

The Office of Free Speech: A Not-So-Modest Proposal for Academia

Here's a third post from an anonymous professor here at the University of Texas, printed with his permission. The proposal is intended in all seriousness.

We are now unquestionably at a crisis point for free speech, academic freedom, and intellectual diversity in higher education. Ritualistic denunciations of faculty who dissent from consensus, under the thin veneer of combating “misinformation,” are now practiced by prominent universities and broadly accepted within higher education. Political tests requiring support for prioritizing racial balance over other considerations are increasingly applied for hiring and promotion. Academic departments, universities, and administrators acting in their official capacity feel free to commit institutions to advocacy for particular policies. Prominent people of the left are actively promoting blacklists to stop hiring of people who took a particular side in politics, and this practice that will no doubt quickly find its way into academia, or would if such people were not already effectively excluded. These events are taking place at private universities that should be committed to open inquiry, but also at public universities that are legally committed to provide an environment where free speech and dissent are possible.

Small groups of faculty have begun to push back in very mild ways, but such push back is entirely defensive and almost doomed to fail. Once a dissenter is identified, there are many formal and informal institutions that can be brought to bear against such a person and anyone who supports him. Title IX investigations are a classic approach, along with “inquiries” into research misconduct. At my own school, our Dean sought a precedent to claim that using a classic example from a movie to illustrate Nash equilibrium (a clip praised as a pedagogical tool by the New York Times) counts as sexual harassment, apparently to punish the faculty member for an insufficiently contrite apology for the use of the example. Whenever someone is attacked in this way, faculty who tend to support academic freedom act as if it is a victory when nothing is ultimately done to the faculty member. This purely defensive stance is a recipe for failure; the process is the punishment, and the people who sought to limit free speech or impose political hiring criteria are free to keep trying until they succeed. Knowing this, few faculty chose to fight back, and almost all attacks on academic freedom, free speech, and intellectual diversity succeed without the aggressors even having to truly fight.

Existing institutions and norms are thus insufficient to address the problems of the current moment. What is required is administrative reform, where attacks on academic freedom, free speech, and intellectual diversity are treated with at least the same degree of

seriousness as other offenses at universities. Specifically, every university should have an “Office of Free Speech” where faculty can lodge complaints when their academic freedom or free speech rights are violated, or when policies are put in place to limit the possibilities for intellectual diversity. This office must have adequate funding to complete independent investigations of such allegations, and it should report directly to the highest authority governing the university, either the board of trustees or regents for most private universities or the regents or state legislature for public universities. These investigations must have teeth; attacking academic freedom (not simply criticizing speech with speech) cannot be allowed to stand as acceptable behavior for administrators, faculty, or students. The same sorts of consequences available for other offenses should be applied to those who use their position at the university to deprive others of their institutional or constitutional rights. The office should not go as far as hounding people to suicide through punitive investigations and promotion of angry mobs, but those who weaponize university processes against innocent faculty should bear some costs for their actions.

Crucially, this office must be independent of even the highest level administrators of the university, who are often responsible for the greatest threats to academic freedom. For example, the top administration at my university publicly plays lip service to the importance of free inquiry while at the same time supporting policies that serve as a political test to prevent hiring of faculty who dissent from campus orthodoxy on “diversity and inclusion” matters. And, faculty can certainly not be trusted with a role in the oversight of these issues; having served on certain faculty bodies designed to protect academic freedom, it is abundantly clear that most university faculty, even those who would go as far as to join such bodies, view academic freedom exclusively as a collective right of the faculty as a whole and not an individual right of faculty members. That is, the consensus view of academic freedom is that the faculty as a whole should be free to decide what ideas should be allowed to be expressed on campus, and protecting academic freedom consists of preventing outside interference with this process, even when that outside interference is intended to protect the individual rights of faculty members.

Notably, this arrogation of power is outside of any reasonable interpretation of the charter of a university; when faculty were granted academic freedom in running universities, this was done under the assumption that faculty were best able to judge work in their areas and that external influence would potentially corrupt academic inquiry. Founders of universities undoubtedly did not anticipate that faculty would instead turn against the very idea of free inquiry and use the trust placed in them to shift the mission of institutions away from inquiry and toward pure advocacy. Thus, having external, responsible parties ultimately judge the cases brought to the Office of Free Speech is entirely appropriate. At some point, the answer to “Quis custodiet ipsos custodes?” cannot simply be that we trust faculty to protect the rights of those they despise, particularly in light of behavior observed recently. Ultimately, universities, particularly those funded by taxpayers, must answer to a

broader set of constituents than simply the faculty themselves; such accountability will certainly be treated as an attack on free inquiry, but in fact it is absolutely necessary to restore any semblance of such a concept at modern universities.