

HISTORY OF ACADEMIC FREEDOM IN THE UW SYSTEM

BACKGROUND

The concept of academic freedom has a long history in the University of Wisconsin System. According to one definition used by higher education institutions, academic freedom encompasses the right of faculty members to full freedom in research and in the publication of results, freedom in the classroom in discussing their subject, and the right to be free from institutional censorship or discipline when they speak or write as citizens¹. In response to Regent interest, a listing of laws and policies related to academic freedom in the UW System has been compiled.

REQUESTED ACTION

For discussion.

DISCUSSION

Materials on academic freedom in the UW System can be categorized into: (1) laws; (2) UW and Board of Regents History; and (3) UW institutional rules or policies.

Laws on Academic Freedom

- (1) Wisconsin Statutes: The Board of Regents' responsibility with respect to academic freedom is embodied in the UW System's statutory mission: "The mission of the system is to develop human resources, to discover and disseminate knowledge, to extend knowledge and its application beyond the boundaries of its campuses and to serve and stimulate society by developing in students heightened intellectual, cultural and humane sensitivities, scientific professional and technological expertise and a sense of purpose... Basic to every purpose of the system is the search for truth."²
- (2) Wisconsin Administrative Code: In the procedures for faculty dismissal for cause, the regulations state: "A faculty member is entitled to enjoy and exercise all the rights and privileges of a United States citizen, and the rights and privileges of academic freedom as they are generally understood in the academic community."³

UW and Board of Regents History

The following table includes some of the key developments in the Board of Regents' actions related to academic freedom:

DATE	EVENT OR ACTION
August-September 1894	<p>The Board of Regents held a hearing in response to a Board member's allegation that Professor Richard Ely's "teaching and writings provided moral justification for attacks on life and property."⁴ In exonerating Professor Ely, the Board affirmed its commitment to academic freedom:</p> <p>"...Whatever may be the limitations which trammel inquiry elsewhere, we believe that the great state University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone the truth can be found."⁵</p>
May 1922	<p>The Board of Regents formally amended its policies to include the 1894 statement and specified that the statement applied "...to teaching in the classroom and to the use of university halls for public addresses, under the control of the president of the University with appeal to the regents."⁶</p>
October 1949	<p>The Board of Regents adopted the following statement:</p> <p>"In the present world-wide discussion of the future of human society, we believe that the University of Wisconsin, and all other institutions of higher learning, have a unique opportunity and responsibility. An opportunity critically to study the proposals and claims of systems alien to our own is the intellectual right of every student. And freedom to explore and discuss the issues in the field of his special competence is the right of every teacher. But to teach the foundations of 'our American way of life,' economic, political and social, and the entire cultural life it makes possible, is the inescapable obligation of the University to its students. We believe this is best done through fair-minded, scholarly teachers working in many different fields of learning, and that it is now being done in this University...."⁷</p>
July 1962	<p>In a statement to the Board of Regents, University Vice President Fred Harrington explained why the University of Wisconsin is a great university:</p> <p>"...[W]e at Wisconsin have not been afraid to speak out. We of the faculty, and you of the Board of Regents, have been in favor of freedom of speech and academic freedom. In fact, Wisconsin has been one of the leaders of the country in this field. We are abused for this, sometimes, but we have persevered and we have made a national contribution. Other institutions often have been praised for doing things on occasion with reference to free speech that we do routinely. This is an important part of our greatness. I am pleased that members of this Board have felt so and insisted on retention of this tradition...."</p>

DATE	EVENT OR ACTION
	<p>“... In speaking out, and saying different things, and insisting on democracy, we have made great national contributions, and in doing so, have developed a great University.”⁸</p>
<p>January 1964</p>	<p>In approving faculty rules for appointment, tenure and dismissal procedures, the Board offered the following statement:</p> <p>“...In adopting this codification of the rules and regulations of the University of Wisconsin relating to academic tenure, the Regents reaffirm their historic commitment to security of professorial tenure and to the academic freedom it is designed to protect. These rules and regulations are promulgated in the conviction that in serving a free society the scholar must himself be free. Only thus can he seek the truth, develop wisdom and contribute to society those expressions of the intellect that ennoble mankind. The security of the scholar protects him not only against those who would enslave the mind but also against anxieties which divert him from his role as scholar and teacher. The concept of intellectual freedom is based upon confidence in man’s capacity for growth in comprehending the universe and on faith in unshackled intelligence. The University is not partisan to any party or ideology, but it is devoted to the discovery of truth and to understanding the world in which we live. The Regents take this opportunity to rededicate themselves to maintaining in this University those conditions which are indispensable for the flowering of the human mind.”⁹</p>
<p>December 1985</p>	<p>In preparing for the Regents’ Study Group on the Future of the UW System, President Lyall read a 1955 report from a commission on the University of Wisconsin, chaired by then-Senator Warren Knowles. The report included a recommendation that no restrictions be placed on freedom of speech or assembly, beyond those established by state or federal laws. Reflecting on threats to academic freedom in 1955 posed by McCarthyism, and present-day threats posed by the activities of Accuracy in Academia, a national group whose purpose was to monitor universities for professors with Marxist or left-leaning views, in 1985 President Lyall offered the following statement, with which the Board of Regents concurred:</p> <p>“...Lest there be any doubt, I would like to reaffirm clearly that the University of Wisconsin System will continue in the future as it has in the past to insist on maintaining the academic freedom of students and faculty to speak, argue, debate, sift and winnow ideas and values openly and without fear of reprisal or intimidation. Disagreement and debate is the stuff of which learning is made. We do not fear it, but it should be done openly and without threat or coercion. Great universities share this common commitment to open expression.”¹⁰</p>

DATE	EVENT OR ACTION
October 1994	<p>The Board of Regents, commemorating the 100-year anniversary of the Board’s exoneration of Professor Ely, passed resolution 6787 reaffirming its commitment to academic freedom:</p> <p>“...Now therefore, be it resolved that the Regents of the University of Wisconsin System, meeting one hundred years after our predecessors guaranteed Professor Ely’s academic freedom, reaffirm our commitment to the untrammelled search for truth.</p> <p>We call upon all members of our several academic communities -- administrators, faculty, staff, and students alike -- to guard this precious legacy, to consider differing points of view, and always to engage in ‘that continual and fearless sifting and winnowing by which alone the truth can be found’”.¹¹</p>

UW System or Institutional Policies

The University of Wisconsin System Board of Regents and several of the individual campuses have adopted policies or other authority related to academic freedom:

(1) UW Board of Regents Policies

- a. The University of Wisconsin System Mission (RPD 1-1): The UWS Mission statement was adopted by the Board of Regents on June 10, 1988. It mirrors Chapter 36, Stats., and states:

“Each institution of the University of Wisconsin System shares in the mission of the system. The mission of this system is to develop human resources; to discover and disseminate knowledge; to extend knowledge and its application beyond the boundaries of its campuses; and finally, to serve and stimulate society by developing in students heightened intellectual, cultural, and humane sensitivities, scientific, professional, and technological expertise, and a sense of value and purpose. Inherent in this mission are methods of instruction, research, extended education, and public service designed to educate people and improve the human condition. Basic to every purpose of the system is the search for truth.”¹²

- b. Racist and Other Discriminatory Conduct Policy (RPD 14-6): In prohibiting discrimination, the policy also states that not every act which may be offensive to an individual or group will be considered to be racist and discriminatory conduct and a violation of system or institutional policy, and due consideration will be given to the protection of individual First Amendment rights to freedom of expression and academic freedom.¹³

- c. Guidelines for Tenured Faculty Review and Development (RPD 20-9): Plans for tenured faculty review and development should include effective criteria to measure progress for accomplishments of faculty and a description of the methods for conducting the evaluation and any review methods should fully respect academic freedom.¹⁴
- (2) UW Institutional Policies (The following is not intended to be a comprehensive list but, rather, provides examples from several UW institutions.):
- a. UW-Green Bay Faculty Academic Freedom Policy: The faculty adopted the American Association of University Professors (AAUP) policy and interpretive comments¹⁵ as its academic freedom policy. (See UW-Milwaukee example, below, for excerpts from the policy.) The policy provided the following reasons for doing so: (1) the statement has significant legal standing in case law; (2) any other policy adopted by the faculty could conceivably require a test in court before it would have legal standing and the protection that such standing grants to faculty, and; (3) in the absence of an academic freedom policy, a court would likely assume that the AAUP statement provides the effective principle.¹⁶
- b. UW-Madison Faculty Policies and Procedures: The current policy on Faculty Rights (8.01) refers to “the principles of academic freedom as they are generally understood in higher education.”¹⁷ The policy also references the Regents’ “commitment to security of professional tenure and the academic freedom it is designed to protect.”¹⁸
- c. UW-Milwaukee Academic and Administrative Policies: The Public Expression of Opinion policy addresses the rights of faculty members to express opinions in both areas of professional competence and as individual citizens, and provides three principles from the American Association of University Professors’ 1940 statement, which states that: “(1) 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...; (2) 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...; (3) college and university teachers are citizens, members of a learned profession, and officers of an educational institution...”¹⁹
- d. UW-Oshkosh Faculty Constitution: The faculty constitution is prefaced with a statement on the preservation of academic freedom and provides several principles to support academic freedom, such as: (1) the dependence of the common good on the “free search for truth and its free exposition;” (2) the premise that “[a]cademic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning;” and (3) that while a faculty member “should be free from institutional censorship or discipline” he or she “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 he or she is not a spokes-person for the institution.”²⁰
- e. UW-River Falls Faculty and Academic Staff Handbook: Faculty members are provided with full academic freedom in the classroom, in research, and elsewhere as outlined in the

American Association of University Professors statements on academic freedom.²¹ Members of the faculty are also free from institutional censorship or discipline when acting as citizens or in matters of academic freedom, but must acknowledge and accept their responsibilities as professional people, and any public statement must clearly state whether they speak as individuals or as representatives of the University.²²

RELATED REGENT POLICIES

Regent Policy Documents 1-1, 14-6, and 20-9.

¹ American Association of University Professors (<http://www.aaup.org/AAUP/about/mission/glossary.htm>)

² Section 36.01(2), Wis. Stats.

³ Wis. Adm. Code § UWS 4.01(2).

⁴ Miller, Harry, *Sifting and Winnowing: Academic Freedom and Ely Trial*, Wisconsin Stories: School Days, (http://www.wisconsinstories.org/2002season/school/closer_look.cfm)

⁵ Report of the Board of Regents investigating committee, September 18, 1894.

⁶ Board of Regents minutes excerpt, p. 12, May 22, 1922, Board of Regents Collections, University of Wisconsin Digital Collections.

⁷ Board of Regents minutes excerpt, pp. 19-20, October 15, 1949, Board of Regents Collections, University of Wisconsin Digital Collections.

⁸ Statement by University Vice President Fred H. Harrington, Board of Regents minutes, Exhibit E, pp. 1-4, July 14, 1962, Board of Regents Collections, University of Wisconsin Digital Collections.

⁹ Statement by Regent Jensen, Board of Regents minutes excerpt, pp. 3-4, January 10, 1964, Board of Regents Collections, University of Wisconsin Digital Collections.

¹⁰ Statement by UW System President Lyall, Board of Regents minutes excerpt, pp. 13-14, December 6, 1985, Board of Regents Collections, University of Wisconsin Digital Collections.

¹¹ Excerpt of Resolution 6787, University of Wisconsin Board of Regents minutes, pp. 3-5, October 7, 1994. <http://www.wisconsin.edu/bor/minutes/bor/1994/october.htm>

¹² <http://www.uwsa.edu/bor/policies/rpd/rpd1-1.htm>

¹³ <http://www.uwsa.edu/bor/policies/rpd/rpd14-6.htm>

¹⁴ <http://www.uwsa.edu/bor/policies/rpd/rpd20-9.htm>

¹⁵ <http://www.aaup.org/AAUP/pubsres/policydocs/contents/1940statement.htm>

¹⁶ <http://www.uwgb.edu/sofas/rules/facultyhandbook.pdf>

¹⁷ http://www.secfac.wisc.edu/governance/fpp/Chapter_8.htm#801

¹⁸ *Id.*

¹⁹ http://www4.uwm.edu/secu/acad+admin_policies/S44.htm; AAUP 1940 statement, *supra* note 8.

²⁰ http://www.uwosh.edu/faculty_senate/faculty-constitution

²¹ http://www2.uwrf.edu/faculty_senate/handbook/chapter3-2.htm#C32III; AAUP 1940 statement, *supra* n.8.

²² *Id.*