

Academic Freedom for Students

Should students in colleges and universities enjoy academic freedom protections? It is common to see this question answered with a resounding 'no' when it is addressed at all. According to many, while students enjoy the rights to freedom of expression enjoyed by citizens generally, when free speech and academic freedom are properly distinguished there is no compelling reason to think the latter applies to students.¹ The prevailing attitude is captured well here:

Within the academic community, students are novices, under the intellectual tutelage of the faculty. Their freedom of speech is not properly understood as part of academic freedom because it has nothing to do with the 'preservations of the unique functions of the university, particularly the goals of disinterested scholarship and teaching.'²

As this passage suggests, the thinking is that the protections provided by principles of academic freedom are tied to the special mission of colleges and universities and while that mission requires certain protections for faculty above and beyond those afforded by general principles of free speech, it does not require anything similar for students.

This line of argument, I think suffers from a number of problems. It misconstrues the justifications for faculty academic freedom, it misconstrues the nature of sound postsecondary pedagogy, and it misconstrues the relationship between students and faculty in postsecondary education. When these are seen rightly, we can appreciate the plausible ways in which the principles of academic freedom can be applied to students.

The Ideals of Academic Freedom

The norms of academic freedom were definitively captured by the nascent American Association of University Professors (AAUP) in their well known 1915 statement.³ These

¹ Academic Freedom and more general free speech or expressive freedom rights frequently are not carefully distinguished. For example, the AAUP's *Joint Statement on Rights and Freedoms of Students* touches very briefly on what would count as student academic freedom as I will be understanding it, but mostly focuses on student rights in a more general way. This document can be found here: <https://www.aaup.org/report/joint-statement-rights-and-freedoms-students>.

² Matthew Goldstein and Frederick Schaffer, "Academic Freedom: Some Considerations", in Akeel Bilgrami and Jonathan Cole, eds., *Who's Afraid of Academic Freedom*, New York: Columbia University Press, 2015, quoting Byrne, "Academic Freedom: A 'Special Concern of the First Amendment'", *Yale Law Journal*, 99, 1989

³ AAUP 1915 *Statement of Principles on Academic Freedom and Academic Tenure*, <https://www.aaup.org/NR/rdonlyres/A6520A9D-0A9A-47B3-B550-C006B5B224E7/0/1915Declaration.pdf>. This statement was updated and amended in the 1940

principles reflect similar ideas that came out of Germany in the second half of the 19th century, and which now inform thinking on the subject in most modern universities and colleges internationally.⁴ As is well known, the AAUP statement recognizes three areas in which faculty members should enjoy special protections: research, teaching, and ‘extramural’ speech—faculty speaking out on matters of public interest and institutional concerns beyond their areas of academic expertise.⁵

That the principles of academic freedom needs to be distinguished from those of free speech more broadly is clear from the corresponding ‘duties and responsibilities’ attached to each of the three areas in the AAUP document and most subsequent discussions of the topic. “Free from external interference” does not mean “free from all limits.” Quite to the contrary, it is well recognized that the freedom to conduct research and to teach is constrained by academic and disciplinary standards that, in theory anyway, do not protect incompetency, charlatanism, academic fraud, and so on. Professors are free to choose what to research and teach, but only among ranges of options reflecting the best scholarship available, and they are expected to know what they are talking about as teachers and commentators.⁶ As it might be put, while free speech protects even bad and stupid speech, academic freedom does not.

In exchange for abiding by academic and disciplinary standards, faculty have traditionally enjoyed uncommon job security in the form of tenure while suffering comparatively few restrictions on their speech imposed in the name of institutional efficiency.⁷ As researchers and teachers they have also traditionally enjoyed considerable autonomy in determining many of the details of their employment—it is generally considered quite inappropriate for administrators to attempt to dictate to a faculty member what topic she should research, or which journals should or should submit her work to, or which texts she should assign in class, and so on. Perceived violations of academic freedom have and continue to be met with varying degrees of

Statement of Principles of Academic Freedom and Tenure, <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>.

⁴ For a recent history of Academic Freedom see Geoffrey R. Stone, “A Brief History of Academic Freedom” in Akeel Bilgrami and Jonathan Cole, eds., *Who’s Afraid of Academic Freedom?*, New York: Columbia University, 2015.

⁵ Tied to this is a claimed right a right to share in the governance of one’s college or university that has become widespread among faculty in more recent decades. I will put this idea aside here as it is not particular germane to the idea of students’ academic freedom.

⁶ It is less clear that professional norms are meant to govern professors’ forays into the public sphere, and the AAUP’s position on this has changed over time. While earlier statements of the Principle of Academic Freedom once urged academics to be mindful of their positions in making public statements and to scrupulous in being fair-minded and restrained in their rhetoric, this expectation has been greatly relaxed in more recent statements.

⁷ This is a complex matter and it plays out differently in private and public institutions, but as a rule non-faculty employees of colleges and universities are more likely to face limits on what they can say in public and in the course of fulfilling their official duties.

protest and litigation, and often leads to a great deal of defensiveness on the part of the institution in question.

Why Should Professors Enjoy Academic Freedom Protections? The Standard Account

Why should academics enjoy special expressive rights when and to the extent they go beyond the free speech protection enjoyed by other employees of colleges and universities? This, it turns out, is not an easy question to answer in a general way. It has often been easier to point to palpable threats to the academy than it has to find something in the academic mission itself that justifies these freedoms. In the closing decades of the 19th and early decades of the 20th it was clear the academy needed to be freed from its historical ties to ecclesial authority and the growing influence of business interests wishing to turn the academy to their own purposes. In both cases the integrity of scientific research in particular were plainly threatened. In a similar way, by the middle part of the 20th century it was clear colleges and universities needed to be protected from McCarthyism, which threatened to impose a crude political orthodoxy onto the professoriate. But when the academy is so protected, to what, exactly, are professors being freed *unto*? Why is the political purity of colleges and universities so important? This is where the “unique functions of the university” come in.

The most common defense of academic freedom, offered in the 1915 Statement and repeated regularly ever since, rests on the claim that the ultimate purpose of a modern college or university is the production and dissemination of truth and knowledge. I will call this the Standard Account. Some examples:

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.⁸

The mission of the university is the discovery, improvement, and dissemination of knowledge.⁹ As institutions of higher learning, [universities'] overarching goal is to advance knowledge.¹⁰

Academic freedom protections evolved as they did in order to permit scholars to pursue unpopular, risky, or impolitic research and teaching programs without fear of discipline or termination. These scholarly programs in turn make it

⁸ AAUP 1940 *Statement of Principles of Academic Freedom and Tenure*.

⁹ *Kalven Committee: Report on the University's Role in Political and Social Action*, 1967, <https://provost.uchicago.edu/reports/report-universitys-role-political-and-social-action>.

¹⁰ Micheal Joel Kessler, “Being Offended and Taking Offense” in Donald Alexander Downs and Chris W. Surprenant (eds) *The Value and Limits of Academic Speech: Philosophical, Political, and Legal Perspectives*, New York: Routledge, 2018.

possible for universities to serve society by advancing knowledge on a wide array of topics.¹¹

With this in place, the Standard Account adds two additional claims. The first is that the search for truth and the production of knowledge is hampered by compelled conformity to orthodoxy and popular wisdom. The second is that new discoveries and important extensions of our knowledge of ourselves and our world can be controversial as they often challenge entrenched and cherished beliefs. For these reasons, the argument concludes, college and university faculty members need to be free to pursue whatever lines of research they find promising even if they are far afield from established beliefs, and they must be free to pursue this research even if it offends or shocks popular or political sensibilities.

The Standard View and Pedagogy

This defense of freedom of research generates a corresponding image of the kind of education colleges and universities provide, which in turn informs the popular understanding of the academic freedoms tied to teaching. If faculty members enjoy academic freedom so that they can do the research they want, it makes sense they should be free to teach their results as well. Indeed, if the production and dissemination of this new knowledge is the primary mission of the institution, it seems like presenting the results of cutting edge research is the only legitimate pedagogical goal in higher education—what else would professors be teaching?

Lurking in this defense of academic freedom, finally, is a certain understanding of the relationship between professors and students. If college and university education is a one-way transmission of information—ideally newly discovered and cutting edge information—from experts to novices, then the relationship between professors and students is entirely asymmetric. All the knowledge is found in the minds of the professors, and it is their work in the classroom that brings about whatever learning that transpires. Accordingly, professors should enjoy the freedom to decide what to teach and how to teach it, since they are the authorities.

In this way, the Standard Account strongly suggests pedagogical authority should lie entirely with faculty, who need to enjoy the freedom to structure their classes as they see fit so as to best achieve the aim of sharing their research. It also suggests students are best served by having little to say in either the content of their education nor the manner of its presentation. To suggest otherwise can look entirely foolish—why should the novices have a say in what or how the experts teach? As Michelle Moody-Adams has put it, “[j]ust as it is unreasonable to demand that medical patients should be able to write their own prescriptions and determine their own treatment, it is not reasonable to demand that the content of the curriculum be determined by reference to what

¹¹ Shannon Dea, “The Evolving Social Purpose of Academic Freedom”, *Kennedy Institute of Ethics Journal* Vol. 31, No. 2, 2021, pg. 112.

students want to discuss.”¹² Since students typically have little role in the research that led to their professors’ status as an expert, it would be odd to suppose they need any particular freedoms when it comes to what or how those professors teach.

There is, then, a tight connection between common defenses of academic freedom and the prevailing conviction that students have no need of it. To suggest students should enjoy academic freedoms risks allowing, or even encouraging, ill-informed challenges to professors’ authority in the class room as students are allowed to question or reject both curricular content and its delivery.¹³ Put most succinctly, if college and university students are best understood as the passive recipients of their professors’ hard earned knowledge, there is simply nothing academic freedom can do for them.

Problems With the Standard Account

I do not think the Standard Account is entirely wrong, but I do think it is incomplete and misleading in essential ways. In particular, it reflects the strong tendency of those thinking about academic freedom to focus on the careers of prominent professors working at highly prestigious research universities for their understanding of higher education. An effect of the distorted thinking that results is a conflation of the research done at top notch research universities with the mission of higher education more broadly.

The Standard Account also assumes a simplistic understanding of college and university pedagogy that fails to reflect what actually goes on in the classrooms of even the most modestly competent professors. By far the most dominant contemporary approaches to teaching emphasize participation, discussion, and students actively engaging class material. Very few would defend the notion that simply delivering the results of research, no matter how controversial or cutting edge, amounts to effective teaching, or that such an approach does much further anyone’s education.

What are colleges and universities for?

To say the fundamental mission or task of a university or college is to produce either ‘truth’ or ‘knowledge’ is at best short hand for something a lot more complicated.

¹² Michelle Moody-Adams, “What’s So Special About Academic Freedom”, in Akeel Bilgrami and Jonathan Cole, eds., *Who’s Afraid of Academic Freedom?*, New York: Columbia University, 2015, pg. 105.

¹³ The case for students’ academic freedom is not helped by the willingness of politically motivated actors to appeal it to argue for just these kinds of student challenges so long as the targets are ‘left wing’ professors supposedly abusing their position to ‘indoctrinate’ their captive audiences. The most prominent example of such calls for students’ academic freedom is David Horowitz’ *The Student Bill of Rights*. To be clear, nothing I will be defending makes any contact with Horowitz’ projects.

Taken literally, such claims fail to illuminate either what goes on in much of higher education or why it has any value. Truths and knowledge are trivially easy to produce and there is nothing that guarantees that instances of either will be worth anything. If I count the blades of grass in a square foot of my lawn and then accurately Tweet the results, I will have produced a true statement and shared a bit of knowledge hitherto unknown to humanity. I will have also wasted an afternoon and Tweeted something of no worth to anyone.

It is better to start and remain with education and the fundamental task of teaching. To be sure, faculty research is an important *component* of higher education, but to make it its mission is to make what goes on at most institutions of higher education both mysterious and groundless. While there can be colleges and universities where research is at most a secondary focus, an institution that does no teaching is a think tank or research center, not a college or university. The simple fact is that most students in the US do not attend elite research universities, and most faculty don't teach in them. A substantial amount of faulty research, moreover, is recorded in specialized journals few read and has little social impact one way or the other.

It is of course true that significant advances in our shared knowledge of ourselves and our world come out of the world of higher education and that some professors do cutting edge research that radically challenge and in time change our understanding of ourselves or our world. But such work is rare, and doing it is not a reasonable expectation for the thousands of academics working outside the handful of truly impactful programs found in highly selective research universities. Most college and university professors will have more students than readers over the course of their careers, and the research they do will be most valuable to the extent it informs and enlivens their teaching.

Academic Freedom and Education

If we are to focus on education we need some understanding of what education is and what it aims to do. Libraries have been filled with ruminations on such matters, but a few simple observations will have to suffice for our purposes. Fundamentally, I will assume, education is a process by which students acquire three things: important knowledge, valuable skills, and a deepened understanding of themselves and their world. What counts as the knowledge and skills worth teaching is determined in large measure by past scholarship and perceptions of what remains important and relevant—this is a significant contribution of faculty research that makes its way out of elite programs and into academic disciplines more broadly.

The knowledge being transmitted in post-secondary education is generally embodied in disciplinary specific content as well as common curriculum. The discipline of chemistry, for example, provides a reasonably definitive account of what it is to be educated in that science, the field of American history has done the same there, and so on. A similar process has determined which skills students need to acquire either as

general academic abilities in reading, writing, and mathematical and analytical skill, or as more domain specific skills tied to career preparation or professional training.¹⁴

The third task of higher education is to provide students with the intellectual tools needed to synthesize the knowledge and skills they have acquired into a more integrated and comprehensive understanding of themselves and the world in which they live. This is, I think, one way to understand the traditional aims of liberal education, and a way to distinguish such education from job training or specialized preparation in a single academic area. What knowledge and skills students need in order to be able to work towards a deepened understanding of themselves and their world is also determined through the emergence of a shared sense of what is important and relevant in the academy itself.

The Standard Account Re-Visited

Focusing more on education as a whole as opposed to more narrowly on research does not change the general grounds for academic freedom for professors. Just what constitutes the knowledge and skills students need to acquire to be considered education is dynamic, as is the range of ideas and works that will prove to be invaluable to students' attempt to better understand themselves and their world. It is here that the research of academics has an important impact. Professors who stay current in their fields will have much more to offer students than those who are unfamiliar with recent work being done. And here too there are clear dangers in professors feeling compelled to be overly deferential to orthodoxy and constrained by fears of controversy.

There are two ways, however, in which the Standard Model is challenged when we move the educational missions of colleges and universities to the forefront. The first can come by way of a reminder that the earliest defenses of academic freedom, developed by German thinkers in the 19th century, explicitly included *Lernfreiheit*, or 'freedom to learn', as a core component. This was understood as both a general right to a full and adequate post-secondary education as well as a right to make reasonable choices within the course of that education. This included the student's right to choose a major or area of focus, and where appropriate classes within a course of study.

With the focus on education we can also appreciate the importance of the *manner* in which college students are successfully taught. In both contemporary theory and practice, the kind of passive, one way transmission of knowledge suggested by the Standard Account is hardly the norm. In fact, the importance of the students' active participation in their own learning could hardly be emphasized more in modern

¹⁴ See Brian Leiter, "Why Academic Freedom?" in Donald Alexander Downs and Chris W. Surprenant (eds) *The Value and Limits of Academic Speech: Philosophical, Political, and Legal Perspectives*, New York: Routledge, 2018 for an illuminating account of disciplinary standards and their importance to education.

pedagogy, and no model of teaching is more strongly discouraged than the supposed 'sage on the stage' approach of straight lecturing to a class of note taking listeners.¹⁵ The range of techniques to affect 'active learning' are, I trust, familiar to anyone who is paying the least bit of attention to contemporary thinking on effective teaching.

The importance of having active and engaged students highlights the role of things like class discussions, class activities, student research projects, and service learning. In the course of all of these there will be opportunities for students to make choices and to express views of their own. Within the confines of disciplinary standards they should be able to make such choices and engage in self-expression as part of the process by which they become more educated. While the degree to which students will enjoy such freedoms will vary with the kind and level of class, it is hard to imagine any in which there is absolutely no place for students to ask questions, propose their own ideas, discuss the topic in a broader cultural context, and so on. With this in place, it is easy to see in turn that the same concerns about the stifling effects of enforced orthodoxy and fear of controversy apply to students' active involvement in learning.

Academic freedom for students would be most important in classes which by their nature touch on controversial matters, where that means there are reasonable disagreements among knowledgeable parties. In an ethics class, for example, it seems right that students ought to be free to counter, in a manner appropriate to the assignment, Peter Singer's arguments about our obligations to give substantial proportions of our income to charities fighting world hunger even if the professor is convinced Singer is right, or to argue for a position on the morality of abortion that the professor—and perhaps most of the class—has openly rejected. In a similar vein, students in sociology classes exploring the roots of poverty, or the effects of single parenting, or other contested questions ought to be free to explore unfashionable theories so long as they are academically respectable and in ways that are appropriate to assignments.

There is, then, a strong case to be made for protecting students' academic freedom when it comes to their participation and interactions in classroom and their own work. An academic environment which stifles the expressions of viewpoints which are germane to an assignment or class discussion because they are contrary to the convictions of most students or the professor, or because their expression may cause some offense, is incompatible with the educational mission of the college or university. As Bruce MacFarlane puts it, "[a]cademic freedom is about the freedom of *scholars*, and students...are scholars too."¹⁶

¹⁵ I am doubtful that this model was ever much celebrated as a great way to teach, but that is a topic for another occasion. The important point here is that outside of defenses of academic freedom it is universally scorned.

¹⁶ Bruce MacFarlane, "Re-framing academic freedom: a capability perspective", *Higher Education*, 63, 2012, pg. 720.

Limits on Student Academic Freedom

Like the academic freedom of professors, that of students is limited in important ways by academic and disciplinary standards, and its range will in most cases be more modest. While students, as citizens and residents, enjoy the free speech rights afforded to them by the First Amendment, these rights are severely restricted in the classroom, where they are balanced against institutional interest performing its educational mission. This means, for example, that students are not free to talk in class about things they are generally free to talk about if in so doing they will be disruptive or off topic or otherwise interfering with the course. Nor are they free to write without penalty papers that disregard the assignment or directions of their professor, or which fail to meet legitimate academic standards. Broadly speaking, as far as these matters go, the only limits placed on the pedagogical practices of professors and college policies is that they be content neutral and implemented without discrimination.

Academic freedom for students will, then, carve out spaces within these restrictions on free speech. Putting aside the question of whether they might be legally recognized, the rights I am pointing to would, like academic freedom rights in general, be defined by and justified in terms of the academic mission of colleges and universities—students should enjoy the freedoms they need to learn, not unhampered expressive rights more generally. A student's right to make choices about her education should be protected when and to the extent doing so will enhance her education without undermining the mission of the college or university.