

Report on Lobbying Day

by Jeff Roberts

Four AAUP members participated in the second Lobbying Day of 2001, held on Wednesday, April 11. These included Committee R Co-Chairs Ken Scherzer of Middle Tennessee State and Jeff Roberts of Tennessee Tech, along with state Secretary/Treasurer Gil Fernández of TTU and TTU Chapter President Kurt Eisen.

The group met with eight legislators, including Representatives Bill Dunn (R-Knoxville), Bob Patton (R-Johnson City), Philip Pinion (D-Union City), Les Winningham (D-Huntsville), and Beth Harwell (R-Nashville), and Senators Larry Trail (D-Murfreesboro), Roscoe Dixon (D-Memphis), and Tim Burchett (R-Knoxville). Three other appointments were cancelled. All those with whom we met were quite congenial, and seemed to appreciate our having taken the time to share our concerns with them.

Though our hosts varied in political philosophy from the far left to the far right, all seemed of consensus in noting that higher education in Tennessee has not received its fair share of appropriations in recent years and could certainly use assistance. No one voiced any real criticisms of our job performance; indeed many expressed their appreciation for our continued efforts despite the budget situation. While scattered barbs directed at the general proliferation of administrative positions and individual administrators were heard, there seemed a general consensus that those of us in the trenches are doing our jobs well and are not being adequately compensated. I was particularly impressed at the awareness of particulars evidenced from Reps. Pinion and Patton, the chair and vice-chair of the House Higher Education Subcommittee, respectively. Rep. Pinion, who talked with us for nearly twice our allotted time, displayed a strong working knowledge of relevant statistics, which he has been continually publicizing in an effort to effect change. One telling example which comes immediately to mind is that while enrollment at institutions of higher education in Tennessee has risen by 12.4% in the last decade, financial support, with inflation factored in, has increased by only 3.4%.

While all could agree that there are problems facing higher education in Tennessee, however, there was considerable difference as to how and what to do about them. While the need for more funds is evident, there is clearly no consensus regarding tax reform. Of those we met, only Sen. Dixon continues to push for an income tax. Others

indicated that it may be the best option, but given campaign promises they remained reluctant to support such. The most likely response seemed an increase to the sales tax, an option which received lukewarm endorsement as the least detrimental (politically speaking) of regrettable options.

Several individual issues evoked considerable discussion. Many of the legislators expressed profound concern and doubts regarding the propriety and usefulness of the Geier decision. On the other hand, no one expressed anything but support for the 50% lump-sum retirement option (which has recently passed in the Senate and seems likely to become law).

Perhaps the most encouraging development came from Rep. Patton, himself a former professor, who voiced profound agreement with our stance on grade appeals, even including a willingness to sponsor AAUP's legislation to that effect (as proposed at the state conference).

Overall, I would consider Lobbying Day a success. It further drove home the plight of higher education in a constructive way, while furthering contacts and personal relationships which so often drive legislative policy. It was reassuring to note, despite the idiocy which sometimes pervades press reports, that there are also knowledgeable and concerned individuals within the legislature who acknowledge our importance, dedication, and value, and genuinely desire to ameliorate the difficulties under which we labor.

I remained faced with one rather large question as well: Having fostered concern, how can we translate that into action? My hope is that by initiating legislation and securing sponsors, we will achieve positive results.

Conference Meetings, 2001-02

The Fall Meeting of the Tennessee Conference of the American Association of University Professors will be held on Saturday, October 6, 2001, on the campus of Motlow State Community College in Tullahoma. The challenges to the roles of faculty in shared governance will be the featured topic of the morning session. We encourage you to attend and to join in discussing these important issues facing higher education. The registration form and detailed information will appear in the August Newsletter.

Mark your calendar for the Spring Meeting of the Tennessee Conference to be held on April 6, 2002, at Tennessee State University in Nashville.

Professors' Rights To Assign Grades

At its Spring Meeting, the Tennessee Conference approved for its legislative agenda a proposal addressing unilateral changes of faculty-assigned grades by administrative officials. The explanatory note prepared by Professor Dwight Aarons and the draft legislation appear below.

The importance of having a statutory basis for faculty rights in the assignment of grades was highlighted later in April in a decision of the 3rd Circuit Court of Appeals in the case of *Brown v. Armenti*, a decision that brought the issue into national discussion. That court "conclude[d] that a public university professor does not have a First Amendment right to expression via the school's grade assignment procedures."



Explanatory Memo

This proposed law is designed to reverse *Parate v. Isibor*, 868 F.2d 821 (6th Cir. 1989). In that case the United States Court of Appeals for the Sixth Circuit, issued a ruling in a case involving a professor at a Tennessee public university. The court decided that "the assignment of a letter grade is symbolic communication intended to send a specific message to the student, [thus] the individual professor's communicative act is entitled to some measure of First Amendment protection." *Id.* at 827. The Sixth Circuit also wrote that an instructor "has no constitutional interest in the grades which his students ultimately receive." The court essentially suggested that school officials can unilaterally change a student's grade, without notifying the instructor. *Id.* at 829. Thus, under *Parate*, an instructor's use of grades to communicate his or her view of that student's performance, in the course, can be muted when administrators change those grades, without notifying the instructor.

This law responds to *Parate*. It outlines grade appeal changes. It provides that grades may be appealed through established grade appeals procedures, as provided at each university. To the extent that the grade appeal is eventually determined by an administrative official or governing board at the university, this proposal states that, when practicable, the teacher who assigned the grade is to be given an opportunity to state the reasons why the challenged grade was given. It also requires that the need for grade changes be established by clear and convincing proof.

AN ACT to amend Tennessee Code
Annotated, Title 49, Chapter
7, relative to appeals of
grades at public universities.

AN ACT to amend Tennessee Code Annotated, Title 49, relative to postsecondary education in Tennessee.

WHEREAS, in *Parate v. Isibor*, a decision of the United States Court of Appeals for the Sixth Circuit, ruled that a university professor has free speech rights to assign grades according to his or her own professional judgment;

WHEREAS, that same decision stated that a university professor does not have a constitutional interest in the grades that his or her students ultimately receive;

WHEREAS, the General Assembly "recognizes the inherent value of education and encourages its support," Tennessee Constitution Article II, Section 12;

WHEREAS, the following statute created by this act is the General Assembly's response to the *Parate* decision; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. By enacting this law, it is the intent of the General Assembly to reaffirm the academic integrity of grades assigned by teachers at public universities within Tennessee.

SECTION 2. (a) When grades are given for any course of instruction taught at a public university, the grade given to each pupil shall be the grade determined by the teacher of the course and the determination of the pupil's grade by the teacher, in the absence of clerical or mechanical mistake, fraud, bad faith, physical disability, shall be final. If the teacher becomes medically or physically unable to assign grades, the university may make reasonable accommodations for the assignment of grades for the course. A student may appeal any grades awarded through established grade appeals procedures at the university.

(b) In deciding an appeal of a student's grade, administrative officials of the university, or the university's governing board, shall not order the student's grade to be changed unless the teacher who determined such grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which such grade was given and is, to the extent practicable, included in all discussions relating to the changing of such grade.

(c) Notwithstanding the above, grades given by a teacher at a university can be changed by administrative officials of the school, or the university's governing board, only upon a showing of clear and convincing proof that the grade given by the teacher is not a reasonable exercise of professional judgment. A teacher's professional judgment in assigning a course grade includes considering the quality of the student's work and other factors that the student has been reasonably informed are relevant, including possible honor code violations.

SECTION 3. This act shall take effect July 1, 2001, the public welfare requiring it.

The Spring Meeting of the Tennessee Conference of AAUP April 7, 2001, Tennessee Technological University

Minutes

The Spring 2001 meeting of the Tennessee Conference of AAUP took place on Saturday, April 7, on the campus of Tennessee Technological University. President Norma Cook convened the meeting at 10:05 a.m. Kurt Eisen, President of the Tennessee Tech AAUP Chapter, welcomed the Conference to the Tennessee Tech campus.

Following announcements, approval of the agenda with additions, and introductions of delegates, President Cook introduced the speaker for the morning portion of the meeting, Jeff Butts, Chair, Assembly of State Conferences, AAUP. Professor Butts addressed the Conference on the topic: "Is Academic Freedom Still Important?" In his talk, Professor Butts discussed concerns and issues of academic freedom, such as: the importance of academic freedom as the principal aspect of higher education; how academic freedom helped shape higher education; how academic freedom is secure when the majority of the professoriate demand and uphold academic freedom; how weakening and attacking tenure affects academic freedom; academic freedom as a quality issue in higher education; the threat to academic freedom as higher education is made into a business model; the need to preserve academic freedom and tenure for the next generation; and the importance for tenured professors to make certain that all faculty members have academic freedom. Jeff Butts' address was followed by comments, questions, reactions, and further discussion.

President Cook immediately opened the business portion of the Conference.

Reports of Officers and the Executive Committee.

Bob Hughes moved, and Will Schrader seconded, acceptance of the minutes of the Fall 2000 meeting of the State Conference at the University of Tennessee-Knoxville, as published in the February 2001 issue of the Newsletter. The motion was approved. Secretary-Treasurer Gil Fernández reported a balance of \$14,102.99 in the Conference's checking account. President Cook informed the delegates that the Fall 2001 meeting of the Conference would take place on October 6 at Motlow State Community College. President Cook also announced that the theme of the meeting would center on the issue of shared governance, and she asked for recommendations for a speaker. President Cook apprised the Conference of ASC scholarships and grants, as well as of Conference financial supplements to attend a series of forthcoming meetings of

AAUP. She reported that a description of these meetings is on the Conference's Web page. President Cook also cited several National and ASC awards and suggested that Tennessee AAUP Conference members be nominated. After President Cook reported that the new 9th edition of the *Redbook* has just been published, the Conference adjourned for lunch. At 1:00 p.m., the Conference reconvened. Will Schrader moved that the Conference purchase copies of the *Redbook*, one for each chapter president and four additional copies, to be distributed to the President of the Conference, the Chancellor of the TBR, the UT central administration, and to THEC. The motion passed unanimously. Vice President for Public Institutions, Richard Gildrie, and Vice President for Private Institutions, Bob Hughes for Laurie Anne Ramsey, stated that they had nothing of significance to report.

Reports of Standing Committees: Committee A (Academic Freedom and Tenure), Lewis Laska, Chair. Laska stated that no issues under the purview of Committee A had come before him.

Laska also reported on the Legal Service Plan for which he is to receive \$750 yearly for his services. He informed the Conference that he had received from various sectors positive feedback concerning the plan. Laska added that he also receives at least one e-mail a week and that he has on numerous occasions consulted with several faculty members from across the state. Since he has not received any payment for his

service, Laska explained that in lieu of payment, the Conference would instead assist in publishing the book which he and Will Schrader are completing.

Committee F (Membership and Dues), Norma Cook for Ross Land, Chair. President Cook read Land's report, in which he stated that the full-time faculty annual dues are \$140, and that there are currently 694 National AAUP members in Tennessee. Norma Cook provided the membership with copies of several new AAUP brochures and a new AAUP recruiting guide.

Committee R (Government Relations), Jeff Roberts and Ken Scherzer, Co-Chairs. Jeff Roberts distributed copies of the booklet "Legislative Activity Pertaining to Higher Education in Tennessee, 2001" which lists all bills pertaining to Higher Education, pending before the General Assembly. Roberts also reported on the two lobbying days scheduled for this coming session. He also reminded the delegates that the Conference will assist in subsidizing



members who wish to participate in the lobbying days. Ken Scherzer commented that the governor's budget includes additional funding for higher education. President Cook thanked Jeff Roberts and Ken Scherzer for their outstanding lobbying efforts.

Committee T (College and University Government), William C. Schrader, Chair. Will Schrader warned the Conference that even though term appointments have been opposed by the Conference they continue to creep into the TBR system and pose a threat to higher education. Schrader cited examples of term appointments at several institutions across the state. He also noted that the merger in Memphis of the two community colleges has not produced any major problem.

Committee V (Junior and Community Colleges), Jerry Atwood and John Paszel, Co-Chairs. President Cook read an e-mail report from the committee's Co-Chairs.

Committee W (Status of Women), Linda Sammataro and Cheryn Picquet, Co-Chairs. Norma Cook read an e-mail report from the committee Co-Chairs.

Reports of Special Committees. Will Schrader and Pat Papachristou attended the jointly sponsored AAUP/ACAD (American Conference of Academic Deans) workshop on governance in Washington, D.C., from October 26–28, 2000. Will Schrader and Pat Papachristou reported on the different aspects of the workshop which each attended. (For a complete report on the conference, see Schrader's account in the February 2001 issue of the Newsletter.) Bob Glenn attended the national Committee T meeting on College and University Government on February 16–17, 2001, in Washington, D.C. Glenn discussed some of the recommendations that were made at the meeting. (These can be found in the report Glenn wrote on the Committee T meeting in the February 2001 issue of the Newsletter.) Glenn encouraged AAUP members to volunteer for national committees. On February 24, 2001, Andrew McQueen attended the ASC/CBC Governance Conference. He reported that 40 to 50 persons from twelve states attended the conference, which consisted of the following four workshops: Leadership; Successful Negotiations; Strategic Communications; and Working on Faculty Governance Issues. Jane Buck was the principal speaker, and her motivating address is on the AAUP Web site. McQueen also discussed the two workshops which he attended.

Reports from Chapters. Representatives from the nine institutions in attendance summarized the salient activities and issues on their respective campuses.

New Business. Lewis Laska moved to add to the Conference's Legislative Agenda "AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 7, relative to appeals of grades at public universities." The motion was seconded by Marius Carriere, and unanimously approved by the Conference delegates. Bob Hughes moved that a special committee composed of Committee R and the Executive Committee consider using money no longer spent on a Conference lobbyist for voter education in Tennessee. The motion was seconded by Will Schrader and unanimously approved by the Conference delegates.

President Cook thanked Tennessee Tech for hosting the Conference and she also thanked Jeff Butts for his attendance and contribution. The Spring 2001 meeting of Tennessee Conference adjourned at 3:05 p.m.

Respectfully submitted, Gil Fernández, Secretary-Treasurer.

Conference Web Site

The address of the Tennessee Conference web site is <http://web.utk.edu/~glenn/AAUP.html>. The site provides contact information for conference and chapter officers and committees, AAUP documents, and links to other organizations and publications.

Information for the web site can be sent to Bob Glenn at glenn@utk.edu or Norma Cook at ncook@utk.edu.

Commitment to Preserving Tenure

"We must die at our desks unless we receive a written guarantee that we shall be replaced with tenured or tenure-eligible faculty." Quoted from AAUP President Jane Buck's *Remarks for ASC/CBC Joint Leadership Conference*, February 24, 2001, posted on the web at <http://www.aaup.org/buck01-2.htm>.

Free Membership Materials

The National Office provides a variety of membership materials without charge. In addition to the general membership brochure, there are brochures designed for specific groups: part-time and non-tenure-track faculty, community colleges, and graduate students. There also is a separate brochure on membership benefits. Two handbooks are available—*Guide to the Office Visit* and *Building Membership: A Guide to AAUP Recruiting*, and the special publication *Footnotes* appears in the fall.

These materials can be ordered through the AAUP web site at <http://www.aaup.org>. Click on Free Membership Brochures under Membership.

Reports on Part-Time Faculty

Two reports on the use of part-time faculty appointments are available on the web. The study of the Coalition on the Academic Workforce, which includes AAUP, focuses on undergraduate faculty in disciplines in the social sciences and humanities. To access the report, go to the web site of the American Historical Association at www.theaha.org/caw/cawreport.htm.

The *MLA Survey of Staffing in English and Foreign Language Departments, Fall 1999* is posted on the web site of the Modern Language Association at www.mla.org. The report can be searched by various categories, including by state. A search of Tennessee provides access to data for its participating institutions.

A summary of the results of these studies appears on page 8 of the March–April 2001 *Academe*.

Nominations for Claxton Award

Nominations are invited for the Philander P. Claxton Award. This award was initiated by the Tennessee Conference of AAUP in 1986 to honor an individual who had made significant contributions to higher education in Tennessee and who also embodied the highest ideals of the academic profession and of the Association. The award was named for Philander Claxton (1862–1957), a native Tennessean who during an active career as teacher, school superintendent, university department head and president, and U. S. Commissioner of Education did much to advance the cause of public education in the state and the nation. Past recipients are Norman Ferris, William J. Fisher, John Bragg, Andy Womack, Andrew D. Holt, George S. M. Cowan, Jr., Milton M. Klein, Floyd D. Amann, and William C. Schrader, III.

Nominations should be sent to Professor David Lee, Chair of the Claxton Award Committee, at dlee@utk.edu or Department of Modern Foreign Languages and Literature, 713 McClung Tower, University of Tennessee, Knoxville, TN 37996-0470.

E-Mail Lists Available

Tennessee Conference: The President of the Conference maintains an e-mail address list of chapter presidents and contacts for sending messages about AAUP at the state level. The list will be updated this summer, and chapters are requested to send changes or additions. If your institution does not have a chapter and you would like to be listed as the contact person for your campus, please let us know. Information should be sent to Norma Cook at ncook@utk.edu.

National AAUP: One of the membership benefits of AAUP is a listserv provided for discussing issues related to the academic profession. Send the following electronic message to subscribe to this list.

To: majordomo@aaup.org

Subject:

subscribe aaup-general

Membership Via the Web

The AAUP web site at <http://www.aaup.org> provides the options of a downloadable form or an electronic application for new members and reinstatements. Membership renewals and changes in membership information can also be done online.

Status of Women Faculty

A new *Faculty Salary and Faculty Distribution Fact Sheet, 2000-2001* has been prepared by Professor Marcia Bellas for the Committee on the Status of Women in the Academic Profession. See www.aaup.org/Wbellas.htm.

Opportunities for Participation and Training

AAUP sponsors meetings, conferences, institutes, and workshops which provide excellent opportunities for members to learn, develop leadership skills, network with faculty from other institutions, and become more actively involved in the work of the Association. In addition to participation supported by chapters, financial assistance for sending Tennessee Conference representatives is typically available through scholarships or awards from the Assembly of State Conferences as well as from the Conference.

Participation is open to all members, and those interested in attending as Conference representatives are encouraged to contact Norma Cook at ncook@utk.edu. Check the AAUP web site at <http://www.aaup.org> for detailed information about each event.

Summer 2001

The 87th Annual Meeting of AAUP will be held on June 7–10, 2001, in Washington, D.C. This year's theme is "Students and Faculty—At the Heart of Higher Education."

The AAUP Summer Institute, which trains new and experienced leaders in AAUP, is scheduled for July 19–22 at the University of Delaware. Workshops will address topics such as The Effective Faculty Handbook, Higher Education Data and Research, Chapter and Conference Management, Intellectual Property, and Organizing and the New Academic Labor System. One of the five seminars, AAUP 101: Getting To Know Us, is designed particularly for those new to AAUP work. Among the other seminars are What They're Saying About Us: The "Higher Ed Organizations" Take on the Faculty, and Teaching Legislators: An Introduction to Lobbying.

Fall 2001

The ASC/CBC Joint Regional Workshop will be held on October 6, 2001, in Minneapolis. It is for training leaders in AAUP to help colleagues who request assistance.

The Annual Governance Conference will be held on October 12–14, 2001, in Washington, D.C. on the campus of Howard University Law School. The theme is "Mission and Governance: Integrating a Shared Vision." It is jointly sponsored by the Howard University Faculty Senate, AAUP, and the American Conference of Academic Deans. The proposed sessions for October 12 focus on Historically Black Colleges and Universities. Sessions proposed for October 13–14 include topics such as Faculty Handbooks and Faculty Grievance Procedures, Governance and Academic Freedom at Religiously Affiliated Institutions, Useful Evaluation of Faculty and Administrators, Shared Governance in Community Colleges, Affirming Governance, and Distance Education and Governance.

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About the Chapter Service Program

The Tennessee Conference Chapter Service Program, with support from the Assembly of State Conferences, is designed to aid AAUP chapters in promoting a program on their campuses that will reflect the standards of professional development associated with the AAUP. The AAUP has developed the standards for academic practice long recognized by professors, governing bodies, and administrators in higher education. Each local chapter should have as one of its goals a commitment to see that these standards are adhered to on their campus. Please contact Conference officers or committee chairs for help and services in the following areas:

- Recruitment and retention of members
- Tenure and academic freedom
- Faculty governance
- Chapter leadership training
- Economic welfare of the professoriate
- Lobbying activities
- Conference WWW page
- Attorney referral list



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