

Committee A Report

By Peter N. Kirstein

Illinois Committee A on Academic Freedom and Tenure welcomes two new members. Dr. Loretta Capeheart, associate professor of justice studies, at Northeastern Illinois University is a tenured member of the professoriate and a prolific scholar. She is a litigant in a nationally significant case where she is resisting retaliation for engaging in protected speech. The infamous *Garcetti v. Ceballos* case was gratuitously cited by Judge Manning of the United States District Court for the Northern District of Illinois in finding her speech and antiwar activities as part of her “official duties” and not protected by the First Amendment. AAUP national has assisted her financially and filed an amicus curiae brief along with her appeal to the Seventh Circuit Court of Appeals. Loretta brings the experience of an advocate for academic freedom and the commitment to preserve that precious right for others.

Walter J. Kendall III (Jerry) is professor of law at The John Marshall Law School. He is past president of the Illinois AAUP Conference. He is an advisor to many community and citizen groups, notably serving as co-counsel for the National Interfaith Committee for Worker Justice in *Fox v. Tyson Foods*. He has served as chair of Access Living, an advocacy group for people with disabilities, and as co-chair of Illinois Peace Action. It is very helpful to have an attorney with a keen legal mind on Committee A due to the judicial aspects of many of these complaints and in interpreting texts with the disciplinary perspective of legal reasoning.

The committee since last summer has been engaged with a tenure and promotion case from a Chicagoland college. The Committee receives materials, decides whether to accept a case and submits a report if it does. Our reports assess a post-secondary institution’s bylaws and handbook. We are on the lookout for procedures that are at variance with AAUP policies and reports. Letters from departments, department chairs, division heads, deans and vpaa’s are scrutinized carefully if applicable. The complainant’s curriculum vitae, letters of application for promotion and tenure and external letters of recommendation, if applicable, are considered.

Committee A has found it very useful if a complainant contacts us for support prior to a grievance. In two cases, one at DePaul in the Namita Goswami case, a university Grievance Committee has incorporated our report into a successful grievance. Successful until the administration rejects or even ignores its own bylaws on grievance procedures. It is very distressing that professors in Illinois are winning grievances, only to have them rejected by administrators and/or a faculty committee. Our powers are one of conscience. Our armamentarium is one of argumentation through analysis. AAUP law is soft law. It is not binding; it is not legally enforceable. We are an independent faculty organization that has earned a reputation for almost a century by creating documents, statements and reports that become the common law of the profession. Illinois Committee A is dedicated to implementing AAUP standards in the defense of colleagues whose careers are shattered, whose livelihoods are threatened, whose self-esteem are shaken and whose rights have been violated for daring to challenge the canon, stand up to other colleagues or bring much needed diversity to campus life.

In Justice William Brennan’s opinion in *Keyishian v. Board of Regents* (1967) he proclaimed academic freedom as a constitutionally protected right:

Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us, and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom. “The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.” *Shelton v. Tucker*, supra at 487. The classroom is peculiarly the “marketplace of ideas.” The Nation’s future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth “out of a multitude of tongues, [rather] than through any kind of authoritative selection.” *United States v. Associated Press*, 52 F.Supp. 362, 372.

I say to all who judge others in academia, read this case, consult your conscience, and do justice to your students who need courageous, critical-thinking faculty in their classrooms!