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Editor: Gene V Glass Glass@ASU.EDU.

College of Education

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Academic Freedom, Promotion, Reappointment, Tenure And The Administrative Use of Student Evaluation of Faculty (SEF): (Part IV) Analysis and Implications of Views From the Court in Relation to Academic Freedom, Standards, and Quality Instruction

**[Robert E. Haskell](#) ¹
University of New England**

This is the last of four articles by Haskell on this subject. The other articles can be found at

- [Volume 5 Number 6](#)
- [Volume 5 Number 17](#)
- [Volume 5 Number 18](#)

Abstract: In three previous papers, it was noted that while a controversial history of research on the reliability and validity of student evaluation of faculty (SEF) exists, it has not been typically viewed as an infringement on academic freedom. As a consequence, legal aspects of SEF are neither readily apparent, nor available. Moreover, SEF has not been generally seen as an infringement on, and detriment to, academic standards and quality instruction. The article is a review of SEF legal rulings analyzed in terms of their implications for academic freedom and

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.....As indicated in previous papers (Haskell, 1997a, 1997b, 1997c), the history of legal rights demonstrates that issues not considered to have legal standing only come to have legal standing after a long process of advocacy, requiring the accumulation of data, coalescing judgements and arguments surrounding an issue. This series of papers on SEF is in the service of that process.

.....In the first article (Haskell, 1997a), I suggested that despite a history of conflicting research and views on the reliability and validity of student evaluation of faculty (SEF) used administratively, it has not been considered an infringement on academic freedom, and that to question the use of SEF is often seen as an attack on either student rights² or on evaluation of faculty performance in general.³ Faculty and educational administrator views and surveys, along with other data, were reviewed as SEF is used in salary, promotion and tenure decisions. I proposed that the literature showed that SEF infringes on instructional responsibilities of faculty by providing a control mechanism over curriculum, course content, grading, standards, and teaching methodology.⁴ I further proposed that SEF plays a significant role in current attacks on tenure, and that its role in a demographically diverse 21st century educational system has changed from its benign historical origins, concluding that contrary to current views SEF is a serious and virtually unrecognized infringement on academic freedom.

.....In a second article (Haskell, 1997b), I suggested that as a consequence of SEF not being viewed as infringing on academic freedom, its legal aspects have been neither readily apparent, nor available. Accordingly, as a legal category SEF has been virtually absent in compendia on higher education law. Legal rulings were abstracted and categorized from located SEF cases. In a third article (Haskell, 1977c), these legal rulings, their implications and assumptions in relation to their accuracy and psychometric validity, where SEF is integral to the denial of academic freedom, tenure, promotion, and reappointment, were reviewed along with the legal principles of Disparate

Treatment, Disparate Impact, and the scientific Precautionary Principle in policy decision making.This final paper will continue to examine legal rulings on SEF cases involving the denial of tenure, promotion, and reappointment decisions in relation to its implications and assumptions regarding academic freedom and quality of instruction. Finally, I would like to point out that the issues examined in this series of papers are not primarily concerned with individual faculty rights but with the implications of SEF when used for administrative purposes on academic freedom, educational quality, standards, and ultimately on the competence of graduates.⁵

Overview of Academic Freedom

.....Few higher educational issues are more important, controversial and ambiguous than the issue of academic freedom. Among many faculty and administrators, the concept of academic freedom, like the public's view of the First Amendment right to free speech, takes on a near *carte blanche* quality. It is therefore widely misunderstood.⁶ Some restrictions on faculty speech in the classroom are, of course recognized. Just as it is generally understood that the public's right to free speech does not extend to the well-known limitation of loudly shouting "fire" in a crowded movie theater, so too faculty generally understand that academic freedom does not extend to classroom political commentary not directly related to the subject matter of their course. One related issue which apparently elicits more controversy than the concept of academic freedom itself is SEF. When I initially argued (Haskell, 1997a) that the administrative use of SEF is an abridgement of faculty's academic freedom, one critic (Theall, 1997) quickly objected, asserting that "Academic freedom has been defined in many ways, but never before in a way that suggests the construct (tradition? principle? tenet?) is vulnerable to the influence of student ratings." He was, of course, nearly correct (also see Haskell, 1977d).

.....In my initial paper, it was noted that SEF had neither legally, nor by published title, been identified as an infringement on academic freedom.⁷ I was recently informed by a Canadian colleague, however, that there exists at least one early reference to SEF being an abridgement on academic freedom. This reference is a book chapter by Christopher K. Knapper (1977) entitled, "Teaching Evaluation and Academic Freedom." He opens his chapter, noting:

A number of previous chapters have talked about faculty resistance to teaching evaluation, and have *hinted that the freedom of the individual professor to decide the content of his course and how it is to be taught may be infringed upon by the widespread use of formal evaluation procedures*. Some enthusiasts for student evaluation of instruction ignore this aspect of the question completely, others consider it in passing as a factor which must be taken into consideration in setting up evaluation programs. *Hardly any writers have tackled the issue head-on, to discuss the various ways in which academic freedom might be infringed* (p.198, italics added).

Academic freedom has many ambiguous facets; indeed, its core meaning may be dwarfed by its fuzzy outer periphery.

.....There is no shortage of past and current analyses of academic freedom (e.g., *Academe*, 1997; Dewey 1976 [1902]; Furedy, 1995; Lovejoy 1937; Menand 1993, 1996; Morrow and Sills 1968; Stichler, 1997). In a recent volume by Menand (1996), the closest and only allusion to SEF infringing on faculty behavior is found in Chapter Four. In discussing the formal and informal regulation of speech (i.e., certain viewpoints) Sunstein notes, "the evaluation of students and colleagues cannot occur without resort to [course] content, and it would be most surprising if viewpoint discrimination did not affect many evaluations" (p.106). Viewpoint discrimination will be examined below.

.....In 1973, the Commission on Academic Tenure in Higher Education (jointly sponsored by the

AAUP and the AAC) made the following slightly more concrete recommendation relative to teaching incompetence: The commission believes that "adequate cause" in faculty dismissal proceedings should be restricted to (a) *demonstrated incompetence* and dishonesty in teaching and research (University of Michigan, 1994). [italics added]. The AAUP's Statement on Teaching Evaluation further suggests that "Casual procedures, a paucity of data, and unilateral judgments by department chairs and deans too often characterize the evaluation of teaching in American colleges and universities....A judicious evaluation of a college professor as teacher should include: (1) *an accurate factual description* of what an individual does as teacher" (AAUP Committee C , 1975). [italics added]⁸ The phrases, "*demonstrated incompetence*" by "*an accurate factual description* of what an individual does as teacher," have been central in the analysis of court rulings in this series of articles.

.....Further, most definitions, analyses and discussions of academic freedom are general and abstract. In addition to general statements about academic freedom including the freedom to teach, it is unclear what freedom to teach concretely means, with the exception that faculty are entitled to freedom of discussion and inquiry in their classrooms as long as they do not introduce controversial matter which has no relation to their subject. Even with this, what constitutes "controversial" and "no relation" is ambiguous in itself. This lack of concreteness in analyzing academic freedom is perhaps one reason why SEF has not been recognized as an abridgement of academic freedom. As this series of articles has demonstrated, SEF provides a concrete view of academic freedom from the teaching trenches, a view that reveals unrecognized infringements on academic freedom. A wider review of the concept of academic freedom is beyond the scope of this article.⁹ Thus, except as it is concretely defined in this last of the series of articles on SEF, academic freedom must function as a "primitive" term.¹⁰

Methods of Instruction, Grading, and Academic Freedom

.....Most faculty (including myself until recently) seem to believe that academic freedom pertains not only to free speech in the classroom, but also to teaching methodology, grading, and assigning course work. Full-time teaching faculty traditionally have been and continue to be, by virtue of their disciplinary knowledge and daily classroom experience, the primary group that is fundamentally situated for defining standards in higher education. Indeed, it has reached near origin-myth proportions among faculty that the university is the faculty, and publically, administrators typically lip-sync this view. How have courts in relation to SEF cases in fact ruled on such thought-to-be time-honored prerogatives of the faculty---individually or collectively? And what are the implications for SEF, academic freedom, educational standards, and quality of instruction?

The Faculty Right to Select Teaching Methods¹¹

.....According to the SEF cases analyzed in Haskell (1997b, 1997c), courts have ruled:

Summary: Teaching method (72) is not a form of free speech, nor (73) covered under academic freedom, (74) except if noted in specific contractual faculty agreements. Numerous courts, (72) have separated faculty *speech* from *action* in the classroom, (2) have maintained that faculty can not disregard institutionally established curriculum content in the classroom; that the first amendment does not prevent a university from terminating an untenured faculty whose "pedagogical style and philosophy" does not conform to that of "the school's administration", (1) have further ruled that it is acceptable for untenured faculty to be terminated because of a refusal

to lower their academic standards, (22) that a decision not to retain a non tenured instructor, even though based, in part, upon SEF that express disapproval of the faculty teaching methods does not violate a faculty's First Amendment right to academic freedom.¹²

Thus, perhaps one of the most widely misunderstood aspects of academic freedom is the faculty right to decide their teaching methods, i.e., what faculty *do* in the classroom not what faculty *say*.

The Supreme Court has stated: "Any inhibition of freedom of thought, and of *action* upon thought in the case of teachers brings the safeguards of those amendments [First and Fourteenth] vividly into operation" (Shelton v. Tucker, 1960, italics added). The term "action" could be construed as relating to teaching method.

.....In *Carley v. Arizona Board of Regents* (1987), the faculty member contended that teaching methodology was part of his academic freedom right (see endnote # 9). The court clearly said it was not, citing numerous other cases and legal principles to support their denial. Carley cited several rulings in support of his position, but the court disagreed with them, saying that the cases he cited involved conduct more closely resembling speech than teaching method. For example, in *State Board for Community Colleges and Occupational Education v. Olson*, (1984), the court stated that the "principle [of academic freedom] finds its source in the belief that teachers should be free to engage in the exchange of diverse *ideas* on controversial topics..." (p. 437, italics added). This case involved the cancellation of a student newspaper that was part of a class. The court found that canceling the student newspaper did not "abridge the constitutionally protected aspect of [her] teaching function," as Olson was still free to utilize other instructional methods for "presentation of the idea-content of her journalism courses..." (p.1101). In this context, teaching method was not protected as is speech.¹³

.....The court also cited *Clark v. Holmes* 947 F.2d at p. 931(1972), where the court upheld the nonrenewal of a non tenured instructor for reasons related to the structure of his course content. The court stated "We do not conceive academic freedom to be a license for uncontrolled expression at variance with established *curricular contents* and internally destructive of the proper functioning of the institution" italics added). The court rejected the claim, based on the same distinction articulated in *Lovelace* involving homework assignments, course standards, and the distinction between speech on the one hand and teaching methods on the other. In *Lovelace v. Southeastern Massachusetts University* (see #9), the court ruled that Lovelace's nonrenewal was because of what he *did*, not what he *said*. Specifically, according to the court, student complaints about his grading policy had nothing to do with his speech. As the court noted, "*Matters related to grading policies, course content and homework load are policy matters for the university*" (italics added). Exactly who constitutes the university will be addressed below. Similarly, the court ruled that Carley's complaint did not involve speech.

.....In the Carley case, the court also cited *Hetrick v. Martin* (1973), in which a state university declined to renew the appointment of a non tenured faculty member due to disapproval of her "*pedagogical attitude*" (italics added), as evidenced by teaching styles and techniques. The court expressly refused to recognize teaching methods as protected speech, holding: Whatever may be the ultimate scope of the amorphous 'academic freedom' guarantee to our nation's teachers and students...it does not encompass the right of a non tenured teacher to have her teaching style insulated from review." The court finally cited other cases which ruled that teaching methods do not generally fall under the rubric of academic freedom.¹⁴ Indeed faculty challenges to institutional denial of tenure decisions for reasons relating to instructional methods, course content, and grading policies have generally been unsuccessful.

.....According to Copeland and Murry (1996), the courts have repeatedly ruled that colleges and universities have broad control over course content, homework, and grading policies, and over pedagogical methods. Another legal writer concludes (Weeks, 1988), "that challenges to the use of student evaluations based on a claim to academic freedom will not be sustained as long as those

evaluations focus on teaching method, classroom presentation, and general teaching skills" (p. 6). When on the basis of student complaints about (reasonable) teaching methods and institutions' denial of tenure on the basis of those student complaints, and when the courts deny that teaching methods are protected by academic freedom, there exist a number of serious problems, educational problems that have not been adequately addressed.

.....The historical distinction in educational cases between *speech* on the one hand and *action* or *methods* on the other hand appears to engender at least one basic false assumption, and a host of pedagogical implications, including implications for academic freedom. One false assumption is this: That course content and teaching method are often two inherently distinct areas. The distinction between speech and action or content, however, is analogous to that of *content* versus *form* discussion in the humanities and elsewhere (e.g., in art, literary criticism, philosophy). It is generally accepted that in many situations that content and form can not be clearly separated.

.....Occasionally, the courts appear to recognize this false dichotomy. For example, in the Carley case, the court cited *Kingsville Independent School District v. Cooper*, (1980), wherein the court reviewed a history teacher's presentation of post-Civil War Reconstruction using a role-playing technique which evoked strong student feelings on racial issues. The school board declined to renew her teaching contract because there had been complaints by parents about her instructional method. The court noted that like Olson, the case involved the discussion of controversial topics and the presentation of controversial course materials. Unlike in Olsen, however, the court defined teaching methods as speech and found that the speech *was protected* and could not be used as a basis for non renewal of the teacher's contract. However, in the Carley case, the court found that in his commercial art course the requiring of business values, e.g., of being prompt, self-reliant along with his method of instruction being demanding was not academically protected. Other than the fact that these rulings came from two different courts, the distinction between these two cases appears to be one without an *instructionally* pragmatic difference. In the Kingsville case, for example, the school prohibiting role-playing as a teaching method was found to be a violation of speech. In point of fact, then, the court *in effect* did rule in favor of teaching method. It is difficult to understand why this method was protected under free speech since the same historical content could be taught without using role-playing as a teaching method.

.....It is unclear what the difference is between the Kingsville case involving role playing, and the Olson case, in which the court found that canceling the student newspaper did not abridge the constitutionally protected aspect of [her] teaching function because Olson was still free to utilize other instructional means for "presentation of the idea-content of her journalism courses..." (p.1101)? So, too, could the teacher in the Kingsville case utilize other instructional means for presentation of the idea-content of her history course. Given the goals of instruction, it is not easy to see how Carley could have used other instructional means to deliver what he saw as the appropriate (business) content of his course. As I noted in Haskell (1997c), clearly the courts' logic in such cases becomes

unwieldy, not just to the nonlegal scholar, but apparently to the Courts as well....To the layman, legal rulings regarding SEF are a veritable thicket, often seeming that the use of context to differentiate one apparently similar case from another functions as a kind of ad hoc carte blanche to justify preconceptions and positions.

.....Finally, at least in certain realms adjudged by the U.S. Supreme Court, the distinction between speech and action is often considered a distinction without a difference. For example, in 1989 the court ruled that flag desecration (flag burning) could be a form of political expression and, as such, would be protected under the First Amendment, which specifically prohibits Congress and the states from making any laws to abridge such freedom of speech/action. Granted, flag burning is judged under a more stringent legal interpretation of free speech because it is considered to be in the *political* arena, and therefore more important than other situations, hence the denial of the

distinction between speech and action. But what is more important than the means (action) by which we educate student minds?

.....Three pedagogical examples may help clarify the fusion of course *content* with instructional *methods*: It is generally accepted in the small group dynamics literature that if the goal is teaching students to function in small group conditions (as opposed to simply learning *about* small groups), that one of the most effective *methods* (if not the most effective method) is having students actually function as a group (often known as an experiential method, where students learn by experiencing the group processes). What if students complained about this method? Could---and should---administration, fearing the loss of tuition dollars, legally prohibit this teaching method? Would the courts rule on a suit as they did in the Carley and Lovelace cases? Or would they rule as they did in Kingsville? There seems to be no principled way of knowing. And what if administration decided that the experiential method was inappropriate because the course limits enrollment to only 15 students, or because the experiential method was otherwise pedagogically inappropriate?¹⁵

.....The second example involves courses, where students are required to spend time in actual work-type situations like internships and practica relating to their major. Certainly internships fuse content with method. If students complained, could such methods be ruled inappropriate? In these instructional situations, students seldom complain, however, because like the small group experience and unlike a research-based course, many like such concrete (and so-called "real world")---yet unrepresentative experiences. The third example involves the question: is teaching course content, based on findings from the research literature in a content area, a teaching method? In this situation, course content fuses with instructional method. In teaching psychology, to non majors at least, many students do not like a research-based approach to the subject. For example, many students come into class with a pop psychology belief system which typically means a clinical orientation and they want interesting anecdotal illustrations. In principle, then, it is faculty who would seem to be the best judge of what teaching methods are appropriate for their areas of expertise.¹⁶

The Faculty Right to Assign Grades

.....Just as most faculty seem to believe that academic freedom pertains not only to free speech in the classroom, but also to teaching methodology and required course work, it is also generally believed that faculty are the final authority for assigning grades to student work. Even this traditionally viewed sacrosanct prerogative, however, is dependent on a number of contextual conditions.

.....In the SEF case, *Lovelace v. Southeastern Massachusetts University* (see endnote #9), the court ruled that the non renewal of Lovelace's contract was *because of what he did, not because of what he said*. Specifically, the court ruled that student complaints about his grading policy had nothing to do with his speech, noting, "*Matters related to grading policies...are policy matters for the university*" (p.424, italics added). It is common practice for institutions who have accepted AAUP guidelines to develop grade-change policies and a set of explicit procedures, stating that state prior to any change of grade assigned by a faculty that the institution and/or a faculty committee shall notify the faculty member of any such change and the reason for the change. The crucial issue of who constitutes the university will be addressed in detail below.

.....Although many cases support institutional authority over faculty instructional activities, including grading, faculty academic freedom in matters of grading can prevail over institutional authority. In a case that is often cited, *Parate v. Isibor*, 868 F.2d 821 (6th Cir. 1989), basing their decision on the First Amendment, the court limited the deference traditionally accorded administrative decisions about grading of students (Kaplin and Lee, 1995, see section 3.7.2.

Academic Freedom in the Classroom 311). The dean of the school in which the faculty was a non tenured professor ordered the faculty to change a final grade of one of his students. The faculty member argued that his dismissal was in retaliation for his lack of cooperation regarding the grade change and therefore violated his First Amendment academic freedom. Relying on the Free Speech Clause, a court agreed saying that

[B]ecause the assignment of a letter grade is symbolic communication intended to send a specific message to the student, the individual professor's communicative act is entitled to some measure of First Amendment protection.

.....The court further reasoned:

[T]he professor's evaluation of her students and assignment of their grades is central to the professor's teaching method.... Although the individual professor does not escape the reasonable review of university officials in the assignment of grades, she should remain free to decide, according to her own professional Judgment, what grades to assign and what grades not to assign.... Thus, the individual professor may not be compelled, by university officials, to change a grade that the professor previously assigned to her student. Because the individual professor's assignment of a letter *grade is protected speech*, the university officials' action to compel the professor to alter that grade would severely burden a protected activity [868 F.2d at 828].

Thus, the Dean's act of ordering the faculty to change the grade, contrary to the faculty's professional judgment, violated his First Amendment right.¹⁷

.....A further significant aspect of the court's ruling, however, is this: had university administrators changed the student's grade themselves, the Dean's action would not have violated the faculty's First Amendment rights.¹⁸ As Kaplin and Lee (1995) point out, "The protection that Parate accords to faculty grading and teaching methods is therefore quite narrow—more symbolic than real, perhaps, but nonetheless an important step away from the deference normally paid institutions in these matters."¹⁹

The Courts, The University, The Faculty, and Setting Academic Standards²⁰

.....From the legal cases involving SEF reviewed in this series of papers, the courts have consistently ruled as follows:

Summary: From the cases analyzed, the courts have clearly said (68) universities must be allowed to set standards, including (69) course content, (70) homework load, and (71) grading policy

.....Indeed, with few exceptions, the courts have traditionally taken a hands-off approach to academic matters. As noted in the often cited *Regents of the University of California v. Bakke* (1978) case, which is generally seen in the literature as paradigmatic, the court ruled "the four essential freedoms of a university are "to determine for itself" on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study." So the courts have most always maintained that it is not in their purview to set academic standards. The pertinent question here that is seldom addressed explicitly and categorically is: who exactly constitutes "the university?" Is it faculty? Is it administration? Or is it a cooperative/compromise faculty/administrative set of policies? The question of who constitutes the university, both legally and normatively, is central to understanding court rulings.

Who is the University That Sets Academic Standards?

.....Traditionally---at least in time-honored principle---the answer has been that it is the purview of faculty to set academic standards, including curricula, course content, and expected level of student performance. Legally, however, it has always been clear that the university boards of trustee and Regents are the final legal arbiters of academic standards. In fact, the latter *are* the university. But as one classic statement on academic freedom clearly points out (Morrow, 1968),

This latter usage is clearly distinct and derivative; for such corporate autonomy derives its justification ultimately from the services performed by the scholars whose activity it exists to foster and protect, while, on the other hand, the freedom of the individual scholar often requires protection from the pressures of his own institution, as well as from outside forces (p.4).

.....Nevertheless, legally, faculty set standards only in so far as they are accepted by specific contractual agreements with these bodies through administrative procedures. As Kaplin notes, "The four essential freedoms concept would apply to both policies developed by administrators and policies developed by faculty if the policies are adopted by the university as university policy. Technically, the four freedoms (who may teach, what may be taught, how it shall be taught, and who may be admitted to study) are attached *to institutional policy not to individual administrators* (Personal communication, April 1997, italics added).²¹

.....A cardinal problem, however---at least in relation to SEF rulings---is that the courts often accept certain decisions by individual administrators *as if* they were the formally delegated authority of the boards of trustees and Regents---even in the formal absence of a particular regulation or policy regarding a decision. In short, the courts tend to accept an administrator's decision *as if* it were based on formal institutional policy. This is important to recognize. For example, as will be noted below, few universities have formal policies about teaching methods or grading. Courts, then, often use the term "university" (1) *as if* it means any pronouncement by a university regardless of the existence of a formal policy, (2) or any pronouncement by a single administrator, e.g., a Dean---perhaps assuming the pronouncement to be a formal policy. For example, In *Lovelace v. Southeastern Massachusetts University* (1986), the court ruled, "The first amendment does not prevent a university from terminating an untenured faculty whose pedagogical style and philosophy does not conform to those of the school's administration." Pedagogical style and philosophy more often than not includes grading.²² A collective faculty agreement (e.g., a union contract, agreements in a faculty handbook, etc.) notwithstanding then, courts tend to uphold individual administrator's decisions on course content and teaching methods even when course content and teaching methods are not explicitly a part of written policy.²³

.....Thus a major variable in any legal ruling is how an issue is addressed in faculty union contract agreements and faculty handbooks. While in the Northern Arizona University case the court ruled that teaching style is "not a form of speech protected under the First Amendment" (Heller, 1986), the arbitration board ruling on the use of SEF at the University of Guam was based on a violation of the union contract (Blum, 1990). One wonders what the Arizona ruling would have been if teaching methodology was explicitly stated in a faculty contract. Other union contracts similarly prohibit the use of SEF for administrative evaluation purposes.²⁴ While policy on course content and teaching method may be included in some faculty agreements, I am aware of only one agreement that includes statements on pedagogical style and philosophy.²⁵ Article V of the Vermont colleges statement on academic freedom, for example, states,

It is the Policy of the Vermont State Colleges to maintain and encourage full freedom of inquiry, teaching and research. Academic Freedom implies not only the unconditional freedom of discussion in the classroom, *but also the absence of unreasonable restrictions upon the classroom*

instructor's methods (italics added).²⁶

.....This, perhaps singular---at least rare--policy, is crucial for faculty if academic standards are to remain their prerogative.

.....It is clear that if faculty want to maintain this prerogative, they must explicitly have in their agreements and handbooks polices on teaching methodology, grading, and SEF.²⁷ At least to the extent that standards are not collectively set by faculty, educational policies such as classes being composed of students with widely---and inappropriately---varying ability, class size, and grading standards are outside faculty purview, yet all of them have impact on SEF. Even so, institutions do not legally have to agree to faculty-developed standards. As Stone (1995) observes:

At one regional institution, faculty surveys repeatedly reported widespread concern about institutional reliance on student ratings of instruction as a basis for faculty evaluation. The faculty senate of the institution tried repeatedly to address the problem, but the solutions desired by the faculty were administratively rejected or shunted aside, in part, because of concerns about student satisfaction. Thus, the administrative view prevailed.

.....Such overruling of a faculty body is not infrequent.²⁸

.....Ideally, for the courts to take a hands-off approach, refusing to second guess academic matters is the prudent course. But the world is not ideal, as demonstrated by the courts more hands-on approach in discrimination, e.g., Disparate Treatment and Disparate Impact cases (see Haskell, 1997c). In addition, the world is not ideal in other respects as well, especially pertaining to SEF. By assuming validity of SEF data and "good faith" on the part of university administrators, the courts, by default or in a *de facto* manner, are setting academic standards. The question now is, is the "good faith" attributed to university boards of trustees and administrators justified?

SEF and Administrative Pressure to Maintain Enrollment Not Academic Standards²⁹

.....Clearly, administrators are tending to assign increasing importance to SEF for tenure and promotion decisions (see Haskell, 1977a). The question is: why? The obvious answer is that they are concerned with the quality of education. This assumes, however, that administrators are more concerned about quality education and are acting more in the best interest of students than are faculty.³⁰ Understandably, the courts are apparently not aware of numerous changes and pressures within higher education. For example, with increased competition for students, institutions have become increasingly concerned with maintaining student enrollment and tuition monies as well as to reduce the number of tenured faculty. As noted below, consumerism is *in*, academic quality is *out*. This view is not a politically radical one; nor is it a well-kept secret.

.....It seems reasonable to conclude that courts have in effect not taken a hands off approach, but have been setting academic standards (albeit perhaps unintentionally)---by apparently assuming that institutional administrators' primary goal is quality education. As indicated above, courts have tended to accept administrative (subjective) judgements if they appear "sincere," grounded on some evidentiary basis, made on the "vigor and variety of student criticisms," and "not arbitrary or capricious and were exercised honestly upon due consideration." These rulings make a number of naive assumptions, assumptions that at one time may have been relatively valid. As I previously observed (Haskell, 1997c), "The courts continue to assume a kind of pre 1960s academic Camelot. If such a round table of academic knights ever did historically exist or was merely mythical, it certainly now exists only in myth." As Copeland and Murry (1996) have noted, "the judiciary has tended to act as if colleges and universities could be trusted to act in good faith" (p.246). Courts

should no longer assume altruistic institutional motives that were perhaps true prior to the 1960's.In *Robert Kramer v. The President of the University of British Columbia* (1992), for example, it was noted by one student "that some of the unhappiness came from the fact that the levels of Japanese language ability were badly divided; some found it easy, others very hard" (p.12). It was further noted that the department head viewed Kramer's course evaluations "with some alarm" and that a number of students had stated that Dr. Kramer's teaching would cause them to stay away from the Asian Studies department. Since the course was the general introduction to the subject, such negative comments were of great concern to the department head. In another report of a faculty dismissal, involving low student evaluation of a faculty member because of his class standards and requirements, administration was quoted as saying, "We're an open-admission university. A large fraction of the class was completely unable to compete" (Magner, 1995).

.....In another case (*William Sypher v. Vermont State Colleges Faculty Federation*, 1982), the court seemed to accept that whatever level of student is enrolled in a class, the instructor is obligated to teach even though standards may be lowered. Responding to being denied reappointment, and in defense of his student rating level, Sypher wrote a letter to the Dean in which he said, "It is certainly distressing when very good is not good enough, especially at a college with a modestly-talented student body that often discourages efforts at subtlety, wit and deeper penetration of subjects." The Board responded to his letter saying, "*other actions and statements* by Grievant constituted legitimate reasons for not retaining him. In a May, 1980 letter to [the Dean], Grievant *expressed his contempt* for Castleton students" (p.135), concluding, "*Accordingly*, we find credible the College's contention that Grievant was not reappointed because of his teaching effectiveness" (p.135, italics added).³¹ SEF, then, plays an important role in maintaining student enrollment.³²

.....SEF also plays a role in the continuing attempts to reduce the number of tenured faculty on a campus. As I explained in a previous paper (Haskell, 1997a)

What is not widely understood is that SEF is often a kind of Trojan Horse in the battle against tenure and academic freedom. It often becomes a stealth mechanism by which to covertly abrogate both tenure and academic freedom.

.....In a rare published recognition of the stealth role of SEF in abrogating tenure, Knapper (1977) suggested

That complaints about teaching are commonly cited as a cause for dismissal is, in a rather perverse way, encouraging, if it reflects an increasingly important status assigned to this academic function. On the other hand, it may be that student complaints about teaching are the symptom, not the cause, of the trouble, or that teaching difficulties are cited as the excuse, but do not really constitute the main reason, for dismissal (p.199, italics added).³³

.....As already noted, courts do not trust that universities will act in good faith with regard to discrimination cases. They do, however, tend to assume good faith with regard to pedagogical methods, grading, and other standards.³⁴

.....Considering the literature on the lowering of standards in higher education, then, it would seem that the courts should no more automatically assume good faith in educational matters than they do in matters of discrimination. In assuming good faith the courts are setting academic standards by default. But this is not likely the end of it: Pressures to grade easily, to lower standards in terms of content and requirements, and to pass students who have not earned passing grades takes on a different meaning in light of recent court cases by students charging the institution with not teaching them to an adequate level of competency (American Psychological Association Monitor, 1994; Chronicle of Higher Education, 1996).

.....Given the cases presented here demonstrating the SEF-driven administrative pressure on faculty to lower their classroom standards, the consequences of such practices already have reached

the courts. Increasingly, students are suing universities, claiming that the education they received was poor or failed to live up to promises made in course catalogues. As higher education focuses increasingly on vocational "education," such cases may also increase. Institutions can not have it both ways: to pressure faculty to grade more easily, on the one hand, and ensure student competency, on the other. They do not go together.

Academic Freedom and Assumptions Underlying Student Rights to SEF

.....There are a number of assumptions which undergird the new right of students to evaluate faculty and its use in administrative decisions for reappointment, promotion and tenure, assumptions which have been both explicit and implicit in the court rulings on SEF. Four of the more significant assumptions are: (1): Student as Consumer, (2), Higher Education as a Democracy, (3) Students as Qualified Evaluators, and (4) Student Learning as the Responsibility of the Faculty.

Assumption # 1: Student as Consumer and the University as Business

.....SEF has come to be seen as a right. There is a pervasive business metaphor of consumerism in higher education (an assumption that I briefly address in Haskell, 1997a). The university considered as a business carries with it the attendant and associated ideas of students as *consumers* in an *educational marketplace*. As the well-known scholar David Reisman (1981) noted years ago in this regard, "This shift from academic merit to student consumerism is one of the two greatest reversals of direction in all the history of American higher education; the other being the replacement of the classical college by the modern university a century ago" (p.xi). From this model, it follows that students are consumers of instruction and therefore have a right to evaluate and influence instruction. To question the-student-as-consumer right is difficult. As I noted in a previous paper (Haskell, 1997a)

While it is difficult enough to deal with political, ideological and economic pressures, dealing with consumer pressures has become nearly impossible. If denying fiscal efficiency is viewed as unreasonable, irresponsible, and even irrational, to deny "consumer's" their demands is viewed as undemocratic and downright mean spirited.

.....Some state-supported schools advertise themselves as a business.³⁵ The fact is, a university is not---or should not be---like a business. The business metaphor is an inappropriate one. And at least one court has recognized the inappropriateness of this metaphor.³⁶

.....As McMurtry (1991) Damron (1995) and others note, the metaphor of consumerism itself is based on a number of incorrect and opposing assumptions.³⁷ Stone (1995) suggests that

Higher education makes a very great mistake if it permits its primary mission to become one of serving student "customers." Treating students as customers means shaping services to their taste. It also implies that students are entitled to use or waste the services as they see fit. Thus judging by enrollment patterns, students find trivial courses of study, inflated grades, and mediocre standards quite acceptable. If this were not the case, surely there would have long ago been a tidal wave of student protest. Of course, reality is that student protest about such matters is utterly unknown. Tomorrow, when they are alumni and taxpayers, today's students will be vitally interested in academic standards and efficient use of educational opportunities. Today, however, the top priority of most students is to get through college with the highest grades and least amount of time, effort, and inconvenience.

.....Stone recognizes that "student ratings of instruction can serve as valuable feedback to an instructor about student preferences, but there is good reason to suspect that using them as a basis

for administrative decisions on promotion, tenure, and merit pay has been a major contributor to the academic decline and devaluation of the past twenty-five or so years." There are further assumptions underlying the consumer metaphor. As Damron correctly observes,

The concept of "student as consumer" begs a number of substantive issues, not the least of which is who pays for the services rendered to students and who benefits from them. In most universities and colleges, the lion's share (well over 80%) of the cost of post-secondary education is paid by tax payers. As McCabe (1981) has noted, virtually all college students are on sizable public scholarships. The remainder is defrayed by private stipends and scholarships, low interest government loans, or students and their parents. Thus, in the vast majority of cases, tax payers, governments, parents, and contributors to scholarship funds have an important stake in the services provided to students and are rightly conceived of as consumers of college teaching and its products. So too are the employers who demand and support professional programmes and routinely hire their graduates. Similarly, universities that accept college transferees are also consumers of college teaching insofar as they accept the curricula of colleges as reasonably equivalent to their own and grant transfer credits to those entering their degree programmes. If consumer satisfaction is to serve as the criterion of effective teaching, the satisfaction of all of the above parties must be assessed. Given the concerns about the quality of secondary and post-secondary education recently expressed by these groups, it is unlikely that advocates of the "student as consumer" will find this palatable.

.....Clearly the simple student-as-consumer metaphor is inappropriate.³⁸ Thus the "consumer" of higher education is in fact a wide constituency of groups distributed in both space and time. The metaphor of student as consumer is more appropriately replaced by the metaphor of student as worker or as apprentice.

.....The consumer metaphor and its implementation via SEF used for administrative purposes constitutes the newest threat to academic freedom and instructional quality.³⁹ McMurtry (1991) has noted that, education has always been subject to external pressures whose purpose is to subordinate it to vested interests of various kinds, whether it is slave-holding oligarchies, theocratic states, political parties or the prevailing dogmas of collective beliefs. I suggest that the difference today is that threats to academic freedom come from within: the consumer-student.

Assumption # 2: Higher Education as a Democracy

.....Closely related to the business metaphor of consumer is the tandem political concept of democracy, and like the former, the latter undergirds the administrative use of SEF. In a democracy it is always tempting to transfer this political principle to just about every realm of life, including higher education. So pervasive are the metaphors of student-as-consumer and higher-education-as-a-political-democracy, that to question one is to almost automatically question the other. And just as to question SEF is seen as undemocratic, to question the democracy metaphor is seen as totalitarian. Nevertheless, both metaphors are inappropriate when applied to higher education, culminating in counterproductive outcomes.

.....As the cum liberal, cum conservative historian (depending on who is doing the evaluating), Christopher Lasch (1979) has observed,⁴⁰

The democratization of education has accomplished little...It has neither improved popular understanding of modern society, raised the quality of popular culture, nor reduced the gap between wealth and poverty...On the other hand, it has contributed to the decline of critical thought and the erosion of intellectual standards, forcing us to consider the possibility that mass education, as conservatives have argued all along is intrinsically incompatible with the maintenance of educational quality (p.222).

.....As I suggested in a previous paper (Haskell, 1997a), SEF is a major factor in grade inflation and the erosion of academic standards.⁴¹ On some campuses, the situation has reached the notice of accrediting agencies with the grade inflation noted in their reports.⁴²

.....Most students do understand the ensuing consequences of the consumer and democratic metaphors underlying SEF. A glance at articles from online student newspapers reveals strong sentiments against what some students consider the erosion of standards created by SEF.⁴³ Some students are thus quite aware of the effects of SEF on their education. SEF has become such a matter of amusement--when they are not detrimental to one's career--that a recent article in a prestigious psychological journal that is not given to publishing such articles has published an apparently serious piece on "How to improve your teaching evaluations without improving your teaching" (Neath, 1996). It is time to get beyond the ideologies of student consumerism and democracy and begin dealing with the educational consequences.

Assumption # 3: Students as Qualified Evaluators

.....Validity of assessing teaching effectiveness assumes qualified assessors. In both the consumer and democratic metaphors, it is assumed that students are qualified to judge and assess. The fact is that even under ideal conditions most students are not qualified to judge faculty teaching effectiveness.⁴⁴ Ideally they may be able to judge certain aspects of teaching, e.g., clarity of presentation, instructor being organized, interest level, etc. In addition, the assumption of student as qualified evaluator of teaching effectiveness in turn subsumes numerous other assumptions. These assumptions include appropriate (a) maturity level (b) ability level, and (c) good faith motivation. A most cursory of glances at professional articles, reports, periodical media, books, and educational world-wide-web Internet sites yields an abundance of documentation on grade inflation, low SAT scores, lowered academic preparation of students, and lowered admissions requirements, with a consequent increase of remedial college courses (Adelman, 1996;⁴⁵ American Federation of Teachers, 1996; Bauer, 1996; Blum, 1992; Brimelow, 1996; *Chronicle of Higher Education*, 1997; *Chronicle of Higher Education*, 1991; Fighting grade inflation, 1994; Gordon, Hartigan and Muttalib, 1996; Goldman, 1993; Gose, 1997; Guernsey, 1996; Hertling 1996; Kolevzon 1981; Lambert, 1993; Lasch, 1979; Leo, 1996; Sacks, 1996; Simon, 1996; Stedman, 1996; Stone, 1995; Summerville, et al, 1990; Walker, 1992). Thus, acceptance of the above assumptions seems highly questionable. Indicating and documenting just how widely acknowledged the recognition of the inappropriate acceptance of these assumptions is and their effects on higher education, it has reached comic strip proportions as the frequent subject of the popular Doonsbury comic strip.⁴⁶

.....Student level of (1) preparedness, (2) ability level as measured by most any national test, (3) expectations about learning, (4) motivation level, and (5) hours spent studying have all been in decline for years, yet at the same time a sense of entitlement, motivation, and the average grade has risen from a C perhaps C+ to a B, perhaps a B+.⁴⁷ SEF contributes more than its share to this state of affairs (see Haskell, 1997a). The Higher Education Research Institute recently released the National Norms for the freshman class of 1995. The survey was completed by 323,791 freshmen entering 641 two-and four-year colleges and universities. Among other characteristics, the survey showed that students tend to be increasingly disengaged academically. Students are spending less time studying and doing homework, with the percent reporting six hours or more per week dropping from 43.7 percent in 1987 to 35.0 percent in 1995; spend less time talking with teachers outside of class (47.0 percent reporting one or more hours per week, compared with 62.0 percent in 1989), and the highest percentage of students ever (33.9 percent) reporting being frequently bored in their classes.⁴⁸

.....As demonstrated in the legal opinions on SEF, however, these realities seem not to have

reached the court. Moreover, as Abrami (1989) observes, there is little to no rigorous research demonstrating the complex network of relationships existing between student impressions about the processes of instruction and the impact of those processes on student cognition and their affective responses to it. Despite this data, many researchers still maintain that SEF data is valid and appropriate for use in tenure, promotion, and reappointment decisions (given that certain adjustments are made in the SEF form and analysis of the data).⁴⁹

Assumption # 4: Student Learning as the Responsibility of the Faculty

.....A further assumption underlying SEF that seems to be upheld mostly by default in court rulings, and by explicit educational philosophy in much of higher education, is that responsibility for student learning lies with faculty. SEF indeed holds faculties largely responsible for most of student learning. Granted, to some undetermined degree this pedagogical value can be justified. After all, the primary (or at least public) purpose of SEF is to attempt to establish "teaching effectiveness" ---which in fact means being responsible for student learning. Now, given (a) the lowering of admission standards, which has led to (b) the admission of students that would historically not have been admitted, (c) the above suggested inappropriate maturity level, (c) inappropriate expectations, (d) inappropriate study time, and (f) lack of good-faith motivation by large numbers of students, how reasonable is it to hold faculty responsible for student learning?⁵⁰

.....Amongst many faculty and administrators, the assumption seems to be that large numbers of students are unable to learn appropriately and require "inordinate" assistance from faculty. It is said that they are young and immature and thus require considerable nurturing. This view is perhaps appropriate for high school students, but not for college level students, at least to the degree it is considered to be required. Indeed, some courts have indicated that there is a maturity line between secondary and post secondary expectations and regulation of students. For example, in *Lansdale v. Tyler Junior College* (1972), considering the applicability to post secondary education of a prior precedent permitting high schools to regulate the length of students' hair, the court refused to extend the precedent. As one scholar explained (Kaplin and Lee, 1995):

The college campus marks the appropriate boundary where the public institution can no longer assert that the regulation of . . . [hair length] is reasonably related to the fostering or encouraging of education. There are a number of factors which support the proposition that the point between high school and college is the place where the line should be drawn.... That place is the point in the student's process of maturity where he usually comes within the ambit of the Twenty-Sixth Amendment and the Selective Service Act, where he often leaves home for dormitory life, and where the educational institution ceases to deal with him through parents and guardians.⁵¹

In a more recent case involving community college students (*DiBona v. Matthews*, 269 Cal. Rptr. 882 (Cal. Ct. App. 1990), a California Court of Appeal ruled that administrators violated a teacher's free speech rights by canceling a controversial play production from a drama class. Distinguishing the case before from those involving minors in elementary and secondary schools, the court ruled that the college could not cancel the drama class solely because of the vulgar language in the play (Kaplin and Lee, 1995).

.....Each year state and federal courts render decisions in numerous cases involving both elementary, secondary, and post secondary education and have recognized that these precedents cannot be uncritically applied to each other. As Kaplin and Lee (1995) observe

The majority holds today that as a matter of law the college campus is the line of demarcation where the weight of the student's maturity, as compared with the institution's modified role in his education, tips the scales in favor of the individual and marks the boundary of the area within

which a student's hirsute adornment becomes constitutionally irrelevant to the pursuit of educational activities (p.13).

Unlike the courts, many faculty and administrators have been increasingly blurring this educational line---by design and, in effect---transforming college level men and women into high school students. I suggest this has been accomplished in part by lowering admission requirements, academic standards, and expectations. In addition, I suggest that many faculty, administrators, and educational theorists have been uncritically transferring research findings and teaching methods originally designed for elementary and secondary levels to higher education.

.....What most teaching methods and educational philosophy that are transferred from research on elementary and high school learning environments do---in addition to lowering the content level of the subject---is simply to use the college classroom for work that students should be doing outside of class: practice, memorizing, reviewing and other work. This is an additional way that higher education standards are lowered (See Chatterley and Peck's [1995] "We're crippling our kids with kindness!!" in the *Journal of Mathematical Behavior*, as an example of this on the elementary level.)⁵²

SEF and Conflict of Interest in Relation to Student-Instructor Interface

.....SEF used administratively sets up inherent conflicts of interest between student and instructor. Perhaps first and foremost, to have students evaluate faculty for administrative purposes place faculty in an educational, a "political," as well as a potential economically vested interest relationship to students. These are not appropriate roles for educators to be forced into. When political and economic pressures impact instruction, clearly, the education of students is in danger of being degraded.

Curricula and Conflict of Interest

.....SEF not only can affect individual faculty, it can affect curricula as well. A faculty member at Wichita State University (Goldman, 1993) notes that in a thirty-faculty education department, responsible for certification of teachers, six faculty have been hired in the past 25 years as assistant professors to teach Foundations of Education. All faculty were apparently well qualified, receiving their doctorates from excellent universities. Only one of these faculty has been awarded tenure; none was promoted. According to Goldman, the reason for this was student evaluations. In general, as the data show, required courses hold less interest and receive lower evaluations than elective courses. Moreover, students seem to especially dislike the course in educational foundations. In addition, students who are drawn to become teachers are concrete-sequential, and are less interested in the abstract and theoretical content of the foundations of education course.⁵³ This leads the faculty who teach the foundational course to receive lower student evaluations than other education faculty. Because student evaluations are often---at least in effect---the primary, if not the only, gauge of teaching quality, and since teaching evaluation usually out-ranks research and scholarly productivity on most campuses, when tenure, promotion, and salary increases are awarded, these rewards will not be evenly distributed to faculty who teach the foundations and educational psychology courses. Rewards will accrue to the concrete-oriented methods faculty whose courses will further intensify the concrete orientation of teacher preparation. This in turn can then lead to a downward spiral in teacher preparation.

Economic Conflict of Interest

.....Indeed, the pressure for some faculty to conform to SEF is great. In one case (*King's College v. Anne S. De Fabry*, 1983) a faculty member requested of some students that they write a letter of recommendation for her application for promotion to full professorship. She had told them: "The exam is over, we have won, and I want you to know you are absolutely free; but, of course I would appreciate if you do it." According to the lawyer for the college, during the hearings, the plaintiff's request to the three students was clearly abusive and the Principal of the College mentioned one instance where she "attempted to exploit them (the students) for her private advantage" (p.6). In a previous situation, she had sent a registered letter to a student which said, "Since your evaluation is the only negative one out of the whole class, it is obvious that it is untrue and made deliberately in the intention of damaging my reputation, and perhaps, destroying my career. I therefore ask you to retract what you have written, and offer some sort of apologies. Should you decide not to comply with my request I would have to take some legal action" (p.8).⁵⁴

.....As some legal scholars point out (Rebell, 1990), the significant aspect of faculty evaluation in general is that it serves a dual purpose:

First, it is used to promote teacher training and development, while at the same time it serves to rate individuals for job termination. Such a system thereby sets up an inherent conflict of interest between the formative and summative functions, as the openness and cooperation necessary for staff development is in conflict with the self-protective, and adversary modes of rating and dismissal decisions. In the past, when summative decision making constituted only a minor part of evaluation activities, the underlying conflicts rarely came to the surface. However, since the adoption of educational reform legislation, evaluation techniques are increasingly being used to raise accountability standards by denying professional certification, retention, or promotion to those who do seem to meet acceptable standards. Thus, says Rebell, summative decisions, i.e., the type of decision which often leads to court cases, are becoming increasingly significant, and this increasing significance of summative evaluation decisions means more cases being brought before the courts (p.339-40).

As Rebell concludes, the adversary nature of the faculty evaluation process often contradicts the purpose for which they were initially developed: instructional effectiveness.

Release of SEF to Students and to The Public⁵⁵

.....In addition to the administrative use of SEF, in recent years, other uses of SEF have become controversial, including releasing SEF to students and to the public.

Summary: (76) Unlike most personnel records, SEF can be released to students and the public, on the grounds, that (77) students are not considered the general public, and (78) that SEF records are public and withholding them from public access does not outweigh the public interest in them.

While it is illegal to post a student's grades using a social security number or date of birth and a host of other confidentiality restrictions,⁵⁶ on a number of campuses, SEF data are openly published and sanctioned by some administrators and state government officials. In what many faculty see as an outrageous attempt to control the academic classroom, some state governments have sanctioned the release of SEF to the campus community, and in some cases to the general public, by publishing faculty student evaluations on the university's world wide web pages, thus making them not only

available on campus but globally. One recent survey of accounting departments found that 11.4% of the respondents indicated that SEF scores are made available to students (Crumbley and Fliedner, 1995). Indeed, a search using "faculty evaluation" on the world wide web will return numerous examples of published SEF. All this while faculty are restricted from divulging information on students (see Pennsylvania State University, 1996). Articles are, however, beginning to appear that question the legality of publically releasing SEF (Robinson and Fink, 1996).

.....As I addressed in an earlier article (Haskell, 1997a), some faculty believe that due process and defamation issues are involved in SEF (see Crumbley, 1996), suggesting that faculty are entitled to at least the same rights as students. The Fourteenth Amendment, for example, requires due process before a public institution may deprive one of life, liberty, or property. A faculty member's reputation is considered a liberty right, and for tenured faculty the courts have pronounced the possession of tenure a property right. Presumably, any inappropriate action depriving faculty of these rights would be open to legal action. It has been suggested that if a university damages a faculty's reputation by publishing false and anecdotal data from SEF, faculty should be able to sue for libel or defamation. The concept of defamation typically refers to communication that causes a person to be shamed, ridiculed or held in contempt by others; to lower their status in the eyes of the community or to lose employment status or earnings or otherwise suffer a damaged reputation.

Legally, while defamation is governed by state law, it is limited by the first amendment (Black, 1990).⁵⁷ According to one source, however, the courts have generally protected administrators from defamation charges resulting from performance evaluations (Zirkel, 1996). It would seem, however, that these older precedents applied when administrative evaluations were conducted in private and not publically distributed.

.....The release of personnel information is apparently allowed in no other phase of personnel or other key management functions. In typical personnel evaluations, professional validation studies are not permissible unless shown by professionally acceptable methods to be "predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the job or jobs for which candidates are being evaluated." In Title VII of the Civil Rights Act of 1964 the employer must meet "the burden of showing that any given requirement (or test) has a manifest relationship to the employment in question" (in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971)). SEF data do not conform to these guidelines. It would seem that a university should be held responsible for insuring that data made public are valid. Given such apparent breaches of confidentiality and privacy, it will be instructive to see how the courts will continue to rule.

.....At the very least, SEF for administrative purposes and certainly the release of SEF data to students and the public create what the courts in a somewhat different context regarding academic freedom have termed a "chilling effect" on faculty behavior in the classroom (see *Keyishian v. Board of Regents*, 1967).

SEF in a Larger Context

.....In a larger context, it should be asked if there is reason to assume that what is happening in higher education is unique to the U.S. The answer is both "yes" and "no." It should also be asked if there is an additional (unintended?) effect of the administrative use of SEF, and the court's affirmation of its use, on the autonomy and future of the larger profession than those that have already been examined. The answer to this latter question is clearly "yes."

The Global Exporting of SEF

.....Given the largely peculiar U.S. institution of a generalized ideology of democracy and of

consumerism, it might be suspected that SEF is an American institution. The fact is that like many aspects of U.S. culture, SEF is being exported around the world from Canada, to France, Germany, Great Britain, to Hong Kong, and beyond. Thus, an affirmative "yes" is the answer to the opening question of this section. The "no" answer is a more conditional one. Just as in the U.S., in other countries SEF appears to be linked to expanding enrollments to populations of atypical students, which often leads to a lowering of the quality of higher education.⁵⁸ For example, in the late 1980s, policy makers in Hong Kong decided that in order to remain economically competitive, Hong Kong needed to develop its own research capabilities, train more professionals, and provide more opportunities in higher education to a much larger segment of the population. At that time only 3 per cent of high-school graduates went on to post secondary education; today its about 18 per cent.

A recent government-commissioned study there concluded that the expansion of student enrollment in the university has been at the expense of academic quality (Hertling, 1996).

.....Similarly, in France, since its inception in the Napoleonic era, the *baccalauréat* has been aimed at the highest achieving students. The *baccalauréat* has earned a strong reputation in France and around the world, and has even inspired others to pattern their programs after it. Over the years, it has been criticized for being elitist. Before 1950, only 5 percent of an age cohort typically earned the *baccalauréat* in a given year. By 1992, 51 percent of the age cohort passed the *baccalauréat*.⁵⁹

Exams consist of both written and oral sections, with written tests taking up to four days with total testing time averaging up to 25 hours. The *baccalauréat* process has grown as a result of the government's desire to make it accessible to a larger, more diverse population. Questions are also being asked about the lowering of standards.

.....As two British researchers point out (Husbands and Fish, 1993), in some countries with politicians knowing that attacks on what is widely seen as the world of a privileged elite are electorally popular, there has been populist pressure encouraging them to intervene in the workings of higher education in order to reduce its apparent elitist nature. Enrollments in higher education have increased significantly in the UK, the Netherlands, France and Germany from a low former enrollment level by mandating new modes of entry such as flexible study programmes to encourage 'non conventional' students. In Britain, note Husbands and Fosh (1993),

Even though student responses are considered an important aspect of the UK's approach to quality assessment of teaching, it is difficult to locate prescriptive statements that the gathering of such information should actually be by formal questionnaire. The questionnaire seems, almost surreptitiously to have become the most widely used means for the gathering of such views within UK universities--partly but (it is true) nor exclusively at the expense of other techniques. In addition, one does find references to, for example, liaison or consultative committees between students and staff, which may operate at institutional or departmental level. There are also institutions that favour gathering students' views on teaching using semi-directed or structured discussion groups lead by a facilitator who then prepares a report on the basis of comments given by participating students (e.g. Wisdom, 1991). Silver (1992). In his report on the present state of student feedback techniques in British higher education, makes a number of observations about general practices, as well as giving specific information about 14 institutions in England and Scotland that were examined in the course of his study. He describes the student questionnaire as "by far the most commonly used" method of obtaining feedback and offers a summary of arguments for and against such use, as well as discussing the variety of practices in its implementation (e.g. subject-specific versus comprehensive questionnaires or sampled responses versus total coverage) (p.100-101).

The authors go on to report that unsurprisingly, with the modest exceptions noted above, there is virtually no published research literature on issues of validity and bias in the use of SEF in German universities: "The extensive debates about the dimensionality of student assessment of teaching that have long raged among statistically oriented American, Canadian, and Australian researchers in higher education, and more recently in The Netherlands, seem as yet to have no complement in

Germany" (p.103). As indicated in the opening to this paper, one of the few places there seems to be any question regarding SEF as an infringement on academic freedom is in Germany. Husbands and Frosh continue their view from Britain and Europe on SEF:

It is a sad commentary on the gullibility of some people in the face of numerical data that it required the intervention of the courts to force the discontinuation of the more gross forms of this type of interpretation. As far as we know, there have been no comparable cases in European courts but, if European universities follow the American example of using student evaluations largely or exclusively for summative purposes, it is only a matter of time before there is external examination of the techniques being used, and of their suitability for the purposes for which they are intended. Certainly, if someone were, say, denied reappointment only or principally on the basis of the ratings that he/she had been given in students' assessments of his/her teaching, the institution concerned might expect to have the validity of its procedures on this subject examined extremely critically by the courts. Moreover, persistent denial of promotion merely on these same grounds alone might well lead to constructive dismissal proceedings instigated by the aggrieved individual. Again, the criteria and procedures would then come under very critical scrutiny (p.110).

Since Husbands and Fosh are largely addressing the non administrative use of SEF, they correctly conclude that they should not be interpreted as a calling for the complete discontinuation of SEF.

Legal and Administrative Default-Enforcement of Faculty Allegiance

.....Finally, and most importantly, there is an additional unrecognized contextual effect of the administrative use of SEF, and the courts' affirmation of its use, which in large measure undergirds the effects that have already been examined (e.g., SEF, grading, instructional methods, and standards). More specifically, this effect is the forcing faculty to shift from their traditional primary allegiance to the standards and norms of their discipline and to the larger profession of teaching to an allegiance with the standards and norms of the particular institution in which they teach. This is a major shift. The shift is the consequence of the SEF court rulings---and other issues addressed in this series of articles---which tend to attribute an inordinate degree of "good faith" in institutions and their administrators, giving them by force of law, the authority to decide (1) methods of instruction, (2) course content, and (3) grading practices.

.....The implication of SEF court rulings is this: that faculty are forced to teach to whatever level of student is enrolled in a particular institution or be subject to low evaluation by those students who may not have developed the ability to cope with traditional expected standards. The SEF is then used in tenure, promotion, and reappointment decisions. In this regard, recall the statement above by an administrator: "We're an open-admission university. A large fraction of the class was completely unable to compete" (Magner, 1995).

.....Unlike what many see as a voluntary compliance by faculty to pressures resulting from SEF,⁶⁰ the "unfriendly" court rulings presented in this series of articles legally enforces compliance to institutional acceptance of academic standards based on student evaluations. In my view, these rulings impinge on academic freedom by a quasi formal (i.e., by default) setting of academic standards. It should be noted that many of the rulings are not specific to cases involving SEF as similar rulings have been extant in other educational contexts for some time. When applied to SEF, however, such rulings seem to widen the context of their original application.

.....This legally enforced shift in faculty allegiance not only affects instructional matters, but arguably changes the nature of the faculty employment relationship to the institution. Traditionally, faculty have not considered themselves employees of the institution in the standard sense of an employee in a business corporation; the relationship has been generally seen as an independent contractor. There are crucial differences, however, that render faculty not quite like traditional

employees in business. The academic governance systems of universities render faculty "partners" in the management of the institution, though recently there have been suggestions to reduce the traditional role of faculty governance.⁶¹

.....In terms of contract law, however, faculty are employees of the institution, and as I noted above, legally, faculty set academic standards only in so far as they are accepted by specific contractual agreement with the institution (see section: [Who Is the University That Sets Academic Standards?](#)). The situation is not quite as clear-cut as it may appear. It is unclear, for example, if courts would accede to a formally stated set of faculty standards and norms if not accepted as a contractual agreement by the institution. As Kaplin suggests, courts sometimes could and indeed might "accede to professional standards and norms of faculty even though such standards and norms are not embodied in a formal contract. Apparently, courts could so rule under the theory that such standards and norms are part of local or national 'academic custom and usage' " (personal communication, August 11, 1997. See also Kaplin and Lee, 1995, section. 1.3.2.3). But the courts apparently seldom accede to such informal norms. In any event, at the very least, the legal rulings seem to shift the status of faculty---in effect, if not in total fact---from an independent professional to an employee. If so, then additional changes in traditional faculty prerogatives will likely follow, further eroding academic freedom.

.....As already noted, higher education is increasingly being seen as a *business*. The university considered as a business carries with it the attendant and associated ideas of students as *consumers* in an *educational marketplace* and faculty as *employees* of the business. Thus, the enforced shift in faculty allegiance can lead to a domino effect in eroding academic freedom and tenure. It is a shift with crucial implications of its own which needs to be addressed by higher education.⁶²

.....Once again, as I discussed in the above section, "[Who Is the University That Sets Academic Standards?](#)" if faculty are to regain and maintain their academic role they need to formally and in detail address SEF, teaching methods, and grading issues in their contractual agreements and handbooks. As Kaplin and Lee (1995) have suggested relative to academic freedom in general, "It is especially crucial for institutions to develop their own guidelines on academic freedom and to have internal systems for protecting academic freedom in accordance with institutional policy" (Section 3.6.1, p. 192). This would appear to be especially true for SEF, teaching methods and grading policies.

Conclusion

.....The issue of what sustains SEF and its associated problems of academic standards and of maintaining student tuition is a complex one, including positive reinforcement patterns by all parties involved. Assuming that the situation calls for at least some modicum of change, it can not be accomplished on an individual level; it has to be accessed on a systems level. On a macro level, this means changing cultural values about education, the university's economic orientation, administrative practices, student orientation to learning, and faculty collective action. We must change the reward structures so that each party does not gain from the situation. Currently, parents gain when their children who might not otherwise earn a college degree do acquire one; college presidents gain by demonstrating to boards of trustees that they are constructing new buildings; trustees gain by demonstrating an economically viable institution, other administrators gain because they can show the president growth within their own administrative units; other units within the university like academic departments gain because department budgets tend to be based on student enrollment numbers; students gain because they do not have to study hard to attain an A or B grade-point average;⁶³ and finally, faculty gain because they are rewarded both by student evaluations, and administrators. This is what is called a closed, mutually rewarding, escalating system with little to no restraining feedback. Systems engineers would recognize this as a run-a-way

system. Unfortunately, change may have to come from external sources like accrediting agencies.

Notes

1. Address correspondence to: Robert E. Haskell, Ph.D., Professor of Psychology, Department of Social and Behavioral Sciences, University of New England, Biddeford, ME 04005. Email rhaskell@maine.rr.com. I would like to thank Professor John Damron, of Douglas College for continually providing me with sources, support, and advice, and especially Professor William A. Kaplin, School of Law, Catholic University of America, for his invaluable legal counsel and for reading a draft of this paper. The conclusions reached in this paper do not, of course, necessarily reflect the views of those who contributed to its development.

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2. To question SEF often meets with emotional reactions. In a response to my first article, Michael Theall (1997), Director of the Center for Teaching and Learning at the University of Illinois at Springfield, opens his critique of my article by lamentably describing my piece as rhetorical, characterizing it as an example of

(1) faculty who "fulminate" against SEF, (2) as "simplistic," (3) "loaded with misinterpretations of the literature," (4) as "mythology," (5) exhibiting an "ignorance of evaluation/measurement literature," as containing (6) "sweeping generalizations," (7) "misinformation," (8) as "simply ridiculous!" (9) "ripe" with "hysterical rhetoric," (10) as assuming a "mythical group of better students" of some bygone era, asserting that (11) SEF "are the cause of grade inflation," as suggesting (12) "we do away with ratings." Continuing, Theall wrote that (13) "Perhaps the weakest part of his article is what isn't there: constructive suggestions for improvement," that I (14) "suggested that ratings are a violation of academic freedom," and finally---but not exhaustively---(15) that "Academic freedom has been defined in many ways, but never before in a way that suggests the construct (tradition? principle? tenet?) is vulnerable to the influence of student ratings."

In response (Haskell, 1997d), I suggested that the author at least got the last two items correct. I agree with Hamilton's (1997) observation that "One of the greatest contributions an academic can make is an honorable defense of the principles on which the university rests" (p.19).

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3. To further demonstrate the negative reaction to question SEF, a more recent negative response to my article is Marsh and Roche (1997). In grossly misrepresenting my thesis (to which I had no opportunity to respond) they said:

Experimental field studies.

Marsh (1984, 1987; Marsh & Dunking, 1992; also see Abram I, Dickens, Perry, & Leventhal, 1980; Howard & Maxwell, 1982) reviewed experimental field studies purporting to demonstrate a grading-leniency effect on sets but concluded that the research was weak and flawed. In marked contrast, *Haskell (1997) summarized work implying that these studies provide good evidence for a grading leniency effect, even suggesting an implicit collusion among SET researchers to hide this conclusion.* It is important to counter such dubious but *popular interpretations*, because the use of deception in these studies would presumably fail to meet current ethical standards, making the studies difficult to replicate or refine. Here, we briefly elaborate four crippling weaknesses of these studies by Chacko (1983), Holmes (1972), Powell (1977), Vasta and Sarmiento (1979), and Worthington and Wong (1979), and one subsequent study by Blunt (1991). p.1191 [italics added]

In fact, the only place I cite Marsh, etc., is in a footnote (# 3, see below). First Marsh and Roche

misread the footnote suggesting that I cite Marsh (1984, 1987; Marsh & Dunking, 1992; also see Abrami, Dickens, Perry, & Leventhal, 1980; Howard & Maxwell, 1982) relative to grading leniency. My footnote clearly refers to validity of SEF, not grading leniency. Later in the paragraph, I refer to Greenwald's work on grading leniency:

3. Since the issue of SEF validity, in terms of learning, is so central a few observations of the literature are necessary. Greenwald and Gillmore (1996) have categorized some of the significant reviews and empirical research that find in favor of validity of SEF as measures of quality of instruction, for example, Cashin (1995), Cohen (1981), Feldman (in press), Howard, Conway, and Maxwell (1985), Howard and Maxwell (1980, 1982), Marsh (1980, 1982, 1984), Marsh and Dunking (1992), and McKeachie (1979). Reviews and empirical critiques that are critical of the validity of SEF include, Chacko (1983), Dowell and Neal (1982), Holmes (1972), Powell (1977), Snyder and Clair (1976), Vanta and Sarmiento (1979), and Worthington and Wong (1979).

Positions, suggesting cautious support for validity of SEF while at the same time expressing concerns about the adequacy of their support, include, Abrami, Dickens, Perry, & Leventhal (1980). The recent methodologically sophisticated research of Greenwald (1996), and Greenwald and Gillmore (1996) find strong evidence inconsistent with the common dismissive interpretation of the relationship between SEF and high student grades as reflecting a relationship between amount learned and student ratings. (Haskell, 1997).

Moreover, Marsh and Roche claim that I implied "an implicit collusion among SEF researchers." Nowhere, however, in my paper do I suggest collusion among researchers. In addition they refer to my piece as "popular." What does this mean? If popular means non statistical, it's a strange definition. If it refers to a piece that emphasizes the implications and contexts of an issue---a legitimate and important approach to an issue---again, a rather strange definition of "popular." My articles are, after all clearly "policy" pieces. Finally, what Marsh and Roche refer to was in a footnote and far from the main thesis of the paper. I consider Marsh and Roche's comment on my article not just a "misinterpretation" or a "mis reading," but a clear misrepresentation. I also consider it unscholarly in that they do not document their misrepresentation (Perhaps Marsh and Roche were obliquely reacting to my response to Theall's commentary (see previous endnote above). And unlike Theall, I had no opportunity to reply and defend my integrity.

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4. For a recent dialogue on SEF in *Change: The Magazine of Higher Learning*, see Williams and Ceci (1997), Trout, (1997). See also Winston (1997) for an economic analysis of long term institutional costs of lowering academic admission standards. For a kinder and gentler view of SEF see Gold (1997).

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5. For convenience of exposition, unless otherwise specified, I will use the simpler "SEF used administratively" for the more cumbersome "SEF as used administratively in reappointment, tenure, and promotion decisions."

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6. Neil Hamilton (1977), Trustee Professor of Regulatory Policy at William Mitchell College of Law, has observed that "Many academics do not seem aware of our continuing struggles for the principles of academic freedom and tenure, nor can they make a reasoned defense of the principles" (p.16).

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7. My thanks to Michiel Horn, Professor of History, Glendon College of York University, Toronto, Canada, for his collegiality in calling my attention to Knapper's chapter. In addition, while researching the first in this series of articles (Haskell, 1997a, and as I indicated in endnote # 9 of that paper), according to Husbands and Frosh (1993) at the time of their writing, there was a lively

debate in German higher education over whether student evaluation of teaching is an invasion of academic autonomy. It is perhaps no coincidence that academic freedom is considered by many scholars to have its origins in Germany.

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8. AAUP Committee C on College and University Teaching, Research, and Publication. It was adopted by the Council of the American Association of University Professors in June, 1975, and endorsed by the Sixty-first Annual Meeting as Association policy. They also state: "An important and often overlooked element of evaluating teaching is an accurate description of a professor's teaching. Such a description should include the number and level and kinds of classes taught, the numbers of students, and out-of-class activities related to teaching. *Such data should be very carefully considered both to guard against drawing unwarranted conclusions and to increase the possibilities of fairly comparing workloads and kinds of teaching*, of clarifying expectations, and of identifying particulars of minimum and maximum performance. Other useful information might include evidence of the ability of a teacher to shape new courses, to reach different levels and kinds of students, to develop effective teaching strategies, and to contribute to the effectiveness of the individual's and the institution's instruction in other ways than in the classroom" (Italics added). As the data in these articles demonstrate, these AAUP guidelines are seldom adhered to.

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9. See also Kaplin and Lee (1995) for a historical overview. "3.7.1. General concepts and principles. The concept of academic freedom eludes precise definition. It draws meaning from both the world of education and the world of law. Educators usually use the term 'academic freedom' in reference to the custom and practice, and the ideal, by which faculties may best flourish in their work as teachers and researchers (see, for example, the AAUP's 1940 'Statement of Principles on Academic Freedom and Tenure,' in AAUP Policy Documents and Reports (AAUP, 1990), 3-10). Lawyers and judges, in comparison, often use 'academic freedom' as a catch-all term to describe the legal rights and responsibilities of the teaching profession, and courts hearing such cases attempt to reconcile basic constitutional principles with prevailing views of academic freedom's social and intellectual role in American life. Moreover, academic freedom refers not only to the prerogatives of faculty members and students but also to the prerogatives of institutions ('institutional academic freedom' or 'institutional autonomy'). "See also Menand (1996) for interesting discussion of the early history of academic freedom in relation to academic disciplines.

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10. As in my previous papers on SEF, to render them manageable I have set a number of definitional and constraining parameters. Accordingly, (1) the term "court" as used here includes rulings by legally constituted Arbitration Boards; (2) since this paper is only concerned with how these legal bodies have ruled on various aspects SEF data, I do not distinguish between state courts, federal courts, or arbitration boards; (3) neither does this paper deal with the multiple legal variables that define and distinguish a legal action, influence, or outcome in a particular case, such as the particular statute or other source of law being applied, e.g., the cause of action being asserted, the prescribed prima facie case, the allocation of burdens of proof, and the standards of judicial review; (4) nor will the paper be concerned with the complex legal reasoning on which the rulings and outcomes were based; (5) finally, I address the legal material not as a legal scholar but from the "reasonable man" standard; (6) the purpose of which is to inform future educational policy and legal change.

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11. In *Lovelace v. Southeastern Massachusetts University* (1986), the courts ruled: (1) "It is important to note what plaintiff's first amendment claim is and to separate speech from action. Plaintiff has not contended that he was retaliated against simply because he advocated that the

university elevate its standards.... Plaintiff's complaint instead is that he was retaliated against when he refused to change his standards" (p.425); (2) citing other cases, the court rejected his contention that a university teacher has a first amendment right to disregard established curriculum content, that the first amendment does not prevent a university from terminating an untenured faculty whose pedagogical style and philosophy does not conform to those of the school's administration; (3) that pedagogical style and philosophy "is a policy decision which, we think, universities must be allowed to set" (p.426). Further, the court ruled that (4) "We will assume for purposes of this opinion that plaintiff's refusal to lower his standards was a substantial motivating factor (see *Mount Health Board of Education v. Doyle*, 429 U.S. 274, 283-284, 97 S.Ct. 568, 574-575, 50 LEd.2d 471 (1977) in the decision not to renew his contract.

In *Carley v. Arizona Board of Regents* (1987), (4) Carley claimed as "protected speech" his teaching methods where his goal in his commercial art course was to promote a business atmosphere by requiring attendance, promptness, and self-reliance, and he required them to meet deadlines. The court ruled (19) his teaching style is not a form of speech protected under the First Amendment.

(20) Decision not to retain a non tenured instructor, even if based, in part, upon student evaluations expressing disapproval of his teaching methods, did not violate instructor's First Amendment right to academic freedom; (21) Carley was not denied a contract because of expressing unpopular opinions or otherwise presenting controversial ideas to his students. (22) Thus, we conclude that the decision not to retain Carley, even if based, in part, upon student evaluations expressing disapproval of his teaching methods, did not violate his first amendment rights (p.1103).

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12. Courts often cite the *Regents of the University of California v. Bakke*, 438 U.S. 265, 312, 98 S.Ct. 2733, 2759-2760, 57 L.Ed.2d 750 (1978) (the "four essential freedoms" of a university are "to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study."

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13. One of the major variables in shaping legal rulings on faculty matters is whether a faculty member's constitutional rights have been abridged. A further variable is whether faculty teach at a private or state college. Because a state operated college is governmental First Amendment Rights apply, whereas at private institutions faculty do not have the same degree of protection.

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14. The court referred to: *Millikan v. Board of Directors of Everett School District No. 2*, 1980; *Adams v. Campbell County School District*, 1975; *Riggin v. Board of Trustees of Ball State University*, 1986.

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15. This course is sometimes labeled small group processes, group communication, interpersonal interaction, or T-group. I have been teaching such a course for years. Most students tend to like the course, because I teach it in a relatively nondirective, experiential manner, requiring two papers analyzing the group dynamics, not tests. Consequently I receive my highest student evaluations in this course. I once taught this course to students in a nursing program. Preferring more structure than many students, they did not like the course. I was not asked to teach the course again. It was taught thereafter in a lecture format in the nursing department. This is most unfortunate for their future patients, as the course is a "practice" course in interpersonal skills. During the late 1960s and early 1970s, experiential group courses (some then called "encounter" or "sensitivity" groups) were objected to by some religious groups because some of the courses are directed at affective, not just intellectual, change. This brings up the additional question of academic freedom involving instructional methods of faculty who teach courses that service the curricula of other departments. Who has the legitimate control of content and teaching methods in service courses?

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16. In arguing faculty rights, I am not suggesting unlimited rights. Just as in the legal concept of free speech, there are certain narrowly defined limits, so too in the faculty right choose a teaching method there are limits. A recent issue of the *Chronicle of Higher Education* (1997, November 14) reports the case of a faculty who was dismissed because of his teaching method. At least prima facially as described, this could be an example of the limits of faculty right to use whatever teaching method s/he deems appropriate.

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17. For a more extended critique and criticism of Parate, Kaplin and Lee suggest: D. Sacken, "Making No Sense of Academic Freedom: Parate v. Isibor," 56 West's Educ. Law Rptr. I IO7 (Jan. 4, 1990).

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18. For other nuances of court rulings on grading, see *Susan M v. New York Law School*, 544 N.Y.S.2d 829 (N.Y. App. Div. 1989). A law student dismissed for inadequate academic performance sought judicial review of her grades in her constitutional law and corporations courses. The court said:

At least when a student's very right to remain in school depends on it, we think the school owes the student some manner of safeguard against the possibility of arbitrary or capricious error in grading, and that, in the absence of any such safeguards, concrete allegations of flagrant misapprehension on the part of the grader entitle the student to a measure of relief [544 N.Y.S.2d at 831-32].

The court then outlined the kind of review it believed to be appropriate. Had it been upheld on appeal, the outline would have subjected faculty reasoning processes in grading to judicial scrutiny. It said:

At issue is not what grade petitioner should have received but whether the grade received was arbitrary and capricious; not whether petitioner deserved a C+ instead of a D in Corporations but whether she deserved a zero on this particular essay; not the quality of petitioner's answer but the rationality of the professor's grading [544 N.Y.S.2d at 832].

The court returned the issue to the law school for further consideration, asking the school to provide reasonable assurance that the zero assigned on the student's essay was a "rational exercise of discretion by the grader" (544 N.Y.S.2d at 832). The school appealed, and the state Supreme court unanimously reversed the appellate court, reinstating the trial court decision. The court strongly supported the academic deference argument made by the school, stating:

Because [the plaintiff's] allegations are directed at the pedagogical evaluation of her test grades, a determination best left to educators rather than the courts, we conclude that her petition does not state a judicially cognizable claim [556 N.E.2d at 1105].

After reviewing the outcomes in earlier challenges, the state's highest court stated:

As a general rule, judicial review of grading disputes would inappropriately involve the courts in the very core of academic and educational decision making. Moreover, to so involve the courts in assessing the propriety of particular grades would promote litigation by countless unsuccessful students and thus undermine the credibility of the academic determinations of educational institutions. We conclude, therefore, that, in the absence of demonstrated bad faith, arbitrariness, capriciousness, irrationality or a constitutional or statutory violation, a student's challenge to a particular grade or other academic determination relating to a genuine substantive evaluation of the student's academic capabilities, is beyond the scope of judicial review [556 N.E.2d at 1107].

The court concluded that the claims concerned substantive evaluation of academic performance, and therefore refused to review them.

According to Kaplin and Lee (1995, see section 4.7.1. Awarding of Grades and Degrees 473), students have not typically prevailed in challenging grades. They suggest the following summary of legal challenges to academic judgments and a review of the *Susan M* case, see Note, "Student Challenges to Grades and Academic Dismissals: Are They Losing Battles?" 18 *J. Coll. do Univ. Law* 577 (1992). See also F. Faulkner, "Judicial Deference to University Decisions Not to Grant Degrees, Certificates, and Credit—The Fiduciary Alternative," 40 *Syracuse L. Rev.* 837 (1990), and T.A. Schweitzer, "'Academic Challenge' Cases: Should Judicial Review Extend to Academic Evaluations of Students?" 41 *American U. L. Rev.* 267 (1992). *Susan M* is also humorously reviewed in verse by R.E. Rains in 40 1. *Legal Educ.* 485 (1990) and 43 *J. Legal Educ.* 149 (1993).
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19. Once again, when discrimination charges are a part of grading complaints, the courts engage in closer scrutiny of grading practices. See (Haskell, 1997c) the section on Disparate Treatment and Disparate Impact.

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20. In *William Sypher v. Vermont State Colleges Faculty Federation* (1982), it was observed (9) with regard to the "political" aspect of the case that Sypher had written a letter in defense of his student rating level at the college. In it, he said "It is certainly distressing when very good is not good enough, especially at a college with a modestly-talented student body that often discourages efforts at subtlety, wit and deeper penetration of subjects." (10) The Board responded to this letter saying, "Other actions and statements by Grievant constituted legitimate reasons for not retaining him. In a May, 1980, letter to Dean Beston, Grievant expressed his contempt for Castleton students" (p.135), (11) concluding, "Accordingly, we find credible the College's contention that Grievant was not reappointed because of his teaching effectiveness [*Italics added*] (p.135).V.

In *Lovelace v. Southeastern Massachusetts University* (1986), the court said, (4) whether "a school sets itself up to attract and serve only the best and the brightest students or whether it instead gears its standard to a broader, more average population is a policy decision which, we think universities must be allowed to set....matters such as course content, homework load, and grading policy are core university concerns" (p.424).

In *Robert Kramer v. The President of the University of British Columbia* (1992), the Board said (30) "One perceptive student noted that some of the unhappiness came from the fact that the levels of Japanese language ability were badly divided; some found it easy, others very hard" (p.12).

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21. See also Kaplin and Lee (1995), sections. 2.1, 2.2.1, 2.2.2, and 2.2.3.

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22. Interesting in this regard, recently (Strosnider, 1996) two Pace University students sued the university on the grounds that because the course was too difficult they had to drop it, and therefore they should not have to pay for it. The judge who initially heard the suit found in favor of the students, awarding each of them \$2,065.31 for the tuition they had paid, plus damages. An appellate court overturned the decision, ruling that the lower-court judge had "improperly engaged in judicial evaluation of a course of instruction that the courts of this state have consistently held is the proper domain of educators and educational institutions entrusted to the task." What is interesting in terms of this paper is that the Pace university spokesperson was quoted as saying the importance of the case was that it "*had to do with the ability of faculty members to run a class in the manner they feel appropriate*" [*italics added*].

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23. In one classic and contemporary academic freedom statement (Morrow, 1968), it was noted that "legal control is usually vested in a non academic board, council, or court, distinct from the faculties of the institutions. Although their control is legally unlimited, these boards are subject to the restraint of public opinion, of academic custom and precedent, and of accrediting bodies and professional organizations" (p.6) Morrow also notes,

Academic freedom, in its primary sense, is the freedom claimed by a college or university professor to write or speak the truth as he sees it, without fear of dismissal by his academic superiors or by authorities outside his college or university. In a secondary sense, the term denotes the corporate freedom claimed by an institution of higher learning to determine its policies and practices, without restraint from outside agencies. This latter usage is clearly distinct and derivative; for such corporate autonomy derives its justification ultimately from the services performed by the scholars whose activity it exists to foster and protect, while, on the other hand, the freedom of the individual scholar often requires protection from the pressures of his own institution, as well as from outside forces (p.4).

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24. I was unable to determine from national unions what percentage of contracts preclude the administrative use of SEF. Perhaps others will be more successful in locating this information. It is important information because the false belief by many administrators and faculty that nearly all schools use SEF administratively is part of what maintains the practice and inhibits change. As I indicated in Haskell (1997c, endnote # 17), some schools (a) do not mandate SEF, (b) do not require its administrative use, or (c) constrain its use in various ways. For example, at the University of Guam (Blum D. E., 1990, October 3), an arbitration board ruled that SEF should not be used unless (1) students are made aware of the purpose and ramifications of their evaluations, and (2) that evaluations should not be anonymous. A Rider University, the faculty agreement stated "The College may not use course evaluations for purposes of discipline, promotion, or tenure, unless introduced for such purposes by the faculty member." At Western Michigan University, the faculty agreement stated "Only the ratings shall be included in all promotion, reappointment, merit, and tenure recommendations, together with such other evaluations of teaching competence as may be employed by faculty members and made available. Western agrees to consider all the evidence of teaching competence that is presented in evaluating teaching faculty and shall not use unsubstantiated structured comments in personnel decisions." I have also been informed by a colleague at St. John's University (New York) that, while SEF is required, it is not used administratively (though this may be changing). I suspect there are many more schools (likely those who have union contracts) that do not use SEF administratively or who limit its use.

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25. I would like to thank AAUP attorney Patrick B. Shaw for referring me to Ms. Linda Lott, Administrative Coordinator, Hofstra University Chapter, AAUP, who conducted a search of the new collective bargaining contract database (March 21, 1997). Searching the database was conducted with "several key words that relate to academic freedom, teaching methodology and student evaluations. Virtually no contract was found that specifically dealt with faculty right to set course content and teaching methods. I also would like to thank Ms. Maureen Webb, attorney for the Canadian Association of University Teachers (CAUT) for her assistance.

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26. Cited in *Grievance of William Sypher and the Vermont State Colleges Faculty Federation*, 5 VLRB 102 (1982) (p.125). Knapper (1977) notes an early

attempt to provide safeguards for the use of evaluation data was made by a committee on evaluation established by the University of Ottawa, whose report is well worth reading (University of Ottawa, 1974). The committee recommendations allow for confidentiality of data, and consultation with the faculty member on the criteria to be used in assessing his performance.

Faculty must be given due notice of any unfavourable assessments, and an opportunity to comment and demonstrate improvement before any information is passed on to their administrative supervisor. They must also be kept informed of evaluation information placed in their file, and student comments will only be placed in the file if the students have taken up complaints directly with the instructor first. Finally, there is provision for an appeal procedure (p.202).

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27. The 1973 AAUP report on faculty tenure notes, "The faculty of the institution...must be the source for the definition and classification of standards of professional conduct and must take the lead in ensuring that these standards are enforced....[and] accept their full corporate responsibility for the integrity of the profession" <http://www.aaup.org>.

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28. John Dewey, (1976, orig 1902) wrote in this regard,

Implicit, if not explicit, obligations are assumed. In this situation, conflict between the two concerns of the university may arise; and in the confusion of this conflict it is difficult to determine just which way the instructor is morally bound to face. Upon the whole it is clear however....We can insist upon one hand that the individual must be loyal to truth, and that he must have the courage of his convictions; that he must not permit their presumed unpopularity, the possibly unfavorable reaction of their free expression upon his own career, to swerve him from his singleness of devotion to truth (p.54).

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29. In *Robert Kramer v. The President of the University of British Columbia* (1992), it was noted that (2) The department head viewed Kramer's 1989-90 course evaluations "with some alarm" and that a number of students had stated that Dr. Kramer's teaching would cause them to stay away from the Asian Studies department, and (6) since the course was the general introduction to the subject and the Department, such negative comments were of great concern to the department head.

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30. The Harvards, Dukes, Yales, Stanfords, and popular media---as indicated in one popular book entitled *Profscam* (Sykes, 1988)---notwithstanding, most faculty, as numerous national surveys document, do not spend the majority of their time on research as apposed to teaching. It seems to be a failure of proportional reasoning and judgement that on many campuses and at many conferences on higher education that research is increasingly devalued by calling fourth as the justificatory example faculty at mega research universities who spend reduced time teaching, thereby suggesting that most faculty in the teaching trenches are not primarily concerned with classroom teaching. In addition, faculty and administrators at small colleges often justify, and indeed discourage research by pointing to the literature on the "over emphasis" on research using mega research universities as the examples, as if the same logic applied to them.

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31. It is telling, I think, that the court should take objection to this faculty member's assessment of the level of student ability in his classes.

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32. I am not implying that administration is the "bad guy" and faculty is the "good guy." Reality is not that simple. As I have stated previously, "This is not intended as a blanket apologia for academia. There are many problems within the academy. In many other areas, I am a severe critic of my colleagues collective behavior" (Haskell, 1997a, endnote 4). In fact, faculty are in considerable measure collectively responsible for the current state of affairs regarding grade inflation and lowered standards. It is no secret that, historically, faculty on college campuses have tended to be disorganized, and that this disorganization has contributed to loss of control over standards (see for example Grose, 1997; Power, 1997; Shattuck, 1997). In a similar context, Scriven (1996) in his provocatively entitled article, "The Treason of the Intellectuals," has lamented, "Disciplined inquiry should begin at home, and it is a wretched commentary on academic intellectuals that they have been unwilling to apply it to the very activity that earns them a living and made them capable of earning that living." Faculty must do more than complain. Given this, administrators are subjected to a different reward system than are faculty. They are rewarded for enrollments and constructing new facilities, with the latter requiring the former.

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33. Indicative of the interpretation of SEF remarks and their administrative use, on one recent professional Internet discussion group, a faculty member offered his particular experience, noting that student comments can be used for any purpose. One student commented he was so brilliant that he should quit teaching at the undergraduate level and teach graduate school. The administration interpreted the student's comment to mean that the faculty was not doing a good job, that the comment meant that he was talking over their heads (Due to privacy issues I will not cite the Listserv. I will privately provide the URL upon request).

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34. More strictly speaking, in discrimination cases, courts apparently do begin by trusting universities. They set aside this trust only after a plaintiff has succeeded in proving a *prima facie* case of discrimination. Similarly, if a plaintiff can make a *prima facie* case regarding, say, a free speech violation or a due process violation in a pedagogy or academic standards case, the courts would also apparently set aside their trust. Once more I am indebted to Bill Kaplin (personal communication, October, 6th, 1997) for his legal expertise. While professor Kaplin is undoubtedly correct, in my view with respect to the specific SEF cases reviewed in this series of articles, it could reasonably be concluded that the courts require more evidence to establish a *prima facie* case than with discrimination cases.

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35. In a recent and ongoing denial of tenure on the basis of SEF, an attorney reviewing the findings summarized the case by saying "that in this case the student evaluations were almost uniformly unfavorable and were relied upon heavily by the University to justify the denial of tenure (*The University took the view that students were customers of the University*). Based on the student evaluations and the high failure rates in the professor's courses, the University alleged that he was a poor teacher because he pitched his engineering courses at too high an academic level, put too great an emphasis on mathematics, and taught at too fast a pace. *Our argument was that it was within the professor's academic freedom to choose the content, emphasis and pace in a course within the parameters of international and national standards [which were provided by expert testimony]*, the course outline approved by Senate and the prerequisites for the course. To support the argument we pointed to the Faculty Handbook, which gave a broad guarantee of academic freedom" (italics added). One campus advertises with the slogan "Your Success Is Our Business." See <http://www.tulsa.cc.ok.us/register.html#Procedures>.

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36. One court judge noted (*EEOC V. Franklin & Marshall College*, 1985) "I do not agree with the majority's assumption that academic institutions are the same as any other employer. At least insofar as their administrative and governance structures are concerned, colleges and universities differ significantly from garden variety private employers. In the context of application of the provisions of the National Labor Relations Act the Supreme Court has counseled that principles developed for use in the industrial setting cannot be 'imposed blindly on the academic world.'" *NLRB v. Yeshiva University*, 444 U.S. 672, 681, 100 S.Ct. 856, 861, 63 L.Ed.2d 115 (1980) p.120.

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37. McMurtry delineates the inappropriate use of the consumer metaphor in education.

The best product on the market, as we know, is the one which is the most 'problem-free' for its purchaser--delivered ready made for instant easy use,'guaranteed replacement' if it does not work, and 'repaired cost-free' whenever it needs maintenance attention. The best education, on the other hand, is the opposite on all standards of excellence. It cannot be produced or delivered by another at all, is never ready-made nor instant, and cannot be guaranteed replacement or service cost-free if it is not working. The higher the standards it has, the less it can be immediate in yield, the more work it demands of its owner, and the more its failures must be overcome by its possessor's own work. An education can never be 'problem free', and poses ever deeper and wider problems the higher the level of excellence it achieves. Freedom in the market is the enjoyment of whatever one is able to buy from others with no questions asked, and profit from whatever one is able to sell to others with no requirement to answer to anyone else. Freedom in the place of education, on the other hand, is precisely the freedom to question, and to seek answers, whether it offends people's self-gratification or not....What is the best policy for buying a product--to assert the customer's claim 'as always right'--is the worst possible policy for a learner. What is the best policy for selling a product--to offend no-one and no vested interest--maybe the worst possible policy for an educator. The principles of freedom here are contradictory, and become the more so the more each is realized (p.213-214).

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38. In Morrow's (1968) classic statement, he says,

An ordinary citizen who expresses unpopular opinions may lose customers if he is a merchant, clients if he is a lawyer, patients if he is a physician, advertisers or subscribers if he is the editor of a newspaper, or suffer other forms of social or economic penalty resulting from disapproval of his expressed opinions. The university professor, in some degree, suffers similar consequences; but where academic freedom is recognized, he is protected from the gravest of them, namely, the loss of his position. The justification of academic freedom must therefore be sought in the peculiar character and function of the university scholar (p.6).

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39. In this regard, Dewey recognized very early on (1976, orig. 1902):

A new type of college administration has been called into being by the great expansion on the material side. A ponderous machinery has come into existence for carrying on the multiplicity of business and quasi-business matters without which the modern university would come to a standstill. This machinery tends to come between the individual and the region of moral aims in which he should assert himself....Now the need for money is not in itself external to genuine university concerns; much less antagonistic to them. The university must expand in order to be true to itself, and to expand it must have money. The danger is that means absorb attention and thus possess the value that attaches alone to the ultimate educational end. The public mind gives

an importance to the money side of educational institutions which is insensibly modifying the standard of judgment both within and without the college walls (p.62-63).

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40. It is unfortunate with regard to this issue that both ideology and politics have reached the level where views are automatically labeled "liberal" or "conservative." Since the publication of my first SEF article, I have been called an "arch conservative" by some of my colleagues. I have always thought of myself as a "liberal," though on academic matters I am perhaps more conservative than liberal. (See also Peter Sacks' book for his response to being similarly labeled). Not only are these labels too simple, but also such labels preclude addressing the issues involved.

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41. Given the current political climate and some responses to this series of articles (see endnotes # 2 & 3), it is perhaps necessary to clearly state that the discussions around grade inflation and lowered admissions standards are not meant as "code words" for blaming minorities as one Harvard professor has explicitly voiced (Mansfield, 1993). The argument is that professors tend to "overgrade" all students in order to justify and obscure their "overgrading" of black students. Even on the general face of it, this does not seem a valid cause of any grade inflation or lowered admissions standards. The argument assumes that the academic level of black students is lower (*a la* the "Bell Curve" or lack of academic preparation?) than that of white students. *For the sake of this argument only*, let's assume that blacks *on a group average* do show lower ability than whites. I don't think this would make one iota of difference in the grade inflation problem. This is why: First, faculty do not just have to obscure the overgrading of blacks. The wholesale lowering of admission standards across the country forces overgrading to be an equal opportunity system---and mostly for whites. Blacks are simply swooped up in the more general admissions and grading inflationary situation that admits very low level white students. Second (and again even for the moment assuming the average lower level of black students) we know that---just as with whites---many of the black students are of high quality, which would argue against their assumed contribution to grade inflation. It is interesting that the Harvard professor did not say that grades were being inflated because of giving blacks higher grades, but because the lower academic level of black students are forcing faculties to grade everyone higher in order to hide the "fact" that professors are forced to pass black students. This is a slightly more sophisticated argument than the typical one that simply states that grades are being inflated because of having to give passing grades to blacks. But many people will probably not catch this distinction. The Harvard professor apparently knows that the simple argument that grades are being inflated simply because of having to give passing grades to blacks will not past musters because, third, given the small number of blacks in higher education, any assumed contribution by blacks to grade inflation and lowering of standards, renders any consequent rise in grades due to black admissions an imperceptible blip on the inflated grading curve. Finally, to blame blacks for grade inflation, doesn't address the more obvious fact of grade inflation on campuses without any black students.

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42. The University of Washington was reportedly chided by an accrediting agency because 70 per cent of the grades were As or Bs, up from 60 per cent in 1983 (Shea, 1994). On many campuses the average grade is now an A- or B+. Evidence of grade inflation is indicated by the population of students since 1987 with A plus, A, and A minus grade-point averages having increased from 28% to 37%, while at the same time SAT scores have decreased an average of 13 points on verbal (but only 1 point on math). The average for all SAT takers is 3.22 on a four-point scale, a considerable increase above an average of 3.07 in 1987. The continuing attempt to curb grade inflation by a Duke University faculty who developed a grade-adjustment algorithm is now likely, with other schools

about to adopt the system (see *The Chronicle of Higher Education* (1997, September 26).

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43. One student writer went so far as to say, "We therefore suggest a boycott of the 1995 student/teacher evaluations. This boycott will provide a more effective means of communication than anything written on the evaluation itself. Something must be done about the trend of grade inflation. We as students refuse to contribute to the downfall of academia (Stern and Flynn, 1995).

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44. It should go without saying that not all students are the same. SEF vary by maturity, and intellectual level, i.e., graduate student evaluations v. undergraduate (See, Divoky and Rothermel, 1988; Dilts, Samavati, Moghadam, and Haber, 1993), and therefore probably by campus and program. This may account in part for some of the wide variation in faculty attitudes toward SEF.

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45. Some colleges count these remedial courses in the total number of credits required to graduate, thus further lowering the standards of the college degree. In terms of student ability and admissions standards, some data suggest that many college introductory text books have lowered their reading level from a grade 15 level (from 30 years ago) to about grade 11 reading level (presumably the reading ability of an 11th grade student. As measured by the Iowa Silent Reading Test, on some 4-year college campuses 23% of freshman are functionally illiterate independently reading at or below a 5th grade level.

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46. Visit just about any World-Wide Web Listserv discussion group by academics. The membership of these Listserves are often a cross section of faculty experience with student abilities and expectations within a discipline. See what many of the contributors to these discussion groups relate about their experiences with student expectations and behavior in the classroom.

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47. A former law student from Duquesne University who was unable to achieve a B average filed suit charging that the school's grading policy constituted breach of contract. The suit contended that she had not been able to maintain the required 2.975 grade-point average, due to a new grading policy. The policy requires that not more than 30 % of students in a course can receive As and no more than 40% are to receive Bs. While newly enforced, the policy has existed for 20 years. A Duquesne official said. "It's a bell curve...There's no doubt about that" (*The Chronicle of Higher Education* (1997, September 12). One can seriously wonder if most psychometricians would call 70% As and Bs a bell curve.

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48. Once again, I do not see this as basically a student problem; neither is it essentially a teacher problem, though these are all variables. The problem is a sociocultural one. To some degree, the problems is also a legal one. Faculty and administrators are perhaps overcautious in demands so as to avoid law suits. The question is, given the lowered admission standards and the above student characteristics, is it still possible to teach anything other than the "headlines" of a subject in a course? Is it possible to still teach the subtleties and the nuances of reasoning that are required to understand a subject matter?

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49. See the recent *American Psychologist* that devoted a special section for SEF articles.

Greenwald, 1997; Greenwald and Gillmore, 1997; d'Apollonia, and Abrami, 1997; Marsh, and Roche 1997; McKeachie, 1997.

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50. See also Haskell, (1997c) section on: [Assumption # 2: Statistical Significance of SEF of Teaching Effectiveness Measures Appropriate Learning.](#)

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51. See particularly section 1.3.3. The Role of Case Law for Kaplin and Lee's historical view of the relation between legal rulings on the elementary, secondary, and higher education levels.

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52. It seems to be virtually unnoted that higher education has been uncritically transferring research findings and teaching methods originally designed for elementary and secondary levels to the college classroom. With exceptions like McKeachie and associates (1986) at the University of Michigan, there has not been a great deal of research with college level students (learning disabilities, so-called learning styles, etc, notwithstanding). The question is, how appropriately are finding from elementary and secondary education transferred to higher education? The answer, of course, depends on ones view of education (see Haskell, 1997c, section [Assumption # 2: Statistical Significance of SEF of Teaching Effectiveness Measures Appropriate Learning](#)). Many faculty believe that just as we have devalued the high school diploma, so are we now doing to the four-year college degree.

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53. While it is not encouraging to contemplate, for years it has been known that the general academic quality of those enrolling in teacher education programs in the U.S. is lower than that of students enrolled in other university programs (Reyes, 1987, p. 18). In addition, it has been suggested for some time that the level of cognitive or mental development of the U.S population, from tests based on the work of the developmental psychologist, Jean Piaget, that about 50% of the U.S. population, including freshman and sophomore college students---and especially those entering teacher education programs---fail to function at a formal operational stage of reasoning, remaining at the concrete operational stage (e.g., Long, McGrary and Ackerman, 1979; Shyers and Cox, 1978; see also Stone, 1996).

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54. The pressure faculty feel is considerable. I personally recall a situation a number of years ago where a faculty (an ex priest) applying for full professor was caught changing the scores on his student evaluations.

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55. *University of Wisconsin*: In another ruling, the Chancellor at the University of Wisconsin refused to release SEF, citing a statute that disallows personnel evaluations from being released to public view. Students took the chancellor to court. However, after being advised by the state's Attorney General, citing Wisconsin's open-records law, the University of Wisconsin's campus released SEF to the public. Both the student and faculty senates passed resolutions in support of the Chancellor's refusal, and the university's lawyer concurred. Despite these resolutions, the Attorney General disagreed, writing that "the requested records are public records and the University's stated reasons for withholding access do not outweigh the public interest in the records" (*Chronicle of Higher Education*, 1994a, 1994b).

University of Idaho: A legal ruling, cited on the World Wide Web site of the *Topical Interest Group: Assessment in Higher Education* (Evaluating teacher evaluations, 1996), notes that the University of Idaho also recently went to court over the issue of whether SEF can be published. The student newspaper initiated a lawsuit when it was refused access to SEF for publication. The legal question was whether SEF is protected under privacy rights by the Idaho Code. In a ruling that seems to strain logical credulity, the court ruled that since the University did not consider students as

the general public, the University was not breaking the law by allowing students access to the evaluations. Further, the opinion of the court was that according to state law, teacher evaluations are not protected as part of personnel records.

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56. Many faculty are not aware of the extent of the confidentiality of student information. For example, (1) student scores or grades cannot be posted publicly by name, social security numbers, or any other identifier that can be known by anyone except the instructor and student; (2) student papers or lab reports that have names and grades on them cannot be left in places that are accessible to others; (3) students may not have access to other students grades in a class, (4) faculty are not to request student information without a legitimate educational reason; (5) student grades or other educational information may not be shared with other faculty members unless the faculty has a specific legitimate reason to know; (6) libraries are apparently prohibited from revealing to instructors what students have read the course reading material that the instructor has specifically put on reserve in the library for students to read; (7) student grades or other educational information can not even be revealed to the parent of the student (who may be paying for the student's education) without written permission of the student. There are many other restrictions as well.

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57. According to *Black's Law Dictionary* (1990), libel includes.

A method of defamation expressed by print, writing, pictures, or signs. In its most general sense, any publication that is injurious to the reputation of another. A false and unprivileged publication in writing of defamatory material....which tends to blacken a person's reputation or to expose him to public hatred, contempt, or ridicule.... to degrade him in the estimation of the community, to induce evil opinion of him in the minds of right thinking persons, to make him an object of reproach, to diminish his respectability or abridge his comforts, to change his position in society for the worse, to dishonor or discredit him in the estimation of the public, or his friends and acquaintances, or to deprive him of friendly intercourse in society, or cause him to be shunned or avoided....Almost any language which upon its face has a natural tendency to injure a man's reputation, either generally or with respect to his occupation.

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58. I would like to make it very clear that I am not against mass higher education. I am a product of it. I had to begin my educational career at community college as, unlike today, no 4-year college would admit me. So, I am not an elitist who is against expanding the boundaries of higher education. The basic difference between then and now, however, is that after being admitted traditional standards were upheld.

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59. See for example, <http://cri.ensmp.fr/mesr/mesr.html#numbers>, June 9, 1997.

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60. See my section on "Faculty Complicity in Adaptation to SEF" in Haskell (1977a). In one case, Kaplin and Lee (1995, Sec. 3. 7.) note "The Court also found that the state's entire system of "intricate administrative machinery [was] a highly efficient in terrorem mechanism.... It would be a bold teacher who would not stay as far as possible from utterances or acts which might jeopardize his living by enmeshing him in this intricate machinery....The result may be to stifle 'that free play of the spirit which all teachers ought especially to cultivate and practice.'"

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61. Recently, a group of college and university presidents proposed that faculty input into decisions

be reduced. The commission's 50-page report, *Renewing the Academic Presidency: Stronger Leadership for Tougher Times* makes recommendations to presidents, professors, trustees, and public officials. Copies may be obtained from the Association of Governing Boards of Universities and Colleges, One Dupont Circle, Suite 400, Washington 20036 (Leatherman, 1996b).

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62. Some studies suggest that younger faculty do not seem to be as concerned with the complex issues revolving around SEF and tenure. See Kolevzon (1981), Avi-Itzhak and Lya (1986), Leatherman, 1996). I would suggest that many younger faculty have not been appropriately socialized into the academic profession with its rich heritage, culture and norms. As off-campus programs and distance learning increase, so will being socialized into the profession likely to further decrease.

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3. A review of the grade inflation literature clearly shows that at perhaps the majority of institutions, Cs exist only minimally, with Ds and Fs nearly nonexistent.

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References

AAUP (1975). Committee C

Abrami, P.C. (1989). How should we use student ratings to evaluate teaching? *Research in Higher Education*, 30, (2). 221-27.

Academe: Bulletin of the American Association of University Professors. (1997, May/June). 83 (3).

Adelman, C. (1996, October 4). The truth about remedial work. *Chronicle of Higher Education*. A56.

American Federation of Teachers. (1996, February 15). A system of high standards: what we mean and why we need it. Executive Council Report. [Available online]
<http://www.aft.org/NS/GetLHP?url=%2fhigstan.htm&terms=system,high,standard#NSFIRSTTERM>

American Psychological Association Monitor. (1994, November). Can universities be liable for incompetent grads? 7.

Avi-Itzhak, T., & Lya K. (1986). An investigation into the relationship between university faculty attitudes toward student rating and organizational and background factors. *Educational Research Quarterly*, 10, 31-38.

Bauer, H.H. (1996). The new generations: Students who don't study (prepared for the symposium, "The Technological Society at Risk" Annual Meeting, AOAC International, Orlando (FL), 10 September 1996). Email hhbauer@vt.edu for a copy of the article.

Black's Law Dictionary (With Pronunciations Sixth Edition (1990). St. Paul, Minn.: West Publishing.

Blum, D. (1992, November 4). U. Professors urge higher admissions standards. *The Chronicle of Higher Education*. A32.

Brimelow, P. (1996, April 22). Devalued diplomas. *Forbes*.

Carley V. Arizona Board of Regents, 737 P.2d 1099 (Ariz. App. 1987).

Chatterley, L.J. & Peck, D.M. (1995). We're crippling our kids with kindness!! *Journal of Mathematical Behavior*, 14, 429-436.

Copeland, J.D., & Murry, J. W., Jr. (1996). Getting tossed from the ivory tower. *Missouri Law Review*, 61, 233-327.

Crumbley, L. (1996). Due process/defamation issues [Not to be construed as legal advice] *Society for A Return to Academic Standards*. [Available online] <http://tam.u.edu:8000/~crumble/sfertas.html>

Crumbley, L.D., & Fliedner, E. (1995). Accounting administrators' perceptions of student evaluation of teaching (set) information. *Manuscript, Department of Accounting*, Texas A&M University.

Damron, J.C.(1995). The three faces of teaching evaluation. See also Damron, J.C. (1996). Instructor personality and the politics of the classroom. *Manuscript, Douglas College*, New Westminster, British Columbia, Canada V3L 5B2. (Earlier Version Faculty Matters, June 1994, (No. 5, Pages 9-12) and *Update*, September, 1994 (The Newsletter of the Okanagan University College Faculty Association). [Available online] at http://vax1.mankato.msus.edu/~pkbrandon/Damron_politics.html

Dewey, J. (1976). Academic freedom. In *John Dewey: The Middle Works, 1899-1924*. (pp. 53-56) Carbondale: Southern Illinois University Press. [Originally published in *Educational Review*, 23, 1902, 1-14]

DiBona v. Matthews, 269 Cal. Rptr. 882 (Cal. Ct. App. 1990).

Dilts, D.A., Samavati, H., Moghadam, M.R., & Haber, L.J. (1994). Student evaluation of instruction: Objective evidence and decision making. *Journal of Individual Employment Rights*, 2, 73-86.

Divoky, J.J., & Rothermel, A. (1988). Student perception of the relative importance of dimensions of teaching performance across type of class. *Educational Research Quarterly*, 1, 40-45.

d'Apollonia, S. & Abrami, P.C. (1997). Navigating student ratings of instruction. *American Psychologist*, 52, 1198-1208.

EEOC V. Franklin & Marshall College, No. 84-1739, United states court of appeals for the third circuit, 775 F.2d 110; 3 Fed. R. Serv. 3d (Callaghan) 282; 85 A.l.r. Fed. 669; 39 Fair Empl. Prac. Cas. (Bna) 211; 38 Empl. Prac. Dec. (Cch) P35,644, August 5, 1985, Argued, October 21, 1985, Decided.

Evaluating Teacher Evaluations (1996). Article in the topical interest group: Assessment in higher education submitted by glen9579@novell@uidaho.edu on 11/12/96. [Available online] <http://marsquadra.tamu.edu/TIG/GeneralArticles/evaluatingteacherevaluations.ht>

Fighting grade inflation. (1994, May 27) *Science*, 264, 1255.

Furedy, J. (1995). Academic freedom, opinions and acts: The voltaire-mill perspective applied to current Canadian cases. *Univ. of New Brunswick Law Journal*, 44, 131-4.
Furedy@psych.utoronto.ca

- Gold, J.J. (1997, September 12). The visiting professor: Student evaluations deconstructed. *The Chronicle of Higher Education*, B8.
- Goldman, L. (1993, Spring). On the erosion of education and the eroding foundations of teacher education. *Teacher Education Quarterly*, 20, 57-64.
- Gordon, C., Hartigan, P., & Muttalib, N. (1996, November 22). Developmental learning at four-year colleges. *The Chronicle of Higher Education*. [Available online] <http://chronicle.com>
- Gose, B. (1997, July 25). Efforts to curb grade inflation get an F from many critics. *The Chronicle of Higher Education*. A41. .
- Greenwald, A.G. (1997). Validity concerns and usefulness of student ratings of instruction. *American Psychologist*, 52. 1182-1186.
- Greenwald A.G. & Gillmore, G.M. (1997). Grading leniency is a removable contaminant of student ratings. *American Psychologist*, 52. 1209-1217.
- Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).
- Guernsey, L. (1996, October 24). Remedial courses are widespread at American colleges, report says. *The Chronicle of Higher Education*. A8.
- Hamilton, N.W. (1997, May/June). Peer review: The linchpin of academic freedom and tenure. *Academe: Bulletin of the American Association of University Professors*, 83(3), 15-19.
- Haskell, R.E. (1997a). Academic freedom, tenure, and student evaluations of faculty: Galloping polls in the 21st century. *Educational Policy Analysis Archives*, 5(6). [Available online] <http://olam.ed.asu.edu/epaa/v5n6.html>
- Haskell, R.E. (1997b). Abridgement of academic freedom, promotion, reappointment and tenure rights by the administrative use of student evaluation of faculty: (Part II) Views from the court. *Education Policy Analysis Archives*, 5(6). [Available online] <http://olam.ed.asu.edu/epaa/v5n17.html>
- Haskell, R.E. (1997c). Academic freedom, promotion, reappointment, tenure and the administrative use of student evaluation of faculty (SEF): (Part III) Analysis and implications of views from the court in relation to accuracy and psychometric validity. *Education Policy Analysis Archives*, 5(6). [Available online] <http://olam.ed.asu.edu/epaa/v5n18.html>
- Haskell, R.E. (1997d). Commentary: On Michael Theall's (and implied et al.) "A reply to Haskell and to Stake." *Educational Policy Analysis Archives*, 5(8). [Available online] <http://olam.ed.asu.edu/epaa/v5n8c3.html>
- Heller, S. (1986, December 17). Proper use of student evaluations at issue in professor's legal appeal to regain job. *The Chronicle of Higher Education*, p. 14.
- Husbands, C., & Fosh, P. (1993). Student's evaluation of teaching in higher education: Experiences from four European countries and some implication of the practice. *Assessment & Evaluation on Higher Education*, 18, 95-114.
- Hertling, J. (1996, November 22). Education's growth in Hong Kong raises concern over quality.

The Chronicle of Higher Education. A39.

Kaplin, W.A., & Lee, B. (1995). *The law of higher education: A comprehensive guide to legal implications of administrative decision making* (3rd Ed). San Francisco: Jossey Bass.

Keyishian v. Board of Regents, 385 U.S. 589, 604 (1967).

Knapper, C.K. (1977). Teaching evaluation and academic freedom. In C. Knapper, G. L. Geis, C. E. Pascal, and B. M. Shore (Eds.), *If Teaching Is Important ...: The Evaluation of Instruction in Higher Education*. (pp. 193-203). Toronto: Clarke, Irwin & Company, in association with the Canadian Association of University Teachers,

Kolevzon, M.S. (1981). Grade inflation in higher education: A comparative study. *Research in Higher Education*, 15, 195-212.

Lambert, C. (1993, May/June). Desperately seeking summa. *Harvard Magazine*, 36-40.

Lansdale v. Tyler Junior College, 470 F.2d 659 (5th Cir. 1972).

Leo, J. (1996, September 16.). No books, please; We're students. *US News and World Report*.

Lasch, C. (1979). Schooling and the new illiteracy (Chapter Six). In *The culture of narcissism: American life in an age of diminishing expectations*. New York: Warner Books.

Leatherman, C. (1996, October 25). More faculty members question the value of tenure. *The Chronicle of Higher Education*, p. A12.

Leatherman, C. (1996b, September 13). Commission recommends strengthening college presidents' power. *The Chronicle of Higher Education*. A43.

Long, H.B., McGrary, K., & Ackerman, S. (1979). Adult cognition: Piagetian based research findings. *Adult Education*, 30, 3-18.

Lovejoy, A. O. (1937). Academic freedom. *Encyclopedia of the Social Sciences*, (ed.), E.R.A. Seligman. New York: Macmillan.

Lovelace v. Southeastern Massachusetts University, 793 F.2d 419 (1st Cir.1986).

Magner, D.K. (1995, May 19). Mid-semester removal of professor roils University of Montana. *The Chronicle of Higher Education*, p. A25.

Mansfield, H.C. (1993, March 31). Harvard boils over article on grade inflation and race. *The Chronicle of Higher Education*. A27.

Marsh, H.W., & Roche L.A. (1997). Making students' evaluations of teaching effectiveness effective: The critical issues of validity, bias and utility. *American Psychologist*, 52. 1187-1197.

May, H. (1996, August 16). Ex-students sue universities over quality of education. *The Chronicle of Higher Education*. A29. [Available online]
<http://chronicle.com/che-data/articles.dir/art-42.dir/issue-49.dir/49a02901.htm>

McKeachie W.J. (1997). Student ratings: The validity of use. *American Psychologist*, 52. 1218-1225.

McKeachie, W.J., Pintrich, P.R., Lin, Y.G., & Smith, D.A.F. (1986). *Teaching and learning post in the college classroom, A review of the research literatrure*. University of Michigan, National Center For Research To Improve Secondary Teaching and Learning.

McMurtry, J. (1991). Education and the market model. *Journal of Philosophy of Education*, 25, 209-217.

Menand, L. (1996). (Ed.), *The Future of Academic Freedom*. Chicago: University of Chicago Press.

Menand, L. (1993, May/June). The future of academic freedom. *Academe*. 11-17.

Millikan v. Board of Directors of Everett School District No. 2, 1980;

Morrow, G. & Sills, D.L. (eds.), (1968). Academic freedom: *International encyclopedia of the social sciences*. New York: Macmillan and The Free Press. 4-10.

Neath, I. (1996). How to improve your teaching evaluations without improving your teaching. *Psychological Reports*, 78, 1363-1372.

Parate v. Isibor, 868 F.2d 821 (6th Cir. 1989).

Pennsylvania State University (1996). *Policy On Confidentiality Of Student Records*. [Available online] gopher://info.psu.edu

Kaplin, W. (1997, April). Personal communication.

Power, B. M. (1997, June 20). The danger inherent in abusing academic freedom. *The Chronicle of Higher Education*. A52

Rebell, M.A. (1990). Legal issues concerning teacher evaluation. In Millman, Jason& Darling-Hammond, Linda, (Eds.), (pp. 337-355), *The New Handbook of Teacher Evaluation*. Beverly Hills, CA: Sage Pub.

Reisman, D. (1981). *On higher education: The academic enterprise in an era of rising student consumerism*. San Francisco: Jossey Bass

Regents of the University of California v. Bakke, 438 U.S 265, 322, 98 S.Ct 2733, 2759-2760, 57 L.Ed.2d 750 (1978).

Reyes, D.J. (1987, Mar/Apr). Cognitive development of teacher candidates: An analysis. *Journal of Teacher Education*. 18-21.

Riggin v. Board of Trustees of Ball State University, (1986).

Robert Kramer v. The President of the University of British Columbia, (1992).

Sacks, P. (1996). *Generation X Goes To College. An Eye Opening Account of Teaching in Postmodern America*. LaSalle, Il: Open Court. Power, 1997.

Scriven, M. (1996). The treason of the intellectuals. *Adult Assessment Forum*, 6 (2). [Available online] <http://www.intered.com/treason.htm>

- Shattuck, R. (1997, July 18). From school to college: We must end the conspiracy to lower standards. *The Chronicle of Higher Education*. B6.
- Shea, C. (1994, January 5). The subtleties of grade inflation students are said to desert the sciences in favor of easy grades in humanities. *The Chronicle of Higher Education*. A45.
- Shyers, J., & Cox, D. (1978). Training for the acquisition and transfer of the concept of proportionality in remedial college students. *Journal of Research in Science Teaching*, 15(1), 25-36.
- Simon, W.E. (1996, March 19). The dumbing down of higher education. *Wall Street Journal*.
- State Board for Community Colleges and Occupational Education v. Olson*, (1984).
- Stern, J., & Flynn, P.D. (1995, Feb 20). Students propose a course of action for grade inflation. *The Bucknellian*. [Available online] <http://www.bucknell.edu/bucknellian/sp95/03-02-95/ops/4165.html>
- Stake, J.E. (1997). Response to Haskell: Academic freedom, tenure, and student evaluations of faculty. *Educational Policy Analysis Archives*, 5. [Available online] <http://olam.ed.asu.edu/epaa/v5n8.html>
- Stedman, L.C. (1996). The achievement crisis is real: A review of the manufactured crisis. *Education Policy Analysis Archives*. [Available online] <http://olam.ed.asu.edu/epaa/v4n1.html>
- Stichler, R.N. (1997, May/June). Academic freedom and faculty responsibility in disciplinary procedures. *Academe: Bulletin of the American Association of University Professors*, 83(3), 20-22.
- Stone, J.E. (1996). Developmentalism: An obscure but pervasive restriction on educational improvement. *Education Policy Analysis Archives*, 4(8) [Available online] <http://olam.ed.asu.edu/epaa/v4n8.html>
- Stone, J.E. (1995). Inflated grades, inflated enrollment, and inflated budgets: An analysis and call for review at the state level. *Education Policy Analysis Archives*, 3(11) [Available online] <http://olam.ed.asu.edu/epaa/v3n11.html>
- Strosnider K. (1996, December 6). Court orders students who dropped a course to pay for it. *The Chronicle of Higher Education*. A56. [Available online] <http://chronicle.com>
- Summerville, R.M., et al. (1990). Grade inflation: The case of urban colleges and universities. *College Teaching*, 38(1), 33-38.
- Sunstein, C.R. (1996). Academic freedom and law: Liberalism, speech codes and related problems. In Menand, L. (Ed.), *The Future of Academic Freedom*. (pp.93-118) Chicago: University of Chicago Press.
- Sykes, C.J. (1988). *Profscam: Professors And The Demise Of Higher Education*. Washington, D.C.: Regnery Gateway
- Theall, M. (1997). On drawing reasonable conclusions about student ratings of instruction: A reply to Haskell and to Stake. *Educational Policy Analysis Archives*, 5(8). [Available online] <http://olam.ed.asu.edu/epaa/v5n8c2.html>
- The Chronicle of Higher Education*. (1991, January 16). SAT's better freshman predictor than

grades. A35.

The Chronicle of Higher Education. (1997, August 8). Critics of SAT and ACT hail decline in colleges that use them. A41.

The Chronicle of Higher Education. (1997, September 12). Former Duquesne law student sues over grade curve. A13.

The Chronicle of Higher Education. (1997, September 26). The controversial plan to curb grade inflation at Duke University is back. Section: Notebook. A46.

The Chronicle of Higher Education. (1997, November 14). A professor's personal teaching style wins him praise and costs him his job. A12

Trotter, B. (1977). The teacher and the goals of the university. In C. Knapper, G. L. Geis, C. E. Pascal, & B. M. Shore (Eds.), *If Teaching Is Important ...: The Evaluation of Instruction in Higher Education*. (pp. 150-158). Toronto: Clarke, Irwin & Company, in association with the Canadian Association of University Teachers.

Trout, P.A. (1997, Oct). What the numbers mean providing a context for numerical student evaluations of courses. *Change: The Magazine of Higher Learning*, 29, 5, 25-30.

University of Michigan. (1994, Dec 12). Toward a definition of tenure. *Senate Advisory Committee on University Affairs Standing Subcommittee on Tenure*. Endorsed Unanimously by the University of Michigan Senate Assembly. [Available online] <http://www.umich.edu/~aaupum/tenure05.htm>

University of Idaho: A legal ruling, cited on the World Wide Web site of the Topical Interest Group: Evaluating Teacher Evaluations (1996). Article in the Topical Interest Group: Assessment in Higher Education submitted by glen9579@novell@uidaho.edu on 11/12/96. [Available online] <http://marsquadra.tamu.edu/TIG/GeneralArticles/evaluatingteacherevaluations.html>

Walker, D. (1992, October 14). British universities urged to shun remedial courses. *Chronicle of Higher Education*. [Available online] <http://chronicle.com>

Weeks, K. (1988). Student evaluations of faculty and the legal context. *Lex Collegii*. 11 (Winter).

William Sypher v. Vermont State Colleges Faculty Federation. (1982). 5 VLRB 102.

Williams, W.M., & Ceci, S.J. (1997, October) How'm I doing? Problems with student ratings of instructors and courses. *Change: The Magazine of Higher Learning*, 29, 5, 13-23.

Winston, G.C. (1997, October). Why can't a college be more like a firm? *Change: The Magazine of Higher Learning*, 29, 5, 33-38.

Zirkel, P.A. (1996). *The law of teacher evaluation*. Bloomington, IN: Phi Delta Kappa Educational Foundation.

About the Author

Robert E. Haskell

Brief Bio ~ Robert E. Haskell has been teaching college and university level courses for over twenty years. He earned his Ph.D. from the Pennsylvania State University in Psychology and Social Relations, his M.A., and B.A. from San Francisco State University. His areas of research and teaching include: transfer of learning, analogical reasoning, small group dynamics. Major publications include: four books, the latest of which is, *The Future of Education and Transfer of Learning: A Cognitive Theory of Learning and Instruction For The 21st Century* (forthcoming), and numerous presentations, chapters, and research articles in national and international journals. He also serves on several editorial review boards, and is Associate Editor of The Journal of Mind and Behavior. He is former Chair, and currently Professor of Psychology, Department of Social and Behavioral Sciences, University of New England.

Professor of Psychology
University of New England
Biddeford, Maine 04005

UNE Home Page: <http://home.maine.rr.com/une/>

E-mail: haskellr@maine.rr.com

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