



**REPORT OF THE SELECT COMMITTEE ON ACADEMIC
FREEDOM IN HIGHER EDUCATION
PURSUANT TO HOUSE RESOLUTION 177**

NOVEMBER 14, 2006

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CHAIRMAN'S REMARKS

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 177 Session of 2005

INTRODUCED BY ARMSTRONG, BARRAR, BENNINGHOFF, BIRMELIN, BOYD, CALTAGIRONE, CLYMER, CRAHALLA, CREIGHTON, FAIRCHILD, FICHTER, FORCIER, GABIG, GILLESPIE, GINGRICH, HERSHEY, JAMES, W. KELLER, KILLION, LEH, METCALFE, R. MILLER, MUSTIO, PHILLIPS, READSHAW, ROBERTS, ROHRER, SCHRODER, STERN, R. STEVENSON, E. Z. TAYLOR, TRUE, WILT, YOUNGBLOOD, DENLINGER, CIVERA, RAPP, FLEAGLE, FLICK, BASTIAN, BROWNE, HARPER AND PAYNE, MARCH 29, 2005

AS AMENDED, HOUSE OF REPRESENTATIVES, JULY 5, 2005

A RESOLUTION

1 Establishing a select committee to examine the academic
2 atmosphere and the degree to which faculty have the
3 opportunity to instruct and students have the opportunity to
4 learn in an environment conducive to the pursuit of knowledge
5 and truth at State-related and State-owned colleges and
6 universities and community colleges in this Commonwealth.
7 WHEREAS, Academic freedom and intellectual diversity are
8 values indispensable to the American colleges and universities;
9 and
10 WHEREAS, From its first formulation in the General Report of
11 the Committee on Academic Freedom and Tenure of the American
12 Association of University Professors, the concept of academic
13 freedom has been premised on the idea that human knowledge is a
14 never-ending pursuit of the truth, that there is no humanly
15 accessible truth that is not, in principle, open to challenge,
16 and that no party or intellectual faction has a monopoly on
17 wisdom; and

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1 WHEREAS, Academic freedom is likely to thrive in an
2 environment of intellectual diversity that protects and fosters
3 independence of thought and speech; and
4 WHEREAS, Students and faculty should be protected from the
5 imposition of ideological orthodoxy, and faculty members have
6 the responsibility to not take advantage of their authority
7 position to introduce inappropriate or irrelevant subject matter

8 outside their field of study; therefore be it
9 RESOLVED, That a select committee composed of the
10 Subcommittee on Higher Education of the Education Committee,
11 plus one member appointed by the Speaker of the House of
12 Representatives and one member appointed by the Minority Leader
13 of the House of Representatives, examine, study and inform the
14 House of Representatives on matters relating to the academic
15 the expression of independent thought at State-related and
19 State-owned colleges, universities and community colleges,
20 including, but not limited to, whether:
21 (1) faculty are hired, fired, promoted and granted
22 tenure based on their professional competence and subject
23 matter knowledge and with a view of helping students explore
24 and understand various methodologies and perspectives;
25 (2) students have an academic environment, quality life
26 on campus and reasonable access to course materials that
27 create an environment conducive to learning, the development
28 of critical thinking and the exploration and expression of
29 independent thought and that the students are evaluated based
30 on their subject knowledge; and

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1 (3) that students are graded based on academic merit,
2 without regard for ideological views, and that academic
3 freedom and the right to explore and express independent
4 thought is available to and practiced freely by faculty and
5 students;
6 and be it further
7 RESOLVED, That the chairman of the Subcommittee on Higher
8 Education of the Education Committee of the House of
9 Representatives shall be chairman of the select committee, that
10 committee vacancies not affect the power of the remaining
11 members to execute committee functions and that committee
12 vacancies be filled in the same manner as the original
13 appointment; and be it further
14 RESOLVED, That the committee may hold hearings, take
15 testimony and conduct investigations within this Commonwealth as
16 necessary; and be it further
17 RESOLVED, THAT IF AN INDIVIDUAL MAKES AN ALLEGATION AGAINST A
18 FACULTY MEMBER CLAIMING BIAS, THE FACULTY MEMBER MUST BE GIVEN
19 AT LEAST 48 HOURS' NOTICE OF THE SPECIFICS OF THE ALLEGATION
20 PRIOR TO THE TESTIMONY BEING GIVEN AND BE GIVEN AN OPPORTUNITY
21 TO TESTIFY AT THE SAME HEARING AS THE INDIVIDUAL MAKING THE
22 ALLEGATION; AND BE IT FURTHER
23 RESOLVED, That the Chief Clerk, with the Speaker's approval,
24 pay for the reasonable, appropriate and proper expenses incurred
25 by the committee; and be it further
26 RESOLVED, That the committee make a report of its findings
27 and any recommendations for remedial legislation and other
28 appropriate action by June 30, 2006, and that the committee may
29 extend the investigation for additional time, if necessary, but
30 no later than November 30, 2006.

Members of the Select Committee on Academic Freedom in Higher Education

Representative Thomas L. Stevenson, Chairman

Representative Lawrence H. Curry, Minority Chairman

Majority Members:

Rep. Gibson C. Armstrong
Rep. Michael Diven
Rep. Patrick E. Fleagle
Rep. Lynn B. Herman
Rep. Beverly Mackereth
Rep. Bernard T. O'Neill
Rep. Thomas J. Quigley

Minority Members:

Rep. Dan B. Frankel
Rep. Richard T. Grucela
Rep. John E. Pallone
Rep. Dan A. Surra
Rep. John T. Yudichak

Representative Jess M. Stairs, Chairman of the House Education Committee, and Representative James R. Roebuck Jr., Minority Chairman of the House Education Committee, are *ex-officio* members of the Select Committee.

PURPOSE

House Resolution 177 of 2006 created the Select Committee on Academic Freedom in Higher Education and required it to:

“...examine, study, and inform the House of Representatives on matters relating to the academic atmosphere and the degree to which faculty have the opportunity to instruct and students have the opportunity to learn in an environment conducive to the pursuit of knowledge and truth and the expression of independent thought at State-related and State-owned colleges, universities, and community colleges...” (Pg. 2, Lines 13-19)

This includes, but is not limited to whether:

- Faculty are hired, fired, promoted and granted tenure based on their professional competence and subject matter knowledge and with a view of helping students explore and understand various methodologies and perspectives:
- Students have an academic environment quality life on campus and reasonable access to course materials that create an environment conducive to learning, the development of critical thinking and the exploration and expression of independent thought and that the students are evaluated based on their subject knowledge; and
- That students are graded based on academic merit, without regard for ideological views, and that academic freedom and the right to explore and express independent thought is available to and practiced freely by faculty and students.

COMMITTEE STRUCTURE

HR 177 specified that the Select Committee would be comprised of the Members of the Sub-Committee on Higher Education of the House Education Committee, with the Chairman and Minority Chairman of the Sub-Committee on Higher Education acting in the same capacity on the Select Committee. In addition, one member of the Select Committee was appointed by the Speaker of the House and one member was appointed by the Minority Leader. Finally, the Chairman and Minority Chairman of the House Education Committee were included as *ex-officio* members of the Select

Committee since they have *ex-officio* status on the Sub-Committee on Higher Education.

METHOD

In order to learn more about the existing policies at State-owned and State-related colleges and universities as well as community colleges, the Select Committee requested that each institution provide its policies regarding academic freedom; lodging, verification, and resolution of student complaints; a list of academic freedom complaints during the previous five years; and any actions taken to correct policies based on handling of prior complaints.

After receiving the requested information from each institution, the Select Committee staff reviewed and compiled the information for the Select Committee's future use. The staff determined that a significant number of institutions had adopted faculty academic freedom policies, but not student academic freedom policies. Based on this discovery, the staff recommended meeting with each sector of higher education and interested parties in order to determine whether current academic freedom policies are effective and applicable to students.

Because of the Select Committee's concern that "students and faculty should be protected from the imposition of ideological orthodoxy," it first heard testimony in Harrisburg from attorney David French, then-executive director of the Foundation for Individual Rights in Education, based in Philadelphia, and an expert on First Amendment rights as they affect academic freedom. French was asked to explain the concept of academic freedom and its relation to free speech.

Following the informational meeting, the Chairman and Minority Chairman of the Select Committee agreed to hold four public hearings at institutions throughout the Commonwealth. The meetings would focus on each sector of higher education as well as each region of the Commonwealth. For this reason, meetings were held in Pittsburgh, Philadelphia, Millersville, and Harrisburg. Specifically, the Committee heard testimony from the University of Pittsburgh, Penn State University, Temple University, Millersville University, The State System of Higher Education (SSHE), and the Pennsylvania Commission for Community Colleges (PACCC).

Throughout the four hearings, the Select Committee also heard testimony from interested faculty and research organizations, which included the American

Association of University Professors (AAUP), the American Federation of Teachers of Pennsylvania (AFT-PA), the Pennsylvania State Education Association (PSEA), the Thomas Jefferson Center for the Protection of Free Expression, the American Council of Trustees and Alumni (ACTA), the Center for the Study of Popular Culture, United University Professionals (UUP), the National Association of Scholars (NAS), and the Intercollegiate Study Institute (ISI).

From September 19, 2005 through June 1, 2006, the Select Committee on Academic Freedom in Higher Education held hearings on the state of academic freedom in Pennsylvania's public colleges and universities. An informational hearing was held at the State Capitol, and eight days of on-site public hearings were held at the University of Pittsburgh, Temple University, Millersville University and Harrisburg Area Community College.

Based on a review of previous actions taken, it appears that these were the first statewide public hearings on academic freedom in the nations' history. However, this Select Committee is not the first Committee commissioned by the Pennsylvania House of Representatives for the purpose of studying academic freedom at a public institution of higher education. In fact, during the 1930's the House created a five member Committee for the purpose of studying the status of academic freedom at the University of Pittsburgh (an excerpt from the article "University of Pittsburgh: Through One Hundred and Fifty Years" is attached in Appendix A).

Chairman Stevenson opened the first day of off-site hearings, at the University of Pittsburgh, by laying out clear and unambiguous guidelines describing the nature and limits of the Committee's business. He stated that "[t]his Committee's focus will be on the [academic] institutions and their policies, not on professors, not on students"

Over the course of eight months, which included nine full days of hearings, not a single professor was identified by name for complaint and not a single specific class was mentioned by any witness or committee member. The focus of the Select Committee remained "institutions and their policies."

Chairman Stevenson further elaborated the Committee's goals:

"We are here to really study and inform the full House on academic freedom issues and intellectual diversity issues at our universities and colleges across the Commonwealth. Academic freedom is likely to thrive in an atmosphere and an environment of intellectual diversity that fosters independent thought and speech."

To further these goals, the Select Committee focused its attention on the following questions:

- What are the academic freedom policies at Pennsylvania’s public colleges and universities?
- Are they being enforced?
- What problems concerning academic freedom issues exist at Pennsylvania’s public colleges and universities?
- Are they being addressed?
- Are students aware of their academic freedom rights?
- Is there adequate grievance machinery in place to handle student complaints about academic freedom issues?
- What are the policies of Pennsylvania’s public colleges and universities on intellectual diversity?
- Are they being observed?
- What reforms of present university policies and procedures are recommended for strengthening the principles of academic freedom and intellectual diversity at Pennsylvania’s public colleges and universities?

The committee heard testimony from several students and faculty members at each of the four hearings. Additionally, during the public comment period provided at the end of each hearing day, the committee heard from students and faculty who were not included in the official meeting agenda.

SUMMARY OF TESTIMONY

Because of the Select Committee’s concern that “students and faculty should be protected from the imposition of ideological orthodoxy,” it first heard testimony in Harrisburg from attorney David French, then-executive director of the Foundation for Individual Rights in Education, based in Philadelphia, and an expert on First Amendment rights as they affect academic freedom. French was asked to explain the concept of academic freedom and its relation to free speech.

Attorney David French began his testimony by citing the U.S. Supreme Court decision in *Sweezy v. New Hampshire* as a model statement of the importance of first amendment rights to the academic community:

“The essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any straight jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation...Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.”

French testified that many Pennsylvania universities were violating student First Amendment rights through the institution of “speech codes,” which he defined as “any policy or practice that prohibits speech that the First Amendment would otherwise protect” French observed that “speech codes have been struck down in every single court in the United states where they have been challenged, including a federal district court in this state...where a Shippensburg University speech code was struck down—or the enforcement of it was enjoined in late 2003.”

According to French, the reason for the court’s action was that “it is a constitutional rule that a policy or a code has to be clear enough that a person of average intelligence and understanding can know what’s prohibited and what isn’t. If you don’t know what’s prohibited, it begins to have a chilling effect on speech as you, to go on the safe side, say less than what you might think so as to not run afoul of the vague rule...Shippensburg University had a speech code which, among other things prohibited acts of intolerance on campus. The problem was, that’s a term that’s virtually impossible to define...And, in fact, at the oral argument when the judge on the case directly asked the attorney representing Shippensburg, ‘what is intolerance?’ there was no good answer forthcoming because, quite simply, there’s no good answer. Nobody knows really what it is.”

“And so [in the Shippensburg case] that phrase, “act of intolerance,” has been struck down; but it still lives in some speech codes in this state.” French estimated that as many as 15 public colleges in Pennsylvania had unconstitutional speech codes that infringed the First Amendment Rights of Pennsylvania students. He cited the speech code at Edinboro University as an example: “Edinboro University of Pennsylvania prohibits offensive or inappropriate sexual behavior. What is inappropriate sexual behavior? That’s an excellent question.”

According to French, who filed the suit against Shippensburg University, fifteen of the eighteen state-owned and state-related universities had speech codes similar to the one at Shippensburg.

French further explained that while free speech rights are broad, they do have limits established by law, which include categories of speech such as fighting words and obscenity, as that term has been constitutionally defined. An individual's broad rights do not include a right not to be offended. His/Her rights do not include a right to have a teacher tell all sides of the story as they see all sides of the story.

On the other hand, student rights “do include the ability to criticize a teacher and to dissent even in class so long as dissenting or disagreeing is done in a way that’s not disruptive and doesn’t prevent the ability of the teacher from conducting the class.”

Teachers also have very broad First Amendment rights but these rights have classroom limits as well, which have been traditionally defined by the American Association of University Professors. The document represents the line separating rights as faculty from rights as citizens under the First Amendment.

The classic statement on academic freedom is the 1915 “Declaration of Principles on Academic Freedom and Academic Tenure,” issued by the American Association of University Professors. Virtually all university policies on academic freedom, including those of all public colleges and universities in the Commonwealth of Pennsylvania derive from this statement. Academic freedom, as defined in this declaration, is not the same as First Amendment free speech rights, which are available to all citizens. It is freedom within a professional discipline. The 1915 Declaration expresses this restriction in the following way:

“[The] liberty of the scholar within the university to set forth his conclusions, be they what they may, is conditioned by their being conclusions gained by a scholar’s method and held in a scholar’s spirit; that is to say, they must be the fruits of competent and patient and sincere inquiry...”

Yale law professor Robert Post, one of the nation’s leading experts on academic freedom comments on this statement: “The ‘Declaration’ thus conceives of academic freedom not as an individual right to be free from constraints but instead as the freedom to pursue the ‘scholar’s profession’ according to the standards of that profession.”

Professor Stanley Fish, a well-known university scholar, law professor and former Dean of the University of Illinois Chicago campus, recently explained the same idea in a New York Times column: “academic freedom is the freedom of academics to study anything they like; the freedom, that is, to subject any body of material, however unpromising it might seem, to academic interrogation and analysis...Any idea can be brought into the classroom if the point is to inquire into its structure, history, influence and so forth. But no idea belongs in the classroom if the point of introducing it is to recruit your students for the political agenda it may be thought to imply.”

This distinction is also to be found in the Pennsylvania State University Policy Manual as Policy HR 64:

“The faculty member is entitled to freedom in the classroom in discussing his/her subject. The faculty member is, however, responsible for the maintenance of appropriate standards of scholarship and teaching ability. It is not the function of a faculty member in a democracy to indoctrinate his/her students with ready-made conclusions on controversial subjects. The faculty member is expected to train students to think for themselves, and to provide them access to those materials which they need if they are to think intelligently. Hence in giving instruction upon controversial matters the faculty member is expected to be of a fair and judicial mind, and to set forth justly, without supersession or innuendo, the divergent opinions of other investigators.

No faculty member may claim as a right the privilege of discussing in the classroom controversial topics outside his/her own field of study. The faculty member is normally bound not to take advantage of his/her position by introducing into the classroom provocative discussions of irrelevant subjects not within the field of his/her study. ”

With the exception of the University of Pittsburgh, all public colleges and universities in Pennsylvania including the schools in the Pennsylvania State System of Higher Education have academic freedom provisions which either incorporate or are entirely based on the 1940 “Statement of Principles on Academic Freedom and Academic Tenure,” of the American Association of University Professors (The University of Pittsburgh’s “Policy on Academic Integrity” merely makes an off-page reference to the 1940 statement, without specifying what it is). At the time of the hearings, virtually all of these academic freedom policies were in student handbooks under faculty responsibilities, in faculty handbooks, or in faculty union contracts, but not listed under student rights. For this reason, students were unlikely to find academic freedom within

the list of student rights provided in each public higher education institution's policy handbook.

Temple University

At the time of the hearings, the Temple University policy, which was part of Temple's Faculty Handbook, was as follows: "[a]ll members of the faculty, whether tenured or not, are entitled to academic freedom as set forth in the 1940 Statement On Principles of Academic Freedom and Tenure by the Association of American Colleges and the American Association of University Professors..."

The 1940 AAUP Statement is as follows:

Academic Freedom

- a. Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
- b. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.
- c. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

In his testimony before the Select Committee in Harrisburg, David French explained this provision and its relation to First Amendment rights, along with the need to prevent classrooms from being exploited for personal or sectarian agendas:

"What does this [1940 statement] mean? What it means is that a teacher who is teaching, for example, sociology or political science or history has an enormous

amount of latitude in determining the curriculum, the readings of the class, the precise topics covered within the subject of the class; they have an enormous amount of freedom in the classroom discussion so long as the classroom discussion remains germane to the topic of the class; and that they in truth should be free from state oversight into those kinds of decisions. Because that is the core academic freedom function of a professor.

What is a professor not free to do? A professor is not free to use a class, for example, let's say a mathematics class...to advance a particular political agenda. That is something that a university, an institution, can properly restrict without interfering with that professor's First Amendment rights.

Their First Amendment rights do not extend to the ability to use the state-provided platform to advocate for personal political goals if those personal political goals are not...germane to the topic of the class."

At the time of these hearings, the Temple policy did not specify students or offer student protections. It was in faculty-related sections of the handbook and therefore not likely to be accessed by students. Additionally, it was not associated with any grievance policy specific to its provisions.

Pennsylvania State University

The Penn State policy HR 64 on academic freedom is especially admirable in making clear the distinction between First Amendment rights and the professional responsibilities of the classroom teacher to respect the academic freedom rights of students. No other policy of a Pennsylvania school approaches the Penn State policy for clarity and concreteness in defining the professional responsibilities of faculty in regard to students' academic freedom.

As at most other Pennsylvania schools, however, the Penn State policy is expressed as a "faculty responsibility" not a student right. Consequently, while the policy specifies behavior that professors should avoid in the classroom, it offers no protections for students when confronted by such behavior and makes no provision for a student right to be free from political indoctrination by faculty. While describing inappropriate faculty behavior, it offers no basis for student complaints about such inappropriate behavior. However, according to the policy, "[i]f a faculty member feels that his or her academic freedom rights have been violated, the procedure listed in the policy entitled 'Faculty Rights and Responsibilities,' HR 76 may be used."

University of Pittsburgh

The University of Pittsburgh Faculty Handbook contains a “Policy on Academic Integrity,” which states:

“It is the direct responsibility of faculty to encourage free inquiry and expression and to provide an academic environment in their classrooms and in their contact with students that reflects a high standard of integrity and is conducive to learning.”

Thus like the policy at Penn State, the Pitt “Policy on Academic Integrity” is addressed to faculty, not students, and is formulated as a faculty responsibility not a student right. Its placement under faculty responsibilities in the handbook is appropriate to this conception, but it is unlikely that a student looking for a list of his/her rights would be aware of this policy. Its formulation as a policy on academic integrity would not lead a student to connect it with issues of academic freedom. In testimony before the Committee, the university’s Provost, Dr. James Maher, conceded that “most of the academic integrity cases that come up involve accusation of cheating in exams and that is not really the focus of this Committee or today’s discussion.”

The Pennsylvania State System of Higher Education

The 14 schools of the Pennsylvania State System of Higher Education (PASSHE), almost without exception proclaim their commitment to academic freedom on their official websites. But these websites, so far as the Committee has been able to discern, without exception, provide no definitions of “academic freedom,” nor do they specify any protections associated with academic freedom.

A system-wide provision for academic freedom does exist for PASSHE schools. This is the AAUP “Statement on the Principles of Academic Freedom and Academic Tenure.” But, this Statement and its provisions are part of the faculty-union contract, and thus do not specifically apply to students. Nor would they be accessible to students who did not have a reason to research the faculty union contract.

The President of Millersville University, Dr. Francine McNairy, testified on March 23, 2006 at the public hearing held on the Millersville campus. Comments from this testimony have been included below.

Dr. McNairy: As a capital university, meaning all 14 universities in the same system having the same collective bargaining agreement, Millersville has been

diligent in developing policies to protect students' academic freedom. And these are listed in the "Students' Bill of Rights and Responsibilities" which is published on our website and in the Student Handbook and also our governance manual.

The Select Committee commends Dr. McNairy and her administration for specifying the rights that Millersville students have and informing them of their rights in a Student Handbook. The Committee notes however, that the policy leaves significant gaps where academic freedom issues are concerned. Thus, in its very first article defining "freedom" there is no mention of students' rights not to be discriminated against because of their political affiliation or ideas.

Article I. Discrimination

FREEDOM: Every aspect of university life should be free from discrimination because of race religion, color, ancestry, national origin, sex or sexual preference. Student housing organizations, athletics, classes and community facilities should be open to all who desire to participate.

In her testimony Dr. McNairy drew attention to Article XI, which is the only article in the "Student's Bill of Rights and Responsibilities" that specifically discusses student academic freedom rights in the classroom:

Dr. McNairy: In particular, Article XI of the "Student's Bill of Rights and Responsibilities" in the section entitled "In the Classroom" addresses the issue of academic freedom as follows: "Students should be free to express their thoughts and positions on all issues pertaining to curricular material being presented in the classroom."

This is an admirable policy, but the document does not contain the grievance process to be used if a student feels such rights have been violated. For this reason, it may be necessary to include a statement directing students to the location of a grievance process that can be used to file an academic freedom complaint if such rights are violated.

Does indoctrination occur? The following sentence appears in the course description of a Millersville University sociology course, available on the university website: "Given these premises, this course is dedicated not to whether or not these theorists and participants in social movements are right or wrong in some kind of objective sense, but instead is dedicated to understanding the importance of changing the American

social structure to bring about new forms of social justice, and to understanding the relationship between social theory and social praxis.”

The instructor’s dismissal of objectivity, and the commitment of his course to a political agenda of radical social change is hardly in keeping with academic freedom principles, such as Penn State’s admonition that, “In giving instruction upon controversial matters the faculty member is expected to be of a fair and judicial mind, and to set forth justly, without supersession or innuendo, the divergent opinions of other investigators.”

Nor is it compatible with this classic statement of Robert Gordon Sproul, longtime president of the University of California: “The function of the university is to seek and to transmit knowledge and to train students in the process whereby truth is to be made known. To convert or to make converts is alien and hostile to this dispassionate duty. Where it becomes social, or sectarian movements, they are dissected and examined, not taught, and the conclusion left, with no tipping of the scales, to the logic of the facts...”

|

New Temple Policy on Academic Freedom

On July 19, 2006, following the conclusion of these hearings, the trustees of Temple University adopted a new academic freedom policy (the text of the new policy is in Appendix B of this report). Responding to concerns voiced in the Committee sessions at Temple, the trustees adopted a policy called “Student and Faculty Academic rights and Responsibilities,” which specifies that academic freedom protections apply to students as well as professors, provides that all Temple students will be made aware of the policy and creates a grievance procedure and reporting system which the Committee finds admirable and which satisfies many of the concerns that these hearings have raised.

Accountability and Enforcement

Are professors in Pennsylvania being held accountable for unprofessional behavior in the classroom that violates existing academic freedom policies? Are existing academic freedom policies being enforced? These were among the central questions raised by the Committee. Minority members of the Committee who had opposed the authorizing legislation raised an additional question: Is there an academic freedom problem at all in Pennsylvania classrooms?

At the Millersville sessions, Representative Gibson Armstrong engaged in an instructive exchange with Dr. Kurt Smith, a professor of philosophy at Bloomsburg University:

Rep. Armstrong: These hearings are not about replacing liberal speech codes with conservative speeches. They are about helping to make sure that our universities are enforcing the policies that they have in place. That is something the Legislature has a fiduciary responsibility to oversee. We receive over \$2 billion from taxpayers to distribute to our universities. And I think most of us would agree there is precious little accountability for how that money is spent...We had a university professor testify that one of the values of these hearings is helping students understand that they do have rights, and that, professors need to be accountable.

Dr. Smith: What, for telling students that they have rights? What do professors need to be accountable for?

Rep. Armstrong: Their conduct in the classroom.

Accountability was a key question raised by the Committee and was directed to administrators as well as faculty. Were faculty observing existing academic freedom policies as they affected students, and were university authorities enforcing them? Were individual professors able to violate without consequence the 1940 AAUP principles and their own academic freedom regulations by interjecting personal views on controversial matters into academic contexts where they were inappropriate? Were students subject to harassment in the classroom and in other academic settings for their political views?

In his testimony at the Temple session, David Horowitz, author of an "Academic Bill of Rights," made the following claim to the Committee:

"Individual professors, individual courses, entire departments, and university-wide programs at Temple University violate standard academic freedom guidelines, including Temple University's own academic freedom guidelines...[Temple's academic freedom policy] is violated every day on every campus in this state, and at Temple University specifically. I can say this with confidence because I have interviewed at least a hundred students in this state and every one of them has been in a class or in several classes in which their professors have railed against George Bush, the war in Iraq, and the policies and attitudes of Republicans and conservatives."

In confronting this and similar claims by other witnesses, members of the Committee were forced to confront an ancillary question which proved perhaps the most vexing issue of the hearings: Were these claims credible? Did a problem of political harassment or inappropriate political indoctrination in Pennsylvania classrooms exist?

Addressing this issue, Temple President David Adamany testified that in his five-and-a-half year tenure, he “had not had a single complaint about inappropriate political [discourse] or any political adversity in the classroom...We have reviewed our records and do not find any, and I want to emphasize that, any instances in which students have complained about inappropriate intrusion of political advocacy by teachers in their courses.”

University of Pittsburgh provost James Maher testified to a similar effect: “I have not yet been able to find a case of the many student complaints, in that we are not short of student complaints, I’ve not yet found one that claimed that a given student was being mistreated for political opinions.”

The Penn State University administration also supplied a reporter for the Centre Times with data showing that only 13 complaints about political abuses by faculty could be located in their files over a five-year period.

In the question period, following President Adamany’s testimony, committee member John Yudichak commented: “Now your comment, today, five-and-a-half years, zero complaints, to me, seriously disputes that claim [by David Horowitz]...that rights of students at Temple are widely abused...In Penn State, there were 13 complaints filed. That’s out of 80,000 students...Excuse me, that doesn’t seem to me like wide abuse.”

Committee member Armstrong responded to these remarks: “If those few complaints had to do with diversity of gender or diversity of race, I think a dozen complaints would be a big deal. I think a dozen legitimate complaints on a college campus, where diversity of ideas is supposed to be at the core of what we do,...deserves the full attention of the administration...Speaking of complaints, I’ve received over a dozen complaints from Temple students. And they say they have contacted me because of my association with this resolution. And for all of these I have names of professors and of students.”

Representative Armstrong read several of the complaints, including the following:

“My professor used English class as a vehicle to spread his/her view of Marxist/socialist ideology, often demonized President Bush, called capitalism evil, blamed the administration for the Katrina response, oftentimes gave one side of an argument in readings, often disrespected President Bush and everyone else in favor of conservative views or the Republican party, and frequently criticized the war in Afghanistan. The day after the [2004 Presidential] election said in class ‘I cannot believe it. I do not understand America, the American people. They vote that guy, President Bush, into office for four more years after they see what he has done. Why does the U.S. military study the language cultures of other people? So they can kill them easier,’ referring to the defense language program of Monterey.”

Committee member Lynn Herman wondered if Temple students were aware of their academic freedom rights since Temple’s academic freedom provision was located in the Faculty Handbook, and whether they could be made more aware of them:

Mr. Herman: What about the student handbook?

Dr. Adamany: We don’t have a Student Handbook, per se. We have a bulletin of courses which contains much material about the university. That would be a good place for us to give notice; by posting these policies for the students...We could make them more visible.

But the problem was not limited to placement visibility. As we have seen, the academic freedom policies of Pennsylvania colleges and universities generally referred only to faculty responsibilities, not to student rights. This was the case at each of the state-related universities, the state-owned universities, and the community colleges. This problem was reflected in the following excerpt from the question and answers session during following Dr. Adamany’s testimony.

Mr. Armstrong: Your academic freedom policy refers only to faculty? What about your students?

Dr. Adamany: I’m not sure I got the question.

Mr. Armstrong: In other words, would you consider amending your academic freedom policies to include protection to students...[and to] make students more aware of their rights?

Dr. Adamany: ...I’m not sure that requires an amendment to the policy.

But, in fact, such a change would require a policy change, and the Temple Board of Trustees has accordingly amended the policy. In addition, they included provisions for a grievance procedure specific to academic freedom issues and separate from the existing procedures.

Even disregarding the factors that these hearings have disclosed—that most existing academic freedom provisions do not explicitly cover student rights; that even if they have such rights, students are not made aware of them; that there are no regulations defining their rights; and that there is no grievance machinery to specifically handle students' academic freedom claims, the Penn State figure of 13 cases is not as small as it may at first seem. This figure needs to be put into historical context and assessed in relation to other notable periods when academic freedom was an issue of concern.

The McCarthy era, which was referenced by several witnesses, is the most obvious example of such a period. Temple professor Rachel DuPlessis read a paper written by Professor Ellen Schrecker, an expert on McCarthyism, which drew an explicit parallel with the present. Professor DuPlessis commented: "In retrospect, we can see how seriously McCarthyism violated academic freedom. It imposed an external political test on the nation's academic faculties and punished law-abiding individuals for their refusal to cooperate with an academically irrelevant and politically repressive inquisition."

The actual number of professors prosecuted during in the McCarthy era should therefore be instructive. The era is generally agreed by experts, including Professor Schrecker, to span the years from 1947 when President Harry S. Truman instituted a Loyalty Oath for government employees to 1954 when Senator McCarthy was censured by his Senate colleagues and his agendas fell into disrepute. Historian Lionel Lewis has written an academic study of the era, which focuses on its impact on university professors. It is titled *Cold War on Campus*.

During the nine-year period from 1947-1954, Lewis was able to identify only 126 cases at 58 institutions nationally, where a professor's appointment was threatened because of his beliefs. These cases led to 69 terminations. Of these, 31 were at a single institution, the University of California, which had instituted its own loyalty oath. The California terminations took place in the years 1949 and 1950.

In other words, during the nine years of the McCarthy era, there were exactly 38 politically motivated terminations of professors in all 48 states and out of a total professoriate of several hundred thousand. This is far smaller than 13 cases at a single university. Yet, small as this number may appear, the author concludes, "the chilling

effect on the expression of all ideas by both faculty and students was significant, although in fact there is no way to measure adequately their full impact.”

Simply put, if one looks at the number of complaints versus the number of institutions, complaints averaged 1 per institution during the McCarthy era. However, it is unlikely that any policy maker at any university would have considered one academic freedom violation insignificant at that time. For this reason, the Select Committee came to the conclusion that policies and procedures should be in place at all public colleges and universities in Pennsylvania to protect academic rights of professors and students.

Without policies and procedures in place, it is unlikely that a student would have an expectation to attend a college or university in an atmosphere where academic freedom and intellectual diversity are available to all participants. It is possible that the current lack of student specific policies has contributed to the relatively low number of complaints at institutions in Pennsylvania. On the other hand, having such policies in place may not cause additional complaints. Instead, it provides an avenue for prevention of academic rights violations similar to the policies that are still in effect for the professorate some 60 years after the national incident that most severely threatened academic freedom rights.

The importance of informing students of their academic freedom rights was raised by Stephen Balch, David French, and others throughout the hearings. In his testimony, attorney David French observed: “Students who are censored must (a) know that they can complain; and (b) know who they can complain to. At the foundation for Individual Rights in Education, we receive hundreds of complaints per year; but all the information that we’ve received indicates nationally that that’s a drop in the bucket.”

David Horowitz testified that:

“State universities in Pennsylvania (as elsewhere) spend tens of millions of dollars each year, and do so every year, to inform their students that sexual and racial diversity are fundamental university values and that harassment on the basis of gender and race will not be tolerated. They insert these values into orientation sessions; they put them into student handbooks and prepare literature to inform students about them. But these same universities do not spend a single penny on promoting the value of intellectual diversity—even though the American Council of Education has called this central to a higher education, and even though somewhere buried in faculty handbooks on most university websites lip service is paid to this core principle of academic freedom.”

This turned out to be one issue on which the Committee appeared to reach a consensus. Committee member Representative Daniel Frankel (D-Allegheny) endorsed the idea that university administrators should publicize the academic freedom rights of students. "I agree, maybe, that there ought to be more publicity given to your process for dealing with these situations and that may be a good outcome from this hearing."

Other factors Affecting the Reporting of Possible Abuses

In addition to the lack of information for students about their academic freedom rights, testimony was given regarding other factors that might prevent students from coming forward with complaints about faculty behavior that violates existing academic freedom provisions.

Professor Tom Bradley, a faculty member at Shippensburg University for thirty years, testified that in his experience, students often felt intimidated by the prospect of coming forward with a complaint:

"What do students say when they come in and I suggest they go back and talk to the faculty member that needs to be addressed. They say, well, nah, you know all the faculty have networked. They are all friends. It is kind of the old brother network. The professor will support this guy or lady because when it is his turn to be challenged, that faculty member will support him...What can I do as a student? They are tenured. I have no power at all. Once the word gets out, I'll be labeled as a troublemaker and I'll be penalized later by another professor. That's the thinking going on in the students' minds as they reveal it to me."

Professor Kurt Smith gave counter-testimony:

"Don't be fooled for a second. Students, if they don't like a professor...have a lot of authority. Students have a lot more authority than I think should be given them. And they are not dopes. If they see something is going on with a professor, they are not afraid to say that to anyone. It is amazing to me how it will be said over and over again that they are being intimidated, they are afraid about talking. They will talk to everyone here on television. It doesn't seem to bother them. So, I don't think that there is an intimidation problem."

Testimony by Temple student Logan Fisher, offered a contrary view:

“My name is Logan Fisher and I am a senior majoring in business law at Temple University. I want to start off by saying that my testimony today will not only contain my personal experiences, but that of many students’ careers. As a vice-chairman of the Temple College Republicans and Vice-President of the Temple Chapter of Students for Academic Freedom, I experienced first hand the apprehension students had to testify today, as they expressed to me concerns of retaliation by professors and fear of being singled out in their classes in the future.”

Fisher also testified that he had asked members of his Students for Academic Freedom chapter to provide him with any complaints they had about recent classes. One complaint said of a professor “She came to class on a regular basis with buttons that were anti-Bush and anti-Iraq war. One whole class period was filled with discussion about how white male Republicans are heartless and how the war is unjust.”

Committee Chairman Stevenson asked if any of the complaints had been filed formally. Mr. Fisher said, no and explained that one of the students was a sophomore and the incident had taken place in a class required for her major. “The professor she had a complaint about she would most certainly have again in the future,” and therefore did not want to do so. Representative Armstrong then asked Mr. Fisher if he had ever filed a formal complaint on his own behalf. Mr. Fisher replied: “I have not lodged any formal complaints [because] I don’t think that they would be handled at all. I’ve talked to several professors outside of class when I have disagreed with the way they taught the class...and I’m usually dismissed by the professor. So I didn’t feel that lodging a formal complaint would do much good.”

An inadvertent but revealing response to the claims made by Dr. Smith and others skeptical of the motives of students who complained about their professors was provided in the testimony of Danielle Murphy, a junior at Millersville University, who is studying government, political affairs and business management. Murphy testified “Personally, I have never been penalized for my political views,” although it soon became apparent that she had been.

Murphy testified that she was President of the Millersville College Republicans and was involved with the American Conservative Union and conservative students on campus,” but she said she had no ill-feelings towards Millersville or her liberal and leftwing professors. The University had “an excellent staff,” she said, and she was receiving “an excellent education here at Millersville.”

Murphy also testified that one of her professors singled her out for her conservative views in class “on a regular basis” and discussed the 2004 presidential elections in class. “The class was in no way related to the American elections, but we talked about the elections and a few local elections.” The manner in which the discussion about the elections took place under this professor’s guidance was on which she and “many other conservative students” taking the class agreed was “nearly torturous.” On one occasion, the same professor “pointed at me and expressed the fact that I was conservative. He pointed at me and said, ‘You’re a conservative right?’ The question was in no way relevant to the course material or even to that day’s discussion.”

Yet, Murphy did not leave the course or complain about the professor or seek to punish him for her ordeal. In fact, as she testified, “I’m now taking another course with the same professor because I find him to be a brilliant professor.”

Without intending to, Murphy had highlighted the poignant dilemma of conservative students seeking to get an education in an academic environment in which there seem to be very few conservative professors.

Murphy also inadvertently highlighted a problem which the Committee was forced to consider. As Committee member Armstrong put it, “I’d be hard pressed to name a student who has told me they know what their rights were.” If students are not informed of their academic freedom rights and do not know what to expect in the way of professional behavior from their professors, they would be severely handicapped in determining what is abusive and what is normal.

Thus Danielle Murphy was able to tell the Committee “My experiences [in class] have not been detrimental to my education in any way,” yet in the same breath could describe those same experiences in these words:

“Although I’m a fairly confident and outspoken individual, I do constantly feel the need to censor the things that I say for fear of being branded the crazy conservative girl with right-wing views...To be conservative in a classroom is a difficult thing.”

Students do not have unions or large professional organizations to defend their rights or to hold administrators accountable if they do not enforce their regulations. If students are not made aware of their rights, or if these rights do not exist, they are, practically speaking, without recourse when abuses occur.

The Committee was presented with a scientific survey of college students by Anne Neal, President of the American Council of Trustees and Alumni, which showed that in-class violations of existing academic freedom guidelines, and specifically the 1940 AAUP principles, were widespread. She stated:

“We commissioned the Center for Survey Research and Analysis at the University of Connecticut to undertake a scientific survey of undergraduates in the top 50 college and universities as listed by U.S. News & World Report. These include Ivy League schools like the University of Pennsylvania, national research universities such as Carnegie Mellon and small liberal arts colleges like Swarthmore, Bryn Mawr, and Haverford, as well as public institutions such as the University of California and Michigan.

We were interested in finding out whether, in fact, professors introduce politics in the classroom. It goes without saying that faculty members are hired for their expertise and are expected to instruct students on the subject of their expertise. If they are teaching biology, they should be talking about biology. If they are teaching medieval English literature, we expect them to be lecturing on Chaucer, not Condoleezza Rice...

That indeed is a principle that has been adopted in the 1940 AAUP statement on academic freedom and that has been adopted by numerous institutions of higher education, at least on paper. The Temple University Faculty Handbook, by way of example, provides that ‘Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.’

Notwithstanding these principles, our survey found that a shocking 49 percent of the students at the top 50 colleges and universities say that their professors frequently injected political comments into their courses, even if they had nothing to do with the subject.

The survey next turned to the atmosphere in the college classroom. Did students, many of whom were exposed to these subjects for the first time, feel free to raise concerns and question assumptions? Did they feel free to make up their own minds without feeling pressured to agree with their professors?

Once again, the answer was deeply disturbing. Twenty-nine percent of the respondents felt that they had to agree with the professor’s political views to get a good grade.

The survey also explored whether students were being exposed to competing arguments on the central issues of the day. Were book lists balanced and comprehensive? Did students hear multiple perspectives, rather than just one side, of an argument?

Again, a disheartening response. Forty-eight percent reported campus panels and lecture series on political issues that seemed “totally one-sided.” Forty-six percent said professors “used the classroom to present their personal political views.” And forty-two percent faulted reading assignments for presenting only one side of a controversial issue.

Meanwhile, eighty-three percent of those surveyed said student evaluation forms of the faculty did not ask about a professor’s social, political, or religious bias.

Obviously, this controversy can only be resolved if university administrators take an interest in what goes on in university classrooms. Similar surveys can easily be conducted by university administrations on their campuses. Faculty evaluation forms can be amplified to include questions about intellectual diversity and political discrimination.”

Intellectual diversity was one of the central concerns the Committee chose to address, in accordance with its mandate, set out by Chairman Stevenson, the Committee followed the observation that “[a]cademic freedom is likely to thrive in an atmosphere and an environment of intellectual diversity that fosters independent thought and speech.”

In January 2006, the Association of American Colleges and Universities issued a statement on “Academic Freedom and Educational Responsibility,” which conceded that there were problems associated with intellectual diversity at American schools. “Some [university] departments fail to ensure that their curricula include the full diversity of legitimate intellectual perspectives appropriate to their disciplines. And individual faculty members sometimes express their personal views to students in ways that intimidate them...” The statement concluded that there was “room for improvement.”

In the first hearing session at Harrisburg, Committee counsel David French testified that the idea that the university should be a marketplace of ideas and that there should be “a broad range of ideas on campus” was not itself a controversial statement. It was an argument, in fact, that had been used by the American Association of University

Professors and other collegiate parties in their appeal to the United States Supreme Court to preserve race-based affirmative action policies at the University of Michigan. The argument was that ethnic and gender diversity served to enhance the intellectual diversity that was crucial to a quality education. “So it’s really not controversial,” French commented, “to say that there should be a broader range of ideas in the university. What is controversial is the answer to this question: Does a broad range of ideas exist?”

Stephen Zelnick testified at the Temple session that it did not. A member of the Temple University faculty for thirty-six years, Zelnick had served as Professor of English, President of the Faculty Senate and vice-Provost for Undergraduate Studies. “As director of two undergraduate programs,” he testified:

“I have had many opportunities to sit in and watch instructors. I have sat in on more than a hundred different teachers’ classes and seen excellent, indifferent, and miserable teaching and done what I could to encourage the good and to repair the bad. On these visits, I rarely heard a kind word for the United States, for riches of our marketplace, for the vast economic and creative opportunities made available for energetic and creative people (that is, for our student); for family life, for marriage, for love, or for religion. I did hear a great deal about the importance of diversity and tolerance, about the evils of imperialism; about the need to be skeptical of all institutions and traditional values; and about the stupidity and mendacity of prominent politicians. There is much to applaud in this heterodoxy and rebelliousness. However, without the balance of the arguments for loyalty, tradition, and reverence, these appeals to radical thinking fail to serve education well.”

David Horowitz followed Professor Zelnick’s testimony with two statements his organization had received from two different students at Penn State:

“I’m taking a Women’s Studies class because I thought it’d be a good class to take. Yesterday, I was in class and people were giving presentations about women’s issues and one group decided to do abortion. The next thing I know, we’re spending the whole period learning about how abortion should be completely legal and that it’s a good thing for society to abort babies and that people need to learn how to say the word ‘abortion’ because women should be proud of the fact that they’ve had one. The professor made us start chanting “abortion, abortion,” and to be honest, I started to cry. There was no place in that class for my pro-life opinion.”

Following the hearings, this student was willing to put her name to this statement. Her name is Kelly Keelan.

The second statement read by Horowitz was also from a student who was reluctant to submit her name:

“I had a professor in a Biology Science class...go of on a 20-minute lecture about how Bush was a horrible president and had misled the people and that if I supported the war in Iraq, I was a bad, ignorant person...”

Horowitz continued: “Some Penn State instructors appear to think that there is no difference between education and indoctrination. Here is a statement from the official website of a sociology instructor at Penn State: ‘I’m open about bringing my ideology into this classroom because I see that all educational systems are ideological to the core.’”

Composition of Faculties

Answers to the diversity question in regard to the university curriculum were divided. Witnesses David French, Anne Neal, Stephen Balch and Marc Bauerlein argued that the current generation of liberal arts professors at American colleges and universities represented a narrow range of the ideological spectrum, while witnesses for the American Association of University Professors, the American Federation of Teachers, and the National Education Association argued that they did not.

In her remarks before the Committee, Anne Neal cited two university authorities who had warned that the university system was facing problems of intellectual conformity and ideological correctness:

“As early as 1991, Yale President Benno Schmidt warned that ‘The most serious problems of freedom of expression in our society today exist on campuses. The assumption seems to be that the purpose of education is to induce correct opinion rather than to search for wisdom and liberate the mind.’ In his last report to the Board of Overseers, retiring Harvard President Derek Bok warned: ‘What universities can and must resist are deliberate, overt attempts to impose orthodoxy and suppress dissent...In recent years, the threat of orthodoxy has come primarily from within rather than outside the university.’”

In his prepared statement for the Committee, Stephen Balch, president of the National Association of Scholars summarized the present state of university faculties disclosed by a series of academic studies:

“There is now a small file cabinet of studies that document the intellectual one-sidedness of the professorate, some done by individual scholars, others sponsored by higher education organization like the Carnegie Foundation for the Advancement of Teaching. They all show pretty much the same results. Whether professors are asked to self-describe themselves ideologically, whether their attitudes on cultural, economic and political issues are surveyed and scaled, or whether that general surrogate for opinion, party loyalty, is assessed, professorial opinion, as a whole, is considerably skewed to the left side of the spectrum. This skewing is even more pronounced when one looks at the fields whose subject matter have the most political and cultural relevance, the social sciences and the humanities. The ideological asymmetry in these areas ranges from very sizeable to overwhelming.”

A summary of the study results, which have not been contested by other data, were reported in the testimony of Anne Neal:

“A study released in late December by Professor Dan Klein found that social science professors are overwhelmingly Democratic, that Democratic professors in those disciplines are more homogeneous in their thinking than Republicans; and that Republican scholars are more likely to work outside the academy than their Democratic counterparts. On the question of political affiliation, the survey showed an immense imbalance in the breakdown of Democrats to Republicans ranging from 21.1:1 among anthropologists; 9.1:1 among political and legal philosophers; 8.5:1 amongst historians’ and 5.6:1 amongst political scientists. A 2005 study Professional Advancement Among College Faculty, found that 72 percent of those teaching at American universities and colleges describe themselves as liberal and 15 percent described themselves as conservative. According to the study, the most one-sided departments are English literature, philosophy, political science, and religious studies, where at least 80 percent of the faculty says they are liberal and no more than five percent call themselves conservative.”

The American College Teacher, a major study by the Higher Education Research Institute at the University of California at Los Angeles, has never been challenged. It features some questions on politics. The last survey, in 2001, found that 5.3 percent of faculty members were far left, 42.3 percent were liberal, 34.3 percent were middle of

the road, 17.7 percent were conservative and 0.3 percent were far right. Those figures are only marginally different from the previous survey, in 1998.

The interpretation of these findings was challenged by Princeton University professor Joan Wallach Scott, chair of the American Association of University Professors Committee on Academic Freedom and Tenure. Scott suggested that the figures showing an overwhelming disparity in liberal and conservative faculty did not necessarily prove that there was “political discrimination in hiring” due to

“the possible role of preference for more economically lucrative work on the part of Republicans or the different policies each party has in regard to financial support for higher education, and so what might be called interest-based votes by university faculty...But even more important, political party affiliation has nothing to do with scholarly positions and with what counts as conservative or a non-traditional approach to literature or history or class.”

Advocacy in the Curriculum

The Committee did not address the issue of possible bias in the hiring process, but several witnesses argued in opposition to the above statement by Professor Scott. Some testifiers believed that there was indeed a correlation between the lack of intellectual diversity of faculties and emergence of an advocacy agenda in the curriculum, which has traditionally been devoted to dispassionate scholarly inquiries. Thus Emory professor Mark Bauerlein testified at the Millersville hearings:

“Because we have so strong a lean to the left on many parts of the campus, certain ideas have been embraced by almost everyone, even though those ideas remain controversial off-campus. With so much uniform backing, those ideas have settled into the professional habits of the professors. Instead of being opinions open for discussion, they are norms to be followed—that is, the regular operative premises of the discipline.”

One idea associated with sectarian advocacy agendas that had become embedded in the curriculum according to both Professor Bauerlein and Dr. Balch was “social justice.” They felt an obvious instance of a loaded political idea being recast as a disciplinary standard is the term “social justice.” Many schools, especially schools of education (e.g. the Social Justice Education program at University of Massachusetts), announce social justice as one of their curricular goals, and so it appears as an educational principle that participants must accept.

Bauerlein identified several public institutions in Pennsylvania, which incorporated advocacy of “social justice” into academic programs:

“In the state of Pennsylvania, among the general goals listed in the College of Education at Penn State is this one: ‘Enhance the commitment of faculty, staff, and students to the centrality of diversity, social justice, and democratic citizenship.’ The mission statement of the Office of Diversity & Equal Opportunity at East Stroudsburg University begins, ‘The Office of Diversity & Equal Opportunity’s mission is to promote, plan and monitor social justice in the University community.’”

In his testimony, Stephen Balch identified several others:

“The mission of the social work program at Bloomsburg also states that “an emphasis is placed on an appreciation for human standard diversity and a strong commitment to social and economic justice. Students are prepared through courses to engage in the social change process through interface with the regional community.” The mission statement of the School of Social Administration at Temple states that it is “dedicated to societal transformations to eliminate social, political, economic injustices for poor and oppressed populations...” The description of the social work program at Edinboro University characterizes it as preparing “individuals to actualize the concept of social concern, to internalize and actualize belief in the innate value of humankind, to service those in need, and to act with conviction in advancing the principle of social justice and human rights.”

Moreover, Balch argued, the accrediting agency for schools of social work—the Council on Social Work Education—itsself establishes standards that are ideological rather than professional. “Among the purposes of the social work profession as given by these standards is the pursuit of ‘policies, services, and resources through advocacy and social or political actions that promote social and economic justice.’ Programs accredited by the CSWE are also supposed to prepare social workers to ‘understand the forms and mechanisms of oppression and discrimination and apply strategies of advocacy and social change that advance social and economic justice,’ Taken as a whole, social work education programs are also supposed to “prepare students to advocate for nondiscriminatory social and economic systems.”

Bauerlein testified that the concept of social justice was:

“Quite clearly an ideological demand, for ‘social justice’ is the idealized code word for various government-managed policies of income and resource distribution. To insert it into mission statements is to use it as a gateway into the profession. To pass it off as a profession is, precisely, to politicize the curriculum, and to compel students who want to join the program and professors who want to work there to accept it is a betrayal of academic freedom.”

The Committee heard contrary testimony from Dr. Robert Moore, a Professor of Sociology at St. Joseph’s University, which is a Jesuit school in Philadelphia. Moore is also the vice-president elect of the Pennsylvania division of the American Association of University Professors. Professor Moore agreed with Penn State Policy HR 64 that, “It is not the function of a faculty member in a democracy to indoctrinate his or her student with ready-made conclusions on controversial subjects.” Professor Moore reiterated, “Academic freedom for faculty does not include the right to indoctrinate students.”

Professor Moore, however, was not sure that requiring students to subscribe to a social justice agenda was a form of indoctrination, or that requiring university hires to endorse the same agenda violated the professional neutrality to which educational institutions traditionally subscribed. “At St. Joseph’s University, in a private context, if you don’t come into a Jesuit school on the side of social justice, you are not going to get hired. You won’t be around very long.”

Committee member John Pallone was disturbed by this comment which seemed to him like a narrow directive, incompatible with the principle of academic freedom. On the other hand several members of the Committee, Representatives Frankel, Surra, and Curry thought that social justice was a neutral term that could encompass different remedies for social problems.

The problem raised by Dr. Balch and Mr. Bauerlein was crystallized in the testimony of Dr. Nadine Bean, a professor in the Social Work program at West Chester University—a program accredited by the Council on Social Work Education. Dr. Bean testified that “‘Social justice’ was one of the core values for social workers and thus an integral part of the social work program as it was taught at West Chester University. Social workers pursue social change particularly with and on behalf of the vulnerable and oppressed individuals and groups of people.”

This testimony reflected an activist view of the social work curriculum. Dr. Bean did not explain why unemployment or poverty were forms of injustice, rather than conditions reflecting individual failing or misfortune. Or, why “social change” rather than providing

help to individuals should be the mission of social workers. This testimony appeared to validate the points made by Bauerlein and Balch that a one-sided faculty perspective leads to confusion between ideological agendas and professional standards.

The Committee members shared the view that education involves the consideration of a range of viewpoints, and that indoctrination in one perspective is incompatible with academic freedom and academic standards. It could not agree on whether particular cases brought before it constituted violations or not. The question that remained—and that the Committee members could not agree on—was whether university administrators had established clear academic standards and a definition of inappropriate academic behavior, and whether these standards were being enforced.

FINDINGS

Based on testimony provided at the four public hearings, the Select Committee came to a general consensus that legislation requiring the adoption of a uniform statewide academic freedom policy, which was referenced by several testifiers, was not necessary. Instead, the Committee chose to focus on whether academic freedom violations were widespread at public institutions of higher education in Pennsylvania; student awareness of academic freedom policies; the effectiveness of existing policies including each student's ability to file a grievance and obtain resolution; the balance of political views represented on university campuses; and the ability of colleges and universities to adapt these policies.

The Committee received testimony from each sector of public higher education and determined that academic freedom violations are rare. However, questions arose regarding students' ability to report academic freedom violations when no student specific academic freedom policy or process is in place.

The Committee heard testimony from several institutions confirming that student awareness of academic freedom policies may be a concern. In many cases, institutions cited faculty academic freedom policies as applicable to students. However, faculty policies are not readily available to students. Additionally, few schools that have student academic freedom policies make them readily available to students via student policy handbooks or the internet.

Concerns regarding the effectiveness of student academic freedom policies were raised during the four public hearings. However, at institutions with student academic freedom policies in place, it appears the policies are effective at resolving disputes. On the other hand, concerns were raised regarding the willingness of students to confront the professor they felt was in violation of the academic freedom policy. This concern stemmed from the common requirement that students must first report concerns to the professor, then the department head, then the dean and finally the president of the university until resolution occurs. Some students might feel uncomfortable with this process if they perceive such proceedings as affecting performance in future courses with the same professor. While such concerns could not be validated or disproved, some testifiers suggested that an alternative reporting system could encourage students who fear retribution to come forward, but is not likely to affect the integrity of the reporting process.

Additionally, the Committee heard a significant amount of testimony regarding the political atmosphere on college campuses. The testimony was in regard to several studies of the political affiliation and leanings of the professoriate and each study pointed to a greater representation of Democrats than Republicans in most fields of study. The Committee did not receive testimony regarding any study that refuted these results. While differences in overall faculty leanings are certainly acceptable, it may be detrimental to university education if faculties as a whole lean extremely toward one political viewpoint, regardless of which view that might be. That being said, it is not this Committee's intent or purpose to place political quotas on universities or their faculties. For this reason, the Committee believes that our universities should evaluate whether internal efforts are necessary to encourage diverse political views on campus and to ensure that students receive a balanced and effective education.

Finally, the Committee looked at the ability and willingness of institutions to modify policies if the processing of academic freedom complaints could be improved. During the hearings, the Committee learned that many institutions have made modifications to academic freedom policies in the past. In fact, the Committee learned that Temple University and the Pennsylvania State University began making improvements to academic freedom policies during the Select Committee hearing process. The Select Committee believes that the newly adopted academic freedom policies may be useful to other institutions that wish to improve such policies. For this reason, each institution's new Academic Freedom policy has been included in Appendix C of this report. Additionally, the language of Pennsylvania State University's HR 64, which is included on page 14 of this report, was recognized as a clear and concise faculty academic freedom policy that could be applied to students. The Committee believes that this language could be used as an example by other institutions if they should find it necessary to create a student-specific academic freedom policy.

RECOMMENDATIONS

- Public institutions of higher education within the Commonwealth should review existing academic freedom policies and procedures to ensure that a student-specific academic freedom policy, which includes student rights and a detailed grievance procedure, is readily available.
- Public institutions of higher education should make students aware of the availability of academic freedom policies and grievance procedures. This should be accomplished by providing such information during student orientation when other student rights policies and/or discrimination policies are discussed. Additionally, this information should be available in the “student” section of the institution’s website.
- In order to provide students who do not wish to complain directly to a professor with an alternative option, public institutions of higher education should allow students to file complaints with a university official outside of the student’s major. This could be best accomplished by utilizing an existing office that handles student diversity issues for the purpose of receiving and processing such complaints.
- Public institutions of higher education should include questions on course evaluation forms that could provide additional information regarding the status of academic freedom at each institution and in each area of study. By placing questions relating to academic freedom on anonymous course evaluations, students may be more likely to share such concerns.
- All public institutions of higher education should maintain a record of complaints filed under the institution’s academic freedom policy.
- All public institutions of higher education shall make a report of actions taken regarding the recommendations of this Select Committee to the Chairman and Minority Chairman of the Subcommittee on Higher Education of the House Education Committee no later than November 1, 2008.

APPENDIX A

New Pennsylvania State University and Temple University Academic Freedom Policies

Pennsylvania State University:

HR 64:

“The faculty member is entitled to freedom in the classroom in discussing his/her subject. The faculty member is, however, responsible for the maintenance of appropriate standards of scholarship and teaching ability. It is not the function of a faculty member in a democracy to indoctrinate his/her students with ready-made conclusions on controversial subjects. The faculty member is expected to train students to think for themselves, and to provide them access to those materials which they need if they are to think intelligently. Hence in giving instruction upon controversial matters the faculty member is expected to be of a fair and judicial mind, and to set forth justly, without supersession or innuendo, the divergent opinions of other investigators.

No faculty member may claim as a right the privilege of discussing in the classroom controversial topics outside his/her own field of study. The faculty member is normally bound not to take advantage of his/her position by introducing into the classroom provocative discussions of irrelevant subjects not within the field of his/her study. ”

Faculty Senate Policy 20-00:

“Students having concerns about situations that arise within the classroom, or concerns with instructor behavior in a course that violates University standards of classroom conduct as defined in Policy HR64 "Academic Freedom," may seek resolution according to the recommended procedures established under Policy 20-00, Resolution of Classroom Problems.

In every case, student concerns arising from questions about classroom situations or behavior shall be resolved in a manner that provides for equity and due process for students and for instructors. Students may attempt to resolve classroom problems with assurance that confidentiality will be maintained as appropriate.”

Temple University:

Title: Student and Faculty Academic Rights and Responsibilities

Policy Number: 03.70.02

Effective Date: August 1, 2006

Issuing Authority: Board of Trustees

Preamble

As an academic institution, Temple University exists for the transmission of knowledge, the pursuit of truth, the development of students, and the general well-being of society. Free inquiry and free expression are indispensable to the attainment of these goals. As members of the academic community, students should be encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth.

Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. The University and the faculty have a responsibility to provide students with opportunities and protections that promote the learning process in all its aspects. Students similarly should exercise their freedom with responsibility.

Temple University therefore reaffirms its commitment to academic freedom, and adopts the following statement of academic freedom principles applicable to faculty and students:

Statement of Principles

1 Faculty are entitled to freedom in the classroom in discussing their subjects, but they should be careful not to introduce into their teaching controversial (or other) matter which has no relation to their subject. The faculty member is responsible, however, for maintaining academic standards in the presentation of course materials. [It is not the function of a faculty member in a democracy to indoctrinate his/her students with ready-made conclusions on controversial subjects. The faculty member is expected to train students to think for themselves, and to provide them access to those materials, which they need if they are to think intelligently. Hence, in giving instruction upon controversial matters the faculty member is expected to be of a fair and judicial mind, and to set forth justly, without suppression or innuendo, the divergent opinions of other investigators.]

2. As members of the academic community, students should be encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for the truth.
3. Faculty members in the classroom and in conference should encourage free discussion, inquiry and expression. Student performance should be evaluated solely on an academic basis, not on opinions or conduct in matters unrelated to academic standards.
4. Students should be free to take reasoned exception to the information or views offered in any course of study and to reserve judgment about matters of opinion, but students are responsible for learning the content of the course of study in which they are enrolled. The validity of academic ideas, theories, arguments and views should be measured against the relevant academic standards.
5. Students should have protection through orderly grievance procedures against prejudiced or capricious evaluations that are not intellectually relevant to the subject matter under consideration. At the same time, students are responsible for complying with the standards of academic performance established for each course in which they are enrolled.

Student Grievance Procedure

Except in cases in which a student challenges a grade received in connection with a course, the following procedures shall apply when a student believes that a faculty member has infringed upon the student's academic rights as set forth in this policy. In cases in which the student is challenging a grade in connection with a course, the student shall follow the grade appeal procedure applicable to the school or college in which the course is offered.

1. If a student grievance for an alleged violation of academic rights cannot be resolved between the faculty member and the student, or if the student does not feel comfortable in discussing the matter directly with the faculty member, the student may bring an informal complaint to the Student Ombudsperson of the school or college to try to effect an informal resolution.
2. If a resolution satisfactory to the student is not obtained through an informal mediation process with the Student Ombudsperson, the student may submit a formal, written grievance to the Dean or the Dean's designee.

3. The Dean or the Dean's designee may attempt informal resolution through discussion with the student and faculty member. If a mutually agreeable resolution is not achieved through informal discussion, the Dean shall refer the matter for consideration in accordance with the procedures for resolution of student grievances as set forth in the Bylaws of the school or college.
4. The Dean will consider the recommendation of the school or college's student grievance committee and issue a written decision and remedy. Appropriate precautions should be developed to safeguard the confidentiality of the grievance proceedings, including information about the outcome.
5. Either party to a grievance may appeal the decision of the Dean to the Provost, in writing, within ten (10) days following notice of the Dean's decision. A written reply by the other party must be filed within ten (10) days after receipt of the appeal. The Dean's decision shall be held in abeyance pending appeal. The Provost has discretion to determine the information and procedure that he/she will utilize in deciding each appeal. The decision of the Provost shall be in writing and shall be final.

Recordkeeping and Reporting

The officers should develop mechanisms and procedures for developing and maintaining records in a confidential manner of all grievances brought pursuant to this policy. In addition, the officers shall provide a report on all grievances pursuant to this policy each semester to the Chairs of the Student Affairs and the Academic Affairs Committees of the Board of Trustees, and establish a mechanism for annual reviews of this policy and its effectiveness by appropriate University officials and the Board of Trustees.

Effective Date

This policy shall become effective on August 1, 2006.