

ACADEMIC SENATE  
of  
THE CALIFORNIA STATE UNIVERSITY

Item 2

AS-2675-04/FA  
November 11-12, 2004

Reaffirmation of Academic Freedom

- RESOLVED: That the Academic Senate of the California State University (CSU) strongly reaffirm its commitment to upholding and preserving the principles of academic freedom as stated in AS-2649-04/FA and as contained in the 1940 Association of University Professors (AAUP) Statement on Academic Freedom and Tenure with the 1970 Interpretive Comments; and be it further
- RESOLVED: That the Academic Senate CSU oppose any attempt, made in the name of academic freedom, to quell open discussion of controversial material in the classroom and reaffirm the AAUP March 4, 2004, statement on "Controversy in the Classroom" including the statement "that instructors should avoid the persistent intrusion of matter, controversial or not, that has no bearing on the subject of instruction"; and be it further
- RESOLVED: That the Academic Senate CSU oppose SB 5, presented as a "Student Bill of Rights" (the Morrow bill), on the grounds that this legislation erodes the role of faculty in determining curriculum (*Papers and Policies of the CSU*, and HEERA); and be it further
- RESOLVED: That the Academic Senate CSU affirm that these principles reflect the University's fundamental mission to discover knowledge and to disseminate knowledge to its students and the society at large; and be it further
- RESOLVED: That the Academic Senate CSU reaffirm that it is the faculty who have primary responsibility for and jurisdiction over establishing hiring criteria for faculty positions; that these criteria must derive exclusively from the professional standards set forth by scholarly/professional organizations and by campus faculty (according to the shared governance processes of the University); and that conditions of hiring never include reference to an individual's political and/or religious affiliations; and be it further

RESOLVED: That the Academic Senate CSU urge the university and its campuses to foster and honor the free speech rights embedded in the United States Constitution, California Constitution and contractual agreements between university employees and the CSU, and ensure that guests on any campus have full opportunity to appropriate exercise of these rights; and be it further

RESOLVED: That the Academic Senate CSU urge that the CSU and local campus senates undertake a substantive review of existing campus policies for the protection of freedom of inquiry, research, expression and teaching both inside and beyond the classroom and forward relevant policies to the Academic Senate CSU, along with findings and recommendations based upon their campus review, no later than March 15, 2005; and be it further

RESOLVED: That the Academic Senate CSU send this resolution to the Chancellor, the CSU Board of Trustees, CSU Presidents, CFA Board, and chairs of the Senate Education Committee and Assembly Higher Education Committee in the California Legislature.

*RATIONALE: Academic freedom is essential to the search for truth, knowledge and understanding—the pillar of a university’s fundamental mission of discovery and advancement of knowledge and its dissemination to students and the public. Recent events, including the passage of the USA PATRIOT Act authorizing the tracking of certain public library books and the monitoring of electronic communications has greatly chilled the extent to which members of the academic community are willing to freely and openly express their thoughts, opinions, writings or research, fearful of repercussions. Specifically, the recent controversy concerning the appearance of a prominent filmmaker at CSU San Marcos demonstrates the need to clearly articulate and reaffirm the academy’s commitment to academic freedom. The quelling of discussions that are contentious under the guise of a “balanced” approach to controversial issues is antithetical to the function of the university; any such restrictions on freedom to teach, conduct research, publish, and express points of view create obstacles to fulfilling the mission of the university. Only when universities protect academic freedom and foster the free exchange of ideas can they effectively fulfill their mission of providing high quality educations to the students and to the public.*

**APPROVED UNANIMOUSLY – January 20-21, 2005**

ACADEMIC SENATE  
of  
THE CALIFORNIA STATE UNIVERSITY

Item 6

AS-2649-04/FA

March 11-12, 2004

Academic Freedom and Free Speech Rights

- RESOLVED: That the Academic Senate of the California State University (CSU) reaffirm its commitment to upholding and preserving the principles of academic freedom: the right of faculty to teach, conduct research or other scholarship, and publish free of external constraints other than those normally denoted by the scholarly standards of a discipline; and be it further
- RESOLVED: That the Academic Senate CSU call upon the campuses to foster the free speech rights embedded in the First Amendment of the U.S. Constitution and to ensure that guests on any campus have full opportunity to the appropriate exercise of these rights; and be it further
- RESOLVED: That the Academic Senate CSU call on the university community to ensure that the campuses be open forums for free expression of ideas and diverse views in the framework of scholarly inquiry and professional ethics; and be it further
- RESOLVED: That the Academic Senate CSU encourage the local campus senates to develop or review campus policies for the protection of freedom of inquiry, research, expression, and teaching both inside the classroom and beyond; and be it further
- RESOLVED: That the Academic Senate CSU call for review and, if necessary, repeal, of any CSU or campus policy that would restrict academic freedom under justifications such as "security" or "a balanced approach" to controversial issues.

*RATIONALE: In recent years, in the name of security, some universities have developed policies that place restrictions on academic freedom. There have been attempts to quell discussion of contentious issues under the guise of a need for a "balanced" approach to controversial issues. Academic freedom is the pillar of a university's fundamental mission of discovery and advancement of knowledge and its dissemination to students and the public. Restrictions on freedom to teach, conduct research, express points of view, and publish create obstacles in fulfilling the academic mission of the university. Only when universities protect academic freedom and foster the free exchange of ideas can they effectively fulfill their mission of providing high quality education to the students and to the public.*

**APPROVED – May 6-7, 2004**

American Association of University Professors



## Controversy in the Classroom

A statement issued by the AAUP's Committee A on Academic Freedom and Tenure

Advertisements have appeared in the campus press by an organization, "Students for Academic Freedom," calling on students to report professors who try to "impose their political opinions" in the classroom. This is not the first time that self-appointed watchdogs of classroom utterances have focused on the professoriate: The John Birch Society undertook that role in the 1960s, an organization called "Accuracy in Academia" did so in the 1980s, and "Campus Watch" assumed that role for professors of Middle Eastern studies after September 11, 2001. What is different is that this organization purports to rely on AAUP principles in condemning the introduction of "controversial matter having no relation to the subject" and to take upon itself the mission of defining what is in and out of bounds.

The AAUP has long maintained that instructors should avoid the persistent intrusion of matter, controversial or not, that has no bearing on the subject of instruction. Any such practice would be expected to be taken up as part of the regular evaluations of teaching routinely conducted in higher education, evaluations that commonly include surveys of student experience.

The advertised call goes well beyond a concern for poor pedagogy, however. It rests on a right, claimed in the name of academic freedom, not to be confronted with controversy in the classroom—not, at least, beyond what the organization conceives of as germane to the subject as defined by it. The project's stated purpose, as its ad puts it, is to rule out of bounds any reference to the war in Iraq in a course whose "subject" is not the war in Iraq, or statements about George W. Bush in a course that is not about "contemporary American presidents, presidential administrations or some similar subject."

Controversy is often at the heart of instruction; good teaching is often served by referring to contemporary controversies even if only to stimulate student interest and debate. If these watchdogs have their way, a professor of classics, history, ethics, or even museum administration could make no reference to the Iraq conflict or to George Bush—in their courses on the Roman Empire, colonialism, the morality of war, or trade in the artifacts of ancient civilizations—because the "subject" of these courses is not *this* war or *this* president. Contrary to defending academic freedom, the project is inimical to it and, indeed, to the very idea of liberal education.

(Posted 03/2/04)

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## **ACADEMIC FREEDOM**

Freedom of inquiry and the open exchange of ideas are fundamental to the vitality of our academic institutions. The current notion that freedom and national security are opposed denies the basic premise of a free democratic society where open exchange of information, public access to vital information and ability to openly challenge governmental decisions without fear of reprisals, increases rather than hinders national security.

The principles of academic freedom are critical to ensure higher education's important contribution to the common good. Basic academic freedom includes the ability to research and publish, the freedom to teach and the freedom to communicate extramurally. These freedoms have not been so challenged since The McCarthyism era of the 1950's. The essence of academic liberty is profoundly threatened by background investigations, the monitoring of classrooms, the surveillance of library research and monitoring of e-mail communications.

The authority for academic freedom is broad based. The most recognized authoritative definition is traced to the American Association of University Professors 1940 Statement of Principles on Academic Freedom, with the 1970 and later Interpretive Comments ([www.AAUP.org](http://www.AAUP.org)). This statement has been endorsed by most institutions of higher education. The U.S Constitution's First Amendment is an additional primary source cited for academic freedom. The concept that constitutional law's primary focus is to control the exercise of excessive governmental power highlights consistent judicial interpretations that apply the principles of the First Amendment free speech protections to academic freedom (Regents of Univ. of California v Bakke (1978); Widmar v Vincent (1981)). Other authority for academic freedom is found in Federal legislative enactments, state constitutions and statutes, contractual rights and recognized academic custom and usage (an academic freedom common law).

In California, the Higher Educational Employer-Employee Relations Act (HEERA), section 3561(b), provides: "The legislature recognizes that joint decision-making and consultation between administration and faculty or academic employees is the long accepted manner of governing institutions of higher learning and is essential to the performance of the educational missions of such institutions, and declares that it is the purpose

of this act to both preserve and encourage that process”. In a recent California case, Moosa v. State Personnel Board (2002), the Court of Appeals, 3<sup>rd</sup> District, found that academic freedom rights are often contained in institutional rules, letters of appointments, faculty handbooks, and collective bargaining agreements. Thus, academic freedoms can derive from many sources in addition to those provided by the Constitution.

The court will generally respect the academic decision making process and the professional judgment of faculty, giving deference to the special knowledge and expertise of faculty in matters concerning academic quality. This includes retention, promotion and tenure decisions and student assessment. (University of Michigan v Irving (1985) 474 US 214).

Faculty must be diligent in defending the right to exercise control over their teaching methods, course content, grading practices and policies, inquiry and research, and extramural communication. Each of these areas has been the subject of recent litigation. Faculty who have maintained germaneness to the subject matter and accuracy, and acted within established professional norms, have prevailed. Inaccurate statements not related to the subject matter that fall outside professional norms, such as sexually or racially degrading comments, will not be protected academic speech, in or outside the classroom (Bonell v Lorenzo (2001) 241 F3d 800).