
Looking at Academic Freedom



by David E. Balch

“Mask required to enter the bank.”

“Please practice social distancing.”

“Please be ready to show proof of vaccination.”

The pandemic created a number of changes and challenges that went beyond masking and social distancing. For the academic community, it changed how coursework was presented mid-semester and led to re-evaluating each semester as conditions change and new variants of the virus appear.

At the same time, faculty were dealing with a number of incidents relating to free speech and academic freedom. While colleges wrestled with COVID-19, they also started hearing more and more from the media about controversies related to critical race theory and other hot-button issues.

The *Chronicle of Higher Education* published an article titled “Foundation for Individual Rights in Education,” wherein the author wrote, “Academic freedom is in the worst position of my career, and perhaps the worst condition it has been in decades—perhaps since the Red Scare.”

As more of these issues were reported, the line between academic freedom and freedom of speech started to blur. This article examines the scope of these two freedoms and how they interreact.

First Amendment Defined. The Constitution states, “Congress shall make no law respecting an establishment of religion or prohibiting

the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Academic Freedom Defined. The American Association of University Professors (AAUP) provides the definitive definition of Academic Freedom: “Academic Freedom is an indispensable requisite for unfettered teaching and research in institutions of higher education.” Alstyne (1990) noted the 1940 statement is “soft law” unlike the First Amendment to the Constitution, managed by the AAUP rather than the courts, in most cases.

Examples of the Application in California Community Colleges

Academic Senate for California Community Colleges. In 1995, the Academic Senate for California Community Colleges passed Resolution 09.03 supporting the primacy of the instructor to deliver course instruction based on the “course outline of record” and opposing any attempt of the administration to direct the teacher to teach in a way that “violated academic freedom.” The faculty member must relate course content to the approved syllabus.

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Rio Hondo College. Rio Hondo College enacted a board policy stating, “Since faculty are experts in course content and pedagogy, they should be free to evaluate the performance of their students, including assigning grades, without fear of reprisal for relatively higher or lower success metrics.” However, the policy noted that “The maintenance of freedom of speech, publication, religion, and assembly (each of which is a component of intellectual freedom) is the breath of life in a democratic society.... Campus members should at all times attempt to (1) be accurate, (2) should exercise judiciousness, (3) show respect for the opinions of others, and (4) should indicate when they are not speaking for the College.”

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Academic Freedom and Free Speech The “Who” and “What”

Free Speech. Sometimes the concept of academic freedom is confused with the constitutional right to free speech, since both concepts regard principles of free expression. However, these rights differ both in those “who” possess them and in “what” they guarantee.

The “who” is every individual in the United States and is enshrined in the First Amendment. There is no requirement on the quality and type of expression, and it indeed protects all forms of expression from interference by the government with some exceptions.

Academic Freedom. In 1967, the U.S. Supreme Court found that “[o]ur Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned.” Thus, the relationship between academic freedom and the First Amendment is typically left unclear. In 2007, Miriam Cooke noted that academic freedom is not a right but a basic necessity. The classroom is one place where students should expect to be challenged and to be exposed to a wide variety of new ideas. The new ideas may be in conflict with the views, norms, and values they bring to the class.

The “who” is a right held by educators in pursuit of their discipline to examine, with students, how facts are shaped into persuasive, moralizing narratives by opinions, judgments, and standpoints.

The “what” is defined by the Organization of American Historians (OAH) Committee on Academic Freedom as the rights within the educational contexts of teaching, learning, and research, both in and outside the classroom for individuals at private as well as public institutions.

While the pandemic may seem like it’s slowly coming to an end, the fight to protect academic freedom is just heating up. Understanding what it is and how it’s different from freedom of speech is imperative for protecting it. ■