Academic Freedom and Tenure: The University of Southern Maine[1]

(MAY 2015)

This report concerns the actions taken by administrators at the University of Southern Maine to close four academic programs and reduce the number of faculty members by means of early retirement offers and retrenchment. The investigating committee was charged with determining whether the program closures and retrenchments were justified and were executed in accordance with AAUP-supported principles and procedural standards.

I. Background

The University of Southern Maine originated in 1878 as the Gorham Normal School, which later became Gorham State Teachers College and then Gorham State College. That institution merged with the University of Maine at Portland in 1970 to become the University of Maine at Portland–Gorham. In 1978, the institution's name was changed to the University of Southern Maine. A public university, one of seven institutions that constitute the University of Maine system, USM has three primary campuses located in Portland, Gorham, and Lewiston, the last established in 1988. USM offers baccalaureate and master's degree programs as well as doctoral programs in public policy and school psychology. As of spring 2014, the three campuses enrolled approximately 7,500 undergraduate and 2,320 graduate students, taught by a total of approximately 250 full-time faculty. The university has been accredited since 1960 by the New England Association of Schools and Colleges, its most recent reaccreditation review having occurred in 2011.

According to information posted on its website, the University of Southern Maine is "dedicated to providing students with a high quality, accessible, affordable education"; its faculty is "[d]istinguished for their teaching, research, scholarly publication and creative activity"; and the university "embraces academic freedom for students, faculty, and staff." Mr. David T. Flanagan, the institution's interim president until July 2015, has served in that capacity since July 2014. He succeeded Dr. Theodora J. Kalikow, who served as interim president from July 2012 until her departure to serve as University of Maine system acting vice chancellor. On March 11, 2015, USM announced the appointment of its new president, Dr. Harvey Kesselman, then serving as the provost of Stockton University in Galloway, New Jersey. He will assume office at USM in July. Dr. James H. Page is the chancellor of the University of Maine system, authority over which is held by a sixteen-member board of trustees. Professors Susan Feiner and Christy Hammer serve as copresidents of an NEA-affiliated local union of the Associated Faculties of the University of Maine System (AFUM) that represents the system's faculty under a collective bargaining agreement. Professor Gerald (Jerry) LaSala is chair of the USM faculty senate.

1. The text of this report was written in the first instance by the members of the investigating committee. In accordance with Association practice, the text was then edited by the staff and, as revised with the concurrence of the investigating committee, was submitted to Committee A on Academic Freedom and Tenure. With the approval of Committee A, the report was sent to the subject faculty members; to the administration of the University of Southern Maine; to the officers of the faculty union, of the faculty senate, and of the AAUP chapter; and to other persons directly concerned. This final report has been prepared for publication in light of the responses received and with the editorial assistance of the staff.

II. Events of Concern

On March 14, 2014, then president Kalikow announced to the USM faculty senate that the university's "structural gap" must be closed and that the university could "no longer afford to carry all the programs" it offered, "especially those that unfortunately have insufficient student interest to financially sustain them." She went on to report the elimination of four programs effective with the fall 2014 term—American and New England studies, geosciences, arts and humanities at the Lewiston facility (Lewiston-Auburn College), and recreation and leisure studies—and the consequent termination, not including retirements, of the appointments of approximately twenty to thirty tenured as well as long-serving nontenured faculty members. The University of Maine system trustees did not declare a state of financial exigency for the system as a whole or for its USM campus. With regard to the criteria for program elimination, President Kalikow cited a March 6 report of the USM Direction Package Advisory Board (DPAB), formed in 2013 to review the university's budget. The report stated that "[u]ltimately, the existing collage of programs offered at the University must be transformed into a carefully considered, complementary portfolio of critical entities that synergistically support a focused University mission that serves the needs of the Southern Maine region. The institution must be greater than the sum of its individual academic components, while at the same time be streamlined for wider programmatic cooperation and coordination with the other entities in the University of Maine System."

The university's effort to "prioritize" its academic programs in this report was guided in part by the work of Dr. Robert Dickeson, a well-established critic of the professoriate and opponent of tenure, whose *Prioritizing Academic Programs and Services: Reallocating Resources to Achieve Strategic Balance* has been used by other administrations to restructure academic programs and terminate faculty positions.[2]

Faculty members whose positions were slated for termination were notified by letter of March 21 from then provost Dr. Michael Stevenson that the action was "a retrenchment due to program and budget reasons"; that they would receive one and a half years of additional salary, as called for by the collective bargaining agreement between the University of Maine system and AFUM; and that they might be placed on a "recall list" for future reemployment "in the same position . . . should an opportunity arise."

Faculty members at the university questioned whether a financial crisis existed. They noted that the administration did not demonstrate that the magnitude of the budgetary constraints facing the institution necessitated closing programs and departments and terminating faculty appointments. They contended that the program analysis data produced by the faculty and administration participants on the DPAB demonstrated that the majority of USM's thirty-five departments generated sufficient revenue to cover the cost of faculty salaries. Moreover, faculty members questioned the adequacy of faculty participation as called for under AAUP-recommended standards—by the faculty as a whole or by a representative body of the faculty—in reaching the decisions to take the announced actions, in setting the criteria for terminating programs, and in singling out the particular ones for discontinuance.

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National AAUP staff, alerted by media accounts and reports from local AAUP leaders about the administration's actions, sent an e-mail message on March 27 to union copresident Feiner offering the Association's assistance. Professor Feiner, responding on March 30, stated that "each day brings new threats to shared governance, faculty positions, and programs. As mysteriously as faculty and programs get disappeared, some, but not others, are resurrected." On April 10, the staff wrote to President Kalikow to convey the Association's concerns regarding the decisions to discontinue academic programs and terminate faculty appointments without any substantive faculty participation in the key decision-making processes. Association-recommended standards, the staff wrote, "provide for meaningful faculty participation in determining that a condition of financial exigency exists and in deciding where terminations based on programmatic considerations will occur." The letter emphasized that the appointments of tenured faculty members are not to be terminated while nontenured faculty members are retained and that every effort should be made to place affected faculty members in

2. For details regarding Dr. Dickeson's role in the National Louis University administration's actions in 2012 to discontinue numerous programs and departments, and to terminate the appointments of at least sixty-three full-time faculty members, see "Academic Freedom and Tenure: National Louis University," in *Bulletin of the American Association of University Professors* (special issue of *Academe*), July–August 2013, 17–29.

other suitable positions within the institution. It urged rescission of the notices of termination and adherence in any further action to the procedural standards the letter had cited.

On April 11, then USM-AFUM copresident Hammer reported happily to the AFUM membership, in an e-mail message on which the AAUP's staff was copied, that President Kalikow had announced that same day that she was "immediately rescinding the twelve faculty retrenchments." Professor Hammer wrote, "The letter [President Kalikow] and the Chancellor received yesterday from the national American Association of University Professors may have helped her make the right decision." In an April 11 e-mail message to USM faculty announcing the rescissions, the USM president stated with regard to the program discontinuances that "the proposed eliminations of American and New England Studies, Geosciences, and Arts and Humanities programs will continue," and she gave the faculty senate until May 5 "to submit alternatives to those program eliminations" to her. In an April 25 response to the AAUP staff letter of April 10, she stated that "the financial conditions we are facing are real and demonstrable" and went on to explain that "the recent faculty retrenchment actions were rescinded prior to the receipt of [the staff's] letter in order to further engage with the Faculty Senate for the most thoughtful and efficient approaches to achieve the necessary budget savings." She concluded with reassurance that "currently any program eliminations are solely proposals and the necessary steps prerequisite to initiate them under Board of Trustees Policy have not yet been taken." With this sudden reversal of the administration's retrenchment actions, those affected began to hope that the matter was at an end.

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That this administrative reversal did not conclude the matter became apparent to the staff upon its receipt of an August 18 e-mail message from Professor Feiner reporting that "the Chancellor, without any consultation with faculty, yanked the last president he appointed via fiat, and appointed a new president." That new president was Mr. David Flanagan, who had served, among other positions, as chief executive officer of the Maine Power Group and who vowed to balance USM's budget.

It was subsequently revealed that on August 15 President Flanagan had forwarded proposals to the board of trustees regarding the elimination of programs in American and New England studies and in arts and humanities and the Department of Geosciences. Faculty senate chair LaSala responded with an August 27 message to Chancellor Page and the University of Maine System Board of Trustees, stating that, "[d]espite assurances to the contrary, these are in fact NOT the proposals submitted to and reviewed by the Faculty Senate's Academic Program Review Committee. These new proposals were first forwarded to me as Senate Chair on 20 August 2014, five days after they had already been submitted and placed on the agenda for the [Board's] Academic and Student Affairs Committee Meeting this Friday, 29 August."

LaSala complained that the new proposals contained "factual errors," and he concluded by urging the board to postpone action on the proposals "until appropriate review has been completed." Notwithstanding the faculty senate's request for further study, the board's academic affairs committee voted on August 29 to place the program elimination proposals on the full board's September 21–22 agenda.

On September 18, USM provost Joseph McDonnell sent a message to faculty "colleagues" entitled "Criteria for Eliminating, Retrenching and/or Reshaping Academic Programs." "Our finance office," he wrote, "is projecting a $16 million shortfall based on current enrollments—a deficit that will deepen if the trend in declining enrollment continues into the next academic year" and that "will inevitably result in reductions in faculty and staff positions." The "deans and I," he continued, "have developed criteria that would inform decisions about modifying or eliminating programs." Faculty members were given one week to submit comments about the following criteria:

- "Community engagement." Will the program "contribute significantly to the 'metropolitan university' vision"?[3]
- "Student interest." Does the program have enough majors?
- "Financial contributions." Does the program generate a "significant amount of revenue"?
- "Relationship to other programs." "Is the number of faculty in the program too small," and can the program be combined "under a larger academic umbrella"?
- "System coordination." "If the seven universities in the system were viewed as one university, would

3. As will be seen below, the provost discussed this "vision" in a memorandum to the faculty sent on October 6.

the USM program likely play a critical role in such a university by virtue of its location or strength?"

- "Curriculum." "Could the program be delivered with fewer credits?" "In a university with academic programs with fewer credits students and faculty would have much greater flexibility to pursue a variety of interests. We believe a more streamlined approach to majors and minors would create a more innovative and more student centered culture."

On September 22, the board of trustees voted to eliminate the graduate program in American and New England studies, the arts and humanities major at USM's Lewiston-Auburn College, and the Department of Geosciences. On October 28, Provost McDonnell informed tenured faculty members in these departments and programs who were slated for appointment termination that they were subject to retrenchment in accordance with the collective bargaining agreement and that they would receive salary payment for one and a half years, commencing December 31, 2014, during which time they would have no professional obligations. The letter stated further that they had a "priority right" to any "appropriate alternative or equivalent employment" within the university.

The relevant provisions of the AFUM collective bargaining agreement are set forth in articles 15, "Grievance Procedure," and 17, "Retrenchment." Section 17.A defines retrenchment as "the discontinuance of a unit member with a tenured appointment or continuing contract from a position at any time or [with] a probationary or fixed length appointment before the end of the specified term for bona fide financial or program reasons including temporary or permanent program suspension or elimination." Section 17.B specifies the order of retrenchment by length of service, from less than one year to more than twenty-one years of employment. The rights of tenured faculty members are addressed in section 17.B.2, which stipulates that faculty members with tenure will not be retrenched before nontenured faculty members in the "retrenchment unit." Section 17.D provides for one and a half years of notice for faculty members with tenure or continuing contract appointments. Section 17.E calls on the university to make "a reasonable effort to locate appropriate alternate or equivalent employment," and section F.1 provides for all unit members to be placed upon request on a "recall list" for two years following the effective date of retrenchment. Those with tenure or continuing contracts "shall resume the tenured or continuing contract appointment upon recall." Article 15 defines a grievance as a complaint regarding "the interpretation or application of a specific term" of the collective bargaining agreement, sets out the steps of the grievance procedure, and affords access to binding arbitration.

The USM administration announced sweeping plans to "fundamentally transform" the university in an October 6 memorandum from Provost McDonnell to the faculty. He detailed the discontinuance of two additional programs (French and applied medical sciences); the reduction or consolidation of numerous academic departments, including the merging of English, philosophy, and history into one department; the combining of the departments of chemistry, physics, and mathematics; and a reduction in the size of the faculty by fifty positions effective at the end of fall 2014. Because the university's "current crisis is too deep to merely trim the sails," the provost averred, "it will require fundamental change in academic programs, in our culture, and in expectations of faculty inside and outside the classroom." The institution, according to the provost, "must gain a reputation as the 'metro university' by offering a distinctly different educational experience from other public and private universities in the state." Among the measures required to "reimagine the university," he wrote, were the dismantling of the "silos of our academic programs" and the "silos of our locations," both of which had "contributed to our fiscal problems." According to this logic, an "interdisciplinary approach" would supplant stand-alone academic programs and would require faculty members to be "prepared to teach on all campuses" through "an imaginative use of blended and on-line learning." "We can no longer afford," Provost McDonnell declared, "faculty assigned to just one campus." The plan, however, was "not merely a way to deal with a budget crisis, but an opportunity for a cosmopolitan university to connect the arts, the humanities, and the social sciences with each other and the professional programs in Business, Technology, Health, and the Environment." Dr. McDonnell ended his October 6 presentation by listing the programs and departments that would be eliminated or consolidated, resulting in the elimination of the fifty faculty positions, including seven in the three programs the trustees had already approved for elimination in September.

Faculty members whose positions were designated for termination were given the choice of accepting

an early retirement package or having their positions eliminated under the retrenchment provisions of the collective bargaining agreement.[4] By the time notifications were issued, the "fifty" stated in the provost's October 6 memorandum had increased to sixty or sixty-one. Twenty-six faculty positions were terminated under the retrenchment provision of the collective bargaining agreement, while thirty-four were eliminated through retirement. In one case, a faculty member in an affected department whose position was not terminated decided to retire in order to "save" a junior colleague whose position had been eliminated, bringing the total number to thirty-five. Numerous faculty members whose appointments were terminated filed grievances under article 15 of the collective bargaining agreement with arbitration to take place at the end of April 2015.

On October 10, the faculty senate called on the administration to meet with the senate executive committee in order to negotiate a new deadline for senate review of the proposed elimination of programs in applied medical sciences and French, stating that the administration's October 17 deadline did not allow sufficient time for a comprehensive review. As far as the investigating committee knows, the administration did not respond to the senate's request for an extension. The faculty senate elaborated on its concerns regarding the programmatic changes in an October 15 letter to President Flanagan, stating that "in neither proposal have 'bona fide financial or programmatic reasons' been demonstrated. . . . As to financial reasons, there is no demonstration, merely assertion that we face a $16,000,000 deficit. This is a projected deficit and, despite repeated requests from both the Senate and AFUM, no detailed accounting of the basis for this projection has been forthcoming. Until a clearly articulated explanation on the anomalous increase in the projected deficit is presented, the Senate believes that no 'bona fide financial reason' has been offered."

USM faculty members alleged that some departments were targeted for elimination because they included tenured faculty members who, through length of service, had reached the top of the salary scale. Faculty members also contended that tenured and nontenured members of the faculty were "cherry-picked" for elimination and that the administration did not offer credible programmatic reasons for the reductions.[5] Members of the faculty in the affected programs further alleged that ill-conceived decisions to consolidate or eliminate programs resulted in a shortage of faculty members to teach required courses in spring 2015.

Faculty senate chair LaSala wrote on October 21 to request the Association's assistance. By letter of November 14, a member of the AAUP's staff wrote to President Flanagan conveying the Association's concerns regarding the decisions to discontinue academic programs and terminate faculty appointments without any substantive faculty participation in the key decision-making processes. Reiterating points made in the April 10 letter to then President Kalikow, the letter stated that Regulation 4c of the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure* calls for "meaningful faculty participation in determining that a condition of financial exigency exists and in deciding where termination based on programmatic considerations will occur." In making such decisions, the letter continued, the appointments of tenured faculty members are not to be terminated while nontenured faculty members are retained, and every effort is to be made to place affected tenured faculty members in another suitable position within the institution. The letter noted that faculty members at USM continued to raise questions regarding the extent of the financial difficulties, especially when the system's financial condition appeared by no means precarious. The November 14 letter highlighted, as did the earlier April 10 letter to President Kalikow, the faculty's contention that the decision to discontinue or combine the affected programs at USM was not preceded by the administration's having demonstrated that the magnitude of the budgetary constraints facing the institution necessitated closing programs and departments and terminating faculty appointments, and it called attention to the administration's refusal to provide a detailed accounting of the projected budget deficit. "If these faculty assertions are essentially

4. The retirement package was offered to selected faculty members with at least ten years of full-time service who had reached age sixty-two. It called for their retirement by June 30, 2015 (thus providing them with the collective bargaining agreement's year and a half of severance salary). Their health coverage would remain the amount received by active faculty members until age sixty-five, with retiree health benefits effective thereafter.

5. Members of the faculty also alleged that the decisions to consolidate and eliminate programs disproportionately affected female faculty members, because they held almost two-thirds of the terminated positions, including three positions eliminated in the historically male-dominated Departments of Physics, Computer Science, and Criminology.

accurate," the November 14 letter stated, "the USM administration is clearly acting in disregard of Regulation 4c in terminating fifty faculty positions."

Finally, the letter of November 14 questioned why the administration was embarking on a second, more drastic round of program eliminations and terminations of faculty appointments just as the university appeared to be emerging from a period of program reductions and just after it had rescinded the spring faculty terminations. Moreover, the letter asked, why undertake such measures when there was scant available evidence to suggest that the institution's financial situation had worsened so dramatically in the previous six months as to warrant severe faculty and programmatic reductions? And if the situation were so dire as to necessitate the appointment terminations, why keep the decision-making process secret from the faculty—most of whom had learned of the terminations on the day they were publicly announced? The letter concluded by stating that the staff awaited the administration's response as the Association determined its next steps in the matter and that the staff would "welcome hearing" from the president "before the Thanksgiving holiday."

On December 2, having received no response from President Flanagan, the staff wrote by e-mail to inform him that, in the absence of significant positive developments, the Association's executive director had authorized a formal investigation of the issues of concern at the University of Southern Maine. President Flanagan responded by e-mail the next day, confirming that "you are correct when you state the University of Maine System has not declared a condition of financial exigency." He wrote that it was "under no obligation to do so" according to the terms of the collective bargaining agreement. He stated that "the university has undertaken retrenchment in order to address what are real and demonstrable financial needs present at the University of Southern Maine." "The role of the faculty," he asserted, "has been fully respected in this process."

The undersigned investigating committee visited the University of Southern Maine on Sunday and Monday, January 18 and 19, 2015, and met with officers and members of the senate, the AFUM union, and the AAUP chapter, and with professors whose services had been terminated as well as with others who had been retained. President Flanagan, although he had initially conveyed a lack of interest in discussions with the committee, stated shortly before its arrival that he was amenable to a meeting on Sunday afternoon. It was scheduled accordingly.[6]

III. Issues of Concern

Identified here are what the investigating committee considers to be the issues of central concern.

A. The Basis for the Decision to Terminate Appointments

The AAUP recognizes only three legitimate bases for terminating the services of faculty members with indefinite tenure or with term appointments prior to their expiration: for demonstrated cause and, under extraordinary circumstances, as a result of bona fide financial exigency or a bona fide program discontinuance based essentially on educational considerations. The USM administration has stated that the University of Maine system is not in a state of financial exigency. It has justified its actions by referring to "real and demonstrable financial needs" confronting USM and has stated that a $16 million budget deficit is attributable to "lower-than-expected" enrollment. It has argued further that the "current [financial] crisis is too deep to merely trim the sails" and thus requires extraordinary measures. Can it be argued that USM, as distinct from the University of Maine system, was in a state of financial exigency, defined in Regulation 4c, "Financial Exigency," as "a severe financial crisis that fundamentally compromises the academic integrity of the institution as a whole and that cannot be alleviated by less drastic means" than termination of appointments? If financial exigency is not an issue, can it be argued that the administration's actions were permissible under Regulation 4d, "Discontinuance of Program or Department for Educational Reasons," rather than mandated by the financial situation? Such educational considerations, however, are to be "determined primarily by the faculty as a whole or an appropriate committee thereof," and it does not appear that USM faculty members had any meaningful role in the decisions affecting them and their programs.

B. Participation of the Faculty in Decisions to Terminate Programs and Appointments

Under Regulation 4c of the *Recommended Institutional Regulations*, the faculty should participate in the

6. Replying to an invitation to comment on a prepublication text of this report, President Flanagan provided a detailed response, which can be found on the Association's website, at http://www.aaup.org/file/USM-Pres-Response.pdf.

fundamental decision that programs must be closed for financial reasons and in subsequent decisions about which programs to close and which appointments to terminate. Under Regulation 4d, decisions on closing academic programs on educational grounds are to be initiated by the faculty. The USM administration has asserted that the process employed in decisions to terminate programs and appointments was consistent with principles of shared governance and that the role of the faculty in the process was "fully respected." Faculty leaders have reported, however, that they, along with the faculty at large, were informed of the program eliminations and appointment terminations only upon their announcement in the provost's October 6, 2014, memorandum, that the faculty senate was not given sufficient time to review that document, and that the administration did not respond to the senate's resolution calling on it to extend its response deadline. The USM administration has not provided the investigating committee with any evidence contradicting the reports of faculty leaders regarding these matters.

C. Identification of Departments and Programs for Termination or Consolidation

The USM administration has maintained that departments and programs were selected for closure or consolidation for reasons other than "merely a way to deal with a budget crisis." The university's leadership came forth with its "vision" of a "cosmopolitan" or "metropolitan" university offering a "distinctly different educational experience" from what is available at any other institutions of higher education in Maine. Faculty members have alleged, in response, that some departments and programs were targeted for closure to eliminate higher-paid tenured professors from the faculty ranks. Faculty members have also alleged that individual professors were targeted for retrenchment because they had a history of sustained involvement in shared governance and were often critical of decisions made by USM administrators. The committee could find no evidence supporting the claim that these motives were in play in administrators' decision-making processes, but, as will be explained below, it does find that some program closures seemed unrelated to any publicly stated rationale—financial or educational.

D. Affordance of Academic Due Process under the Collective Bargaining Agreement

The USM collective bargaining agreement is silent regarding the opportunity for a faculty member to contest a proposed appointment termination attributed to program discontinuance in an adjudicative hearing of record before a faculty body. Instead, article 17.K stipulates that "in the event of retrenchment, the Association shall proceed directly to Step 3 of Article 15, Grievance Procedure." As one would expect, the USM administration has asserted that its 2014 actions were consistent with the provisions of the collective bargaining agreement. Retrenched faculty members are now pursuing grievances under article 15, but the collective bargaining agreement contains no provisions consistent with the AAUP principle that when undertaking program closures for financial or educational reasons, "the institution, with faculty participation, will make every effort to place the faculty member concerned in another suitable position within the institution."

IV. Analysis of the Issues

In this section, the committee analyzes the issues in light of its investigation.

A. Interview with President Flanagan

President Flanagan agreed to a meeting with the committee on short notice as a "courtesy" to the AAUP, noting in a January 15, 2015, letter to the staff that he was under no obligation to do so: "As I have previously stated, the AAUP has no standing to 'investigate' official actions taken by the administration at USM. Your policies have never been adopted by the Trustees of the University of Maine System and they are, therefore, not a standard by which this University can be judged. They have no force or effect at the University of Southern Maine. We can only reasonably be measured against our own properly adopted policies and our faculty contract. Our faculty are represented by a union with whom we have negotiated a collective bargaining contract in good faith. They are not represented by the AAUP."

This position had been stated by USM executive director of public affairs Christopher Quint on November 24, 2014, when he told the *USM Free Press*, "We have no plans to be responding to them. They do not have any standing in this matter." The investigating committee made it clear that it was aware of USM's position and therefore appreciated the "courtesy" of the meeting because its report would be incomplete without President Flanagan's account of matters.

The investigating committee notes, however, that the preamble to the governance constitution of USM stipulates that "the provisions of this constitution are based largely on the widely accepted academic traditions and principles expressed in the

American Association of University Professors' *Policy Documents and Reports*" and refers explicitly to the *Statement on Government of Colleges and Universities* as one of the AAUP statements that should guide interpretation of "the intent of the policies and procedures in this constitution." The claim that the AAUP has no standing to conduct an investigation apparently rests on a significant misunderstanding of the role and the history of the AAUP and, indeed, the centrality to the higher education community of Association-supported principles and procedural standards.

President Flanagan insisted that USM's financial condition was a "disaster," referencing the projected deficit of $16 million, and stated that he believed the cuts to programs and the faculty had been carried out in a "thoughtful" manner. He cited demographic projections that showed declining numbers of high school graduates in Maine and stated emphatically that if the University of Maine system had followed the recommendations of the task force he had chaired a few years earlier, USM would not be in such financial peril today. That task force report, *Meeting New Challenges, Setting New Directions*, was published in 2009 and was presented to the board of trustees on July 13 of that year. Explicitly a response to the global financial collapse of 2008, it noted that "eleven months into the FY09 fiscal year [*sic*], the University of Maine System Endowment pool has lost 16.2 percent of its value due to market conditions" and projected "a financial gap of $43 million over the next four years."

In the course of the interview, President Flanagan cited the above numbers as proof that the financial situation at USM is not transient, that the challenges facing USM and the University of Maine system are structural and substantial. The investigating committee has no doubt that President Flanagan and his staff believed this to be the case, and they appeared unfazed by faculty complaints that the basis for the claim of a $16 million shortfall has never been made clear. But the 2009 report can also be taken as evidence that the University of Maine system has a history of projecting massive deficits—$43 million over four years was the figure in 2009; $16 million was the figure in 2014—without providing the grounds for such projections. Additionally, the investigating committee would expect that the endowment pool would have recovered from its short-term loss in the 2009 fiscal year. This issue was not addressed during the interview.

The long-term demographic argument about Maine's aging population and declining numbers of high school students, by contrast, appears to be incontrovertible. But its relevance to USM, specifically, is not clear, since—as almost every faculty member the investigating committee interviewed pointed out—USM has generally served a large number of nontraditional adult students, significantly older than the standard eighteen- to twenty-two-year-old college cohort. Given the composition of the student body and the likelihood that it would increase as the state's population aged, it is not clear why USM administrators would not wish to expand USM's programs and offerings rather than cut them.

B. Faculty Consultation

AAUP policy on the role of the faculty in program reductions and retrenchments is provided in Regulation 4c of its *Recommended Institutional Regulations*. Regulation 4c(1) states, in relevant part: "As a first step, there should be an elected faculty governance body, or a body designated by a collective bargaining agreement, that participates in the decision that a condition of financial exigency exists or is imminent and that all feasible alternatives to termination of appointments have been pursued, including expenditure of one-time money or reserves as bridge funding, furloughs, pay cuts, deferred-compensation plans, early-retirement packages, deferral of nonessential capital expenditures, and cuts to noneducational programs and services, including expenses for administration."

And 4c(2) stipulates further that,

> [b]efore any proposals for program discontinuance on grounds of financial exigency are made, the faculty or an appropriate faculty body will have opportunity to render an assessment in writing of the institution's financial condition.
>
> [Note: Academic programs cannot be defined ad hoc, at any size; programs should be recognized academic units that existed prior to the declaration of financial exigency. The term "program" should designate a related cluster of credit-bearing courses that constitute a coherent body of study within a discipline or set of related disciplines. When feasible, the term should designate a department or similar administrative unit that offers majors and minors.]
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> (i) The faculty or an appropriate faculty body will have access to at least five years of audited financial statements, current and following-year budgets, and detailed cash-flow estimates for future years.

> (ii) In order to make informed recommendations about the financial impact of program closures, the faculty or an appropriate faculty body will have access to detailed program, department, and administrative-unit budgets.
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> (iii) Faculty members in a program being considered for discontinuance because of financial exigency will promptly be informed of this activity in writing and provided at least thirty days in which to respond to it. Tenured, tenure-track, and contingent faculty members will be informed and invited to respond.

It is not surprising that these procedures were ignored by the USM administration, since its position is that USM needs to abide only by the provisions of the collective bargaining agreement and not by AAUP-supported standards that have been widely observed in American higher education.

The USM administration holds that the programs slated for elimination were identified by means of an objective, data-driven process, as outlined in the provost's October 6, 2014, program-elimination proposals. The Department of Applied Medical Sciences (AMS), for instance, was "identified for elimination on the themes of Student Interest and Financial Contribution." The October 6 proposal states that "currently there are 5 full-time faculty for 32 students, creating a 6.4/1 student to faculty ratio. Over the past five years the average faculty expenses was $728,999 to the average student tuition dollars of $273,376. The five year average net financial cost was $455,623 per year."

There are two glaring problems with these data. First, they effectively evaluate a graduate research program as if it were a collection of underenrolled graduate courses. Second, they take no account of any other sources of revenue, as if a graduate program in the sciences were dependent wholly on tuition dollars. They completely overlook the history of grants received by the program in applied medical sciences, totaling $19,160,326 over seven years, including $3,353,981 in indirect costs. As the faculty senate response to the October 6 memorandum pointed out, this comes to $479,140 annually, which more than covers the so-called annual "deficit" of $455,623. In addition, as the faculty senate reply notes, "part of the direct costs goes to subsidizing student scholarships and faculty salaries," rendering the administration's conclusions even more incomprehensible. This committee is unaware of a similar financial calculation being made at any other institution of higher education.

When asked about AMS's history of grants and why they were not factored into the calculation of AMS revenues, President Flanagan replied that the amount of grants awarded to AMS had been declining over the years. The investigating committee has seen no evidence that corroborates this assertion.

The calculations are equally difficult to comprehend in the case of the French program, which the administration's data characterized as having had an average expense (in faculty salaries) of $217,610 and an average tuition intake of $191,887, for an average annual deficit of $25,723 between the 2008–09 and 2013–14 academic years. But at the time the review was conducted in 2014, the number of faculty members in French had dropped from three to one, such that the figures in 2014 show $115,233 in total faculty compensation and $129,414 in tuition revenue, for a $14,181 surplus. How this could be construed as a money-losing proposition for *future* budget projections in the French program is inexplicable to this investigating committee.

USM faculty members reported to the committee that these irregular calculations were but the tip of the iceberg. Some programs were evaluated by counting only the numbers of majors, rather than all enrolled students, and by overlooking nonmatriculating students, who make up a sizeable percentage of USM's student body. Other faculty members reported administrators' listing independent study courses by their numbers in the course catalog as if they were underenrolled undergraduate courses.

On September 26, the faculty senate had passed a motion "that financial calculation for each program shall be the total money generated by all student credit hours, fees, sales, fund-raised money, grants, and a monetization of service provided to the community, fact-checked by the unit itself." This motion was systematically disregarded by the USM administration.

Beyond the unwillingness to acknowledge the input of the faculty senate, or indeed of faculty members literate in university finances, numerous and deliberate efforts apparently were made to stymie faculty participation in program evaluation. On August 27, 2014, senate chair LaSala wrote to President Flanagan in response to the president's August 15 proposals for program eliminations, asking that the faculty be given time to respond to the proposals before they were forwarded to the board of trustees. "USM faculty and staff want desperately to solve our problems," LaSala wrote, "but we want to be part of that solution, not to be told what has

been decided for us." That request was ignored, and the proposals went to the trustees on August 29. The next board meeting, on September 21 and 22, was moved to Fort Kent on the extreme northern tip of the state—more than three hundred miles and five hours away from Portland—over the objections of faculty members and students. And finally, when the closures were announced on October 6, the faculty was given ten days in which to respond. On October 16, AFUM wrote that "the compressed timeline, from notification to deadline for input (approximately 9 or 10 days), makes a mockery of article 32 of the collective bargaining agreement and of section 305.5 [of] the Board of Trustees (BOT) administrative procedures manual." The investigating committee finds this complaint thoroughly justified.

Two final considerations warrant attention. First, no meaningful "teachout" provisions were in place to ensure that the students enrolled in the programs slated for elimination would be able to complete required courses. This fact suggests the very opposite of a "thoughtful" approach to program closures, a process conceived and executed so hastily, mid-year, that a disinterested observer might be led to surmise that the USM administration was acting under emergency conditions that involved imminent bankruptcy and utter ruin rather than a projected deficit. In a November 6, 2014, *Portland Press Herald* article, AMS professor S. Monroe Duboise is quoted as saying, "I don't think they have a clue about what it takes to be a scientist and run a research program. You can't just shut it down in weeks. Even a year would be rushed." This view seems consistent with the second consideration, the process by which the eliminated programs were evaluated financially—that is, that the process was guided by short-term assessment measures that have little to do with how higher education actually works. The result is that students in all affected programs were left stranded.

The lack of teachout provisions is also, notably, a violation of the standards of the New England Association of Schools and Colleges. Standard 4.12 requires that "when programs are eliminated or program requirements are changed, the institution makes appropriate arrangements for enrolled students so that they may complete their education with a minimum of disruption."

Nor does it seem that any serious thought was given to the principle enunciated in Regulation 4c(5) of the AAUP's *Recommended Institutional Regulations*, that a university undertaking program closures "will make every effort to place the faculty member concerned in another suitable position within the institution." Indeed, the investigating committee received documentation that two unaffected units offered new tenure homes to two retrenched faculty members and that the provost ignored those offers.

C. Rationale for Program Closures, Part One: Financial Condition of USM

The appendix to this report provides an analysis of the financial condition of USM—and, indeed, of the University of Maine system as a whole.[7] Among the conclusions of this analysis are that

- the University of Maine system is in strong financial condition; the system has strong reserves, manageable debt, and strong operating surpluses and cash flows. Bond-rating agencies cite all of these issues as justification for the system's strong bond rating;
- USM had revenues exceeding expenses in both 2013 and 2014;
- enrollment at USM has declined, but the university is still generating revenues larger than expenses, and there are still solid reserves;
- even before the recent layoffs, USM significantly decreased the number of full-time faculty, and this decline was greater than the decline in enrollment;
- USM has seen a virtual freeze on the appointment of new assistant professors for the last several years, and there has been a significant decline in the number of full-time faculty members. In fact, the decline in faculty members is greater than the decline in enrollment, credit hours, or sections offered.

On the basis of this analysis, therefore, the committee finds no plausible reason to conclude that USM is facing a financial disaster—or significant financial distress of any kind.

D. Rationale for Program Closures, Part Two: The "Metropolitan University"

As noted above, although the USM administration

7. This appendix, "Analysis of the Financial Situation of The University of Maine System and the University of Southern Maine," is posted at http://www.aaup.org/file/USMappendix. An executive summary of the financial analysis follows this report.

cited a looming financial crisis, it did not declare a state of exigency. Additionally, it argued that USM must become a "metropolitan university" whose mission does not duplicate that of any other University of Maine institution. This would seem to be a matter falling under Regulation 4d of the *Recommended Institutional Regulations*, permitting program closures predicated "essentially upon educational considerations, as determined primarily by the faculty as a whole or an appropriate committee thereof" (though, again, the investigating committee notes that nothing at USM seems to have been determined primarily by the faculty as a whole).

Of the four closed programs, three would seem to be central to the "metropolitan" model. The program in American and New England studies sends graduates into cultural institutions that directly serve the people of Maine, the museums and historical societies that preserve and transmit Maine's cultural heritage. The French program, it should go without saying, is of high importance in a state with so many French speakers—and, as the faculty senate noted in its response of October 15, the elimination of the program "fails to consider the need for trained teachers of French that exists in the state and can be expected to increase as new high school graduation requirements mandating proficiency in a second language become effective in 2018."

But the program whose closure most mystified the investigating committee was that of applied medical sciences. The committee has discussed above the administration's refusal to take the AMS program's federal grants into account when considering the program's fiscal health; here the committee wants to focus on the relations between the AMS program and the biotech industry in southern Maine. AMS directly served the region; it was, in fact, critical to one of the few prospering and growing employment sectors in the state. If ever a case existed for academy-industry partnerships in the state of Maine with clearly defined benefits for both sides ("synergy," it seems, is the usual buzzword here), the relation between AMS and the biotech industry that existed at the time of its elimination would have been exhibit A. The testimony from the local community is compelling.

Perhaps it was to be expected that the investigating committee would be provided with a number of passionate letters written by local high school teachers testifying to the quality of AMS programs. But especially striking were the remarks of local industry officials, bewildered by and upset with the news that USM would close a program of such easily demonstrable utility.

A faculty scientist from the Maine Medical Center Research Institute wrote:

> There is no alternative biomedical science Masters Program in Southern Maine, at University of New England or elsewhere. . . . In the October 14 meeting of the Academic and Student Affairs Committee, it was suggested that there is not a market demand in biotechnology in Maine to support this program. Unfortunately again, no analysis was performed to justify this statement, and in fact we heard several examples of how Applied Medical Sciences students have been recruited into industry positions in Maine into local companies, adding to company growth and success. Indeed, the 2014 report of the State of Maine Department of Economic and Community Development lists life sciences as a top key industry sector in Maine. . . .
>
> [T]he Applied Medical Sciences program is focused on an area that is receiving major attention at the state and national level as a priority area. It is directly impactful of public health and the issues facing Mainers in medical advances, health care, and future economic development.

The president of Maine Molecular Quality Controls, Inc., was still more emphatic. Her company, she explained, is "a rapidly growing biotechnology business located in Scarborough"; she was proud "to offer [her] company as an example of what can be accomplished in southern Maine's biotech economy"; and she was "shocked" to hear of the elimination of AMS:

> The value of the AMS department is more than the number of diplomas awarded each year. Eighteen biomedical and biotechnology companies are located within twenty-two miles of USM's Portland campus. Much of this thriving network of science-based commerce depends on the AMS as a source of new employees and a place to re-train and update existing employees to meet the needs of rapidly changing technologies.
>
> Our company is a prime example of the AMS department's value to Maine's science and technology economy. Our President, as an adult learner, gained practical experience in molecular

> biology through coursework in the AMS department, without which she would not have been able to found our company.
>
> In order for Maine to continue to develop its science and technology economy, we must have an appropriately trained labor pool. USM and its Applied Medical Sciences department are critical to supplying skilled biotech employees. We can't afford to lose the invaluable expertise of the AMS faculty. We can't afford to lose the highly qualified graduates of the program who become essential employees in our businesses. We can't afford to lose the USM students who become more valuable to the biomedical industry by hands-on laboratory experience obtained by working with AMS faculty.

The Vice President for Research and Development of IDEXX Laboratories, a biotech firm based in Westbrook, Maine, wrote:

> IDEXX Laboratories and the University of Southern Maine have enjoyed a long and fruitful relationship, highlighted by an ongoing professional collaboration with the Department of Applied Medical Sciences. Beginning with the inception of the Department in 1987, and spanning these many years, we have exchanged highly talented scientists. IDEXX has hired many USM students and graduates into summer internships and permanent positions
>
> It goes without saying that this department adds tremendous value to our community. In addition to the outstanding training and collaborative human resource pool that we share, the Department generates research output of the highest quality. Take, for example, the research from the laboratory of Dr. Monroe Duboise and his recent Gates Foundation grant for investigating vaccine development.

Indeed, vaccine development is a critical public health matter.

Finally, an October 7 letter from Joseph Chandler, president of Maine Biotechnology Services, Inc., to President Flanagan made a yet more urgent case for the importance of AMS:

> News that you are considering eliminating the Applied Medical Science department at USM has sent a shock-wave through the biotechnology industry in Maine.
>
> To suggest that the AMS department does not provide invaluable expertise for Maine-based biotech companies as well as candidates for jobs in Maine is, frankly, absurd. AMS is a major contributor of highly qualified scientists who work at any one of the 75+ bioscience companies/institutions in Maine. Were you aware that within the last 5 years, Maine was ranked 9th nationwide for the growth in its biotechnology sector? How is this industry, with many companies based in the Portland region, supposed to find qualified individuals if you eliminate this highly productive and invaluable department at USM?

The investigating committee has cited these letters at length because it has never seen anything quite like them. Most of the time when academic programs are slated for elimination, the affected faculty members in the programs are alarmed, and, most of the time, those programs tend to be in the liberal arts, where the "value added" of degrees is spoken of in terms of critical thinking and lifelong learning. Here we are confronted with a graduate program in the applied sciences that has vocal and widespread support *from leaders of local businesses in a growth area for the Maine economy, with both immediate and long-term implications for scientific research and public health*—and this support is apparently irrelevant to the advocates of the "metropolitan university" model. In his October 10 response to Mr. Chandler, President Flanagan simply repeated, "USM is facing a FY 2016 deficit of $16 million," adding, "We must emphasize, and prioritize, who we are and what we do if we are to become Maine's Metropolitan University."

The investigating committee, baffled by this response, finds it impossible to imagine how USM is not serving as a "metropolitan university" by maintaining a program in the applied life sciences that directly serves the needs of biotechnology firms in the metropolitan area. It therefore turns to the reports of faculty members who claim that the USM administration "does not want USM involved in serious scientific research" and is actively trying to convert USM, not into a "metropolitan university," but into something more like a four-year community college, with an exclusive emphasis on lower-division teaching. That the USM administration subsequently dissolved the Office of Research Administration and Development and eliminated the position of associate provost for research and graduate studies lends credence to this

allegation that the institutional capacity for research and scholarship is being seriously compromised.[8]

This hypothesis makes some sense of what would otherwise be an inexplicable decision actively opposed by key stakeholders in the metropolitan Portland area. More disturbingly, it fits a pattern that one faculty member described as that of "declining enrollments, loss of quality programs, bad publicity, [and] misguided leadership," thanks to which the erosion of USM's academic reputation has become a "self-fulfilling prophecy."

Another faculty member insisted, "There is no way this institution is *not* in a death spiral." The investigating committee heard many versions of that sentiment, one from an economist who noted that from fall 2008 to fall 2014, the number of courses offered at USM dropped from 1,291 to 1,086, as enrollment dropped from 10,000 to 9,000. This, it was suggested, was a chicken-and-egg problem: either the number of courses dropped because enrollment dropped, or enrollment dropped because fewer courses were being offered. Last year, according to this faculty member, all introductory writing courses were full as of the first week of August; all the introductory mathematics courses, including those necessary for economics majors, were full a week later. By this faculty member's account, three-quarters of the enrollment decline at USM was "self-imposed," the result of a "destructive cycle in which [the administration is] killing revenues faster than [it is] cutting costs, and cutting costs in ways that make it impossible to recapture revenue."

The investigating committee views these reports with a little skepticism, since they come from faculty members affected by program closures. It is important to note, however, that these reports did not come from faculty members in AMS; rather, they were responses to committee members' questions about how the elimination of AMS can be justified as part of the educational portfolio of a "metropolitan university" serving the people of southern Maine.

More important, they are supported by a speech President Flanagan gave to the group known as "USM Corporate Partners" on November 13, 2014. In that speech, President Flanagan laudably implored USM's corporate partners to lobby for more state funding ("higher education needs a shot in the arm") and, somewhat curiously, called for the creation of more programs like that of applied medical sciences ("we need to have more incentives for people to actively pursue research grants to get outside funding into here"; "we need to encourage people to innovate new courses and programs that are of interest to our potential market"). But in response to a question from an audience member, President Flanagan revealed another agenda altogether: "The next phase of the university's life is actually a reversion to what it was in the '80s. This used to be a metropolitan university—then it got kind of grandiose ambitions. That would have been great if we happened to live in a state with giant oil fields or something, but since we have only limited resources, having two flagship universities wasn't such a great idea."[9]

If it is indeed the determination of the current USM administration that the university entrusted to it has to be punished for its "kind of grandiose ambitions" and needs to be taken down a few notches lest it challenge

8. The closure of the Department of Geosciences follows a similar pattern, though the letters of support for geosciences date from spring 2014 and are addressed to then President Kalikow. On April 28, for instance, F. M. Beck of Yarmouth wrote, "One of my businesses, Maine Environmental Laboratory, was founded in 1979 and over the years has hired several USM Geoscience graduates who are the backbone of our business. One of them has recently retired after 31 years as our lab manager. Two more continue to work for us, both having been here nearly 30 years. Several others have gone on to other employers, including the Maine DEP. Without these individuals Maine Environmental Laboratory would not exist today." Keith R. Taylor, president of the Geological Society of Maine, wrote on May 6 that "having a geoscience program remain in the Portland area makes total sense from the perspective of employment and integration with a metropolitan area. There are dozens of companies and state agencies in southern Maine that hire geologists. In fact, most if not all of the environmental and geotechnical consulting firms in southern Maine have USM alumni on their staff." And, most remarkably, on April 10, state geologist Robert G. Marvinney wrote to President Kalikow, referencing contemporary geological issues ranging from metallic mineral mining and rising sea levels (both of immediate importance to Maine) and concluding, "The Geosciences program at USM has been instrumental in engaging students in important studies of local geoscience issues. I have worked with each of the professors in this program and have seen personally the practical experiences they provide to students. With their expertise in various disciplines, these professionals are valuable assets to the University and the southern Maine region." Under ordinary circumstances, the opinion of the state geologist might be expected to carry some weight when it comes to determining the value of geosciences programs in a state university.

It should be added that the students in the geosciences program exemplified the USM "metropolitan" model—or at least one plausible version of that model—insofar as they were largely nontraditional, nonresidential, over twenty-five years old, and employed part or full time.

9. See http://www.ctn5.org/shows/usm-corporate-partners/usm-corporate-partners-nov-13-2014-8060.

the flagship status of the University of Maine at Orono, the investigating committee notes with sorrow that there is no AAUP-recommended policy or procedure that would prevent a university administration from embarking on a course of action that independent observers might justifiably regard as short-sighted and counterproductive. The discussion of "General Educational Policy" in the *Statement on Government*, however, does stipulate that when these decisions are contemplated, "[s]uch matters as major changes in the size or composition of the student body and the relative emphasis to be given to the various elements of the educational and research program should involve participation of governing board, administration, and faculty prior to final decision." USM faculty members across the board—those in eliminated programs, and those whose lives and careers are unaffected by program closures—were almost uniformly convinced that the real agenda behind the program closures had little to do with short- or long-term financial considerations and almost everything to do with reducing or eliminating USM's capacity to conduct research, even research in the most socially and economically beneficial fields of intellectual endeavor.

Some faculty members ascribed this agenda to intrainstitutional rivalries in the University of Maine system, pitting the interests of Orono against those of Portland; others suggested that it spoke to larger sectional divisions within the state, pitting the northern rural regions (where the centers of power are Augusta, Bangor, and Orono) against the relatively urban locations of the southwest (Portland, obviously, but also Lewiston-Auburn). AAUP policy and history are silent about such matters, and rightly so. For AAUP purposes, the alleged downgrading of USM from a regional comprehensive university to a four-year community college is regrettable, but the motivation behind these retrenchments and program closures is not the issue. The issue for the AAUP is that the faculty of USM had no meaningful role in determining whether these retrenchments and program closures were necessary and, if they were necessary, how they were to be carried out.

E. Academic Freedom and Retaliation against Faculty

The investigating committee heard from many faculty members who believed they had been singled out for retrenchment because of their criticisms of administrators, and many faculty members reported that even though upper-level administration at USM has been a revolving-door for the past three years, there are lingering bad feelings on the board of trustees toward faculty members who supported the 2012 vote of no confidence in President Selma Botman and lingering resentment in the USM administration toward faculty members who filed grievances against a former dean. Although the committee realizes that it is all but inevitable for retrenched faculty members to harbor such suspicions, and it cannot say that they are groundless, it found no evidence that individual programs or faculty members were targeted in ways that breached principles of academic freedom.

The investigating committee does, however, call attention to the provision that revises the policy on the awarding of emeritus status in the University of Maine system, approved by the board of trustees on November 6, 2014: "At the discretion of the University of Maine System, Emeritus Status may be revoked at any time. Revocation may occur when it is determined that an individual's conduct, *before or after Emeritus Status has been granted*, causes harm to the University of Maine System's reputation" (emphasis added). This is very clearly a policy that invites administrators and trustees to retaliate against retired—or, more pointedly, retrenched—faculty members who are critical of them. The investigating committee finds it a brazen attempt to restrict the speech of former University of Maine professors, who may be stripped of emeritus status for statements or actions they have made at any point in their careers.

V. Conclusions

1. In terminating the appointments of sixty of the 250 full-time faculty members and eliminating, reducing, or consolidating numerous academic programs, allegedly on financial grounds, the administration of the University of Southern Maine acted in flagrant violation of the joint 1940 *Statement of Principles on Academic Freedom and Tenure* and its requirement that when terminations are attributed to financial exigency, that condition must be demonstrably bona fide.
2. The administration's actions disregarded the major provisions of Regulations 4c (Financial Exigency) and 4d (Discontinuance of Program or Department for Educational Reasons) of the Association's derivative *Recommended Institutional Regulations on Academic Freedom and Tenure*, with the sole exception of the provision on severance salary, where the collective bargaining agreement required that tenured faculty members

notified of retrenchment continue to be paid for a year and a half.

3. The administration also acted in brazen disregard of key provisions of the *Statement on Government of Colleges and Universities*, despite reference to this fundamental document in the preambles to the governance constitution of USM. Moreover, the bylaws of the senate state that "the administrative officers of the university should consult with the faculty and rely on advice and assistance from the faculty in the performance of their administrative responsibilities, particularly where administrative officers are called upon to make decisions bearing directly on the central academic functions of the faculty." In its pattern of confining its communications with the faculty on programmatic matters to announcement of accomplished fact, the administration has ignored not only AAUP-supported governance standards but also its own published statements. The program closures at USM are not merely matters of bookkeeping; they impinge on matters of curriculum and instruction, for which the faculty should always have primary responsibility. The administration's ignoring the faculty senate, repeatedly and apparently deliberately, is at odds with generally accepted norms of academic governance in American higher education. ■

MICHAEL BÉRUBÉ (English)
Pennsylvania State University, *Chair*

HOWARD D. BUNSIS (Accounting)
Eastern Michigan University

DEANNA WOOD (Library Science)
University of New Hampshire

Investigating Committee

Committee A on Academic Freedom and Tenure has by vote authorized publication of this report on the AAUP website and in the *Bulletin of the American Association of University Professors*.

Chair: **HENRY REICHMAN** (History), California State University, East Bay

Members: **MICHAEL BÉRUBÉ** (English), Pennsylvania State University*; **DON M. ERON** (Writing and Rhetoric), University of Colorado; **MARJORIE HEINS** (Law), New York, NY; **CHRISTOPHER HOOFNAGLE** (Law), University of California, Berkeley; **WALTER BENN MICHAELS** (English), University of Illinois at Chicago; **DEBRA NAILS** (Philosophy), Michigan State University; **CARY R. NELSON** (English), University of Illinois at Urbana-Champaign; **JOAN WALLACH SCOTT** (History), Institute for Advanced Study; **HANS-JOERG TIEDE** (Computer Science), Illinois Wesleyan University; **RUDY FICHTENBAUM** (Economics), Wright State University, *ex officio*; **RISA L. LIEBERWITZ** (Law), Cornell University, *ex officio*; **JOAN E. BERTIN** (Public Health), Columbia University, *consultant*; **BARBARA M. JONES** (Legal History), American Library Association, *consultant*; **JAMES TURK** (Sociology), Ryerson University, *consultant*; **IRENE T. MULVEY** (Mathematics), Fairfield University, *liaison from the Assembly of State Conferences*

*Did not participate in the vote.

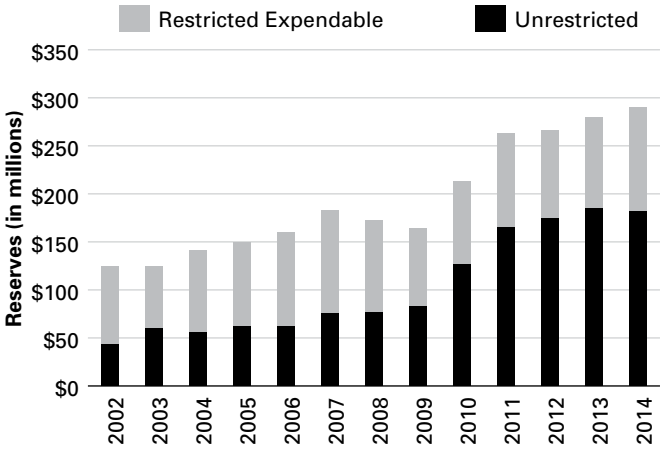
Executive Summary

Analysis of the Financial Situation of the University of Maine System and the University of Southern Maine

The University of Maine system remains in very strong financial condition, having generated large cash surpluses and reserves. The main basis for this conclusion is the university's high bond rating, which is buttressed by strong reserves. As figure 1 demonstrates, reserves are not only strong but growing.

At the University of Southern Maine, as table 1 shows, the amount of total expenses devoted to those who teach is only 31.4 percent. For full-time faculty members (the ones who were eliminated), instructional costs (salaries plus benefits) are only 18.5 percent of total expenses. Given how small a share of total

Figure 1



Source: University of Maine system audited financial statements

Table 1

	2008	2009	2010	2011	2012	2013
Full-Time Instruction Salaries + Benefits/Total	19.5%	19.9%	20.0%	18.6%	18.8%	18.5%
Part-Time Instruction Salaries + Benefits/Total	10.4%	10.1%	10.6%	11.5%	11.9%	12.8%
All Instruction Salaries + Benefits/Total	**29.9%**	**30.0%**	**30.6%**	**30.1%**	**30.7%**	**31.4%**

Source: Integrated Postsecondary Education Data System of the US Department of Education

expenses is devoted to full-time faculty positions, there was no warrant to lay off any full-time faculty members.

The University of Southern Maine had already implemented a large reduction in the number of full-time faculty positions through the 2014–15 academic year, as table 2 demonstrates.

From 2011 to 2015, enrollment at USM declined by 13 percent; however, the number of full-time faculty positions declined by 18 percent during this period. Given the previous decline in full-time faculty positions, there is no demonstrated need for additional reductions. Furthermore, these reductions were accompanied by an increase in part-time faculty positions. The shift to part-time faculty appointments is not a consequence of declining enrollment (since the reduction in full-time faculty appointments more than matches the enrollment decline). Rather, it represents administrative decisions to erode the full-time tenured professoriate.

Because the administration of the University of Southern Maine has more than sufficient current cash flows and reserves, any decision to eliminate even more full-time positions and replace them with part-time positions is unwarranted on financial grounds. ■

Table 2

	2011	2012	2013	2014	2015	% Change 2011 to 2015
Full-Time Faculty	379	370	357	343	311	**-18%**
Part-Time Faculty	294	273	323	316	311	**6%**
Total Faculty	**673**	**643**	**680**	**659**	**622**	**-8%**
Enrollment	9,654	9,301	9,385	8,923	8,428	**-13%**

Source: University of Southern Maine common data sets