REAFFIRMATION OF THE PRINCIPLES OF ACADEMIC FREEDOM --THE FACULTY SENATE OF THE UNIVERSITY OF NEVADA, LAS VEGAS

Summary

Academic freedom is the full and unfettered pursuit of knowledge.

Academic freedom is essential for the betterment of Society. In fact, no goal of higher education is more important than the full protection of academic freedom for all students, teachers, administrators and others taking part in college or university activities. That is because absent academic freedom, institutions of higher education cannot accomplish their two crucial duties for the betterment of Society. The first duty is teaching students not only practical skills but equally important, how to understand, evaluate, invent and challenge ideas. The second duty is enabling faculty members to enlarge their ability to teach and to further the cause of knowledge by pursuing their own research.

Because academic freedom is indispensable, ideas and viewpoints may not b ow57.05 5/F1 11 Tf or t



- -- security of terms and conditions of employment such as rank, salary and perquisites, course assignments, access to research facilities and research support such as grants, research assistants and travel:
- -- maintenance of opportunities for advancement such as tenure and promotions; and, freedom from discipline, punishment, sanctions, ostracism and similar segregation from and within the Academy.

(6)(e) Respect for Law --

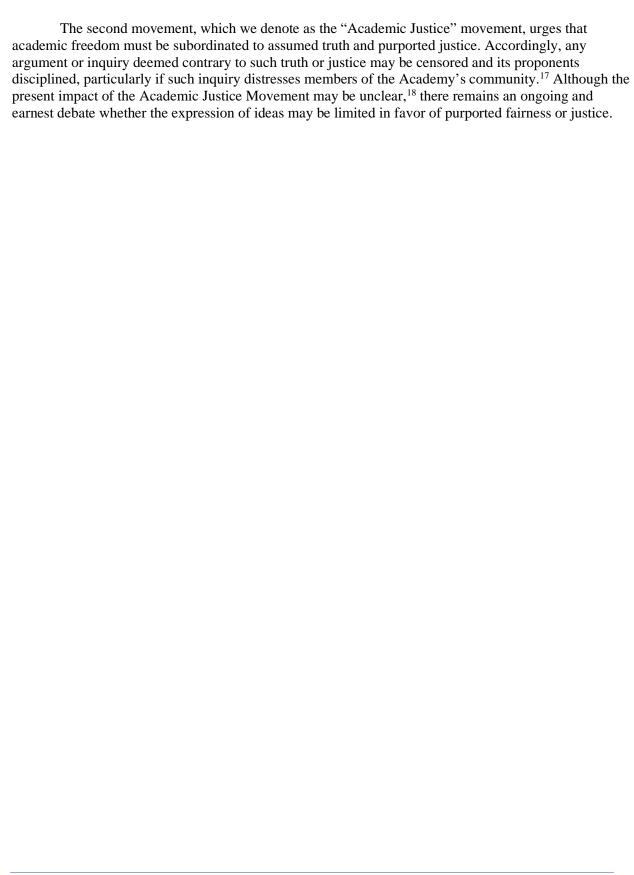
Members of the Academy may neither use nor appeal to principles of academic freedom to justify violations of validly established law.

(7) Contrary Movements --

The UNLV Faculty Senate disapproves of movements that, while possibly well meaning, infringe on full and complete academic freedom.³

Explanation and Elucidation

I.



Similarly, recognizing that not all constituents of the Academy enjoy equal power, academic freedom does not justify misuse of authority, exemplified by coercion overt or subtle. ²⁵ For example, especially within the classroom, teachers may aggressively challenge students but may not abuse teaching authority by demeaning, threatening or similar untoward conduct. ²⁶ Likewise, academic freedom does not permit teachers to assess students' work on criteria irrelevant to the given course or discipline such as race, sex or similar irrational bases. Academic freedom requires that the work product of members of the Academy be judged solely on criteria relevant to the nature of such projects because irrelevant standards by definition reveal nothing about the merits or demerits of any given project. Since they defy academic inquiry, irrelevant criteria fall outside the cloak of academic freedom.

b. Free and Full Investigation of Ideas

Classically, academic freedom protects the free and full investigation and debate of ideas, particularly concepts, viewpoints and policies "which may be politically, socially or scientifically controversial." While this aspect sometimes is denoted as the pursuit of "truth," the better understanding in that truth, such as it may be, is part of a greater quest for ideas -- for knowledge. The NSHE Code, then, aptly recognizes that the larger category "knowledge" is part of the coverage of academic freedom. This essential role of the Academy might be summarized as the accumulation and dissemination of knowledge coupled with the free expression of opinions as part of intellectual inquiry.

Absent academic freedom, forces within and without the Academy could coerce their preferred orthodoxies as the price of maintaining the status of teacher, administrator or student. *But, stifling intellectual inquiry is the antithesis of education, threatening to substitute politics and partisanism for learning.* Consequently, academic freedom's pursuit of ideas -- of truth and knowledge -- inures to research, publishing in all its forms, in-class instruction and general campus conduct.³¹ So urgent is academic freedom that famously the Academy, and sometimes the State, protects academic freedom with enforceable policies assuring job and status security, prominent among them tenure.³²

Understandably and sensibly, the Academy has concluded that along with teaching hands-on skills, researching and imparting abstract concepts is essential to understanding both particular disciplines and discrete topics. Thus, life of the mind is integral to academic freedom's protection of the free and full investigation of ideas.³³

daily life, particularly successfully pursuing work and careers. Academic research and instruction provides necessary depth and breadth of perception, enabling individuals pragmatically to pursue occupations and other projects with the greatest possible success and advancement.

professions because Philosophy enhances their overall intellectual capacities and rational curiosity, making them able to appreciate more quickly and fully the intricacies of their various occupations.³⁵

Importantly, the freedom to pursue knowledge covers more than discerning new ideas and enhanced old ones. Academic freedom includes both challenging and demanding reaffirmation of accepted propositions, even when doing so is unpopular, uncomfortable and highly controversial. For essentially two reasons, no idea should be considered so sacrosanct that it is beyond debate. First, possibly that which is considered *truth* in fact might not be fully true or true at all. Only continued challenge and investigation can verify what has been determined to be true. Limiting or proscribing such sustained investigation means we cannot be sure that the particular truth is unchallengeable because of its truthfulness rather than due to the political machinations of powerful individuals or groups.

Second, even if extant investigation properly has discerned something to be true, full study requires more than the Academy's unsupported assertion of that given truth. Rather, the Academy must present for review and challenge the record purportedly proving that truth -- a record that indeed might be improved upon as well as possibly contested by future study. Prohibiting persons from presenting dangerous thoughts, including contesting even seemingly unassailable actuality, does not disprove those dangerous thoughts but rather only evinces that someone or some group can coerce orthodoxy.³⁷

We recognize the alarming actuality that sometimes, exercising academic freedom, particularly questioning orthodoxy, can cause not simply discomfort, but more severe harm particularly to innocent persons. Likewise, there is a great and too often underappreciated need to acknowledge dignity and respect, particularly to those who may have limited influence or who may feel innately estranged within the Academy. The Academy might well rally around the harmed person and attempt to show bigoted skeptics the errors of their beliefs. Moreover, as emphasized throughout this statement, academic freedom does not protect challenges to orthodoxy, or indeed *any* intellectual assertions, that fail to follow established, neutral methods or defy historical or scientific fact, as, for instance, pure and absolute "Holocaust deniers." But otherwise, even if the vast majority lucidly deems skeptics' claims appalling, such skeptics must not be penalized for to do so would inflict punishment through the imposition of political power.³⁹

In this regard, it is worth reiterating that a welcoming and inclusive environment is not and ought not be a "safe zone" from which individuals enjoy freedom from hearing upsetting and distressing ideas. ⁴⁰ The nature of ideas is to stimulate thought which often means contemplating unpleasant, disturbing and distressing concepts. Doubtless, even in public areas, discourse is subject to content and viewpoint neutral rules regarding time, plan and manner. ⁴¹ Appropriately neutral rules notwithstanding, if persons could proscribe the dissemination of ideas because they upset others, few ideas would be ripe for debate.

c. Liberation of the Individual

Statements on academic freedom tend to accent the pursuit of knowledge. However, the UNLV Faculty Senate believes that liberation of the individual -- that is, the ability and opportunity to enjoy liberty -- is equally essential because liberty safeguards respect of human dignity, which is the innate due of every human being. Only when human dignity is protected can persons freely pursue and use their educations. Moreover, if its members cannot enjoy individual liberty, then Society itself cannot be free and fair. Thus, the personal and societal liberty interests vouchsafed by academic freedom are as worthy of full enforcement as is the already discussed pursuit and dissemination of knowledge.



repeating what has been done before, thus unable to contribute to the advancement of the given work or project. This not only disserves the students who rely on the Academy, but likewise disserves the greater Society that would have to import the experts for whom its graduates would work. Thus, for the sake of the individual and the sake of Society, the Academy provides graduates who are educated in such life of the mind as given work might demand yet be unwilling to so train its own workers.

III. Conclusion

For the foregoing reasons the UNLV Faculty Senate reaffirms its unfettered, unconstrained devotion to the principles of academic freedom as first and paramount among the goals and duties of the Academy.

So subscribed this ___day of_, 2017 by an affirmative vote of the UNLV Faculty Senate.

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¹ The AAUP's foundational document Statement of Principles on Academic Freedom and Tenure, 1940, remains among the most reliable and comprehensive basic expressions of the nature and extent of academic freedom. The AAUP has augmented its 1940 Statement with a series of supplements and reports. *See*, http://www.aaup.org/our-programs/academic/freedom/resources-academic-freedom/.

² The important issue of "neutral methods" is explained in the Explanation and Elucidation below at part IIa.

³ As explained in parts I a and b in the Explanation and Elucidation below, The UNLV Faculty Senate in this document opposes two current movements of some prominence, the Outcomes Movement and the Academic Justice Movement, only to the extent that they infringe on academic freedom.

⁴See *supra*, endnote 1.

⁵ 2 Nevada System of Higher Education ("NSHE") Code § 2.1 *et seq.*

⁶ While the same principles likely have their counterparts in elementary and high school level education, our expertise lies in higher education. Therefore, in no manner intimating that its precepts are inapplicable in other settings, we limit this statement to academic freedom's essentiality for the Academy.

⁷ As one frustrated commentator bluntly (and ungrammatically) but accurately lamented during an interview, "I think everyone understands that *they* have a free-speech right, but they don't necessarily understand why *you* should have one." Cecelia Capuzzi Simon, Fighting for Free Speech\$ pee M

liberal arts education), accessed at: http://www.huffingtonpost.com/2013/02/03/pat-mccrory-

college n 2600579.html
11 E.g., Christopher B. Nelson, Assessing Assessment, (Nov. 24, 2014), https://www.insidehighered.com/views/2014/11/24/essay-criticizes-1000egassessment-movement-highereducation; J.M. Anderson, Three Cheers for Useless Education, (Nov. 29, 2011), http://www.nas.org/articles/three cheers for useless education (both articles criticizing the Outcomes Movement).

¹² E.g., Association of American Colleges & Universities, Higher Education Learning Outcomes Assessment Movement Moves Away from Standardized Tests, According to New National Survey, (Feb. 17, 2016); generally, National Institute for learning Outcomes Assessment, Higher Education Quality: Why Documenting Learning Matters, (May 2016),

http://www.learningoutcomesassessment.org/NILOA_statement.html.

¹³ See e.g., ETS, A Culture of Evidence: an Evidence-Centered Approach to Accountability for Student Learning Outcomes (2008) (noting, inter alia, that particularly for liberal arts instruction, assessing outcomes should respect goals such as cultivating "creativity," "student engagement with learning," and, "general education skills, such as the abilities to communicate clearly and effectively and to break down and analyze complex information to solve problems." (Id. at 12)), accessed at: https://www.ets.org/Media/Education_Topics/pdf/COEIII_report.pdf

¹⁴ E.g., Peter St. Onge, The Words We Want To Hear about UNC, The Charlotte Observer, (Jan. 7, 2016), http://www.charlotteobserver.com/opinion/editorials/ article53559450.html (quoting North Carolina Governor Pat McCrory, "If you want to take gender studies, that's fine. Go to a private school, ..."). ¹⁵ While many educators, politicians and other concerned individuals have criticized extreme varieties of the Outcomes Movement, e.g., Kinkado, supra endnote 11, we believe such zeal remains highly influential especially in times of economic distress.

¹⁶ E.g., Kingkado, supra, endnote 11. Mr. Kingkado's article noted that North Carolina Governor Pat McCrory, "said he'd propose legislation to change the higher education funding formula in the state 'not based on how many butts in seats but how many of those butts can get jobs." But see, St. Onge, supra endnote 15, (criticizing Gov. McCrory's statement as contrary to the proper goals of education and as bad policy because, quoting Florida State Senator Joe Negron, "It has been proven that liberal arts majors who pursue careers in business do very well.")

17 A typical recent reaffirmation of the Academic Justice movement 4497(e)12(e)-10(r/0.00002 reW*n510 1 309.38 447on

Nicholas Kristof, Mizzou, Yale and Free Speech, Op-Ed, N.Y. Times, (Nov. 11, 2015), http://www.nytimes.com/2015/11/12/opinion/mizzou-yale-and-free-speech.html?emc=eta1 ("Yes, universities should work harder to be inclusive. And, yes, campuses must assure free expression, which means protecting dissonant and unwelcome voices that sometimes leave other people feeling aggrieved or wounded.");

Suzanne Nossel, Who Is Entitled To Be Heard?, Op-Ed. N.Y. Times, (Nov. 12, 2015), http://www.nytimes.com/2015/11/12/opinion/who-is-entitled-to-be-heard.html?emc=eta1 (criticizing the trend at universities that, "In recent years speakers have been disinvited, campus events disrupted and activists threatened for speaking their minds.").

To cite another example, hundreds of students at Amherst College demanded from the college's administration that, "students who had posted 'Free Speech' and 'All Lives Matter' posters to go through 'extensive training for racial and cultural competency' and possibly discipline." Anemna Hartocollis, With Diversity Comes Intensity in Amherst Free Speech Debate, U.S., The New York Times, (Nov. 28, 2015), http://www.nytimes.com/2015/11/29/us/with-diversity-comes-intensity-in-amherst-free-speechdebate.html?emc=eta1& r=0. These students' demands were not embraced by the entire Amherst community. "Alumni took to the college's website by the hundreds to complain that this generation was trying to sanitize history and impose a repressive orthodoxy on a place that should be a free market of ideas." Id.

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However, members and guests of the Academy who enter the numerous areas of open discourse cannot demand to be free from non-harassing exposure to unpleasant ideas, regardless whether at that moment, in that place they choose the role of passive listener rather than active participant in the particular debate or discussion. Thus, for example, a person sitting in the Student Union cannot insist that those at the next table cease discussing something the person finds upsetting or inappropriate. Of course, as noted in the text, academic freedom is subject to appropriately subject-neutral time, place and manner rules. If, for example, those at the next table are using inappropriately loud voices, the objector can insist that they lower their voice to an appropriate level. Similarly, the objector may choose to reposition herself out of earshot in which case, if the others follow her insisting that she hear their conversation, the objector has a valid claim of harassment.

⁴²There is, of course, a political aspect to "liberty." Liberty sometimes is recognized or defined as a set of rights belonging to human beings that government must both respect and protect, and that government may not abridge. For the purposes of this writing, perhaps the most important explication of that aspect of liberty comes from the Declaration of Independence's bold and apt assertion that "all [Persons] are created equal and are endowed by their Creator with certain unalienable Rights, among these are Life, Liberty and the Pursuit of Happiness.

"That to secure these rights, Governments are instituted among [Persons], deriving their just powers from the consent of the governed, ..." The Declaration of Independence, pars. 2, 3 (July 4, 1776). ⁴³ This very brief definition is based on principles often associated with moral and political philosophy of The Enlightenment era, much of which influenced the drafters of the Declaration of Independence.

An example might help illustrate how these abstract concepts work. Jane decides that she will be happiest by studying to become a physician. To maximize her pursuit of that happiness – to exercise her liberty – Jane decides to study as hard as she can, to compete for scholarships, to make helpful contacts in the greater community, and, to engage in useful extra-curricular activities. All of these are perfectly acceptable pursuits so long as Jane does not use other people in immoral ways. If Jane cheats on her tests or lies to get scholarships and jobs, she abuses her liberty by obtaining unearned advantages, thereby denying those advantages to persons who had earned them. Lying and cheating are classic examples of immoral conduct. Specifically, lying and cheating impugn the dignity of others by depriving those others of benefits – herein rightful competition with other students and access to financial aid – not on merit but by deceit.

⁴⁴ E.g., Michael Addady, Study: Being Happy at Work Really Makes You MoreETQ Eguits so0.00000(xa)-10(m)5(t5(d)]