

April 23, 2024

VIA ELECTRONIC MAIL

Dr. Eli Capilouto
President
101 Main Building
University of Kentucky
Lexington, Kentucky 40506-0032

Dear President Capilouto:

The University of Kentucky university senate and the university's chapter of the American Association of University Professors have requested the advice and assistance of the AAUP's national office concerning proposed changes to the university's governing regulations, which the board of trustees will consider on a first reading at its meeting on Friday, April 26, and bring to a vote at its June 13–14 meeting. The proposed changes will dissolve the university senate and the university senate council and replace them with a faculty senate and a president's council.

We understand that the potential changes first came to the faculty's attention following discussion at the February 23 board of trustees meeting, after which the board directed you to propose changes that would "define a clear and appropriate distinction between the education policy-making function of the Board and the respective responsibilities of the President and faculty to administer and implement the Board's educational policies." Following that charge, you shared with the campus community on March 27 a set of general principles you had formulated to guide the changes. As we understand it, to receive feedback on these principles, you discussed them during a university senate meeting and in sessions with the university senate council; you solicited informal comments on those principles in "listening sessions"; and you opened a one-week online comment period that closed on April 3. On April 12, you circulated a revised set of principles. However, the proposed revisions to the governing regulations were shared with the faculty and other campus constituencies only last Friday, April 19, one week before the board of trustees meeting.

It appears, therefore, that there has been no formal or substantive opportunity for the faculty as a whole or its representatives to participate in the development or approval of the principles or the proposed governing regulations. The university senate has passed three resolutions—on February 26, March 11, and April 8—that offered substantive objections and revisions to the proposed principles, called for "meaningful engagement" of the faculty in the process, and urged that a final decision on changes to the governing regulations be delayed to accommodate that involvement. However, we understand that the senate's efforts have been unavailing and that the administration and the board of trustees have yet to provide a formal response.

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The interest of our Association in these developments derives from its longstanding commitment to principles of shared governance as articulated in the enclosed *Statement on Government of Colleges and Universities*, a document formulated jointly by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges.

Under those principles, the “structure and procedures for faculty participation” in shared governance “should be designed, approved, and established by joint action of the components of the institution”—that is, its faculty, administration, and governing board. A board or administrative action to replace the existing university senate without the formal and substantive involvement of the faculty—and indeed to do so over the considered objections of its elected representatives—would be contrary to widely observed norms of shared governance and, frankly, highly unusual for an institution of the University of Kentucky’s stature and reputation. We therefore urge your administration and the board of trustees to include the faculty in the design and formal approval of any substantive changes to faculty participation in shared governance at the University of Kentucky.

In addition to our interest in the process by which these revisions have been developed and put forward for adoption, we are concerned that the revisions themselves do not comport with the standards articulated in the *Statement on Government* and that they diminish the important role the faculty must play in the sound governance of an institution.

First, the faculty holds primary responsibility for “such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process.” In these areas, the faculty or its representatives should have decision-making authority, and the “power of review or final decision lodged in the governing board or delegated by it to the president should be exercised adversely only in exceptional circumstances, and for reasons communicated to the faculty.”

By contrast, under the proposed Governing Regulation V (“Shared Governance Bodies”), the faculty senate would be “formally engaged in and consulted about relevant matters important to the faculty,” including “program reviews, approvals, and closures,” and the general education program. Similarly, with respect to decisions on faculty status, the faculty senate would “advise” the provost concerning “criteria, policies, and procedures for performance review, appointments, promotions, granting of tenure and benefits to faculty. . . .” We are concerned that the language of engagement, consultation, and advice—the same language used to describe the role of the student senate in decisions about tuition and the role of the staff senate in decisions about compensation and benefits—weakens the faculty’s authority in these areas of its primacy. We strongly

recommend that the governing regulations of the University of Kentucky reflect the faculty's primary responsibility in these areas, as well as the administration's and board's deference to the faculty's judgment.

Second, the faculty should meaningfully participate in major institutional decisions in areas outside of its primary responsibility, and it should have a voice in these decisions that is proportionate to its interests and expertise in the matter. These include matters such as long-range planning, the physical plant, budgeting, and salary policies. The faculty should be substantively involved in these decisions, and, where they directly affect areas of primary responsibility, the decisions should be made in concert with the faculty. AAUP-supported standards set out in the enclosed statement *The Role of the Faculty in Budgetary and Salary Decisions*, for instance, provide that the faculty "should participate in the preparation of the total institutional budget and in decisions relevant to the further apportioning of its specific fiscal divisions," and it should do so through participation of "an elected representative committee of the faculty" that is provided "access to all information it requires to perform its task effectively."

Under proposed Governing Regulation VI, however, faculty participation in these areas would take place not through such an elected committee of faculty representatives but through the proposed president's council. This new body would be charged with "providing strategic guidance" and "counsel" to the president "on the most critical, high-level institutional matters," including "strategic priorities," "the strategic plan, key performance metrics, new initiatives to consider, and budgetary priorities." It would consist of thirteen members—the president, four students, four staff members, and only four faculty members—and would meet "on a cadence determined by the President." According to the *Statement on Government*, "Faculty representatives should be selected by the faculty according to procedures determined by the faculty." However, the initial implementation of the GR VI would determine, without any faculty involvement, the selection procedures for the faculty members of the council, and only one of the four faculty members would be a representative selected by the faculty: the faculty senate chair, who would serve *ex officio*. The president would select one member from a list of five senators nominated by the faculty senate, another member from a list of five non-senators nominated by the faculty senate, and a fourth member selected solely at the president's discretion. We urge the board of trustees, administration, and faculty to ensure that the faculty has its own robust and independent voice in these major institutional decisions in the form of a faculty committee consisting of representatives selected by their peers through a faculty-determined process.

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Our information regarding this situation has come to us principally from members of the university senate and the AAUP chapter and from publicly available documents. We would therefore welcome your comments. However, if the facts recounted above are essentially correct, it appears that the board and administration are poised to take actions that contravene the widely observed principles of academic governance supported by the

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AAUP. We would therefore recommend reconsideration and again urge that steps be taken now to involve the faculty in making substantive changes to the university's governance structure, to revise the governing regulations so that they reflect the faculty's primary responsibility for academic matters, and to ensure that the faculty retains an independent voice in major institutional decision-making outside those areas of its primary responsibility.

In the meantime, we will continue to monitor developments at the University of Kentucky with keen interest.

We look forward to your response.

Sincerely,



Mark Criley

Senior Program Officer

Department of Academic Freedom, Tenure, and Governance

Enclosures by email attachment

Cc: Dr. E. Britt Brockman, Chair, Board of Trustees
Dr. Robert S. DiPaola, Provost
Professor DeShana Collett, Chair, University Senate
Professor Philipp Rosemann, President, AAUP Chapter
Professor Nancy McKenney, President, Kentucky AAUP Conference