

What is academic freedom?

Academic freedom protects college and university faculty members from unreasonable constraints on their professional activities. It is a broad doctrine giving faculty great leeway in addressing their academic subjects, allowing them to challenge even conventional wisdom. Under principles of academic freedom, a faculty member may research any topic. Faculty may also raise difficult subjects in a classroom discussion or may publish a controversial research paper.

Source: “Academic Freedom Primer” by Ann Franke, *Trusteeship* July/August 2011

What is the purpose of academic freedom?

Academic freedom serves to advance the two core values of higher education:

Advancing knowledge through research and creativity

Faculty members work to advance knowledge and the arts. Good research and creative activities need breathing space. People may be inhibited from doing their best work if they fear offending outside forces, such as politicians or donors, or inside authorities, such as trustees or senior administrators. Without academic freedom, our society would lose professors’ best inventions, scholarship, and creative products.

Educating students to develop their own independence of thought

Higher education exposes students to new ideas, new conceptual approaches, and new forms of argument and creativity. Professors challenge students to seek out facts, test those facts, and develop their own frameworks of knowledge and truth. The college professor and the student both need leeway to explore controversial ideas. Academic freedom provides room to do this without inappropriate interference.

To support these two core values, colleges and universities also need freedom from unreasonable governmental interference.

Source: “Academic Freedom Primer” by Ann Franke, *Trusteeship* July/August 2011

What is the scope of academic freedom?

The scope of academic freedom is broad but not unlimited. Academic freedom does not protect false statements or unprofessional conduct as defined under relevant professional standards.

Faculty members are entitled to freedom in teaching and research. As a practical matter, though, tenured faculty enjoy the greatest protection from arbitrary dismissal and, accordingly, the greatest academic freedom. Tenured faculty should help protect the rights of all faculty and instructors. Institutional policies may address the rights and responsibilities of part-time and adjunct professors.

Students have both rights and responsibilities related to academic freedom. They need freedom to explore controversial ideas and engage in creative work. The courts have spoken about a student’s “freedom to learn.” Is this the same as academic freedom? Scholarly experts disagree on whether students technically have academic freedom or a different type of freedom. In either case, students need room to explore, learn, and grow.

Presidents are not entitled to academic freedom in their presidential role. A college or university president represents the institution and is accountable to its governing board. If a president, while leading the institution, also engages in teaching or research, the president would enjoy academic freedom as a faculty member in those activities. The same concept applies to other academic administrators such as provosts and deans.

Trustees are not entitled to academic freedom, although other sources such as state law or institutional policy may protect trustees in certain situations. If a professor also serves as a trustee, he or she does not lose academic freedom in faculty functions.

Source: “Academic Freedom Primer” by Ann Franke, *Trusteeship* July/August 2011

How does academic freedom relate to free speech?

The term “free speech” generally refers to rights under the First Amendment to the United States Constitution. The Constitution protects people from the actions of government. Taxpayer-funded public colleges and universities are governmental entities. Their actions must respect the First Amendment rights of students, faculty, and others. Colleges and universities themselves also have First Amendment rights protecting them from intrusions such as undue government regulation of institutional speech.

Some federal court decisions involving public institutions suggest the First Amendment protects academic freedom, at least partially. Speech protected by the First Amendment may or may not also be protected by academic freedom. The two categories overlap but they are not identical. Therefore, in one respect, academic freedom provides less protection than the First Amendment.

Source: “Academic Freedom Primer” by Ann Franke, *Trusteeship* July/August 2011

What does Freedom of Speech protect?

The First Amendment grants the right to express opinions and ideas without fear of government retaliation, censorship, or other sanction. The term “speech” constitutes expression that includes not only words, but also what a person wears, reads, performs, protests, and more. In the United States, freedom of speech is protected by the First Amendment to the U.S. Constitution, as well as many state and federal laws. The United States’ free speech protections are among the strongest of any democracy; the First Amendment protects even speech that many would see as offensive, hateful, or harassing. The exercise of the right to both freedom of speech and freedom of expression carries responsibilities and may be subject to restrictions. Board members should be well informed about the rights established by the First Amendment, its principles, and how they apply to the campus’s commitment to freedom of speech.

Source: *United States Bill of Rights* by the First Congress of the United States, 1789 “Freedom of Expression,” American Civil Liberties Union, <https://www.aclu.org/other/freedom-expression>

What does Freedom of Speech *not* protect?

Examples of what freedom of speech does not protect include inciting actions that would harm others (e.g., shouting “fire” in a crowded theater), making or distributing obscene materials, burning draft cards as an antiwar protest, permitting students to print articles in a school newspaper over the objections of the school administration, permitting obscene speech at a school-sponsored event, or advocating illegal drug use at a school-sponsored event. Speech deemed a threat to an individual’s physical safety is also not protected speech.

Freedom of speech does not protect harassment aimed at an individual based on a protected characteristic (race, gender, sexual orientation, religion). It also does not protect harassment that is a direct or implied threat to employment or education or harassment that creates an intimidating, hostile, and demeaning atmosphere. For example, posting racist messages on the dorm room of a student of color would be regarded as harassment and not speech protected by the First Amendment.

Source: “What Does Free Speech Mean,” United States Courts, <https://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/what-does>

How does the First Amendment right to free speech apply to controversial speakers who have been invited to campus by student groups?

The First Amendment to the Constitution protects speech no matter how offensive its content. The Constitution prohibits public institutions from banning or punishing speech based on its content or viewpoint and an institution cannot take away that right or withdraw those resources from student groups extending an invitation to such speakers based on the views of the invited speaker. Doing so would violate the First Amendment rights of the student group. An event featuring a speaker invited by a student group can be cancelled only under extraordinary circumstances—for example, in cases in which free speech is not protected.

Governing boards should plan for and anticipate moments of crisis on campus related to free speech issues including how to handle a controversial speaker on campus. Scenario planning is one such mechanism to build a plan for dealing with such issues if and when they arise. The key to such exercises is engaging a broad enough swath of stakeholders to ensure that each group can weigh in on the process and know their roles when such events occur.

Source: *Freedom of Speech on Campus: Guidelines for Governing Boards and Institutional Leaders*, AGB 2017

How do First Amendment rights differ between public and independent institutions?

There are distinctions between public and private institutions regarding how they protect First Amendment rights. As the law requires, there is strong protection of free speech in public institutions, while private institutions determine how First Amendment principles are applied and may set their own standards of free speech. Boards should be educated to understand these nuances and distinctions across sectors and be made aware that faculty have the same right to freedom of speech as do other campus stakeholders and that academic freedom is a core value that must be protected.

Source: *Freedom of Speech on Campus: Guidelines for Governing Boards and Institutional Leaders*, AGB 2017

Related
Resources**Freedom of Speech on Campus: Guidelines for Governing Boards and Institutional Leaders****AGB**

As board members and institutional leaders address the difficult questions that arise in relation to this controversial issue, they need to balance the competing tensions between individual freedom and expectations of civility and safety. This publication explains the context of the issue and explores the related tensions, identifies key points of consensus about the boundaries of freedom of speech, and provides specific guidelines for consideration by governing boards and the senior administrators who work with them.

2017 • 24 pages**Academic Freedom Primer****Ann Franke**

This primer offers a general overview of academic freedom in American higher education. It is designed to present basic concepts, including the application of academic freedom to faculty members and institutions of higher education. Ultimately, each American college or university applies principles of academic freedom in the context of its own mission.

2011 • Trusteeship July/August 2011**When the Middle Ground is the High Ground: Free Speech and the University****Teresa A. Sullivan**

Today, free expression is protected by the First Amendment at our public universities and upheld by the commitment to academic freedom at our private universities. Free speech is our lingua franca in academia, and any restriction on it seems incompatible with the fundamental values of higher education. We stand in the middle ground, defending free speech on all sides; following truth, wherever it leads; tolerating any error, but combating error with reason; and continuing to believe in the "illimitable freedom of the human mind."

2017 • Trusteeship July/August 2017**What Board Members Need to Know About Faculty****Cathy A. Trower and R. Barbara Gitenstein**

Changes in higher education require input and support from leaders across the campus—especially the board, the president, and the faculty. This publication offers a succinct overview of the role that the faculty plays in their institutions, important features of their work lives—including shared governance, academic freedom, tenure, faculty governing bodies, and, at some institutions, unions—and changes taking place on campus to help board members better understand their counterparts in shared governance.

2013 • 24 pages**United States Bill of Rights****First Congress of the United States**

On September 25, 1789, the First Congress of the United States proposed 12 amendments to the Constitution.

1789 • 1 page**1940 Statement of Principles on Academic Freedom and Tenure****American Association of University Professors**

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to ensure them in colleges and universities. 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 • 3 pages