

NEWSLETTER

Colorado State University Chapter

American Association of University Professors (AAUP)

Academic Freedom for a Free Society Vol.1:2 (2008)

Legislative Update

- *Arbitration bill.* The AAUP arbitration proposal remains pending for consideration by the Colorado General Assembly's Joint Budget Committee. *Stay Posted.*
- *AAUP Friend of Higher Education Award.* At press time had not yet been announced. *Stay Posted.*

State Conference/Around the State

- *Colorado Committee for Protection of Faculty Rights.* The State AAUP Executive Committee recently approved the formation of the **Colorado Committee for Protection of Faculty Rights**. The purpose of the Committee is to shed the light of transparency on Colorado college and university administrations found to abuse faculty rights. The CCPFR is authorized to convene an investigative committee that may include leaders from other state conferences to gather and review all available evidence in cases judged to warrant such review. The results will be accompanied by recommendations and widely publicized. See article by Myron Hulen below.

State Conference Perspective By Myron Hulen

One of the more vexing problems that face faculty in Colorado relates to the grievance system. It is obvious that the grievance system at most institutions is badly broken. Basic principles of shared governance, due process, and justice and fairness toward faculty members are routinely violated, we believe with administrations' full knowledge and cynical indifference. This broken system is costing the state between \$1.8 and \$4 million annually.

To remedy the situation, the state Conference has devised two approaches. The first seeks legislation allowing a grievant to elect binding arbitration to settle a dispute between the grievant and an administration. Binding arbitration would operate in parallel with the current grievance system. Thus, the grievant would have a choice of filing a

Feature Article

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The Association of College Trustees and Alumni (ACTA)

What is ACTA?

ACTA (www.goacta.org) is the academic wing of the organized Right and a key player in Right-Wing attacks on the Academy. Disguised as support for "academic freedom," ACTA and its publications co-opt the language of liberal discourse, intellectual rigor and academic freedom by arguing that the Universities silence conservative thought. They allege that campuses are overrun by left-wing professors promoting their own agendas in classrooms and perpetuating their biases through hiring and tenure practices that protect incompetent ideologues. Most people first heard of ACTA right after 9/11, when it published "Defending Civilization," a national "hit list" of 100 faculty members who were alleged to be unpatriotic for suggesting that American foreign policy could have been a catalyst for the anger that fueled the attacks on the World Trade Center and the Pentagon. Lynn Cheney, head of the National Endowment for the Humanities (wife of the Vice President of the USA, and a CU alumna—MA) and Sen. Joseph Lieberman (Connecticut) were the heads of ACTA at the time. No CU faculty appeared on that first list.

What is ACTA's Agenda?

ACTA is a nation wide activist organization. Its level of organization is formidable, and its game plan is simple:

- Run training sessions for state legislators, governors, University trustees and regents, and other university governing board members, informing them of the danger from the left and showing them how to head it off by engineering a right-wing takeover of governance in higher

grievance under existing rules or electing binding arbitration. To keep frivolous matters from being subject to binding arbitration, a grievant would have to post a \$1,000 bond that would be returned only if the grievant won his/her case. Professor Ray Hogler of CSU was instrumental in constructing this approach, and it is similar to the one being put forth at CSU. We are hoping that it will be introduced as a “late bill” in this session. If it is not, we will work to secure its introduction in the 2009 session. We anticipate opposition from the colleges and universities because the bill limits their ability to assure only outcomes favorable to their interests, regardless of injustice to individual faculty members.

The second approach to helping faculty in disputes with an administration is to create a Colorado Committee for the Protection of Faculty Rights (CCPFR). The guidelines for this committee have been approved by the Conference Executive Committee and will go all Colorado members for a vote this summer. The CCPFR will act in a two step fashion. First, advisory help will be given to grievants as they go through either the grievance process or binding arbitration. Second, in appropriate circumstances and if the matter cannot be resolved, the CCPFR may conduct a formal examination of violations of due process. A finding adverse to an institution may result in a report being sent to the appropriate academic association, e.g., the American Historical Association, etc., with a recommendation that the report be made available to prospective faculty who interview through that association’s auspices. If the binding arbitration bill passes, it is anticipated that this second step seldom will be needed.

Assuming the CCPFR is approved, its effectiveness will be entirely dependent on having enough AAUP volunteers to do the work. One faculty member at each institution will be needed to serve as its AAUP Chapter’s CCPFR Representative, and several qualified volunteers will be needed occasionally to serve on an investigation committee. It is anticipated that there will be at most only a couple of investigations each year.

A copy of the draft legislation and the policy guidelines for the CCPFR will be posted on the Conference web site shortly.

Chapter Update

- *Arbitration.* The Chapter will pursue this issue over the summer and fall of 2008.
- *Faculty disciplinary procedure.* Thus far, Faculty Council has not taken up this

education.

- Appoint ACTA friends to high places in higher education., especially university presidencies (see ACTA’s publication and annual award, “Friends in High Places,” recently given to Hank Brown). This is not difficult, since Governors usually appoint college and university trustees or regents, who, in turn, appoint college and university presidents and chancellors. What is needed is a sympathetic ACTA member as governor.
- Restructure governance in higher education so as to dilute or eliminate faculty participation in university governance. This means a flat, corporate-style structure that makes the University more pliable to presidential direction, centralization of higher administrative power, and removal of checks and balances by removing positional security (tenure and classified status) from many important directorships, converting them into professional-exempt (fire at will) status.
- Weaken faculty power in hiring, promotion, tenure and grievance procedures, and in selection of key administrators.
- Weaken, co-opt, or eliminate altogether the faculty tenure system.
- Assure the conservative “political correctness” of faculty hires and classroom teaching. Revising core curricula around the old Eurocentric great books canon.
- Encourage “partnering” between higher education and corporate donors and sympathizers.

ACTA’s goal is to end what it and its surrogates call ending the excessive “liberal” slant in higher education. ACTA supporters and members are working in well over 400 colleges and universities across the country. In 2003 and 2004, ACTA’s “Governors’ Project” organizes conferences that provided trustee training at the University of Colorado, the University of California, Dartmouth, Harvard, CUNY, and the University of Nebraska, and the Colorado and Massachusetts state boards of higher education. Former Colorado governor and ACTA member Bill Owens travelled to Oklahoma, Kansas and Nebraska during his terms in office to pitch the ACTA agenda to higher education officials and begin the process there.

ACTA in Colorado

issue. Please keep Steve Mumme and other members apprised of any development of which you may be aware.

Perspectives on Grievance (See AAUP Issue Brief Attached to this Newsletter)

ALERTS!

- **Faculty Council is STILL seeking to fill various positions on FC committees. At the moment the Chapter would benefit from having a representative on the Faculty Discipline Committee. Please consider self nominating or asking a chapter member to nominate you.**
- **Chapter STILL needs volunteers to represent AAUP to Oval leaders. If interested, contact Steve Mumme (smumme@colostate.edu)**

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ACTA's strategies already are visible in Colorado. Bill Owens organized an ACTA conference for all Colorado trustees and regents, co-sponsored by the Colorado Commission on Higher Education. Virtually every current head of a state university, college, and community college system in Colorado has been appointed by an ACTA member and is sympathetic to ACTA's agenda. They include former UNC and CU president, Hank Brown (a co-founder of ACTA), newly appointed CU president, Bruce Benson (who served as an ACTA trustee at Mt. Holyoke College), CU's VP for Academic Affairs and Research, Michael Poliakoff (ACTA member and author of ACTA publication *Teachers Who Can: How Informed Trustees Can Ensure Teacher Quality*), Mesa State President (and former Colorado Commissioner for Higher Education) Tim Foster, and current UNC president Kaye Norton. Most of these officials were imposed by searches in which faculty had little voice and most opposed.

Once these officials were in place, they began to implement the ACTA agenda, removing faculty status from key administrators, including vice-provosts (the Vice-Provost for Diversity at CU-Boulder), Deans, Department chairs (the latter two become "Directors"), as has happened at CU, Adams State, and CSU; making optional the possession of a terminal degree for such officials (ditto); re-writing faculty handbooks so as to make faculty committee decisions simply advisory to the top level administrators (CU), and even eliminating the necessity of declaring "financial exigency" prior to firing tenured faculty (Metro State, under Bruce Benson); monitoring curricula to make them more "rigorous" and "American" (an example includes the insistence that the CU-Boulder English department include more Shakespeare offerings and that the CU-Boulder Department of Spanish substitute "American Government" for "Latin American History" in its teacher preparation program. ACTA also has been behind the attacks on "liberal" professors such as Ward Churchill, as is evidenced by its booklet, "How Many More Ward Churchills?," which was published in early 2005 and spells out how to locate a "poster child" professor, make him or her notorious, and then use the "show trial" that ensues to discredit faculty judgment power not only in hiring, promotion, and tenure decisions, but also in the grievance processes available to faculty. Many people did not know that the public furor over Churchill's essay did not erupt spontaneously at Hamilton College in February 2005; that, in fact, Lynn Cheney's ACTA organization (www.goacta.org) had a role in it.

Hamilton College is in New York; the New York governor is a member of the same ACTA “Governor’s Project” as former Colorado governor Owens. ACTA members and student sympathizers at Hamilton leaked information about the essay to the Colorado media, and the feeding frenzy was on (see www.wardchurchill.org for a full timeline of activities produced by Churchill supporters, See also <http://www.colorado.edu/news/reports/churchill/> for additional documents related to the Churchill case from the University of Colorado.)

Other connections in Colorado include Jerry L. Martin, who was chair of the CU-Boulder Department of Philosophy prior to going to work for Lynn Cheney at the NEH, and CU Regents Steve Bosley and Tom Lucero, who spearheaded and micromanaged the search which produced Bruce Benson. They are ACTA supporters and activists and have participated in national trustee-training workshops. These connections are not always easy to discover, since ACTA frequently removes names and publication titles and authorships from its websites to hide them.

ACTA also does not operate in isolation. It is but one unit of a much bigger conservative alliance. ACTA is allied with a wide range of neoconservative groups such as the National Association of Scholars, the Federalist Society, and the Cato Institute, and financed by the rightwing Castle Rock (Coors), Scaife, Olin and Bradley Foundations, and others. Allies include David Horowitz’s Center for the Study of Popular Culture, renamed in 2006 the Freedom Center (www.horowitzfreedomcenter.org), and his online magazine, FrontPageMag.com. Horowitz keeps up a national drumbeat against an alleged “plague of leftists in “universities, the media, and mainstream churches;” he attempts to blacklist “dangerous academics” and promote state laws to monitor political opinions in the classroom by passing “academic bills of rights” to protect the allegedly restricted speech and beliefs of conservative and fundamentalist Christian students from liberal professors. His publications list “dangerous professors” in Colorado and elsewhere, evidencing “danger” by word-searches that turn up terms like “Marx” “Critical” “Feminist” “globalization,” and “Queer” in the titles of their courses or assigned textbooks deemed too radical for the tender minds of undergraduates in their syllabi. Despite their dubious quality as research and Horowitz’s admission that he makes up evidence to support his claims, these documents are well-covered in the press and make the

	<p>academic and personal lives of his targets—a number of them Colorado instructors and professors--more difficult.</p> <p>Also in the trenches with ACTA are student organizations (e.g. College Young Republicans, AVOT, and www.studentsforacademicfreedom.org); their members attend classes and participate within the campus student body as conduits to ACTA, keeping blacklists of names, infiltrating classrooms, and writing up reports and articles about suspect instructors. A gaggle of bloggers also support ACTA'S activities, including www.pirateballerina.com. These, and alumni organizations, can mobilize thousands of fiery (and vulgar, obscene, or even threatening) emails and letters to dissident faculty or their supporters. The monopolistic practices of the Colorado print, radio news and talk shows, and television media also support ACTA implicitly. All are owned by two related news monopolies—Scripps-Howard and Dean Singleton (and its subsidiary, Prairie Publishing Co.), including all of the newspapers on military bases and the Boulder newspapers except for the <u>Boulder Weekly</u>, <u>The Silver and Gold Record</u>, and <u>Westward</u>. Their editorial policies are ultra-right and seldom cover anything but stories that are antagonistic to higher education and supportive of Right wing initiatives.</p> <p>Margaret D. LeCompte (with grateful acknowledgement to Alan Jones, Daniel Kim, Thomas Mayer, Natsu Saito, Kenneth Bonetti and others).</p>
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AAUP ISSUE BRIEF: GRIEVANCE PROCEDURE

Issue	Section K	Problem	AAUP Concerns
Right to Grieve	K.8	Leaves adjuncts and contingent faculty without protection	Major lacunae
Bundling of grievances in mediation phase	K.5/K.6	Bundling A and B grievances by University Mediator (UM) may result in failure to consider the B grievance or treating A grievances as B grievances.	Appeal should be available.
Post-mediation report	K.5	UM may modify report at administrator's post-hoc request	Due process violation. UM report should not be subject to amendment unless all parties present are advised and consent.
Time line for grievance	K.5	Current process highly variable; mediation effort may drag out for years before grievance is heard. Tends to work against grievant.	Potential for delay is demoralizing—justice delayed is justice denied. It also seems likely to work against grievant.
Complainant's evidence # 1	K.6	Administration has advantage of choosing and validating the evidence in advance of proceeding.	Places grievant at distinct disadvantage—allows administration to cherry-pick evidence in advance.
Complainant's evidence # 2	K.6	No explicit provision made for complainant access to university records or documents.	May violate Colorado state open records law.
Status of Grievance	K.9	UGO may combine grievances A, B,	Arbitrary and unaccountable—

		and C without any further review or appeal.	potentially prejudicial to the grievant
Univ. Grievance Officer (UGO)	K.14	University appointee: potential conflict-of-interest	
UGO prescreening of grievance	K.	Preempts grievance committee. Question whether the Committee should determine grievance action	UGO exclusive prescreening authority limits powers of Committee and limits accountability
Role of UGO and UM	K.3/K.14	Relationship between UGO and UM poorly defined [may UGO also serve as UM?]	Roles should be quite separate.
Summary of Evidence	K11.1	. Little guidance as to what should or may be included in summary. Unclear as to who determines adequacy of the summary [Grievance Committee or UGO?]	Summary content required of grievant may unfairly advantage administration. The university is not similarly obligated to summarize its case against grievant.
Univ. Grievance Record/Non-Disclosure Rule	K.7/K.11.3	No way of tracking Grievance implementation process. Prevents faculty from working to improve procedures	We need some form of tracking and monitoring enabling Faculty Council to assess how the system is working and make necessary changes.
Role of Univ. Attorney		Legal Counsel serves the President –potential conflict of interest	.
Administrative review of decision	K.11.7	Administrators (Pres/Provost) have no obligation to honor a grievance panel decision or determinations of	Enhances chance of litigation

		lower-level administrators	
Terms for administrative rejection	K.11.7.2	Terms of reference as rationale for rejecting a grievance panel's recommendation are broad and subjective	Warrants review
Status of Responsible Administrator		Not really defined. Does responsibility rest with the office, or the individual?	
Single Issue Approach		Section K limits grievances to specific incident.	There should be provision for consideration of an adverse pattern of behavior.
Articulation with OEOD		When multiple and related complaints are filed under Section K and OEOD there is no provision for articulation	Administrative excuse for procrastination, delay, and avoidance.
Appeal beyond OEOD		Assumption seems to be no internal appeal of OEOD determinations. But OEOD reports directly to the President.	Provision for appeal is essential to due process and procedural fairness. May also be necessary to comply with federal and state law.
OEOD responsibility to Faculty Council		Appears to be no direct Faculty Council oversight of OEOD	Contributes to administrative uncertainty and lack of accountability
Stay of administrative action.		No provision for staying administrative action when grievance is filed.	Administrative ability to proceed may unfairly injure grievant while grievance is being resolved. Adding such a provision would encourage

			conflict resolution.
Articulation with Section E.		Presently no right of grievance on post-tenure review decisions by administrators	Not consistent with AAUP national guidelines