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# What is Academic Freedom?

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## Pre-History of The AAUP

“Unless American college teachers can be assured ... that they are no longer to be looked upon as mere employees paid to do the bidding of men who, however courteous or however eminent, have not the faculty's professional knowledge of the complicated problems of education, our universities will suffer increasingly from a dearth of strong men and teaching will remain outside the pale of the really learned professions.”

James Munroe (1905)

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## 1915 *Declaration of Principles*

”[Professors] are the appointees, but not in any proper sense the employees, of the [trustees]. For, once appointed, the scholar has professional functions to perform in which the appointing authorities have neither competency nor moral right to intervene. The responsibility of the university teacher is primarily to the public itself, and to the judgment of his own profession...”

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## 1940 *Statement of Principles on Academic Freedom and Tenure*

“Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition.”

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# The Rationale for Academic Freedom

“The reason why such freedom is [...] socially necessary lies in the fact that there are certain professional functions generally recognized to be indispensable in the life of a civilized community which cannot be performed if the specific manner of their performance is dictated by those who pay for them, and that the profession of the scholar and teacher in higher institutions of learning is one of these.”

Arthur O. Lovejoy, 1930

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## Rationale for Academic Freedom continued

“[S]eeking new truths will sometimes mean [...] the undermining of widely or generally accepted beliefs. It is rendered impossible if the work of the investigator is shackled by the requirement that his conclusions shall never seriously deviate either from generally accepted beliefs or from those accepted by the persons, private or official, through whom society provides the means for the maintenance of universities.”

A.O. Lovejoy

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## 1915 *Declaration of Principles*

“No man can be a successful teacher unless he enjoys the respect of his students, and their confidence in his intellectual integrity. It is clear, however, that this confidence will be impaired if there is suspicion on the part of the student that the teacher is not expressing himself fully or frankly, or that college and university teachers in general are a repressed and intimidated class who dare not speak with that candor and courage which youth always demands in those whom it is to esteem.”

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## Academic Freedom ...

... is the freedom to teach, both in and outside the classroom, to conduct research and to publish the results of those investigations, and to address any matter of institutional policy or action whether or not as a member of an agency of institutional governance. Professors should also have the freedom to address the larger community with regard to any matter of social, political, economic, or other interest, without institutional discipline or restraint, save in response to fundamental violations of professional ethics or statements that suggest disciplinary incompetence.

“Protecting an Independent Faculty Voice: Academic Freedom after Garcetti v. Ceballos” (2009)

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# What is Academic Freedom?

- Freedom in the classroom
- Freedom of research and publication
- Freedom of extramural utterances
- Freedom of intramural utterances

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## Freedom in the Classroom

- The freedom to teach extends from such fundamental issues as the choice of course materials, preparation of the syllabus, and the conduct of lectures to the assignment of grades.
- Both institutional course descriptions and disciplinary norms limit this freedom.

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## Freedom in the Classroom

- Recent cases of attacks on freedom in the classroom include
  - A proposal at Oberlin would have required “trigger warnings” on syllabi and instructed professors to “[r]emove triggering material when it does not contribute directly to the course learning goals.”
  - The case of Patricia Adler, a sociologist at the University of Colorado, who was given the choice of early retirement or remaining but not teaching a class on “deviance.”

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## On “Balance”

"In the context of teaching, balance refers to the obligation of instructors to convey to students the state of knowledge, as warranted by a professional community of inquirers, in the field of learning to which a given course is devoted. There is no obligation to present ideas about 'intelligent design' in a biology course, for example, because those ideas have no standing in the professional community of biologists." (Committee A)

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## “Hostile Learning Environment”

“It assumes that students have a right not to have their most cherished beliefs challenged. This assumption contradicts the central purpose of higher education, which is to challenge students to think hard about their own perspectives, whatever those might be. It is neither harassment nor discriminatory treatment of a student to hold up to close criticism an idea or viewpoint the student has posited or advanced. Ideas that are germane to a subject under discussion in a classroom cannot be censored because a student with particular religious or political beliefs might be offended.” (Committee A.)

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# Individual and Collective Academic Freedom

"Teaching duties [...] that are commonly shared among a number of faculty members require a significant amount of coordination and the imposition of a certain degree of structure, and often involve a need for agreement on such matters as general course content, syllabi, and examinations. Often, under these circumstances, the decisions of the group may prevail over the dissenting position of a particular individual." (The Freedom to Teach)

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# Freedom of Research and Publication

- The freedom to pursue research and publish the results of that research is fundamental to academic freedom.
- Different fields have historically come under scrutiny, threatening freedom of research in these fields: economics, social sciences, area studies, ethnic studies, gender studies.
- Other challenges to this freedom include:
  - External funding agreements that limit publication
  - Institutional Review Boards
- Professional ethics and disciplinary norms, including peer review, limit this freedom.

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## Intramural Utterances

- Intramural speech refers to speech on matters of institutional governance.
- The 1940 Statement does not explicitly recognize freedom of intramural utterances, although it speaks of faculty members as "officers" of the university.
- Protecting intramural utterances explicitly as an aspect academic freedom is important because of challenges at public institutions in the context of the Garcetti ruling of the Supreme Court.

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## From the AAUP's 1927 Investigation of the University of Louisville

“It is impossible, and rightly so, to suppress critical discussion by members of a faculty, of general or special educational policies, unless that end is accomplished by the simple and drastic means of dismissing that faculty. The attempt to abolish such discussion ... is not only a deplorable anachronism, but tends to destroy the values which can be created only by patient and tolerant effort, by free and open discussion, and by the gradual increase of a common stock of wisdom, which is incapable of monopolization by any administrative officer.”

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## Extramural Utterances

- Including the freedom "to address the larger community with regard to any matter of social, political, economic, or other interest, without institutional discipline or restraint" is an aspect of academic freedom unique to the United States.
- This freedom was central to the founders of the AAUP because of the many dismissals that occurred due to extramural utterances.
- It is also the most controversial aspect of academic freedom, as it is not necessarily related to disciplinary expertise.

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## Limits of Academic Freedom

"It is [...] in no sense the contention of this committee that academic freedom implies that individual teachers should be exempt from all restraints as to the matter or manner of their utterances, either within or without the university."

1915 *Declaration*

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## 1940 Statement

“[Faculty members] should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.”

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## Limits on Extramural Utterances

“The controlling principle is that a faculty member’s expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member’s unfitness for his or her position. Extramural utterances rarely bear upon the faculty member’s fitness for the position.”

Committee A

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## Civility

“Some may seek to defend a distinction between the regulation of the content of speech and the regulation of the manner (or style) of speech. We find this distinction untenable in practice because offensive style or opprobrious phrases may in fact have been chosen precisely for their expressive power.”

Committee A

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# Academic Freedom and the First Amendment

- Academic freedom is both broader and narrower than the First Amendment:
  - It is broader because it is a condition of employment applicable to private universities.
  - It is narrower because statements that suggest violations of professional ethics or incompetence *are* protected by the First Amendment.

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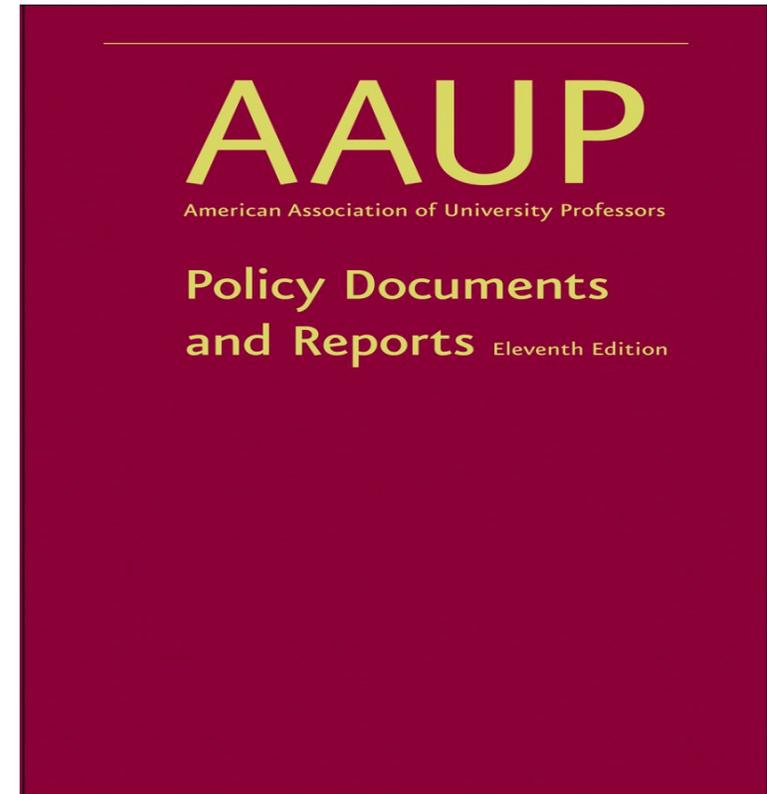
# How is Academic Freedom Defended?

- Tenure.
  - Tenure protects faculty against dismissal without due cause.
- Academic due process.
  - The AAUP has issued a significant number of model regulations to specify proper procedures for dismissal of faculty.

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# How is Academic Freedom Defended?

- Through collective bargaining agreements and faculty handbooks, which should include central AAUP statements.



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# How is Academic Freedom Defended?

- Shared governance.
  - Without faculty participation in activities core to the academic mission of the university, academic freedom can become threatened.
  - Role of hearing and grievance committees.
  - Conversely, tenure protects shared governance.

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# How is Academic Freedom Defended?

- You can speak out against violations of academic freedom:
  - Calls to rescind invitations of speakers.
  - Speech codes and sexual harassment policies that fail to recognize academic freedom and First Amendment rights.
  - Censorship of art, poetry, or student newspapers.

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# How is Academic Freedom Defended?

- The national AAUP defends academic freedom.
- The Association's Committee A on Academic Freedom and Tenure issues statements and reports.
- The Association's staff responds to inquiries by faculty whose academic freedom may have been violated.
- In cases of significant violations, the executive director can authorize an investigation that may lead to censure.

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# How is Academic Freedom Defended?

“Freedom of teaching, like most of the other forms of desirable freedom, is unlikely to be won, or kept, unless those who are its natural guardians possess a certain measure of civil courage.”

A.O. Lovejoy

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# Academic Freedom on Non-Tenured and Non-Tenure-Track Faculty

- If tenure is needed to protect academic freedom, do untenured faculty have academic freedom?
- Yes: "All members of the faculty, whether tenured or not, are entitled to academic freedom" (RIR 9).
- Unlike tenured faculty, untenured faculty may be "non-reappointed."
- Untenured faculty members are entitled to written reasons for non-reappointment (RIR 2, 13).

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# Academic Freedom on Non-Tenured and Non-Tenure-Track Faculty

- Untenured faculty members who allege that their non-reappointment was based on considerations that violated their academic freedom should have access to an elected faculty grievance committee (RIR 10, 13).
- The burden of proof is on the faculty member to demonstrate that their academic freedom was violated.

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# Academic Freedom of Students, Administrators, and Institutions

- Students have rights that relate to academics. These rights differ substantially from the rights of faculty members.
- Examples:
  - Faculty research is subject to peer review, but not to evaluation to the extent that student research is.
  - Student rights in the classroom differ from those of professors.
- Calling the rights of students "academic freedom" is controversial because it describes a different set of rights.

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# Academic Freedom of Students, Administrators, and Institutions

- Administrators don't have academic freedom in their role as administrators.
- If they hold faculty appointments, they do have academic freedom with respect to their role as faculty member.
- The AAUP does recommend that grievance procedures be in place to allow administrators to file grievances if their administrative appointment is terminated in violation of their academic freedom as a faculty members (RIR 11).

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# Academic Freedom of Students, Administrators, and Institutions

- Some court decisions have attributed academic freedom to institutions and not to professors.
- These decisions have based the attribution on the First Amendment.
- The term “institutional autonomy” is sometimes used to the rights that universities have with respect to non-interference into their academic affairs.
- The term “academic freedom” may be misleading here.

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# Academic Freedom and Religiously-Affiliated Institutions

- The “limitations clause” of the 1940 Statement: “Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.”
- 1970 Comment: “Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 Statement, and we do not now endorse such a departure.”

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## Conclusion

- Academic freedom is both a professional, collective right and also an individual right.
- Academic freedom has limitations.
- Faculty vigilance and participation in shared governance are required to defend academic freedom.
- The AAUP has played a central role in defining and defending academic freedom.
- "Academic freedom for a free society"

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## References

- AAUP, *Policy Documents and Reports*. 11th edition. 2015.
- Matthew Finkin and Robert Post, *For the Common Good*. Yale UP. 2009.
- Arthur Lovejoy, "Academic Freedom," in: *Encyclopaedia of the Social Sciences*. 1930.