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**MINUTES of AAUP Executive Board meeting**

**7 October 2021, 11:00 pm to 12:30 pm**

Three priorities in the current AAUP strategic plan:

1.     the escalating division of insecure academic labor

2.     reductions and restructuring of public funding and budgeting processes

3.     the increasingly hostile environment affecting students and faculty

Our mantra is “refuse austerity.”

#### https://washington.zoom.us/j/93610086550 or One tap mobile +12063379723,,93610086550# (Seattle)

#### **Board member attendance:** Eva Cherniavsky (president), Abraham Flaxman (VP), Amy Hagopian (Secretary), Jay Johnson, Duane Storti, Aaron Katz, Rachel Chapman, Louisa Mackenzie, Rob Wood; Invited guest: Malori Musselman (AAUP national)

**Not here:** Diane Morrison (treasurer), Ann Mescher, Nora Kenworthy, Charlie Collins, Annie Nguyen (membership secretary), Jim Gregory

Note the AAUP trainings for chapter leaders scheduled next week:

       [AAUP Policy Basics for Advocacy Chapters](https://u1584542.ct.sendgrid.net/ss/c/mRNLFKyANPYkYXuUTzk_Sy9FyWzo9kqacbVzd5vG5d2sXsw8BwyDpfxXdrER67jWLannoGoArNKeuJxMM1ANIlWRd_T9iUag8LCiXRv3mS1y0vqRqFm6KVTZ7E4xSnyWdEbjYimGzaiF2LK19T9BYMI5tOdNFI5LRQflUt2amsvwS0z4N3NxDLqUmkU52DGY_LUYDlVfZ05uqEtXfbjmdcBldW2u56zXbujHCATH6hiuZzQyB4CPs8fep2FEWfkKpztNHOUq7JCKjDWOsIPikRebplWDCXKZoRmJF-5tsyaXaql9auksuXkymRgc7E0ekFRpiO-p2CBIuETA9NACXQ/3ez/XiO7OHNvSDq712q9Lgmv8g/h1/CffYsBST4tOQnDCh0Z9-9V7bmttL1dmDWoTknXcxD7g). October 12 at 3 p.m. EDT.

       [Advocacy Chapter Management](https://u1584542.ct.sendgrid.net/ss/c/mRNLFKyANPYkYXuUTzk_Sy9FyWzo9kqacbVzd5vG5d2sXsw8BwyDpfxXdrER67jWhZ_PIVcguJT7x6yZK6AFrBMemV1Ktw6vjHDNCATOJ_w-LTWO-YzOTEWidnEFOg8KC-GRrd_TknuccIm1IYwk7Ea68yfeEKPmFLU6BGz35LQVjWapcU3Q2H_P6xh8Ai_qv2rlf6N7QiDt_es2WZvUdkGNnDG48X36sFgEsGIEGd-kxLdRhLqJbNX0qLnDXjzTc0ALowc_NxCzh1hOYUPy3rZT8Sy8o-csmTLYMJFYtV5MeHU4wlvSouBSco-klXhEnCV4mi_jPvbk7Y7dEXHrOQ/3ez/XiO7OHNvSDq712q9Lgmv8g/h2/3r5FUWzsSfQe_WpVQnoDHDaVTJf1Jjus2vhyv5Mf7Rs). October 19 at 3 p.m. EDT.

       [Advocacy Chapter Organizing](https://u1584542.ct.sendgrid.net/ss/c/mRNLFKyANPYkYXuUTzk_Sy9FyWzo9kqacbVzd5vG5d2sXsw8BwyDpfxXdrER67jWjO67BYDgwUb0VTNOCBhgAK0Q1eOqo88DZiE4z9XMeZfzweals_VpjynftfO0qUJtkpGR-YWad-IZR15-NY0CJ2xp1CV2aTUYeFjZEYSnNxdTV7vFY1I1wRh3IXmhwjuB7XA5_IZQ1sir5OKayC1msozZBNNYOLZMjylaGWeuS6TKv0Di0XYXjsq8kA6eulvO0AYJM_W9Y7YYw-vbG1xzwKb1k842I0WJShu_Q4TqtyogKV91p8IhLvcoqtxusY6oeJUrpcquwtxzuYrW90qV6g/3ez/XiO7OHNvSDq712q9Lgmv8g/h3/UmRHPFddigrsFsXfWKhLNsSlU1KDA9le0R1nWRgfBSM). December 2 at 2 p.m. EDT.

**Our next regular meeting is 4 Nov at 11:00 am**

**AGENDA**

#### Announcements/updates & Quick reports as needed: Treasurer, list server, website, membership (follow up on academic freedom fund)

#### Case work: Wayne Au, working from out of state cases

#### Teach in on dismantling UWPD

#### Salary and retirement issues for 11/9 Regents meeting

#### Nominating names for leadership spots in next board election

#### Report from UWFF

1. Looking ahead to Fall:  next meetings

**MINUTES**

**Announcements**

Confidential: Changes afoot in the union organizing world. Stay tuned.

We will create a non-UW email list. Send your [cherniavsky.eva@gmail.com](mailto:cherniavsky.eva@gmail.com). We’ll make a google list server. This may mean dropping [execaaup@uw.edu](mailto:execaaup@uw.edu). We should probably stop using UW zoom.

**Back to school, Vaccine mandate & executive order**

Duane requested accommodation to teach remotely from his chair. Chair kicked it to the dean. Dean said it would be in violation of policy, referring to an “instructional responsibility” policy (IRP), dating to 1994 (when a legislator anecdotally/allegedly caught a faculty member on the beach in Hawaii during teaching season). This same IRP was amended July 1, 2021 to incorporate COVID realities.

Mike Townsend sent Duane the May version of the policy (see below), noting the July version was part of the “back to campus” plan. “In resident” instruction now means “in person,” in direct contradiction to health and safety sense—either someone is clueless, or lying. So Duane has transitioned to hybrid status. By contrast, Jay has submitted approval documents for distance learning.

Now UW President Ana Mari Cauce has issued Executive Order 80 on dismissing faculty who don’t get vaccinated. See appendix. The advisory committee on the Code (Theo Mhyre is on that) didn’t want these going through adjudication, too big a burden, and going through the state’s procedure doesn’t account for tenure. Our comments may or may not be heeded.

Malori (in chat) said: recommended emailing academicfreedom@aaup.org to discuss further. The key question is whether faculty members will get a dismissal hearing that comports with the essentials of [Regulation 5 of the Recommended Institutional Regulations](https://www.aaup.org/report/recommended-institutional-regulations-academic-freedom-and-tenure), i.e., it’s before a faculty committee at which the administration bears the burden of demonstrating adequate cause, ideally addressing the faculty member’s professional fitness in light of their entire record. Also, any prehearing suspension/unpaid leave should be for reasons of threat of immediate physical harm and should be made in consultation with a faculty committee (Senate) (see Regulation 5c[1]). I am not sure if this might be further complicated by mobilizing the actual language of the governor’s EO which may or may not supersede the Faculty Code because of a public health emergency/threat of physical harm at the state level. Regardless, it definitely sets a precedent.

Why do we need new policy on what to do with faculty who break other laws, isn’t that already a thing? What crimes would risk your tenure? The order calls for people who don’t meet the Oct. 19 “fully vaccinated” deadline to be put on unpaid leave. What is the due process provision?

Malori noted Oregon’s state order excluded colleges and universities.

We are not interested in undermining vaccination, but we don’t want this to be an occasion to usher in a new mode of EO that is replicated in other contexts. Unpaid leave before due process is punitive. This is not shared governance.

Eva will write a short post amplifying Jim’s post, noting the suspension of due process issues. Who is the audience? Faculty who might be persuaded we need a union. To whom is it addressed? The faculty senate leadership who should exercise what meager shared governance levers are available to us, in absence of a union.

**Teach in: safe return to campus by dismantling UWPD**

11/18, 4 to 5:30 pm

Eva has secured two speakers:

Michael Garcia (author of the AAUP paper)

Michael Magee (AAUP national & UW grad)

Eva will invite two more speakers:

Cops off campus [ccox2@calfac.org](mailto:ccox2@calfac.org)

CAHOOTS: <https://forms.office.com/Pages/ResponsePage.aspx?id=QiaqkhtPC0S_PrDvGqn1l5JZfSuZxoNHvFFriIhNp21UMFBDQjBVMkxUTUgxMVFNTkFRV05JMksxVS4u>

**Rachel will contact** Decrim UW folks, in hopes of showcasing the UW committee to develop alternatives (Deepa?) –

Would Nikkita be a draw? Or Nicole Thomas Kennedy? Both abolitionists. **Amy will invite Nikkita Oliver**

$250 honoraria offered to all speakers.

Amy will invite Robyn Ricks to do a flyer.

**Discussion**: Why are we not sharing the work more equitably across the executive board members? We discussed the importance of sharing burdens, noting women are doing most of the heavy lifting here. (Metaphysically redundant conversation?) On the other hand, the enthusiasm for doing the teach-in was not the same for everyone. We acknowledged the need to attend to our own processes in a more thoughtful way.

**Wayne Au’s case:**

UW admin has expressed interest in revising the state’s Ethics law. But revisions shouldn’t be narrowly confined to his one issue.

**Nov. 9 Board of Regents meeting:**

Public testimony? Picket/RegentsWatch.

Salary policy

Retirement funds

Direct the questions to Senate Leadership to Ana Mari. Has the salary policy been reinstated?

* Eva will ask Duane to draft that letter
* Amy will ask Rajib Doogar to draft the letter on the retirement policy.
* Rob agreed to sign up to ask the questions.

**Appendix 1: Code changes through Executive Order**

On 10/5/2021 8:16 PM, James N. Gregory wrote:

 Dear Eva, everyone,

I want to share some alarming news from FCFA and the Senate Executive Committee. President Cauce is on the verge of issuing an Executive Order to comply with the governor's vaccine mandate proclamation. The EO is necessary but badly written, so badly that it may establish precedents undermining core tenure protections in the Faculty Code. Louisa may be able to provide additional details but here is what I know from FCFA messaging and from listening to yesterday's SEC meeting.

First, according to AMC an "unexpected" and "disturbing" number of faculty are refusing the vaccination order. She did not give numbers but at one point said, "double digits." Chris Laws later mentioned "a couple of hundred" cases but probably meant staff as well as faculty. In any case, a bunch of folks are going to be terminated soon.

Second, EO 80 is necessary to bring the university into compliance with the governor's proclamation (with which I agree). Executive Orders supersede the Faculty Code but require consultation/advice from the Faculty Senate. FCFA is involved in that process. The first draft was circulated last week, and I replied that it seemed warranted under the circumstances. The first draft said that anyone refusing to comply with the vaccination order would be placed on "unpaid leave" and that the termination process would be "initiated," thus implying that the due process steps enumerated in the Faculty Code would be followed.

A new draft was circulated today (to be finalized and issued Friday). The revisions were initiated by Senate leaders who worried that the first version would undermine the Faculty Code. But the new version is potentially worse. You can read the changes in the attached. Now termination happens without any real process (no adjudication, no appeal) and the language seems to directly undermine the Faculty Code, thus setting in place a dangerous precedent.

I am attaching the draft EO (showing revisions). Below you will find my messages to FCFA in the order sent. I have deleted messages that I am not authorized to share. Here is a link to the SEC meeting zoom recording. Discussion of the EO begins about minute 140:

<https://www.washington.edu/faculty/senate/sec/minutes-agendas/>

Jim

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**Appendix 2: Code changes through Executive Order**

**University of Washington D R A F T *Presidential Orders* Executive Order No. 80**

**Compliance with Governor’s Proclamation 21-14.1 COVID-19 Vaccination Requirement: Faculty and Librarians**

**1.Purpose**

On February 29, 2020, Governor Jay Inslee issued Proclamation 20-05, proclaiming a State of Emergencyfor all counties throughout Washington State as a result of the coronavirus disease 2019 (COVID-19)outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State.After months of improving COVID-19 epidemiological conditions in Washington State, highly contagiousCOVID-19 variants emerged, including the highly contagious Delta variant, which have caused a dramatic increase in cases, hospitalizations, and deaths among unvaccinated populations and have resulted in breakthrough infections in vaccinated individuals.

On August 20, 2021, the Governor issued Proclamation 21-14.1, which was subsequently amended on September 27, 2021 to Proclamation 21.14.2 (collectively, the “Proclamation”). The Proclamation prohibits any worker from engaging in any work for a state agency, an educational setting, or a health care setting after October 18, 2021, if the worker has not been fully vaccinated against COVID-19, unless an limited exemption due to religious or disability accommodation applies. The University is subject to the Proclamation 21-14.1 and is prohibited from allowing any staff member, faculty member, librarian, or other academic personnel who has not verified that they are fully vaccinated against COVID-19 or been approved for an exemption to engage in work after October 18, 2021. Accordingly, the University will terminate the employment and/or appointments of those not verified as fully vaccinated or approved for an exemption. The University has provided notice to personnel including faculty members and librarians of the requirements of the Proclamation and the need to verify full vaccination or obtain an approved exemption to remain employed and/or appointed by the University.

The *Faculty Code* and the *Librarian Personnel Code* do not contemplate a circumstance in which the Governor acts pursuant to emergency powers to alter the qualifications for employment for the University’s faculty and librarians and preclude them from engaging in work. This executive Executive order Order therefore harmonizes the *Faculty Code* and the Librarian Personnel Code provides for expeditious due process for faculty members and librarians who are subject to termination consistent with the University’s legal obligation to comply with the Proclamation 21-14.1. Due process provisions within the *Faculty Code* and the Librarian Personnel Code continue to apply to faculty members and librarians not in compliance with the proclamation.

**2.Applicability**

This executive Executive order Order applies to all University faculty members as provided for in the *Faculty Code,* Section 21-31, Membership in the Faculty (“faculty members”) and all University librarians not included in the UW Libraries bargaining unit (“librarians.”)

**3.Duration of Executive Order**

This Executive Order will be effective until the Governor declares an end to the State of

**4.Exemptions and Enforcement**

Unless an disability or religious exemption from the vaccine requirement has been requested and approved by the University and conditions of approval are adhered to, the University will initiate dismissal processes described below under the *Faculty Code* or the Librarian Personnel Code for any faculty member or librarian who fails to present verification of fully vaccinated status to designated University staff.

Effective October 19, 2021, the University will place any faculty member or librarian subject to such dismissal on administrative leave, which shall be fully unpaid, until all proceedings due process related to dismissal the decision to terminate of their employment and/or appointments and employment have concluded. During this leave, a faculty member or librarian is not allowed to engage in any work of any kind for the University. Due process will consist of written notice of the proposed termination and an opportunity to be heard, in a meeting with the University’s designee or by written submission, before the termination decision is finalized. The decisions that are made following due process are final decisions of the University and not subject to further administrative review.

The Provost or designee has the delegated authority to interpret the requirements of this Executive Order and execute on the processes outlined herein including termination actions. As appropriate, the Provost or designee will consult with the Faculty Senate Chair for general advice on implementation issues. The President retains the authority to make final decisions under this Executive Order.

This Executive Order has been developed in compliance with Executive Order No. 3. This Executive Order supersedes all rules, policies, executive orders, and code provisions that may be construed to conflict with it, including but not limited to Sections 25-51, 25-71, and 28-36(D) of the *Faculty Code*, Chapters 25, 27, and 28 of *the Faculty Code*, and Chapter IV.E, G, and H .7(d) of the *Librarian Personnel Code*.

**5.History**

XX xx, 2021.

**Appendix 3: Casework**

Wayne Au’s update:

- I’ve secured a lawyer

- I’ve responded to the Ethics Board indicating that I want a hearing

- WEA has agreed to pay for $5k of my lawyer fees (thanks to Bill Lynne, and to you for looping him in)

- UW/ Ana Mari has sent a letter in my defense to the WA State Ethics Board. The letter argues the following:

-  it should not be considered a violation because my intent is to disseminate scholarship which is aligned UWB mission/values and it benefits the state and the UW in attracting students, faculty, etc..

- that although there is a UW policy that speaks to personal use of university equipment and facilities (APS 47.2 3(a)), this is not something that faculty have received training on and so most faculty would not know about the policy and this issue.

- the old UW policy was from 2003, and we now live in a world where webpages automatically put hyperlinks to content, and it is difficult for faculty and the university to promote intellectual products of faculty without them. She indicates that she intends to have the UW policy amended and also potentially seek legislative change for this particular issue.

- I was also informed that the issue was raised at last month’s meeting between the presidents of the 4 year universities, and they all agree that the law needs to be changed

- I was also told that the UW lobbyists were beginning to identify state legislators that would be friendly to making such a change.

I have a couple of actions that I’m taking with my lawyer that might stir things up a little, but don’t want to be too public about it right now.

