

# Academic Freedom and Free Speech

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*This information is intended to facilitate discussion and inform faculty broadly regarding the scope of academic freedom and free speech. The information is not exhaustive in treatment of the topics, nor does it constitute University Policy or legal advice. In any specific factual circumstance, you should consult with the Office of General Counsel for legal advice pertaining to academic freedom and/or free speech.*

## What is Academic Freedom?<sup>1</sup>

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In general, academic freedom is the right of faculty in the discharge of their duties to express their ideas and challenge the ideas of others without fear of retribution. This principle typically flows from a research university's core mission which can include promoting inquiry and advancing human knowledge and understanding. While aspects of academic freedom are protected

by the First Amendment, the principle pre-dates the Constitution. It is a right often claimed by individual faculty members, but is primarily a right afforded to faculty members as a group. It further serves as the basis for faculty input in institutional governance and derives from a shared professional expertise and training.

## WHAT FREEDOMS DOES ACADEMIC FREEDOM GENERALLY ENCOMPASS?

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Academic freedom is broad in scope, but in general includes:



**Freedom of research and publication.** Faculty enjoy freedom in their research and in circulating and publishing their results, within the standards of accountability established by their profession and individual disciplines. This freedom follows from the basic commitment of faculty to advance knowledge and understanding.



**Freedom of teaching.** Faculty must be able to disseminate the results of their research and the research of others in their profession. Instruction may occur in an atmosphere of controversy so long as what is taught remains, in a broad sense, educationally relevant, and assists students in mastering or appreciating the significance of the subject.



**Freedom of internal criticism.** Because of their education and institutional knowledge, faculty play a role as participants in university decision-making. By virtue of this role, generally, faculty are entitled to comment on University policies or decisions, either individually or through institutions of faculty governance.



**Freedom to participate in public debate.** Both within and beyond their areas of professional expertise, generally, faculty are entitled to participate as citizens in public forums and debates without fear of institutional discipline or restraint, so long as it is clear that they are not acting on behalf of or speaking for the University.

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<sup>1</sup> See the 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments," Association of American University Professors Policy Documents and Reports, 1995. Available at: <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>.

## WHAT RESPONSIBILITIES DOES ACADEMIC FREEDOM ENCOMPASS?

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With academic freedom also comes responsibilities:

- Faculty should not subject students, as a general matter, to discussion in the classroom that is not educationally relevant to the subject matter of what is being taught.
- Faculty should demonstrate respect for others as individuals, and show respect for the rights of others to express their views.
- Faculty should feel free to discuss subjects within their academic competencies, exercise intellectual honesty, and present opinions justified by the facts and standards of scholarship.
- Faculty should exercise caution not to speak on subjects not within their area(s) of expertise.

Unlike some employees, faculty always wear several hats. They are members of a learned profession, officers of a specific educational institution, and private individuals. These multiple roles impose special obligations. As scholars and university officers, faculty should remember that the public may judge their profession and their

institution by their speech. Thus, at all times, faculty are advised to exercise appropriate restraint, show respect for the opinions of others, and make every effort to clarify when they are speaking for themselves individually, and when they are speaking for their institution.

## What First Amendment rights do faculty enjoy?

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Like all members of a university community, faculty, as private citizens, enjoy the same First Amendment rights to speak as any private citizen. Speech is a broad term: it encompasses, for example, the spoken word, the written word, visual arts, music, drama, dance and forms of symbolic expression. With limited exceptions, all these forms of speech are protected from government and university interference. Categories of speech excluded from protection by the Supreme Court include defamation, invasion of privacy, fraudulent misrepresentation, obscenity, advocacy of imminent lawless behavior and fighting words. Commercial speech is

another exception. While commercial speech is entitled to First Amendment protection, it does not receive the same protection as “political speech” which is closer to the First Amendment’s core values.

Faculty should be cognizant that their institutional affiliation carries with them as they enter public debates as individuals – a right noted in the above in the Freedom to participate in public debate section. Faculty, when exercising their First Amendment rights as individuals, should make clear that they are not speaking or acting on behalf of their University.

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