

VIA ELECTRONIC MAIL

March 11, 2024

Dr. Lawrence E. Schovanec
President
Texas Tech University
Lubbock, Texas 79409

Dear President Schovanec:

Dr. Jairo Fúnez-Flores, an assistant professor of curriculum studies in the Department of Curriculum and Instruction in the School of Education at Texas Tech University, has sought the advice and assistance of the American Association of University Professors as a result of a March 4 letter from you notifying him of his suspension from his teaching duties.

We understand that the basis for this sanction is the pendency of a university office of equal opportunity investigation, but that no details of the allegations against the professor have been provided. We understand further that the suspension was preceded by the online publication of a February 22 *Texas Scorecard* article alleging that Professor Fúnez-Flores had posted antisemitic remarks on his social media accounts. We also understand that, on February 23, education school dean Jesse Perez Mendez informed Professor Fúnez-Flores that the *Scorecard* editors had sent the article to the administration, and that he asked Professor Fúnez-Flores to delete a tweet alluding to the article; the professor refused. We further understand that you and Texas Tech University system chancellor Tedd Mitchell issued a March 4 joint statement announcing the professor's suspension pending an investigation, which began by stating that Professor Fúnez-Flores had "posted a series of social media comments" that you found to be "hateful, antisemitic, and unacceptable."

Our interest in Professor Fúnez-Flores' case arises from our Association's longstanding commitment to basic tenets of academic freedom, tenure, and due process as enunciated in the enclosed 1940 *Statement of Principles on Academic Freedom and Tenure*, which was jointly formulated by the AAUP and the American Association of Colleges and Universities and has gained the endorsement of more than 250 scholarly societies and other higher-education organizations. Procedural standards derived from the 1940 *Statement* are set forth in the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure* and the "Committee A Statement on Extramural Utterances" (also enclosed).

The AAUP's opposition to punishing academics for their expressions as citizens rather than scholars dates back to the 1940 *Statement of Principles*, which asserts in paragraph 3 that

[c]ollege and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

However, the statement adds this qualification:

If the administration of a college or university feels that a teacher has not observed the admonitions of paragraph 3 of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning the teacher's fitness for his or her position, it may proceed to file charges under paragraph 4 of the section on Academic Tenure. In pressing such charges, the administration should remember that teachers are citizens and should be accorded the freedom of citizens

The 1964 "Committee A Statement on Extramural Utterances" further provides,

The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Extramural utterances rarely bear upon the faculty member's fitness for the position. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar.

With regard to Professor Fúnez-Flores' suspension, the AAUP has long considered the action of denying a faculty member the right to perform his or her primary responsibilities (even with pay) as a major sanction, second only to dismissal in severity. As the AAUP investigating committee noted in its report on a 1966 case at St. John's University, "The profession's entire case for academic freedom and its attendant standards is predicated upon the basic right to employ one's professional skills in practice, a right, in the case of the teaching profession, which is exercised not in private practice but through institutions. To deny a faculty member this opportunity without adequate cause, regardless of monetary compensation, is to deny him his basic professional rights. Moreover, to a good teacher, to be involuntarily idle is a serious harm in itself. . . . To inflict such injury without due process and, therefore, without demonstrated reason, destroys the academic character of the University."

As a result, the AAUP has insisted that an administration can deprive a faculty member of that right only after demonstration of adequate cause for doing so in an adjudicative hearing of record before an elected faculty body. Regulation 7a of the *Recommended Institutional Regulations* accordingly provides as follows: “If the administration believes that the conduct of a faculty member, although not constituting adequate cause for dismissal, is sufficiently grave to justify imposition of a severe sanction, such as suspension from service for a stated period, the administration may institute a proceeding to impose such a severe sanction; the procedures outlined in Regulation 5 will govern such a proceeding.”

We are deeply concerned that the administration’s action against Professor Fúnez-Flores has occurred in the context of escalated political and legislative demands that institutions of higher education restrict what can be expressed on and off campus. As the AAUP’s October 24, 2023, statement *Academic Freedom in Times of War* notes,

It is in tumultuous times that colleges’ and universities’ stated commitments to protect academic freedom are most put to the test. As the Israel-Hamas war rages and campus protests proliferate, institutional authorities must refrain from sanctioning faculty members for expressing politically controversial views and should instead defend their right, under principles of academic freedom, to do so.

The information upon which we have based our comments has come to us primarily from Professor Fúnez-Flores and media reports, and we appreciate that you may have additional information that might alter our interpretation of events. If so, we would welcome your further comments. Absent such information, we urge that the administration immediately rescind Professor Fúnez-Flores’ suspension and return him with a clear record to his academic responsibilities.

We look forward to your prompt response.

Sincerely,



Anita Levy, Ph.D.
Associate Secretary

Enclosures via email

cc: Dr. Tedd L. Mitchell, Chancellor
Dr. Ronald Hendrick, Provost
Dr. Jesse Perez Mendez, Dean, College of Education
Dr. Jeong-Hee Kim, Chair, Department of Curriculum and Instruction

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Professor Jairo Fúnez-Flores
Professor Brian Evans, President, Texas AAUP Conference