

Academic Freedom in the Age of Trump

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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*

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Rationale for Academic Freedom

“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.**”

*1940 Statement of Principles
on Academic Freedom and Tenure*

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We want teachers and scholars to be uninhibited in criticizing, and in advocating changes of,

1. accepted **theories**,
2. widely held **beliefs**,
3. existing social, political, and economic **institutions**,
4. the **policies and programs** of their educational institution, and
5. the **administration and governing board** of their institution.
6. In addition, we want them to be uninhibited in **coming to the aid** of any of their colleagues whose academic freedom is in jeopardy.

Fritz Machlup

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Is Academic Freedom Simply First-Amendment Free Speech?

Academic freedom is both **broader** and **narrower** than First Amendment free speech:

- It is **broader** because it is a condition of employment at those private institutions that provide for it in their regulations. Furthermore, some court decisions have been interpreted as **narrowing** First Amendment protection of academic freedom for public employees.
- It is **narrower** because academic freedom does not protect some speech that may be protected by the First Amendment (e.g., disciplinary incompetence).



Academic Freedom is Under Attack

The 2016 election has exacerbated a political climate that was already inimical to academic freedom:

- We have recently seen **legislative** and **gubernatorial attacks** on individual faculty members, course offerings, governing boards, the institution of tenure, and, generally, the institutional autonomy of colleges and universities.
- The **professor watchlist** and **targeted harassment** of faculty members are **threats to academic freedom**.



“Enemies of the American People”

Like the recent attacks on the press, there is reason to be concerned that attacks on higher education are aimed at the **role that it plays** in supporting **democracy**, namely the role of universities as spaces where **ideas can be explored**, where **dissent can occur**, and where **the truth can be investigated**.



What is Academic Freedom?

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



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**.

Challenges to Freedom in the Classroom

- A Wisconsin legislator recently **threatened to curtail funding** for the University of Wisconsin over its offering of a course on *The Problem of Whiteness*.
- **Surreptitious recordings** of faculty members speaking in the classroom, at times edited to omit or distort context, have been **posted online**, leading to **targeted harassment**.
- The **Professor Watchlist** claims to list professors “who discriminate against conservative students and advance leftist propaganda in the classroom.”



On Discrimination or Propagandizing

- “As teachers, professors encourage the free pursuit of learning in their students.”
- “Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors.”
- “They avoid any exploitation, harassment, or discriminatory treatment of students.”

Statement on Professional Ethics

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However, ...

... some assume “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.”

Freedom in the Classroom



Freedom of Research and Publication

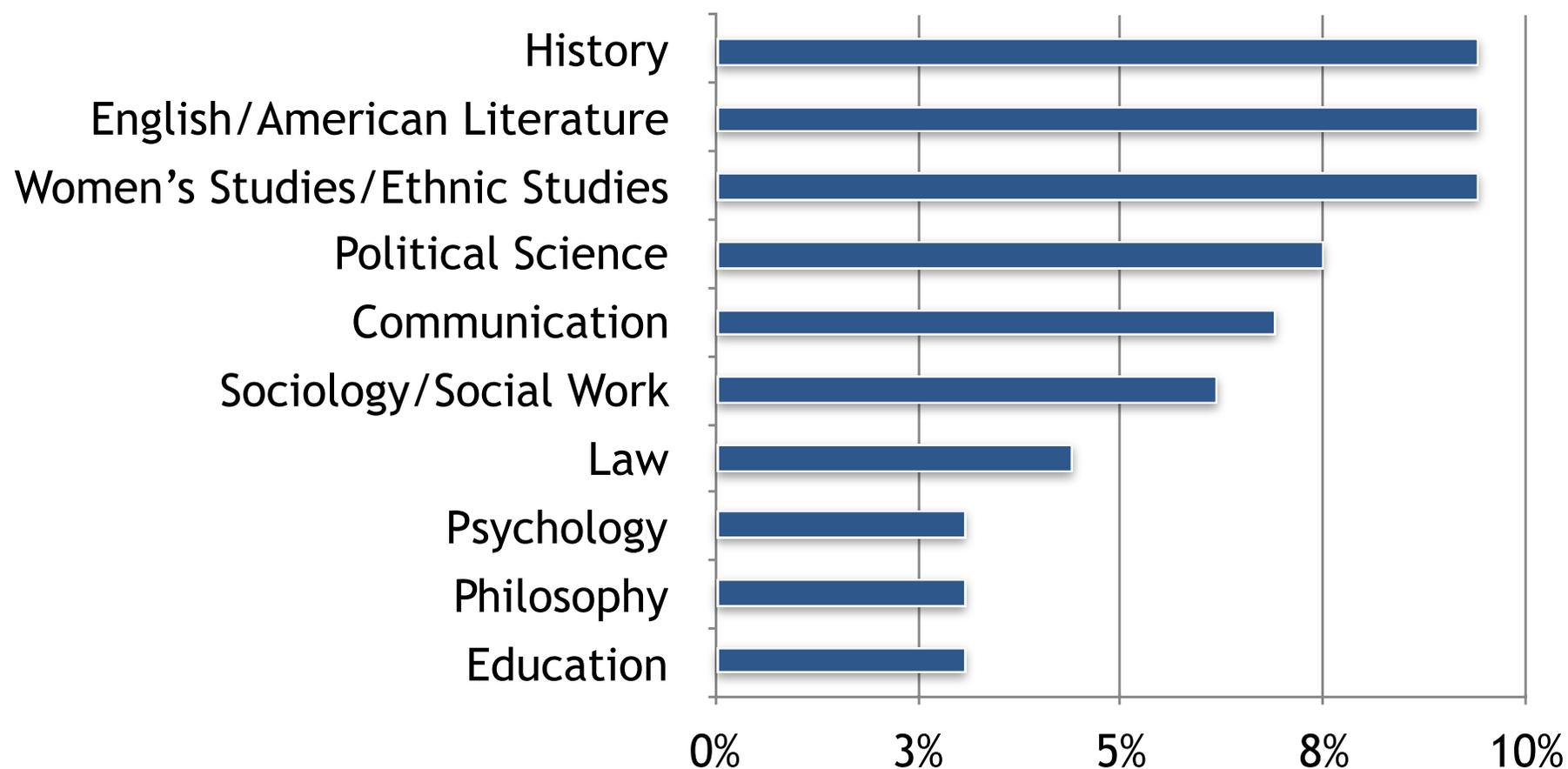
- The freedom to **pursue research and publish the results of that research** are fundamental to academic freedom.
- Professional ethics and disciplinary norms, including peer review, **limit this freedom.**



Challenges to Freedom of Research

- Different **areas of research** have historically come under **scrutiny**, threatening freedom of research in these fields: e.g., economics, social sciences, area studies, ethnic studies, gender studies, climate science, fetal tissue research.
- The use of **Freedom of Information Act (FOIA)** requests to **harass** faculty members in certain research areas is a recent example of a **threat** to freedom of research.

About 2/3 of the Professors on the Watchlist are from the following areas:



Source: Marion Leary, "Professor Watchlist: Who Is Being Targeted," Huffington Post.



Intramural Utterances

- Intramural speech refers to speech on matters of **institutional governance**.
- Protecting intramural utterances **explicitly** as an aspect academic freedom is important because of **potential challenges** to it at public institutions in the context of the *Garcetti* ruling of the Supreme Court.



Academic Freedom and Faculty Governance: Inextricably Linked

- Intramural speech is a **constitutive element** of academic freedom, and...
- ...maintaining academic freedom requires **faculty participation in governance**, in particular through the faculty's primary responsibility for **faculty status**: appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal.



Extramural Utterances

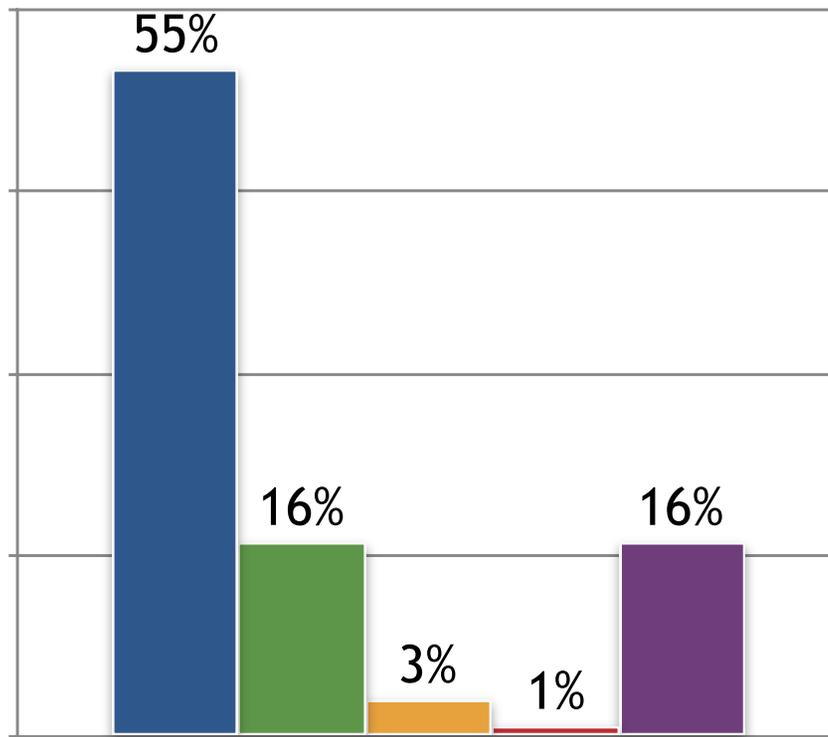
- Including the freedom "to address the larger community with regard to any matter of social, political, economic, or other interest, without institutional discipline or restraint" is an aspect of academic freedom **unique** to the United States.
- It is arguably the most **controversial** and most **challenged** aspect of academic freedom, as it does not necessarily relate to disciplinary expertise.

Challenges to Freedom of Extramural Utterance

- The dismissal of Professor Steven Salaita from his tenured appointment at the University of Illinois over tweets that condemned the Gaza War in strong terms. The AAUP subsequently censured the institution.
- The targeted harassment of Professor George Ciccariello-Maher of Drexel University over a tweet mocking *white genocide*.

Professors “who discriminate against conservative students and advance leftist propaganda in the classroom”?

- In class/On Campus
- News Outlet
- Other/Unknown
- Social Media/Blogs
- Publication



Source: Marion Leary, “Professor Watchlist: Who Is Being Targeted,” Huffington Post.

Limits on the Freedom of 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 Statement on
Extramural Utterances*



A Broader View: What Protects Academic Freedom and How Are Those Protections Under Attack?

- **Institutional governance**, which assigns roles to the governing board, administration, and faculty for the defense academic freedom.
- **Academic due process**, which provides procedural safeguards for **tenured** and **untenured** faculty members.
- **Tenure**, which protects faculty against dismissal without due cause.



Attacks on Institutional Autonomy of Colleges and Universities

- Since governing boards have as one of their functions to **uphold institutional autonomy**, recent instances of politicizing the selection of public board members poses **a threat to academic freedom**.
- Examples include the University of Louisville and the University of North Carolina system.

On the Role of the Governing Board in the Defense of Academic Freedom

“When ignorance or ill will threatens the institution or any part of it, the governing board must be available for support. In grave crises it will be expected to serve as a champion. Although the action to be taken by it will usually be on behalf of the president, the faculty, or the student body, the board should make clear that the protection it offers to an individual or a group is, in fact, a fundamental defense of the vested interests of society in the educational institution.”

Statement on Government of Colleges and Universities

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How You Can Defend Academic Freedom

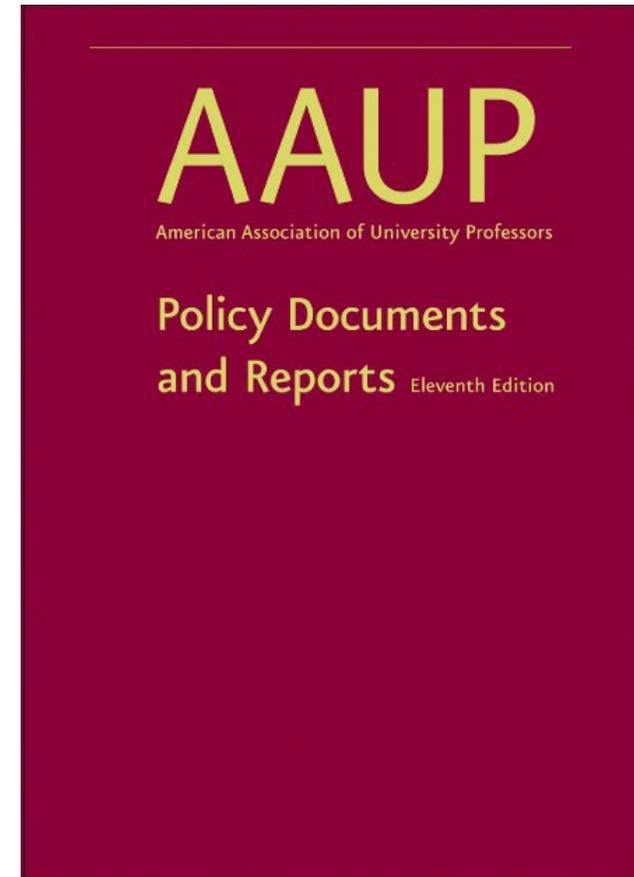
- **Serve on institutional governance bodies or in your AAUP chapter leadership.**
- **Seek opportunities to educate your faculty colleagues, administrators and governing board members about their roles in the defense of academic freedom and in shared governance generally.**

Attacks on Tenure and Academic Due Process

- Tenure has been **under attack for decades**, which makes the current attacks on academic freedom more dangerous.
- A **decreasing percentage** of faculty members are tenured or eligible for tenure.
- Faculty on contingent appointments usually have **fewer due-process protections** than tenure-track faculty members.
- Legislative attacks on tenure have taken the form of a **full-on assault**, such as proposed legislation in Iowa and Missouri that prohibits public institutions from having tenure systems.

How You Can Defend Academic Freedom

Defend tenure and academic due process by advocating the inclusion of **Redbook statements**, such as the *Recommended Institutional Regulations on Academic Freedom and Tenure*, into **collective bargaining agreements** and **faculty handbooks**.





How You Can Defend Academic Freedom

- **Speak out** individually and collectively, through governance bodies or an AAUP chapter, **against threats to academic freedom**, such as:
 - ▶ targeted harassment of faculty members.
 - ▶ calls to rescind invitations of speakers.
 - ▶ censorship of art, poetry, or student newspapers.



How You Can Defend Academic Freedom

- **Talk to your students** about the **importance** of academic freedom to their **education** and to **society at large**.
- **Write an op ed** about the **importance** of academic freedom to the **education of students** and to **society at large**.
- **Contact your elected representatives** to express opposition to legislative attacks on academic freedom and higher education generally.



How You Can Defend Academic Freedom

“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.”

Arthur O. Lovejoy

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Thank you!

