

UNIVERSITY OF DELAWARE
NEWARK, DELAWARE
19711

UNIVERSITY FACULTY SENATE
303 HULLIHEN HALL
PHONE 302-738-2829

February 23, 1978

MEMORANDUM

TO: All Faculty Members

FROM: Byron P. Shurtleff, Vice President
University Faculty Senate

SUBJECT: Regular Senate Meeting, March 6, 1978

B. Shurtleff

In accordance with Section IV, paragraph 6 of the Constitution, the regular meeting of the University Faculty Senate will be held on Monday, March 6, 1978 at 4:00 p.m. in room 110 Memorial Hall.

AGENDA

- I. Adoption of the Agenda.
- II. Approval of the Minutes of the regular Senate meeting of February 13, 1978.
- III. Remarks by President Trabant and/or Provost Campbell.
- IV. Announcements - J. Pikulski, President, University Faculty Senate.
- V. Old Business - none.
- VI. New Business
 - A. Request from Provost Campbell for confirmation of the following appointment to COPE:
Mr. Richard M. Blakeman, Director of Purchasing
(to replace Dr. James Archer).
 - B. Request from the Committee on Committees (B. Settles, Chairperson) for confirmation of the following committee appointments:
James D. Culley, Member and Chair, Library Committee
(to fill the unexpired term of M. Sasser);
Rowland Richards Jr., Member and Chair, Coordinating Committee on Education (to fill the unexpired term of W. Fletcher).

- C. Recommendation from the Committee on Academic Freedom (E. Safer, Chairperson) for Senate approval of a Statement on Academic Freedom.

RESOLVED, that the Faculty Senate adopts and recommends University adoption of the academic freedom components of the 1940 Statement of Principles on Academic Freedom and Tenure, and the 1970 Interpretive Comments, of the American Association of University Professors and the Association of American Colleges. These shall replace all but the last paragraph of section III-B-1 of the Faculty Handbook.

STATEMENT ON ACADEMIC FREEDOM

The purpose of this statement is to promote public understanding and support of academic freedom and agreement upon procedures to assure them at the University of Delaware. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher* or the institution as a whole. The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic 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. It carries with it duties correlative with rights.[1]**

ACADEMIC FREEDOM

(a) The teacher is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of his other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

(b) The teacher is entitled to freedom in the classroom in discussing his subject, but he should be careful not to introduce into his teaching controversial matter which has no relation to his subject.[2] 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.[3]

(c) The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When he speaks or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. As a man of learning and an educational officer, he should remember that the public may judge his profession and his institution by his utterances. Hence he 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 is not an institutional spokesman.[4]

*The word "teacher" as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.

**Numbers in brackets refer to Interpretive Comments which follow.

1970 INTERPRETIVE COMMENTS

Following extensive discussions on the 1940 Statement of Principles on Academic Freedom and Tenure with leading educational associations and with individual faculty members and administrators, a Joint Committee of the AAUP and the Association of American Colleges met during 1969 to reevaluate this key policy statement. On the basis of the comments received, and the discussions that ensued, the Joint Committee felt the preferable approach was to formulate interpretations of the Statement in terms of the experience gained in implementing and applying the Statement for over thirty years and of adapting it to current needs.

The Committee submitted to the two Associations for their consideration the following "Interpretive Comments." These interpretations were approved by the Council of the American Association of University Professors in April, 1970, and endorsed by the Fifty-sixth Annual Meeting as Association policy.

In the thirty years since their promulgation, the principles of the 1940 *Statement of Principles on Academic Freedom and Tenure* have undergone a substantial amount of refinement. This has evolved through a variety of processes, including customary acceptance, understandings mutually arrived at between institutions and professors or their representatives, investigations and reports by the American Association of University Professors, and formulations of statements by that Association either alone or in conjunction with the Association of American Colleges. These comments represent the attempt of the two associations, as the original sponsors of the 1940 Statement, to formulate the most important of these refinements. Their incorporation here as Interpretive Comments is based upon the premise that the 1940 Statement is not a static code but a fundamental document designed to set a framework of norms to guide adaptations to changing times and circumstances.

Also, there have been relevant developments in the law itself reflecting a growing insistence by the courts on due process within the academic community which parallels the essential concepts of the 1940 Statement; particularly relevant is the identification by the Supreme Court of academic freedom as a right protected by the First Amendment. As the Supreme Court said in *Keyishain v. Board of Regents* 385 U.S. 589 (1967), "Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."

The numbers refer to the designated portion of the 1940 Statement on which interpretive comment is made.

1. The Association of American Colleges and the American Association of University Professors have long recognized that membership in the academic profession carries with it special responsibilities. Both Associations either separately or jointly have consistently affirmed these responsibilities in major policy statements, providing guidance to the professor in his utterances as a citizen, in the exercise of his responsibilities to the institution and students, and in his conduct when resigning from his institution or when undertaking government-sponsored research. Of particular relevance is the *Statement on Professional Ethics*, adopted by the Fifty-second Annual Meeting of the AAUP as Association policy and published in the *AAUP Bulletin* (Autumn, 1966, pp. 290-291).

2. The intent of this statement is not to discourage what is "controversial." Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster. The passage serves to underscore the need for the teacher to avoid persistently intruding material which has no relation to his subject.

3. Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 Statement, and we do not now endorse such a departure.

4. This paragraph is the subject of an Interpretation adopted by the sponsors of the 1940 Statement immediately following its endorsement which reads as follows:

If the administration of a college or university feels that a teacher has not observed the admonitions of Paragraph (c) of the section on Academic Freedom and believes that the extra-mural utterances of the teacher have been such as to raise grave doubts concerning his fitness for his position, it may proceed to file charges. . . . In pressing such charges the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

Paragraph (c) of the 1940 Statement should also be interpreted in keeping with the 1964 "*Committee A Statement on Extramural Utterances*" (*AAUP Bulletin*, Spring, 1956, p. 29) which states inter alia: "The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his position. Extramural utterances rarely bear upon the faculty member's fitness for his position. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar.

Paragraph V of the *Statement on Professional Ethics* also deals with the nature of the "special obligations" of the teacher. The paragraph reads as follows:

As a member of his community, the professor has the rights and obligations of any citizen. He measures the urgency of these obligations in the light of his responsibilities to his subject, to his students, to his profession, and to his institution. When he speaks or acts as a private person he avoids creating the impression that he speaks or acts for his college or university. As a citizen engaged in a profession that depends upon freedom for its health and integrity, the professor has a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

Both the protection of academic freedom and the requirements of academic responsibility apply not only to the full-time probationary as well as to the tenured teacher, but also to all others, such as part-time and teaching assistants, who exercise teaching responsibilities.

- D. Such items as may come before the Senate. (No motion introduced at this time may be acted upon until the next meeting of the Senate.)

BPS/b

- Attachments: 1. List of organizations which have officially endorsed the Statement
2. Background statement from Senate Committee on Academic Freedom
3. Current Statement on Academic Freedom (Faculty Handbook, III-B-1)
4. Statement returned by the Board of Trustees
5. Committee Activities Report

Academic Freedom and Tenure

1940 Statement of Principles and Interpretive Comments

In 1940, following a series of joint conferences begun in 1934, representatives of the American Association of University Professors and of the Association of American Colleges agreed upon a restatement of principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure. This restatement is known to the profession as the 1940 Statement of Principles on Academic Freedom and Tenure.

The 1940 Statement is printed below, followed by Interpretive Comments as developed by representatives of the American Association of University Professors and the Association of American Colleges during 1969.

The following organizations officially endorsed the 1940 Statement in the years indicated.

Association of American Colleges.....	1941	American Society of Journalism School Administrators.....	1967
American Association of University Professors.....	1941	John Dewey Society for the Study of Education and Culture.....	1967
American Library Association (adapted for librarians).....	1946	South Atlantic Modern Language Association.....	1967
Association of American Law Schools.....	1946	American Finance Association.....	1967
American Political Science Association.....	1947	Catholic Economic Association.....	1967
American Association of Colleges for Teacher Education.....	1950	United Chapters of Phi Beta Kappa.....	1968
American Association for Higher Education.....	1950	American Society of Christian Ethics.....	1968
Eastern Psychological Association.....	1950	American Association of Teachers of French.....	1968
Southern Society for Philosophy and Psychology.....	1953	Appalachian Finance Association.....	1968
American Psychological Association.....	1961	Association of Teachers of Chinese Language and Culture.....	1968
American Historical Association.....	1961	American Society of Plant Physiologists.....	1968
Modern Language Association of America.....	1961	University Film Association.....	1968
American Economic Association.....	1962	American Dialect Society.....	1968
American Farm Economic Association.....	1962	American Speech and Hearing Association.....	1968
Midwest Sociological Society.....	1963	Association of Social and Behavioral Scientists.....	1968
Organization of American Historians.....	1963	College English Association.....	1968
American Philological Association.....	1963	National College Physical Education Association for Men.....	1969
American Council of Learned Societies.....	1963	American Real Estate and Urban Economics Association.....	1969
Speech Association of America.....	1963	History of Education Society.....	1969
American Sociological Association.....	1963	Council for Philosophical Studies.....	1969
Southern Historical Association.....	1963	American Physicists Association.....	1969
American Studies Association.....	1963	American Musicological Society.....	1969
Association of American Geographers.....	1963	American Association of Teachers of Spanish and Portuguese.....	1969
Southern Economic Association.....	1963	Texas Junior College Teachers Association.....	1970
Classical Association of the Middle West and South.....	1964	College Art Association of America.....	1970
Southwestern Social Science Association.....	1964	Society of Professors of Education.....	1970
Archaeological Institute of America.....	1964	American Anthropological Association.....	1970
Southern Management Association.....	1964	Association of Theological Schools.....	1970
American Educational Theatre Association.....	1964	American Association of Schools and Departments of Journalism.....	1971
South Central Modern Language Association.....	1964	American Business Law Association.....	1971
Southwestern Philosophical Society.....	1964	American Council for the Arts in Education.....	1972
Council for the Advancement of Small Colleges.....	1965	New York State Mathematics Association of Two-Year Colleges.....	1972
Mathematical Association of America.....	1965	College Language Association.....	1973
Arizona Academy of Science.....	1965	Pennsylvania Historical Association.....	1973
American Risk and Insurance Association.....	1965	Massachusetts Regional Community College Faculty Association.....	1973
Academy of Management.....	1965	American Philosophical Association ¹	1974
American Catholic Historical Association.....	1966	American Classical League.....	1974
American Catholic Philosophical Association.....	1966	American Comparative Literature Association.....	1974
Association for Education in Journalism.....	1966	Rocky Mountain Modern Language Association.....	1974
Western History Association.....	1966	Society of Architectural Historians.....	1975
Mountain-Plains Philosophical Conference.....	1966	American Statistical Association.....	1975
Society of American Archivists.....	1966	American Folklore Society.....	1975
Southeastern Psychological Association.....	1966	Association of Asian Studies.....	1975
Southern Speech Association.....	1966	Linguistic Society of America.....	1975
American Association for the Advancement of Slavic Studies.....	1967	African Studies Association.....	1975
American Mathematical Society.....	1967	American Institute of Biological Sciences.....	1975
College Theology Society.....	1967	Conference on British Studies.....	1975
Council on Social Work Education.....	1967	Texas Association of College Teachers.....	1976
American Association of Colleges of Pharmacy.....	1967	Society for Spanish and Portuguese Historical Studies.....	1976
American Academy of Religion.....	1967		
American Catholic Sociological Society.....	1967		

¹ Endorsed by Association's Western Division in 1952, Eastern Division in 1953, and Pacific Division in 1962.

Background Statement
from the
University Faculty Senate Committee on Academic Freedom

As background to this resolution the following two points should be noted:

1. On March 22, 1976, the Senate passed and sent to President Trabant, for consideration by the President's Cabinet and for inclusion in the Faculty Handbook, a revised Statement on Academic Freedom. (That Statement is included as Attachment 4.) On September 12, 1977, President Trabant notified the Senate that the Statement had been approved, with one minor change, by the Cabinet, and had been sent to the Board of Trustees. On November 4, 1977, Provost Campbell notified the Senate that the Statement on Academic Freedom was being returned to the Senate by the Committee on Education and Training of the Board of Trustees, with a suggested change. The Executive Committee of the Senate then requested that the Senate Committee on Academic Freedom review the Statement and make its recommendations to the Senate.
2. In his decision of June 21, 1977, in *Aumiller v. the University of Delaware et al.* (p. 61), Judge Murray M. Schwartz referred to a part of the Faculty Handbook Statement on Academic Freedom as being "unconstitutionally overbroad."

Committee members: L. Agostini
W. Boyer, Jr.
S. Finner
J. Krum
E. Safer, Chairperson

B. ACADEMIC FREEDOM

It is recognized that if faculty members are to teach and carry on research effectively academic freedom is necessary. Academic freedom is the freedom of the faculty to teach and speak out as the fruits of their research and scholarship dictate, even though their conclusions may be unpopular or contrary to public opinion. Both within and outside the classroom the faculty should exhibit the accuracy, restraint, and respect for the opinions of others appropriate to educators and persons of learning. In relations with the public, they should make it clear at all times whether they speak as private citizens, as experts on the subject in question or as institutional spokesmen. In speaking as private citizens, faculty should make clear that they are doing so. In this connection, use of University titles should be permitted for identification purposes only and it should be made clear that institutional endorsement is not implied.

The following statements were passed by the University Faculty Senate and were adopted as policy by the University administration.

The maintenance of freedom of speech, publication, religion, and assembly (each of which is a component of intellectual freedom) is the breath of life of a democratic society. The need is greatest in fields of higher learning, where the use of reason and the cultivation of the highest forms of human expression are the basic methods. To an increasing extent, society has come to rely upon colleges and universities as a principal means of acquiring new knowledge and techniques, of conveying the fruits of past and present learning to the community, and of transmitting these results to generations to come. Without freedom to explore, to criticize existing institutions, to exchange ideas, and to advocate solutions to human problems, faculty members and students cannot perform their work, cannot maintain their self-respect. Society suffers correspondingly. The liberty that is needed requires a freedom of thought and expression within colleges and universities, (and) a freedom to carry the results of honest inquiry to the outside. (AAUP Policy Documents and Reports, 1973 Edition)

Academic freedom is incompatible with censorship or surveillance of communications both on and off the campus. The monitoring or interference with communications emanating from a member or group of the University community cannot be condoned. Practices such as telephone tapping, University mail surveillance and stoppage, censorship at the Duplicating Center of materials emanating from within the University community, or censorship on bulletin boards designated for general use, are contrary to University policy.

IV. ACADEMIC PROGRAMS AND POLICIES

A. RESOLUTION ON ACADEMIC FREEDOM

During the spring of 1976, the University Faculty Senate and particularly the Senate Committee on Academic Freedom spent a considerable amount of time debating the desirability of supplementing and reaffirming the statements in the Faculty Handbook on Academic Freedom at the University of Delaware. Upon recommendation of the Senate Committee, the Faculty Senate in May 1976 adopted a statement and recommended that it be forwarded for approval by the President's Cabinet. Because of pending litigation at that time and during all of the past academic year, no action was taken on this matter under legal counsel's advice. After the litigation was resolved, President Trabant brought the Faculty Senate resolution to the cabinet for their advice and recommendation in September 1977. A majority of the Cabinet felt that legal advice was needed before their recommendation could properly be formulated. This advice was obtained. The statement below is recommended by the Cabinet for approval by the Board of Trustees. Except for the deletion of three words, it is the same as the resolution passed by the Faculty Senate. (The three words are: "actual or alleged" which appeared after "those rights" and before "enter into any decision" in the last sentence of the resolution.)

"While the teacher should be careful not to introduce into his teaching matter which has no relation to his subject, the advocacy of ideas, opinions, or solutions to human problems is an inalienable academic freedom, even when the ideas advocated are unconventional or held only by a minority. The right to take or defend even unpopular positions is essential to a community of scholars. No exercise of that right, or of any other form of freedom of speech, publication, religion, or assembly which is protected by the Constitution of the United States or by the laws of the State of Delaware shall be the basis for any action by any officer or administrator of the University against any member of the University of Delaware community; nor shall the exercise of those rights enter into any decision concerning contract renewal, promotion, or tenure for members of the faculty of the University."

The following resolution is offered to the Committee for its approval:

WHEREAS, the University Faculty Senate has found it desirable to reaffirm and supplement statements concerning the University of Delaware's commitment to academic freedom appearing in the Faculty Handbook as part of the official policy of the University; and

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Committee on Education and Training
October 25, 1977

WHEREAS, the President's Cabinet has carefully reviewed and with slight amendment, recommended approval of the statement forwarded by the Senate;

NOW, THEREFORE, BE IT RESOLVED, that the additional statement concerning academic freedom at the University of Delaware be and hereby is approved.

* * * * *

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Committee on Education and Training
October 25, 1977

The Committee next considered the recommendation of the President's Cabinet on the resolution on academic freedom that originated in the University Faculty Senate. Discussion of this subject was extensive. While members of the Committee agreed that academic freedom was essential to a University and the right of all faculty members, concern was expressed for the provision of adequate safeguards against the abuse of this freedom and for some definition of faculty responsibilities. It was, therefore, moved and voted that no action be taken on the resolution at this time and that the resolution be returned to the Faculty Senate to consider the advisability of incorporating some additional language, such as the following (added immediately after the last word, "University"): "so long as such exercise shall not have interfered with or detracted from the performance of duties for which such member was retained."

UNIVERSITY FACULTY SENATE
Committee Activities

This summary reflects items contained in the Monthly Committee Reports for February.

Academic Ceremonies

Planning for 1978 Commencement

Academic Freedom

Revision of the Academic Freedom Statement

Adjunct Academic Affairs

Evaluation of Freshman Honors Program

Committee on Committees

Survey of faculty interest in Senate committees for fall '78 appointments

Computer Committee

Review of UDCC Computer Network
Establishment of a Computer Terminal Maintenance Policy
Repair of Tektronics 4013/4613

Coordinating Committee on Education

Review of proposals for coordination of institutions of higher education in Delaware
Review of pending program evaluations

Faculty Welfare and Privileges

Faculty involvement in extraordinary financial circumstances
Faculty appraisal and peer review
Suspension policy
Parking
Faculty textbook policy
Early retirement
Proposed 2-year contracts

Fine Arts and Exhibitions

On-going planning of exhibitions, current and for Fall, '78

Graduate Studies

On-going review of University-wide policies and procedures for graduate study
Review of implementation of the Interim Governing Board Report
Evaluation of Master of Fine Arts, Master of Counseling, and the Bilingual Education Option programs
Review of the Operations Research Proposal
Review of study of courses numberd "67"
Request from Art Department to allow 18 transfer credits
Review of progress of search committee for University officer for graduate studies
Request from Chemical Engineering to grant graduate credit for CHE 230
Review of Graduate Program Policy Statements
Election of student senator

Physical Planning and Utilization

Review of COPE evaluation of Plant Operations
Review of "Checklist for Barrier Free Design"

(continued)

Physical Planning and Utilization (Cont'd)

- Review of University plans for retrofitting buildings to provide greater energy conservation
- Inventory of Energy Utilization by University buildings
- Review of scheduled refurbishing of University buildings
- Cost comparison of space utilization by various units within the University
- Energy policies regarding vehicles and other non-building energy users

Promotions and Tenure

- Review of faculty dossiers

Student and Faculty Honors

- Review of nominations for Excellence in Teaching Awards
- Request for provision for and funding of Degree with Distinction research theses
- Review of awarding of University honorary degrees
- Review of proposal for faculty awards for years of service

Student Life

- Review relations with the Committee
- Review of "Student Rights and Responsibilities Statement"
- Review of Student Code of Conduct

Undergraduate Studies

- On-going review of course additions, deletions and corrections
- Proposal to alter student course distribution between upper and lower numbered courses
- Proposal to adopt a deadline for the declaration of a major by students

The following committees did not meet: Academic Complaints, Beverage Alcohol, Cultural Activities, Educational Innovation and Planning, Library Committee.

The following committees did not return the form: Academic Services, Budget Review, Coordinating Committee on Education, Instructional Resources, International Studies, Nominating, Performing Arts, Research, Rules, Speakers Board, Undergraduate Admissions and Standing, Visiting Scholars.