

Via E-Mail

December 31, 2025

Jeffrey P. Gold, President
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President Gold,

I am writing in my capacity as President of the American Association of University Professors (AAUP) regarding our serious concerns about the Board of Regents' December 5, 2025 vote to discontinue the University of Nebraska-Lincoln's Earth and Atmospheric Sciences, Educational Administration, Statistics, and Textiles, Merchandising and Fashion Design Departments. On behalf of our UNL AAUP Chapter, we have submitted extensive public records requests to examine the processes underlying this decision, the data relied upon, and its impacts on faculty and students.

The UNL AAUP Chapter has an active and growing presence on campus, and we hope to work with you and the University administration to avoid these closures, or at a minimum to ensure the fairest possible outcomes in the implementation. However, as outlined below, we already have substantial concerns and urge you to consider delaying any further action, and to work with us, in order to mitigate legal exposure and reputational harm to the University.

To begin with, we understand that UNL has been actively seeking to rejoin the ranks of the American Association of Universities (AAU). Frankly, these closures appear fundamentally inconsistent with that objective. The affected departments include nationally recognized, tenured research faculty and their elimination risks undermining UNL's research capacity and external funding potential. Moreover, AAUP is investigating possible tenure and shared governance violations in connection with these decisions and whether sanctions or censure may be warranted. Rather than supporting UNL's AAU aspirations, these developments could result in AAUP publicly opposing UNL's admission into the AAU.

Relatedly, we are also concerned that these closures may not constitute "bona fide discontinuance of a program or department" under the Board of Regents' Bylaws. Faculty have already raised serious questions about the integrity and use of metrics and data cited to justify the decision. Absent a "bona fide discontinuance," there is no justification to shorten contracts or terminate tenured faculty under Section 4.12 and 4.13 of the same Bylaws. Accordingly, we anticipate proceeding with UNL's grievance process

through the Special Grievance Committee of the Academic Rights and Responsibilities Committee under Section 4.14.2. Further, any terminations of tenured faculty predicated on these closures may constitute a breach of employment contracts under Nebraska state law. *See e.g., Brady v. Board of Trustees of Neb. State. Colleges*, 196 Neb. 226 (1976) (college violated a tenured professor's contract rights by terminating him without affording the protections provided by the employer's policies, rules, and regulations).

Beyond governance and contractual issues, we are troubled by patterns surrounding the timing and faculty impact of these closures. Three of the four departments were identified after the AAUP Chapter significantly increased its organizing and advocacy on campus. Notably, these same departments disproportionately employ Chapter members, including several of its most active leaders and more than half of its officers. Courts have consistently held that university employees may not be retaliated against for exercising their first amendment rights to participate in AAUP union activities under both the U.S. Constitution, *see e.g., Henderson v. Huecker*, 744 F.2d 640 (8th Cir. 1984), and the Nebraska State Constitution, *Wood v. Tesch*, 222 Neb. 654 (1986). And importantly, university officials can be held individually liable for such retaliation infringing upon protected activity employee's rights. *Bass v. Richards*, 308 F.3d 1081, 1088 (10th Cir. 2002). Should AAUP members be terminated rather than reassigned or accommodated elsewhere, the inference of retaliatory targeting would be substantially strengthened.

Similarly, we are concerned about the significant harm to students in the affected programs, which may give rise to borrower defense claims under federal law. Such claims arise when institutions mislead students or fail to disclose material information that a reasonable student would consider in deciding to enroll or remain enrolled. See *Higher Education Act of 1965*, as amended, Sec. 455(h), 20 U.S.C. 1001, *et seq.*; 34 CFR § 685.206(e) (applicable to loans taken out on or after July 1, 2020). In borrower defense claims, students, including large groups of students, can seek to have their loans discharged and the school that misled the students can be responsible for repaying the cost of any loans. (See <https://studentaid.gov/announcements-events/borrower-defense-update> On January 15, 2025, ED announcement that approximately 261,000 borrowers who enrolled in Ashford University will have approximately \$4.5 billion in loans discharged.) At UN-L, the failure to provide students with the degrees, instruction, and classes they were - and still are - promised could give rise to a borrower defense claim and significant damages.

Finally, we are deeply troubled that the four departments that the Board of Regents voted to discontinue have disproportionately high numbers of female faculty and faculty of color as compared to the University's faculty overall. We will therefore be examining whether these actions result in unlawful disparate impact discrimination on the basis of race or sex under Title VII of the Civil Rights Act of 1964. The potential erosion of faculty diversity is alarming and should be of serious concern to the University.

There remains a better path forward. We urge you, in the strongest possible terms, to delay issuing any termination letters while there is still an opportunity to explore alternatives or mitigate harm to faculty and students. AAUP stands ready to engage in good faith to protect faculty rights, preserve academic integrity, and safeguard the best interests of the students UNL serves.

Regards,

Todd Wolfson

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