
Academic Freedom and Outside Speakers

(NOVEMBER 2023)

The statement that follows, prepared by a subcommittee of the Association's Committee A on Academic Freedom and Tenure, was approved by Committee A in July 2007. A revised and expanded text was approved by Committee A in October 2023.

The problem of how colleges and universities should address the potential presence of controversial outside speakers on their campuses is not new. Citing an inability to guarantee the safety of outside speakers or the lack of balance in invitations extended by a college or university group, college and university administrators at times attempt to cancel or to withdraw funding for otherwise legitimate invitations to outside speakers. The AAUP has consistently understood such practices, in all but the very rarest and narrowest of circumstances, to pose serious threats to academic freedom. Since its Fifty-third Annual Meeting in 1967, the AAUP has affirmed “its belief that the freedom to hear is an essential condition of a university community and an inseparable part of academic freedom,” and that “the right to examine issues and seek truth is prejudiced to the extent that the university is open to some but not to others whom members of the university also judge desirable to hear.”¹

The AAUP has therefore long held that colleges and universities should exercise restraint and not interfere with otherwise legitimate invitations to outside speakers except in the most extraordinary circumstances, where strong evidence of imminent danger justifies rescinding an invitation. The value of administrative restraint extends to protest against outside speakers as well. Protesters have their own interests in academic freedom and freedom of expression. Colleges and universities should not presume too easily that those protesting or

challenging particular speakers are necessarily “silencing” them.² It is essential to distinguish between those actions that actually prevent a speaker from speaking and those that, while arguably unruly or uncivil in their modes of expression, do not ultimately prevent the speaker’s own expression from taking place. Whether those who protest a speaker should be understood as crossing the line to engage in a “heckler’s veto” will necessarily depend on the specific facts and circumstances of the situation. Ultimately, it is exceedingly difficult to enforce a standard of protest conduct that does not potentially threaten academic freedom or freedom of expression.

The intervening years have demonstrated the general soundness of these commitments, which we affirm once more. Indeed, the political context in which controversies involving invited outside speakers unfold and their broader relationship to academic freedom and shared governance occur only reinforces the importance of these principles. While university and college administrators often condemn the “heckler’s veto” as impermissibly interfering with students’ right to hear, as this committee has noted, recent

1. “Fifty-Third Annual Meeting,” *AAUP Bulletin* 53, no. 2 (1967): 133–35.

2. This view is in line with the general AAUP position on faculty speech. As the 2011 *Statement on Ensuring Academic Freedom in Politically Controversial Academic Personnel Decisions* notes, “As political threats to academic freedom intensify, so too does the need for faculty members to contribute their expertise to public discourse and policy formation. The protection of their unfettered expression, including the ability to espouse highly controversial and unpopular views, is an essential social responsibility of universities and colleges.”

years “have seen an increase in partisan political attempts to restrict the public education curriculum and to portray some forms of public education as a social harm.”³ Today, rescinded (or never-extended) speaker invitations increasingly occur alongside a different kind of censorship that interferes with students’ right to hear, as pernicious efforts by outside, noncampus actors, both public and private, attempt to dictate what counts as legitimate knowledge that may be researched, taught, and discussed on college and university campuses. Further, these efforts to control the content of research and teaching are increasingly coordinated, partisan forms of political intrusion that mobilize the repressive powers of the state or other forms of coercive outside influence (such as pressure from donors or mobilized attacks on faculty through social media) to intrude upon the intellectual autonomy and operations of colleges and universities. While speaker controversies certainly involve the right of campus groups to invite speakers they wish to hear and the right of protesters to voice their opposition, Committee A understands canceled controversial speaker invitations and partisan political intrusion into public education to be interrelated. Both impermissibly infringe upon the open exchange of ideas on college and university campuses in mutually reinforcing ways and diminish the right to hear and to learn.

College and university administrators, now sensitive to external attacks, describe the right to hear as a question of viewpoint balance—or the idea that students should be able to hear all sides of a debate or all perspectives on an issue.⁴ Ironically, in today’s context of coordinated external political intrusion and attacks on higher education, this asserted concern for viewpoint balance is used to restrict certain

disfavored viewpoints expressed by faculty members in the classroom and by outside speakers invited to campus. This puts particular subjects and disciplines at increased risk of administrative interference both in the classroom and in invitations to controversial outside speakers.

To be clear—especially as political intrusion into public education now expressly targets research and teaching about, for example, US histories of racial and gender inequity—we are defending not particular viewpoints but a principle: the right to hear. Committee A understands that attempts to ensure the principle of the right to hear must nevertheless reckon with the political realities of the moment and not cede the legitimacy of the subjects and disciplines under direct attack. To do otherwise would mean relinquishing the faculty’s primary responsibility for curriculum, subject matter, and research, as well as individual faculty members’ academic freedom.

As multiple AAUP reports have documented, the vast majority of state-backed political intrusions within higher education target specific sorts of research and teaching, including those concerning the history and perpetuation of racism and other accounts of state-enabled violence in the United States; LGBTQ+ histories and histories of gender and sexually based violence, particularly as they relate to racial, colonial, and reproductive justice; the history, policies, and actions of the state of Israel; the history, policies, and actions of the state of India regarding its caste system and treatment of Muslims; and many areas of scientific investigation, including climate change, among other topics of critical importance.⁵ Administrative attempts to “balance” or otherwise prevent viewpoint discrimination thus occur within constraints imposed by statutes that prohibit the expression of many histories in ways that directly affect who is allowed to speak on campus.

3. *Legislative Threats to Academic Freedom: Redefinitions of Antisemitism and Racism* (2022).

4. The demand for balance in viewpoints misunderstands the meaning of balance within a university setting. In the context of teaching, balance refers to the obligation of instructors to convey to students the state of knowledge, as warranted by a professional community of inquirers, in the field of learning to which a given course is devoted. There is no obligation to present ideas about “intelligent design” in a biology course, for example, because those ideas have no standing in the professional community of biologists. If invitations to outside speakers are extended within the context of teaching, they should be consistent with the obligations of professionalism. They should not be subject to an additional standard of balance that does not reflect professional standards.

5. See, for example, the *Preliminary Report of the Special Committee on Academic Freedom in Florida* (2023); *Governance, Academic Freedom, and Institutional Racism in the University of North Carolina System* (2022); *Legislative Threats to Academic Freedom: Redefinitions of Antisemitism and Racism* (2022); *Statement on Legislation Restricting Teaching about Race* (2021); *Academic Freedom and Tenure: University System of Georgia* (2021); and *The History, Uses, and Abuses of Title IX* (2016). In the 2007 statement *Freedom in the Classroom*, this committee opposed those who “sought to regulate classroom instruction [by] advocating the adoption of statutes that would prohibit teachers from challenging deeply held student beliefs or that would require professors to maintain ‘diversity’ or ‘balance’ in their teaching.”

The federal district court's opinion in the case *Pernell v. Florida Board of Governors* describes the viewpoint discrimination that results from partisan political interference in higher education under Florida's "Stop WOKE" Act, also known as the "Individual Freedom Act" (IFA). Presented by the Florida legislature as a law intended to "protect individual freedoms and prevent discrimination in the workplace and public schools," in practice, the legislation severely restricts how concepts related to race, gender, and sexual orientation are discussed in classrooms. The district court describes the IFA as a law that "officially bans professors from expressing disfavored viewpoints in university classrooms while permitting unfettered expression of the opposite viewpoints." In effect, "professors enjoy 'academic freedom' so long as they express only those viewpoints of which the State approves," a policy the court characterizes as being "positively dystopian." The law chills the academic freedom of faculty members and students to investigate, discuss, or simply acknowledge, for example, historical inequities and their contemporary relevance and persistence.⁶

The district court in *Pernell* describes the impact of those restrictions on pedagogy as well as who would be *legally allowed* to speak on campus. The court poses the following hypothetical of an outside speaker to illustrate how the IFA chills, silences, and otherwise prohibits particular kinds of speech and experience. If a public Florida law school were to invite Supreme Court justice Sonia Sotomayor to speak to a class of law students, the court notes, she would be prohibited from discussing her own published writing about her lived experience because it endorses affirmative action. The court notes that "in praising the affirmative action policy that opened a 'special door' for her, Justice Sotomayor has expressed a viewpoint that the State of Florida deems repugnant and has prohibited. Under the IFA, her words would be *per se* discrimination

if she were to utter them as a guest speaker in a law school classroom."⁷

As this committee documented in 2011, political intrusion into campus affairs arises most often over "political ideology, religious doctrine, social or moral perspectives, corporate practices, or public policy" and "not more narrowly professional disagreements and disputes among academics."⁸ As disciplines like ethnic studies, gender studies, and human rights have become more institutionalized and included as part of established curricula, more students and faculty members work in these areas and therefore more invitations are issued to outside speakers with similar intellectual interests. This is where we now see administrations yielding to political backlash against such developments by justifying actions to censor speakers to achieve a balance of viewpoints.

Committee A therefore reaffirms its position that respecting faculty and student choices of invited outside speakers is part of academic freedom and is a best practice that restrains the hands of politically zealous or overly cautious college and university administrators. At the same time, we note that this is only one aspect of the "right to hear" within the broader meaning of academic freedom, where "the protection of faculty rights based on disciplinary competence" remains essential to the furtherance of critical thinking and scientific inquiry.⁹ To understand the university as "open" only if any invited speaker is permitted to speak is to miss the conditions under which "freedom to hear" and the "right to examine issues and seek

6. The AAUP has previously noted an upswing of partisan legislative attempts to restrict teaching and research—notably on the subjects of race, gender, and sex—and responded in the 2021 "Statement on Efforts to Restrict the Teaching of History" as follows: "The purpose of education is to serve the common good by promoting inquiry and advancing human knowledge; it should not be used to advance partisan aims. Under principles of academic freedom widely endorsed by the higher education community, college and university teachers are entitled to freedom in the classroom in discussing their subject. Decisions about scholarship and teaching should be made by qualified faculty with expertise in the subject matter, not by politicians."

7. "I had no need to apologize that the look-wider, search-more affirmative action that Princeton and Yale practiced had opened doors for me. That was its purpose: to create the conditions whereby students from disadvantaged backgrounds could be brought to the starting line of a race many were unaware was even being run. I had been admitted to the Ivy League through a special door, and I had more ground than most to make up before I was competing with my classmates on an equal footing. But I worked relentlessly to reach that point, and distinctions such as the Pyne Prize, Phi Beta Kappa, summa cum laude, and a spot on *The Yale Law Journal* were not given out like so many pats on the back to encourage mediocre students. These were achievements as real as those of anyone around me." Sonia Sotomayor, *My Beloved World* (New York: Alfred A. Knopf, 2013), 191, cited in *Pernell* (2022 U.S. Dist. LEXIS 208374 *; 641 F.Supp.3d 1218; 2022 WL 16985720).

8. *Ensuring Academic Freedom in Politically Controversial Academic Personnel Decisions* (2011).

9. Joan W. Scott, "On Free Speech and Academic Freedom," *Journal of Academic Freedom* 8 (2017), <https://www.aaup.org/JAF8/free-speech-and-academic-freedom>.

truth” can be used as pretexts for imposing partisan political agendas that seek to destroy academic freedom and shared governance. A broad interpretation of the “right to hear” is necessary to secure academic freedom, including faculty rights based on disciplinary competence to guide the educational mission of their institutions through participation in shared governance. As the 2011 statement *Ensuring Academic Freedom in Politically Controversial Academic Personnel Decisions* notes, “Contemporary political pressures on the academic community must be countered by emphasizing how free universities contribute to the common good even as they create political tensions between the academy and society that require the protection of academic freedom.”

The best counter to partisan attacks on specific forms of speech, teaching, and research is the adequate, consistent funding and promotion of all departments across campus, especially any whose work finds itself under sustained political attack. While today that political attack takes a particular shape, tomorrow it might well take another. While today, disciplines and subjects concerning race and gender are portrayed as illegitimate and harmful by forces external to the university, make no mistake: the precedent these attacks set undermines the independence of colleges and universities that are pressured to comply with politically imposed restrictions, thereby destroying faculty autonomy, academic freedom, and shared governance. Committee A therefore emphasizes the importance of a “right to hear” that includes and exceeds the presence of controversial outside speakers on college and university campuses and reaffirms academic freedom and shared governance as the cornerstones of higher education. ■