)

Professor Motley appealed his dismissal, which led to a hearing by the college's Faculty and Staff Grievance and Appeals Committee that was convened on June 28 for that purpose by Vice President Miller. Four members of the seven-person committee appointed by President Swinton came from the faculty. Vice President Miller began the proceedings by summarizing the reasons for the hearing. He described the committee's charge as not passing on the merits of the SEE policy but only on whether Professor Motley was insubordinate in refusing to follow the policy. The vice president then left the proceeding, whereupon Professor Motley arrived, provided

amplification of his opposition to the SEE policy, and answered questions. After his departure, the committee adopted a motion that the Motley dismissal be rescinded, by vote of 4 to 3, with all four faculty members voting in the affirmative. The committee also determined, before adjourning, that the following reasons would be provided to President Swinton for recommending rescission of the dismissal:

1. The termination is an extreme violation of academic freedom.

2. This termination is selective in terms of one policy being singled out, whereas violations of other policies by other faculty members have not resulted in termination.

3. The SEE policy is a recent policy and constitutes insufficient grounds for termination.

4. The termination did not take into account the complete picture of the person.

5. There is further selectivity in that only one dean initiated grounds for termination based on violation of the policy.

6. The termination is unfair to one faculty member when there may be others who are not following the policy.

7. The termination is overlooking the excellence of the faculty member in other areas.

President Swinton responded to the Grievance and Appeals Committee on July 13, rejecting its recommendation and finding no merit in any of the seven reasons that the committee had provided. Regarding violation of academic freedom, he asserted that the concept does not permit faculty members to set academic policies and the college cannot "allow its policies to be insubordinately flouted under the guise of academic freedom."

As to the committee's second point, singling out the SEE policy from other policies as warranting dismissal in the event of violation, he asserted that "Dr. Motley's persistent refusal to follow policy constitutes willful insubordination which rises above more inadvertent policy violations."

With respect to the third point, that the SEE policy is a recent one whose violation should not be a basis for dismissal, the president asserted that the "faculty may not selectively implement those policies they favor or consider important."

Regarding the committee's fourth point, that "the complete picture of the person" was not taken into account, he asserted that "merit in other areas cannot justify persistent insubordination."

As for the fifth point, that only one of the college's deans had initiated grounds for dismissal, the president invited committee members, if they knew of similar refusals elsewhere in the college, to inform the administration immediately "so that corrective action can be taken."

Commenting on the sixth point, that the dismissal of one faculty member is unfair when others may also be ignoring the

policy, he rejected the point as irrelevant and stated that others will also be subject to dismissal if and when a violation is detected and is not corrected.

With regard to the seventh and final point, "the excellence of the faculty member in other areas," President Swinton called it redundant after the fourth point and reiterated that the dismissal "is based solely on the persistent violation of college policy cited."

There was reference during the Motley hearing to similar dismissal action against Professor Williams. Whether a June letter of dismissal was also sent to Professor Williams, who was then away from his home address, is a matter of some dispute, but he was doubtless not surprised when, after his return to Columbia, a feature story on the two dismissals appeared in the press on August 20, and certified notification of his dismissal was sent to him.

He filed an appeal, which led to a hearing on his case by the Faculty and Staff Grievance and Appeals Committee on September 9. The issues presented at the hearing were essentially the same as those at the Motley hearing. As has been stated, four of the seven members of the hearing body appointed by President Swinton in the Motley case were faculty, and the committee recommended rescission of the dismissal. For the Williams case, the president appointed a larger number of administrative staff members, and the committee recommended sustaining the dismissal by vote of 5 to 2.

### **The Association's Involvement**

One result of the administration's moves to enforce the SEE policy was a newly active Benedict College AAUP chapter. On July 20, the chapter called on the national Association for assistance in the wake of the Motley dismissal, and shortly thereafter the Association's staff heard directly from Professor Motley. After receiving and examining applicable documentation, the staff, on August 10, wrote to President Swinton to convey the Association's concerns.

Referring to the issue of academic freedom as central to those concerns, the staff's letter disputed the president's assertion to the hearing body that academic freedom does not provide a right to set academic policy. On the contrary, the letter argued, Professor Motley's opposition to the SEE policy "falls well within the ambit of protected conduct under principles of academic freedom." Referring to the president's charge of insubordination, the letter emphasized the provision in the Association's *Statement on Professional Ethics* that professors are to observe stated institutional regulations "provided the regulations do not contravene academic freedom."

Noting the continued presence of Benedict College on the Association's censure list, the staff's letter observed that the cases involving academic freedom that led to the censure had been satisfactorily resolved. Stating that the Association certainly did not want to have to report on new academic freedom cases at Benedict under the current administration, the staff expressed its strong hope that the president would give further consideration to noncompliance with the SEE policy as

a matter warranting dismissal and would take corrective action. In a brief reply dated August 19, President Swinton commented, "We thank you for your opinion and input. However, we are confident that our policies are appropriate and do not seek your support to deal with our internal personnel matters."

Shortly thereafter, the Association's staff heard directly from Professor Williams and received documentation bearing on his situation. The AAUP's general secretary then authorized the preparation of this report, and by letter of September 8, President Swinton was so informed. On October 1, 2004, Professor Williams initiated litigation in South Carolina's Richland County Circuit Court; Professor Motley did so on October 4.

### Observations

The Association's *Statement on Government of Colleges and Universities* assigns primary responsibility to the faculty "for such fundamental areas as curriculum, subject matter, and methods of instruction." The grading of student performance is certainly one of these areas. Committee A on Academic Freedom and Tenure has reiterated that the responsibility for grading students rests with the faculty. The faculty collectively has the prerogative of setting policy on grading, and individual faculty instructors have the prerogative of determining the grades that their students receive. The freedom to grade one's students is an essential part of the "freedom in the classroom" that the 1940 *Statement of Principles on Academic Freedom and Tenure* ensures college and university teachers.

This report has dealt with the Benedict College administration's actions, in disregard of the foregoing principles, to dismiss two professors for insubordination. The professors had graded students, and had insisted on continuing to grade them, without adhering to an administration-imposed policy requiring first-year and sophomore students to be graded at least as much for effort as for academic performance. The administration allowed the dismissals to stand despite subsequent hearings in which all of the faculty members on the hearing bodies recommended that the dismissals be rescinded.

The dismissals on grounds of insubordination were threatened in March and were effected, with cessation of salary payment, that summer. The 1940 *Statement of Principles* and the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure* call in such dismissal cases for a year of severance salary if moral turpitude is not involved. An interpretive comment on the 1940 *Statement* sets the standard for

determining moral turpitude as "not that the moral sensibilities of persons in the particular community may have been offended. The standard is behavior that would evoke condemnation by the academic community generally." Those in the general academic community who are concerned with grade inflation, far from condemning professors who insist on grading according to academic merit, would doubtless find the position of Professors Motley and Williams admirable. The Association's *Statement on Professional Ethics* calls upon professors "to ensure that their evaluations of students reflect each student's true merit." It would seem that Professors Motley and Williams tried to do precisely that.<sup>2</sup> ☞

Committee A on Academic Freedom and Tenure has by vote authorized publication of this report in *Academe: Bulletin of the AAUP*.

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Members: JEFFREY HALPERN (Anthropology), Rider University; MARY L. HEEN (Law), University of Richmond; EVELYN BROOKS HIGGINBOTHAM (Afro-American Studies and Divinity), Harvard University; DAVID A. HOLLINGER (History), University of California, Berkeley; STEPHEN LEBERSTEIN (History), City College, City University of New York; ROBERT C. POST (Law), Yale University; ADOLPH L. REED (Political Science), University of Pennsylvania; CHRISTOPHER M. STORER (Philosophy), DeAnza College; DONALD R. WAGNER (Political Science), State University of West Georgia; MARTHA S. WEST (Law), University of California, Davis; JANE L. BUCK (Psychology), Delaware State University, ex officio; ROGER W. BOWEN (Political Science), AAUP Washington Office, ex officio; DAVID M. RABBAN (Law), University of Texas, ex officio; ERNST BENJAMIN (Political Science), Washington, D.C., consultant; JOAN E. BERTIN (Public Health), Columbia University, consultant; MATTHEW W. FINKIN (Law), University of Illinois, consultant; ROBERT A. GORMAN (Law), University of Pennsylvania, consultant; LAWRENCE S. POSTON (English), University of Illinois, Chicago, consultant; GREGORY SCHOLTZ (English), Wartburg College, liaison from Assembly of State Conferences.

2. After a draft text of this report was sent to the concerned parties at Benedict College, President Swinton wrote to the president of the AAUP chapter, William F. Gunn, and the chapter's vice president, Larry D. Watson, each of whom chaired a department. He notified them that they would be removed from their chairs (and thus would suffer substantial reduction in salary) at the end of the current academic year.