

Date: February 10, 2025
To: Kansas House Judiciary Committee
From: Todd Wolfson, President
Re: HB 2348

The American Association of University Professors (AAUP) is writing in opposition to HB 2348. The AAUP is a nonprofit membership association of faculty and other academic professionals. Headquartered in Washington, DC, we have members and chapters based at colleges and universities across the country, including at the University of Kansas and other Kansas institutions.

Since our founding in 1915, the AAUP has helped to shape American higher education by developing the standards and procedures that maintain quality in education and academic freedom in this country's colleges and universities. We define fundamental professional values and standards for higher education; advance the rights of academics, particularly as those rights pertain to academic freedom and shared governance; and promote the interests of higher education teaching and research.

The AAUP understands that HB 2348 was introduced to speak directly to a case that is currently being litigated, *Miracle v. Hush*, Case No. 23-4056-JAR-GEB (D. Kan. 2024). HB 2348 is structured to address property interests and rights of faculty members that courts have consistently ruled are covered by Fifth Amendment due-process rights and by the Fourteenth Amendment. In a December 5, 2024, ruling in *Miracle v. Hush*, Judge Julie Robinson of the District Court for the District of Kansas mentions property rights and interests of faculty members no fewer than twenty-four times.

However, the bill may go much further than just addressing the ruling of the District Court. It appears to essentially eviscerate tenure by stating that tenure shall not "create any entitlement, right or property interest in a faculty member's current, ongoing or future employment by an institution." By eliminating "any rights" associated with tenure, the bill appears to render tenure almost totally ineffective.

The principal purpose of tenure is to safeguard academic freedom, which is necessary for all who teach and conduct research in higher education. When faculty members can lose their positions because of their speech, publications, or research findings, they cannot properly fulfill their core responsibilities to advance and transmit knowledge. Tenure provides the conditions for faculty to pursue research and innovation and draw evidence-based conclusions free from corporate or political pressure.

Although tenure does protect individual faculty members, it exists primarily to serve society and the common good by protecting the quality of teaching and research and thus the integrity of

institutions of higher education. If faculty members can lose their positions for what they say in the classroom or for what they write in an article, they are unlikely to risk addressing controversial issues. The common good is not served when business, political, or other entities can threaten the livelihood of researchers and instructors and thereby suppress the results of their work or modify their judgments.

Tenure is also essential to recruiting and rewarding outstanding faculty members. Faculty choose the institutions in which to work based in part on their tenure policies, which can provide assurance of the freedom to teach and research. Colleges and universities often compete for the best faculty, and Kansas institutions will be severely disadvantaged if tenure is eviscerated.

Therefore, the AAUP requests that the Kansas legislature reject proposed HB 2348.