

Education Policy Analysis Archives

Volume 5 Number 8

March 18, 1997

ISSN 1068-2341

A peer-reviewed scholarly electronic journal.

Editor: Gene V Glass Glass@ASU.EDU.

College of Education

Arizona State University, Tempe AZ 85287-2411

Copyright 1997, the EDUCATION POLICY ANALYSIS ARCHIVES. Permission is hereby granted to copy any article provided that EDUCATION POLICY ANALYSIS ARCHIVES is credited and copies are not sold.

Response to Haskell: "Academic Freedom, Tenure, and Student Evaluation of Faculty"

Jeffrey E. Stake

**School of Law-Bloomington
Indiana University**

Abstract

Haskell (1997) argued that the administrative practice of student evaluation of faculty is a threat to academic freedom. However, before that claim can be substantiated, several prior questions must be addressed: To whom does academic freedom belong? Individual faculty? The academy? Whose actions can violate the right? Can any lines be drawn based on whether the substance or form of classroom behavior is influenced? And still another crucial point is whether a body can violate academic freedom without any intent to interfere with or control the substance of what is said to students.

Almost anything that can be done to undermine the administrative practice of getting students to evaluate teaching ought to be done. One of my major concerns is that the process of asking students their opinions undermines the trust and faith they need to place in the teacher. Instead of saying, "Here is a great scholar and teacher; learn from her what you can," the administration of evaluation forms says to students, "We hired these teachers, but we are not sure they can teach or have taught you enough.

Please tell us whether we guessed right." As my father likes to say "The overexamined life is not worth living either." In this case, asking students for their opinions focuses the attention of students on the acting and special effects, rather than the message. I think students need to have trust in teachers to learn much from them. The evaluation forms undermine that trust.

I also believe that student evaluations can strongly influence the behavior of teachers, and for the worse. I changed my teaching dramatically because I was told by my Dean at the time that I had to keep the customers satisfied if I wanted to get tenure. (And I have not changed back since getting tenure.) I would not contend that the changes I made improved my teaching.

That said, I am afraid I have not been convinced by Haskell's arguments that the evaluations violate academic freedom. If *I* were to have my students fill out forms on my teaching, surely it would not violate my academic freedom. What if a colleague wishing the best for my success convinces me to do so? Does that violate academic freedom? If not, how about a well-meaning teaching committee? An avuncular Dean in a friendly tone, or in a threatening tone?

A closely connected question is whether academic freedom belongs to the academy or to individual teachers. I am unclear on this point and see arguments on both sides. Seen from one perspective, academic freedom is freedom for the academy to teach and research without control from outside, not for faculty members to be free from constraints imposed by the faculty or administration. When the academy imposes student evaluations on itself, there is no violation of academic freedom, however bad the teaching gets in response. Robert O'Neil, in his excellent book *Free Speech in the College Community* (Indiana University Press 1997), offers a small degree of support for this view:

"Policies we impose on ourselves are ... much harder to challenge in court than are the policies government visits upon us."(p.189)

However, other passages in O'Neil's Chapter 8 convince me that he, at least, would probably not buy the proposition that academic freedom belongs to the university as an institution and not to the professoriate and professors. In his discussion of university attempts to limit research, O'Neil wrote (although without offering support) "If academic freedom means anything, it means that professors may speak out in institutionally embarrassing ways or in ways that may be at variance with institutional values and mission." (p. 178) This illustrates the viewpoint that academic freedom belongs to the professoriate, not the university. It is fair to say that its ownership is no simple matter, and resolving it one way or the other would not settle the question of the wisdom of using student evaluations of faculty.

The case that student evaluations violate academic freedom was not made to my satisfaction in the Haskell piece, in spite of the many other good points he has made against their use. Certainly the evaluations affect our classroom behavior, influencing both the style and content of our presentations. But that alone is not enough. As O'Neil concedes, academic freedom does not stop universities from imposing a large set of regulations

on research.

"On the one hand, researchers must and do accept all sorts of restrictions and conditions. The effect of some such constraints on the scope of inquiry is not trivial." (p. 176)

And even subject matter is not beyond control of the university. O'Neil makes the point that a geographer who teaches the earth is flat:

"may forfeit the safeguards of academic freedom for flouting the very values on which a community of inquiry and scholarship depends". (p. xii)

But I would go further than that. Certainly I could properly be pulled from the classroom if I insisted on teaching only what everyone else would call "art history" in my "Property Law" course, even if I teach a stellar art history course. We cannot leave all choices of substance to individual teachers.

Haskell does not give us a way determining what actions violate academic freedom. He has left some of the most basic issues unresolved, indeed even unaddressed. Who owns the freedom and, conversely, whose actions can violate the right? Can any lines be drawn based on whether the substance or form of classroom behavior is influenced? And still another crucial point is whether a body can violate academic freedom without any intent to interfere with or control the substance of what is said to students. Similarly, does the faculty member have to be aware that the administrative (or other) action is influencing her behavior? It may be too much to ask for clear tests to be enunciated, but it is not too much to ask that these issues be addressed in some way.

So how do we draw the line as to what sorts of academic behavior administrators can control without infringing upon academic freedom? I have not yet found an answer. But those making the claim that student evaluation forms go too far could help their case by offering some way to draw that line. On the other hand, insisting on that asks for too much, for no one has yet accomplished the task.

I am not arguing that all line drawing and decision making should be done in a legislative manner. It is fine to say, in the style of common law judges, "this infringes academic freedom," without setting forth a set of rules for making similar decisions in the future. If that is the approach taken, however, at least some comparisons should be made to other, well-accepted and established, violations of academic freedom. Those comparisons might lead the writer to discuss why this particular bad decision, to have students evaluate their instructors, needs to be corrected from outside the academy by courts rather than by the academy itself, which seems to be the implication of the argument that such evaluations violate academic freedom.

References

[Haskell, R.E. \(1997\). Academic Freedom, Tenure, and Student Evaluation of Faculty. *Education Policy Analysis Archives*. Vol. 5 No. 6 \(Online: http://olam.ed.asu.edu/epaa/v5n6.html\).](http://olam.ed.asu.edu/epaa/v5n6.html)

O'Neil, R. (1997). *Free Speech in the College Community*. Indiana University Press.

About the Author

Jeffrey Evans Stake

JeffStake@law.indiana.edu

Home page: <http://www.law.indiana.edu/hyplan/jeffrey.html>

- JD Georgetown, 1981
- BS Math and Psychology, U of Illinois, 1975
- Graduate work in Education, U of Illinois, 1976
- Clerked for Judge Oscar H. Davis, US Court of Claims 1981-2
- Worked as lawyer for Covington & Burling, Washington DC 1982-5
- Indiana University School of Law-Bloomington since 1985; Professor of Law since 1992

Copyright 1997 by the *Education Policy Analysis Archives*

The World Wide Web address for the *Education Policy Analysis Archives* is <http://olam.ed.asu.edu/epaa>

General questions about appropriateness of topics or particular articles may be addressed to the Editor, Gene V Glass, glass@asu.edu or reach him at College of Education, Arizona State University, Tempe, AZ 85287-2411. (602-965-2692). The Book Review Editor is Walter E. Shepherd: shepherd@asu.edu . The Commentary Editor is Casey D. Cobb: casey@olam.ed.asu.edu .

EPAA Editorial Board

[Michael W. Apple](#)

University of Wisconsin

[John Covaleskie](#)

Northern Michigan University

[Alan Davis](#)

University of Colorado, Denver

[Mark E. Fetler](#)

California Commission on Teacher Credentialing

[Thomas F. Green](#)

Syracuse University

[Arlen Gullickson](#)

Western Michigan University

[Greg Camilli](#)

Rutgers University

[Andrew Coulson](#)

a_coulson@msn.com

[Sherman Dorn](#)

University of South Florida

[Richard Garlikov](#)

hmwkhelp@scott.net

[Alison I. Griffith](#)

York University

[Ernest R. House](#)

University of Colorado

[Aimee Howley](#)
Marshall University

[William Hunter](#)
University of Calgary

[Daniel Kallós](#)
Umeå University

[Thomas Mauhs-Pugh](#)
Rocky Mountain College

[William McInerney](#)
Purdue University

[Les McLean](#)
University of Toronto

[Anne L. Pemberton](#)
apembert@pen.k12.va.us

[Richard C. Richardson](#)
Arizona State University

[Dennis Sayers](#)
University of California at Davis

[Michael Scriven](#)
scriven@aol.com

[Robert Stonehill](#)
U.S. Department of Education

[Craig B. Howley](#)
Appalachia Educational Laboratory

[Richard M. Jaeger](#)
University of North
Carolina--Greensboro

[Benjamin Levin](#)
University of Manitoba

[Dewayne Matthews](#)
Western Interstate Commission for Higher
Education

[Mary P. McKeown](#)
Arizona Board of Regents

[Susan Bobbitt Nolen](#)
University of Washington

[Hugh G. Petrie](#)
SUNY Buffalo

[Anthony G. Rud Jr.](#)
Purdue University

[Jay D. Scribner](#)
University of Texas at Austin

[Robert E. Stake](#)
University of Illinois--UC

[Robert T. Stout](#)
Arizona State University
