



Community Colleges and Universities Have Academic Freedom Policies; Relatively Few Grievances Filed

at a glance

All of Florida's public community colleges and universities have established academic freedom policies that are governed by rule, institutional policy, and collective bargaining agreements. These policies generally share common language and, while mentioning students, are generally faculty-focused. While there are system-wide academic freedom rules for the state university system, there are no such rules for community colleges.

Student academic freedom is most commonly addressed in student codes of conduct, student rights and responsibilities statements, and similar documents. All institutions publish their academic freedom statements in their school catalog and/or faculty and student handbooks.

Faculty and students can file academic freedom grievances through informal and formal means. However, most grievances are resolved informally and these cases are not tracked. Formal academic freedom grievances are relatively rare and account for less than 1% of all student and approximately 9% of faculty grievances over the past three years.

While faculty and student opinions and beliefs are protected by academic freedom policies, institutions have varying restrictions on campus speakers, presentations, and exhibits.

Scope

As requested by the Legislature, OPPAGA examined academic freedom issues on Florida's public community college and university campuses. Our review addressed six questions.

- Do all Florida community colleges and public universities have an institutional academic freedom policy/statement and to whom do these policies apply?
- How are faculty and students informed about academic freedom policy statements?
- What grievance procedures are available to faculty and students?
- How many faculty and student academic freedom grievances were filed in the last three years?
- Does the end-of-course evaluation process include questions that address academic freedom?
- What rules and regulations have institutions established governing campus speakers, presentations, and exhibits?

A subsequent report will examine academic freedom issues related to the use of community college and university student activity and service fees.

Background

Academic freedom issues are being discussed and debated across the nation by a variety of organizations representing students, faculty, universities, and advocacy groups. While the term “academic freedom” initially focused on the rights and responsibilities of faculty, in recent years, the term has been used in reference to campus speakers and students’ rights to express their political opinions both inside and out of the classroom.

National policy statements related to academic freedom have existed for many years. An initial statement of principles relating to academic freedom within colleges and universities was issued in 1925 and reissued in 1940 by representatives of the American Association of University Professors and the Association of American Colleges (now the Association of American Colleges and Universities). These principles were aimed at promoting public understanding and support of academic freedom and establishing procedures to govern academic freedom in colleges and universities. This statement has been supplemented by interpretative comments and has been endorsed by 186 national scholarly and educational associations.

In June 2005, the American Council on Education published a Statement on Academic Rights and Responsibilities focusing on “intellectual pluralism and academic freedom.” This statement has been endorsed by organizations representing most colleges and universities.

The Statement on Academic Rights and Responsibilities describes five overarching principles:

- diversity of institutions;
- intellectual pluralism in the spirit of openness, tolerance, and civility;
- grades solely based on considerations intellectually relevant to the subject matter;

- validity of ideas judged by intellectual standards of relevant academic and professional disciplines; and
- government respect of colleges’ independence.

The academic freedom statement also addresses the rights of both faculty and students to political opinion by stating, “Neither students nor faculty should be disadvantaged or evaluated on the basis of their political opinions.”

Academic Freedom Legislation in Other States. In 2005, academic freedom-related legislation was introduced in 19 states. The provision did not pass in 10 states (one bill was withdrawn from consideration), is pending in 7 states, and passed in 2 states, Georgia and Pennsylvania. The bill adopted in Georgia calls for colleges to promote intellectual diversity and academic freedom on their campuses while Pennsylvania’s legislature established a select committee to examine the academic atmosphere of faculty and students at state-related and state-owned colleges, universities, and community colleges to determine whether it is conducive to the pursuit of knowledge and truth. (See Appendix A for an overview of recent academic freedom legislation introduced in other states.)

Questions and Answers

Do all Florida public postsecondary institutions have an academic freedom policy/statement and to whom do these policies apply?

All Florida public postsecondary institutions have language and policies addressing academic freedom. In general, these statements focus on faculty and their teaching rights and related freedoms. Student academic freedom policies and/or statements generally are found in the institution’s student handbook or student code of conduct.

Academic freedom policies in Florida are governed by rule, institutional policy, and collective bargaining agreements. While there are system-wide academic freedom rules for faculty in the State University System, there are no such system-wide rules or policies for community college faculty. There are no system-wide rules or policies specific to students' academic freedom for either community colleges or universities.

The Board of Governors adopted former Board of Education rules including faculty academic freedom language for the State University System in January 2003. As part of the rule regarding employee ethical obligations and conflicts of interest, the board states that academic freedom and responsibility apply to teaching, research, creative activity, and assigned service. Faculty are to be free to cultivate a spirit of inquiry and scholarly criticism and present and discuss their own academic subjects with freedom and confidence. At the same time, faculty have the responsibility to objectively and skillfully present a variety of scholarly opinions on the subject matter and respect students.

Florida law requires university and community college boards of trustees to establish policies addressing academic freedom.¹ In addition, faculty academic freedom rights are addressed in collective bargaining agreements between local boards and the United Faculty of Florida, which represents faculty at each of the state's 11 universities, faculty at 9 community colleges, and graduate assistants at 3 of the state's universities. Faculty at the remaining 19 community colleges are not represented by a collective bargaining unit. For the most part, the collective bargaining agreement reflects the rules adopted by the Board of Governors.

Postsecondary institutions share common academic freedom policy/statement language. Each of Florida's 11 public universities and 28 community colleges has an academic freedom statement or policy. These statements and policies generally are consistent and reference the same sources including institutional policy, board rules, collective bargaining agreements, or a combination thereof.

Florida's postsecondary institutions rely on language from the Board of Governor's academic freedom rule or the American Association of University Professors statement in their academic freedom policies and statements. Both statements have similar academic freedom language but the Board of Governor's language is broad while the American Association of University Presidents' language is more specific.

Ten universities and 3 community colleges have adopted academic freedom policy language that reflects the Board of Governors' academic freedom rules, while 8 universities and 15 community colleges have adopted academic freedom policy language that reflects the American Association of University Professors academic freedom statement. Overall, 10 higher education institutions have adopted academic freedom language that reflects both the Board of Governor's and American Association of University Professors statements (these include 7 universities and 3 community colleges). In general, the institutional academic freedom statements enumerate academic freedom principles but do not provide specifics about how academic freedom should be monitored, implemented, or enforced.

¹ Section 1001.74(19), *F.S.*

Academic freedom statements generally focus on faculty and teaching. The academic freedom statements of all of Florida's community college and universities address teaching. Like the Board of Governor's rules, 21 of the state's 39 postsecondary institutions specifically reference the freedom of faculty to present an academic subject. The remaining 18 institutions reference teaching in a variety of ways. For example, these policies provide that "faculty members must be free of any arbitrary limitations on the...presentation of facts" and recognize "the right of the faculty member to...disseminate knowledge freely." Twelve institutions have policies that specifically state that academic freedom applies to teaching, while 8 provide that faculty have the right to academic freedom in their classroom.

In addition, many institutions address faculty classroom and public speech in formal statements of faculty rights. Sixteen of the state's 39 public postsecondary institutions have faculty right statements that specify that faculty can present their subjects and/or examine ideas with freedom and confidence. Seven of these statements provide that faculty should be free from institutional censorship when teaching, while 11 provide that faculty should be free from institutional censorship when speaking as a citizen outside the classroom.

In addition to specifying faculty rights, many institutions enumerate faculty responsibilities relating to academic freedom. Sixteen institutions have written policies that require that faculty be objective and skillful when presenting course material; 11 institutions state that faculty should provide students with a broad range of opinions and views; and 10 institutions state that faculty should avoid introducing controversial material that is unrelated to the course topic. Faculty responsibilities regarding student grading are spelled out in academic freedom policies at 21 of the state's 39 public postsecondary institutions. These institutions' policies require

faculty to determine student grades based on one or more of the following criteria: (1) solely on merit; (2) academic achievement and not the student's opinions; (3) in accordance with university policy; or (4) free of prejudice or capricious judgments. The remaining 18 institutions do not specifically address faculty responsibilities in relation to student grading in their academic freedom policies.

Academic freedom statements generally do not extensively address student rights. Students are mentioned in the academic freedom statements of 35 of the state's 39 public postsecondary institutions. Sixteen of these statements include language that academic freedom applies to or includes students or that students are free to inquire, examine, explore, learn, or acquire/pursue knowledge. The remaining statements address academic freedom for students in a limited or tangential context by generally recognizing that academic freedom benefits students.

Most community colleges and universities (30) reported that student academic rights and responsibilities are addressed in more detail in their institutional codes of conduct and similar documents. In 15 cases, these documents address individual first amendment rights to free speech, expression, and assembly. In addition, the responses for nine institutions state that students are free to take reasonable exception to data and views presented by course instructors but are still responsible for learning the course material.

How are faculty and students notified of academic freedom policy statements?

All of Florida's community colleges and public universities publish their academic freedom policies in school catalogs or faculty and student handbooks. These documents also frequently are available electronically on the schools' Internet and/or intranet sites.

Faculty are informed of academic freedom rights and responsibilities through various sources. All 39 postsecondary institutions reported that faculty can access their academic freedom rights and responsibilities through a variety of sources including faculty/employee handbooks, institutional websites, and the faculty union.

Twenty-two institutions proactively provide new faculty with institutional academic freedom policies. Seven of these institutions reported that they not only provide the information to new faculty but discuss the institution's academic freedom policies with them. However, none of the institutions reported a process to verify that faculty have read and understood the institution's academic freedom policies.

Students generally are informed of academic freedom rights and responsibilities through their student handbook. Twenty-seven institutions reported that student academic freedom language is available in their student handbook and/or school catalog, while 26 reported that the information is also available on the school's website. Nineteen institutions do both, providing the information in the student handbook/catalog as well as on the school website.

Twenty-five of the state's 39 postsecondary institutions provided academic freedom and/or student rights and responsibilities policies in student handbooks that are distributed to new students. Eight of these institutions reported discussing academic freedom policies during new student orientation or a similar venue. The remaining 14 institutions do not directly provide this information to new students but, instead, make it available through the student handbook, school catalog, or on the school's website. No institution requires students to sign a statement attesting that they have read and understand the school's academic freedom policies.

What grievance procedures are available to faculty and students?

Universities and community colleges provide both informal and formal grievance procedures for faculty and students who believe that their academic freedom rights have been violated. The institutions encourage students and faculty to first seek remedy using informal procedures and then, if the issue(s) cannot be resolved, pursue a formal grievance as outlined by the institutions' policies.

Faculty grievance policies are more specific to academic freedom than are student grievance policies. Postsecondary grievance policies allow faculty to pursue formal and informal grievances for any perceived violation of institutional policy.² Faculty may pursue academic freedom related grievances through their institution's administration and/or academic senate. Faculty at the 20 institutions represented by the United Faculty of Florida (11 universities and 9 community colleges) may also file grievances for violations of the collective bargaining agreements, which include faculty academic freedom.

Student grievance policies do not focus on academic freedom rights. All community colleges and universities have a student grievance process, but few specifically mention student academic freedom. Instead, the policies are broad-based and generally allow students to pursue grievances for a wide variety of reasons. For example, the University of Florida's student grievance policy allows a student to grieve any condition they believe to be illegal, unjust, or creates unnecessary hardship.

While student grievance policies generally are broad and allow students to pursue complaints when they feel they have been treated unfairly, some institutional policies restrict what can be grieved and exclude issues such as disciplinary action taken by the institution as a result of

² Seminole Community College reported no mechanism for faculty to pursue academic freedom-related grievances.

conduct rule violations and traffic or parking violations. However, no institutional policy specifically excludes academic freedom-related issues from the grievance process.

In general, institutional policies encourage students to resolve problems informally and at the lowest possible level starting with the instructor, moving to the department chair, and, finally, to the dean. However, if students are uncomfortable discussing the issue with their instructor, no institutional policy prohibits them from going to the next level of appeal. Fifteen institutional grievance policies specifically include language allowing students to skip discussing their grievance at the lowest possible level, typically the course instructor, and appealing to a higher authority.

All institutions allow students to file a formal grievance with the dean of their school/college if their issues(s) cannot be resolved informally. However, institutions reported that most student grievances are resolved informally and are not documented or tracked.

How many faculty and student academic freedom grievances were filed in the last three years?

While there is no uniform grievance tracking system or common criteria to identify cases as academic freedom-related, few formal grievances raise these issues. Since colleges and universities encourage the internal informal resolution of grievances, it is possible that there are more instances of academic freedom disagreement than officially noted.

Few academic freedom grievances are filed by faculty or students. Between school years 2002-03 and 2004-05, faculty at the state's postsecondary institutions filed 29 formal grievances specifically related to academic freedom. This represents approximately 9% of all formal faculty grievances filed over the three-year period. During this period, students filed seven formal grievances that were deemed by the institution as academic

freedom-related. This represents less than 1% of all formal student grievances filed in the three-year period.

Since many grievances do not reach the stage of a formal filing and are resolved informally, student and faculty academic freedom-related disputes may be more frequent than the low number of formal grievances depicts. However, the relative rarity of these grievances could also indicate that few such disputes arise and/or that the informal resolution processes are effective in addressing these issues.

Do the end-of-course evaluations include questions that address academic freedom?

All postsecondary students are given the opportunity to evaluate courses and their instructors. Fourteen institutions (4 universities and 10 community colleges) reported that their evaluations ask students questions related to academic freedom principals, such as whether instructors showed respect for students and their opinions, encouraged student participation, considered multiple points of view, and were fair and impartial. Some of the remaining institutions reported that their course evaluations include open-ended questions asking how the course could be improved and/or whether students have any issues of concern. These questions would enable students to identify academic freedom-related problems or concerns, even though not specifically asked about these issues.

What rules and regulations have institutions established governing campus speakers, presentations, and exhibits?

All of the state's postsecondary institutions have formal campus speaker, presentation, and exhibit guidelines to ensure campus safety. *Florida Administrative Code* also provides general guidelines for universities in this area. There is no statewide rule governing community colleges, which are responsible for establishing individual campus guidelines.

Universities have uniform general requirements for campus speakers and presentations. Speakers and presentations at the state's 11 universities are governed by *Florida Administrative Code*, which requires all campus speakers and presentations to receive prior approval from the institution's administration specified in the institution's rules and or policies.³ Seven universities have policy language that prohibits speakers and presentations that advocate the use of violence toward any individual or the violent overthrow of the government of the United States, the State of Florida, or any political subdivision. In addition, six universities distinguish between university and non-university speakers/presenters. Non-university affiliated presenters typically must pay to use campus space while student organization-sponsored speakers typically use campus space free of charge and generally have first priority for university facility use.

Five universities specify in their guidelines that speakers and/or presentations must not interfere with educational activities, harass passersby, or otherwise interrupt or interfere with normal university ceremonies, events, or speakers. Eight universities state that non-university-affiliated speakers contribute to the university's mission and purpose and that the presenter must comply with university liability insurance, rules and charge schedules, and registration requirements.

Community colleges do not have uniform general requirements for campus speakers and presentations. Community colleges have not established a statewide rule or guidelines regarding campus speakers and presentations. Instead, each campus is responsible for establishing its own policy and related procedures. As a result, guidelines vary among the 28 community colleges, with some institutions more restrictive than others.

For example, Pasco-Hernando Community College restricts the number of times an outside organization can schedule events on campus depending on the type of speaker and presentation. Florida Community College at Jacksonville encourages faculty to invite outside speakers while Brevard Community College allows outside speakers but does not encourage faculty to solicit presentations.

While community college speaker/presentation guidelines vary, these guidelines have some similarities to state university policies. Most community colleges, like universities, require prior approval from the appropriate division chairperson or dean for campus guest speakers. Also like universities, community colleges allow guest speakers on campus with the provision that the campus not be used as a platform for the organization of, or the incitement to, lawlessness or violence. Finally, eight community colleges have established policies regarding non-college-funded or sponsored speakers and presenters which are the same for both student-sponsored and non-sponsored speakers.

Most postsecondary institutions have general guidelines for campus exhibits and/or displays. All of the state's universities and 23 of the 28 community colleges have established guidelines addressing campus exhibits, displays, and events. Nine of the state's 11 universities and 9 of the 28 community colleges restrict advertisements and promotional materials to official bulletin boards or approved areas. Seven universities and seven community colleges require that all exhibits and/or displays be approved by the director of Student Activities. Five community colleges reported that they have no policy governing public exhibits, displays, presentations, or campus events.

³ Each SUS institution has a separate rule in the *Florida Administrative Code* that addresses campus speakers and/or presentations.

While most community colleges have a process for exhibit and display approval, a few have guidelines addressing actual content. These guidelines provide that so long as materials are not obscene or advocate drugs, alcohol, violence, or campus disruption, free speech protections allow the display of most all material/exhibits.

Agency Response—————

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Commissioner of Education to review and respond.

The Commissioner's written response is reproduced herein in Appendix B.

Appendix A

Academic Freedom-Related Legislation in Other States

The following chart provides an overview of recent academic freedom-related legislation in other states.

State	Bill Substance	Status
Alabama	Academic Freedom Act – provides rights and protection for teachers and students	January/2006 – pending committee action in house of origin
California	Student Bill of Rights – requires community college and university governing bodies to develop guidelines and implement specified principles relating to academic freedom	Failed passage in committee; reconsideration granted April/2005 – died
Colorado	Student and Faculty Academic Freedom in Postsecondary Education – specifies student, faculty, and instructor rights	Died
Georgia	Calls for colleges to promote intellectual diversity and academic freedom	Adopted March/2004
Indiana	Academic Bill of Rights – requires community college and university governing bodies to develop guidelines and implement an academic bill of rights for students and faculty	Died
Louisiana	Requests postsecondary boards to take actions to assure board and institutional policies/procedures meet specified academic freedom guidelines	Sent to House committee April/2005
Maine	Academic Bill of Rights – requires all postsecondary institutions to publish bill of rights and adopt grievance procedure to address complaints	Died
Massachusetts	Academic Bill of Rights – requires establishment	House referred to the Committee on Higher Education January/2005 – Senate concurred January/2005
Maryland	Requires public institutions of higher education to develop specified guidelines for faculty	Died
Minnesota	Relates to higher education – enacts the Free Speech for Faculty and Students Bill of Rights	Died
Missouri	Abolishes tenure system at all state universities	Withdrawn
New York	Amends education law in relation to creating the student bill of rights act	Referred to Higher Education January/2006
North Carolina	Requires each constituent institution of the University of North Carolina to adopt an academic bill of rights for students and faculty	Referred to Committee on Education/Higher Education March/2005
Ohio	Establish the academic bill of rights for higher education for students and faculty	Assigned to the Education Committee January/2005
Pennsylvania	Establishes a select committee to examine the academic atmosphere regarding both faculty and students	Adopted July/2005
Rhode Island	Directs Board of Governors for Higher Education to adopt an academic bill of rights for students and faculty	Committee recommended measure be held for further study March/2005
Tennessee	Specifies students rights and requires state postsecondary institutions to publicize grievance procedures A General Assembly resolution stating that colleges and universities should adopt an Academic Bill of Rights for students and faculty	Died – bill and resolution
Washington	Creates an academic bill of rights for students and faculty	Died
West Virginia	Protects academic freedom in higher education for students and faculty	Died

Source: National Conference of State Legislators.

Appendix B

FLORIDA DEPARTMENT OF EDUCATION



John L. Winn
Commissioner of Education

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Mr. Gary L. VanLandingham
Director
Office of Program Policy Analysis
and Government Accountability
111 West Madison Street, Room 312
Tallahassee, Florida 32399-1475

Dear Mr. VanLandingham:

The Department of Education is pleased to have the opportunity to provide the response regarding the preliminary and tentative findings and recommendations for the audit report Community Colleges and Universities Have Academic Freedom Policies; Relatively Few Grievances Filed.

The report accurately reflects the commitment of Florida's community colleges to the concept of academic freedom for both faculty and students. As noted, although there are no system-wide academic freedom rules for public community colleges, our colleges do have established institutional policies and/or collective bargaining agreements which address academic freedom

Your report illustrates that institutional policies and procedures have been effective regarding campus speakers, exhibits or displays, in providing a framework for handling and resolving grievances should they arise.

We appreciate your research on this topic and are gratified that it validates the efficacy of the current approach to ensuring academic freedom within our public community colleges. If you have any further questions, please contact Inspector General John Franco at 850-245-0403.

Sincerely,

[Handwritten signature of John L. Winn]

John L. Winn
Commissioner

JLW/jm/br

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



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