




Academic Freedom – History


- Origin
- “Soft law” vs. “hard law”
- Types of academic freedom:
 1. Professors’ protection from administrative or political interference (faculty academic freedom/*Lehrfreiheit*)
 2. The university’s insulation from state interference in making academic decisions (institutional academic freedom)
 3. Students’ right to receive and express ideas in academic environment (student academic freedom/*Lernfreiheit*)



Faculty Academic Freedom – Definition

“Academic freedom in this sense comprises three elements: freedom of inquiry and research; freedom of teaching within the university or college; and freedom of extramural utterance and action.”

- 1915 Declaration of Principles on Academic Freedom and Academic Tenure



Faculty Academic Freedom – Limits

- AAUP’s 1940 Statement:
 - Research with pecuniary return is subject to institutional regulation
 - Controversial matter which has no relation to a teacher’s subject should not be introduced
 - When faculty speak or write as citizens, they should be accurate, exercise appropriate restraint, show respect for the opinions of others, and “make every effort” to indicate they are not speaking for the institution
- AAUP’s 1966 Statement of Professional Ethics
- Freedom of speech (*Pickering v. Board of Education* (1968)):
 - Is the topic a matter of public concern?
 - If yes, weigh the professor’s interest in his/her speech against the university’s interest in efficiently delivering education.



Faculty Academic Freedom - Tenure

- AAUP’s 1940 Statement:
 - To protect academic freedom, “[a]fter the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.”
 - Seven-year maximum probationary period
 - Faculty dismissed for cause have a right to a hearing before a committee of their peers
- Institutional benefits:
 - Stability, loyalty, recruitment, teaching and research integrity



Faculty Academic Freedom – In the Law

“Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.”
 - Warren, C.J., *Sweezy v. New Hampshire* (1957).



Institutional Academic Freedom

“[T]he ‘four essential freedoms’ of a university— to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.”
 - Frankfurter, J. (concurring), *Sweezy v. New Hampshire* (1957).



Student Academic Freedom

- In the classroom
- Outside the classroom



Academic Freedom and Tenure – *The Code*

- Section 600, Freedom and Responsibility in the University Community.
- “The University of North Carolina is dedicated to the transmission and advancement of knowledge and understanding. **Academic freedom is essential to the achievement of these purposes. The University therefore supports and encourages freedom of inquiry for faculty members and students, to the end that they may responsibly pursue these goals through teaching, learning, research, discussion, and publication, free from internal or external restraints that would unreasonably restrict their academic endeavors.**”



Academic Freedom – True or False?

- Academic freedom prohibits Charlotte from placing restrictions on a faculty member's off-campus consulting activities.
- Academic freedom prohibits Charlotte from changing a student's grade without the permission of the faculty member who assigned the grade.
- Academic freedom permits faculty members to determine which courses they will teach.
- Academic freedom protects a faculty member's vulgar or offensive speech in the classroom unrelated to the course material.
- Academic freedom protects a faculty member's vulgar or offensive speech related to the course material.



Q&A