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It's All Academic – Freedom That Is!

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Academic Freedom



What is it?



Where did it originate?



How broad is it?



Protected by the First Amendment?



Does it apply to what faculty write?

Does it apply outside the classroom?





1915 Declaration of Principles on Academic Freedom & Academic Tenure issued by the American Association of University Professors.

Three Elements:

- Freedom of inquiry and research
- Freedom of teaching within the university/college
- Freedom of extramural utterance and action.

“what purports to be the conclusions of MEN trained for and dedicated to, the quest for truth, shall in fact be the conclusions of such MEN, and not echoes of the opinions of the lay public or the individuals who endow or manage universities.” (emphasis added)



AAUP- 1915 Declaration of Principles on Academic Freedom & Academic Tenure



Rights come with obligations

- With regard to **Scholarship**, this means that the research must “be the fruits of competent and patient and sincere inquiry...”
- With regard to **teaching**, this means that faculty must provide divergent opinions on topics; not provide ready- made conclusions but teach students to think for themselves.
- With regard to **external utterances**, this means that faculty should avoid hasty or unverified or exaggerated statements

AAUP- 1915 Declaration of Principles on Academic Freedom & Academic Tenure

Shorter version of the Declaration agreed to by the AAUP and AACU in 1940

The 1940 Statement of Principles on Academic Freedom and Tenure reads in large part as follows:

- Teachers are entitled to full **freedom in research** and in the publication of the results, subject to adequate performance of their other academic duties.
- Teachers are entitled to **freedom in the classroom** in discussing their subject that they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.
- College and university teachers are citizens, members of a learned profession, and officers of an educational institution. **When they speak or write as citizens, they should be free from institutional censorship or discipline** but their special position in the community imposes special obligations. Faculty should remember that the public may judge their profession and their institution by their utterances. Hence they should ... show respect for the opinions of others and make every effort to indicate that they are not speaking for the institution.

Endorsed by almost 200 organizations and adopted by many colleges and universities across the U.S.



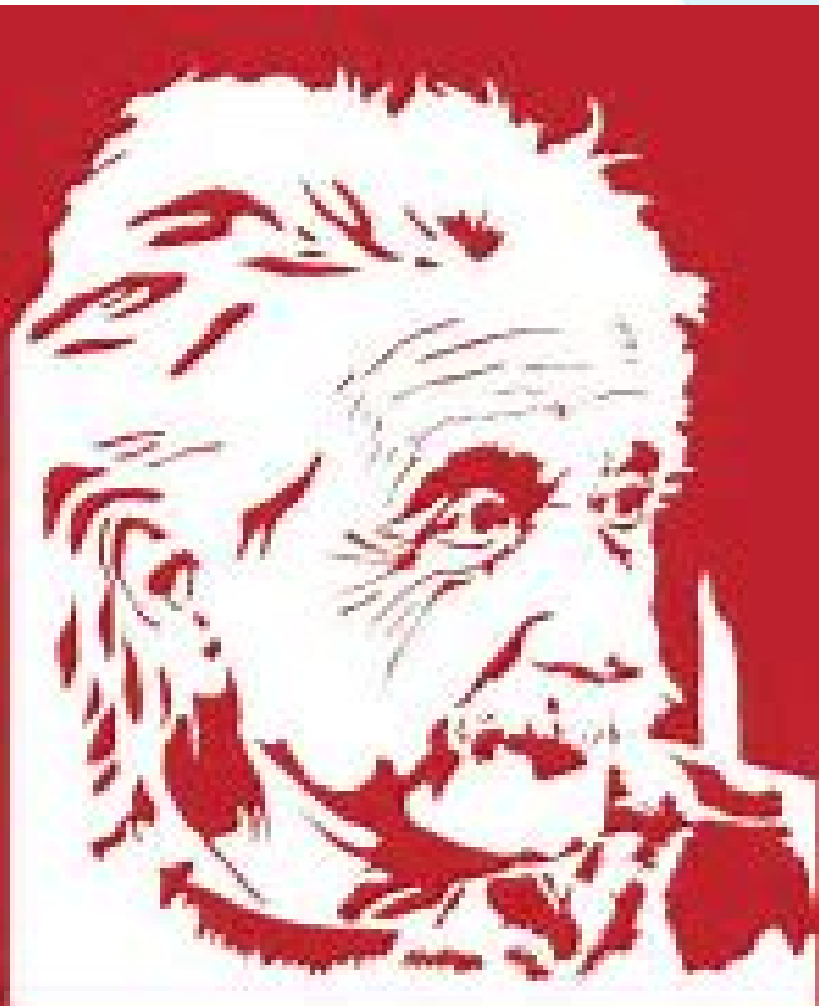
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“By **academic
freedom**

I understand ~~the~~ right
to *search for truth*
and to publish and
TEACH what one holds
to be **TRUE”**



Albert Einstein, union member





Borrowing heavily from the 1915 Declaration and the 1940 Statement, the State of New York's contract with UUP reads as follows:

§9.1 - It is the policy of the University to maintain and encourage full freedom, within the law, of inquiry, teaching and research. In the exercise of this freedom faculty members may, without limitation, discuss their own subject in the classroom; they may not, however, claim as their right the privilege of discussing in their classroom controversial matter which has no relation to their subject.

§9.2 - The principle of academic freedom shall be accompanied by a corresponding principle of responsibility.

§9.3 - In their role as citizens, employees have the same freedoms as other citizens. However, in their extramural utterances employees have an obligation to indicate that they are not institutional spokespersons.

The 1940 Statement also addressed the issue of tenure and explained that the “reason for tenure is to ensure both freedom of teaching and research of extramural activities and a sufficient degree of economic security to make the profession attractive to men and **women** of ability.”







Students enjoy academic freedom, too

Students have the right to “take reasoned exception to the data or views offered in any course”

They are also protected from “improper evaluation”

1967 AAUP Joint Statement on Rights and Freedoms of Students
(reaffirmed in 1992)



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Academic Freedom meets the Supreme Court



1950's and 1960's Supreme Court first addressed the concept of academic freedom.

Line of cases that dealt with challenges to statutes that barred the employment of faculty who belonged to “subversive organizations” or who refused to take a loyalty oath

Connected academic freedom to the freedom of speech and association protected by the first amendment.

But no complete definition of academic freedom or development of its legal basis was firmly established.





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Keyishian v. Board of Regents

“There can be no doubt of the legitimacy of New York’s interest in protecting its education system from subversion. But even though the government purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved.”



Pickering – Connick Test

Two-prong test to consider the question of when a public employee's speech is protected by the first amendment.

1. Is the employee's speech a matter of public concern or importance, i.e., government corruption, discrimination?
2. Is the employee's interest in exercising his/her speech outweighed by the employer's interest in regulating the speech?

In a vote of 8-1 the Court held that Pickering's first amendment rights were violated when he was terminated for speaking out as a citizen on matters of public concern.



Garcetti v. Ceballos

A public employee speech case but NOT a university setting.

Supreme Court determined that in order for public employees to claim a first amendment violation they must show that they were speaking as citizens and not simply doing their jobs when they expressed themselves i.e., speech that is part of your employment is not protected by the 1st amendment because, reasoned the court, *the employee is not speaking as a private citizen* but as a representative of the public employer.

So what constitutes public speech for a public employee?



Does this apply in a University setting?

Justice Souter is concerned about how this will impact first amendment protection of academic freedom.

In his majority opinion, Kennedy dismissed those concerns. “We need not, and for that reason, do not, decide whether the analysis we conduct today would apply in the same manner to a case involving speech related to scholarship or teaching.”



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