

CAUT Procedures in Academic Freedom Cases

1

CAUT will consider all cases of alleged violations of academic freedom brought to its attention. Concerns about violations of academic freedom should be brought to the attention of the executive director. In cases where attention by CAUT seems justified, the executive director will notify the president and the chair of the Academic Freedom and Tenure Committee and will expeditiously take steps to determine whether there is a prima facie basis for further action. The executive director will provide the president and the chair of the Academic Freedom and Tenure Committee a list of all other requests brought to his attention. All requests brought to the executive director, president and chair of the Academic Freedom and Tenure Committee that are not expeditiously dealt with will be referred to the Academic Freedom and Tenure Committee.

2

If it appears to be useful, the executive director may attempt to assist the affected parties and the institution in arriving at a satisfactory resolution of the situation.

3

If the alleged violation is serious and if a satisfactory resolution of the matter does not seem to be possible through informal negotiation, the executive director, in consultation with the president, the chair of the Academic Freedom and Tenure Committee, and others as appropriate, will undertake one or more of the following as is most suitable to help bring about the conditions for a fair resolution of the matter:

- a) cause the situation to be brought to public attention;
- b) request that the CAUT Executive authorize an independent committee of inquiry to investigate and issue a public report on the matter (see 5 below);
- c) establish an ad hoc investigatory committee that will look into the situation and report to CAUT through the Academic Freedom and Tenure Committee (see 6 below).

4

In all instances where a CAUT local association exists at the institution where the alleged violation of academic freedom occurred, the executive director will consult with the local association where there appears to be prima facie basis for further action, to determine whether remedies may be available under the collective agreement. If any of the follow-up actions under 3(b) or 3(c) are being considered, the assistance of the local association will be sought with reference to work of a committee of inquiry or an ad hoc investigatory committee.

5

Where an independent committee of inquiry is authorized by the CAUT Executive (see 3b), the following guidelines will apply:

- a) The members and a chairperson of the independent committee of inquiry will be appointed by the CAUT Executive upon the recommendation of the president, chair of the Academic Freedom and Tenure Committee and the executive director. Normally, independent committees of inquiry will consist of two or three members, with one designated as chair.

- b) Independent committee of inquiry members will serve without remuneration except for expenses.
- c) The committee will be provided with terms of reference that pose specific questions to be addressed. The terms of reference will be developed by the president, the chair of the Academic Freedom and Tenure Committee and the executive director.
- d) The committee will seek to review fully and fairly the matters it has been appointed to investigate and will prepare a report which will be published by CAUT in its entirety as delivered and in a timely manner, subject to the final report of the committee having been previously reviewed by the committee's legal counsel. CAUT will hold the committee members harmless from any legal actions that arise as a result of their work on the committee of inquiry.
- e) The committee has no statutory powers and no authority to compel individuals to participate in its inquiry. To ensure that it is fully informed with regard to the matters under review, the committee will rely on the cooperation of everyone concerned. Anyone who chooses to be interviewed by the committee may be accompanied by a colleague or an advisor.
- f) The committee will begin by reviewing the documentary record available to it upon its appointment, and will seek further information from individuals in a position to have relevant information by inviting them to meet with it and to submit documents.
- g) Persons interviewed by the committee will be provided with a statement of matters under investigation in advance of the interview. Persons interviewed will be permitted to make a statement to the committee and to raise issues that they consider relevant, subject to the right of the committee to decide, having been provided an opportunity for arguments to the contrary, that particular matters are not relevant to its terms of reference.
- h) Committee members will take notes during interviews and interviews may be recorded where the person being interviewed consents.
- i) To ensure fairness to persons potentially affected in a material adverse way by findings in the committee's report, a fair summary of the information upon which such findings could be based will be provided in confidence to such persons reasonably in advance of the publication of the committee's report.
- j) At any stage in its inquiry, the committee in its discretion may request further information or clarification from individuals who have been interviewed or made written submissions, from those mentioned by witnesses or in submissions, or from other persons, by way of either a written statement or an interview with the committee.
- k) All documents received by, or produced by, the independent committee of inquiry shall remain the property of the independent committee of inquiry and the chairperson shall be responsible for arranging the safe keeping of all such materials
- l) The CAUT Executive shall consider any recommendations made by the committee.

6

Where an ad hoc investigatory committee (see 3c) is constituted, the following guidelines apply:

- a) The members will be appointed by the executive director in consultation with the president and the chair of the Academic Freedom and Tenure Committee. Normally, ad hoc investigatory committees will consist of two or three members, with one designated as chair.
- b) Members will serve without remuneration except for expenses. CAUT will hold the committee members harmless from any legal actions that arise as a result of their work on the ad hoc investigatory committee.
- c) The committee will be provided with terms of reference that pose specific questions to be addressed. The terms of reference will be developed by the president, the chair of the Academic Freedom and Tenure Committee and the executive director.

- d) The committee will seek to review fully and fairly the matters it has been appointed to investigate and will prepare a report to CAUT in a timely manner.
- e) The committee has no statutory powers and no authority to compel individuals to participate in its inquiry. To ensure that it is fully informed with regard to the matters under review, the committee will rely on the cooperation of everyone concerned. Anyone who chooses to be interviewed by the committee may be accompanied by a colleague or an advisor.
- f) The committee will begin by reviewing the documentary record available to it upon its appointment. Further relevant information from individuals will be sought by inviting them to meet with the committee and to submit documents.
- g) Persons interviewed by the committee will be provided with a statement of matters under investigation in advance of the interview. Persons interviewed will be permitted to make a statement to the committee and to raise issues that they consider relevant, subject to the right of the committee to decide, having been provided an opportunity for arguments to the contrary, that particular matters are not relevant to its terms of reference.
- h) Committee members will take notes during interviews and interviews may be recorded where the person being interviewed consents.
- i) As soon as possible after receipt of the report of the ad hoc investigatory committee, the executive director will review it and communicate with the committee regarding any suggestions for revision.
- j) To ensure fairness to persons potentially affected in a material adverse way by findings in the committee's report, the executive director will send a fair summary of the information upon which such findings could be based to such persons, allowing a reasonable time for them to respond. The executive director will then invite the ad hoc investigatory committee to revise its report in light of the comments received.
- k) The committee's draft report will be transmitted to the Academic Freedom and Tenure Committee which may request further revisions. Following consideration of the Academic Freedom and Tenure Committee's request, the committee's final report will be submitted to the Academic Freedom and Tenure Committee for final review.
- l) All documents received by, or produced by, the ad hoc investigatory committee shall be and remain the property of CAUT, and CAUT shall be responsible for arranging the safe keeping of all such materials.
- m) Following the Academic Freedom and Tenure Committee's final review and authorization, CAUT will publish the report unless the nature of the case is one that could be resolved through discussions with the parties concerned.
- n) In such a situation, CAUT will actively explore resolution of the matter with the parties concerned. A report of discussions with the parties will be made to the Academic Freedom and Tenure Committee that will determine if the report is to be published.
- o) When a report is published, the members of the ad hoc investigatory committee will be listed as authors of the published report unless they withhold their names because of disagreement with changes requested by the Academic Freedom and Tenure Committee or as a result of comments from the parties potentially affected in a material adverse way.

7

The president and executive director will report on the status of all outstanding academic freedom cases at each meeting of the Executive Committee and at each meeting of the Academic Freedom and Tenure Committee.

Approved by CAUT Council, May 2011.