

FA FRIDAY FACULTY FOCUS

The Legal Boundaries of Academic Freedom – A Summary of the Keynote Address Given by Erwin Chemerinsky, Dean of the UC Berkeley School of Law, at the October 7th Academic Freedom Conference, How it Applies to Us, and How the Faculty Association of California Community Colleges (FACCC) Plans on Fighting For Our Contractual Rights

Academic Freedom emerged in the second half of the 21st century out of contract law, specifically the “1940 Statement of Principles on Academic Freedom and Tenure” authored by the AAUP and AAC. The 1950s put these tenets to the test when under McCarthyism, professors could be fired for even being suspected of communist sympathies. As a response, accrediting agencies began to identify Academic Freedom protection as a requirement for remaining open.

While Academic Freedom has some similarities to the First Amendment’s Free Speech protections, there are also differences. Simply, the First Amendment protects you from government punishment for expressing your opinions; Academic Freedom protects you from your college or university punishing you for expressing your academic opinions. For the most part the District cannot punish you for the topics of lectures, content of scholarly work, choice of reading material, and critiques of institutional processes.

Your political activity outside the institution is not necessarily protected under Academic Freedom. This is a more uncertain area as we work for a public institution, an extension of “government”, so therefore protected under the First Amendment, rather than Academic Freedom. The distinction between the two are clearer in Private Colleges and Universities, where the employer is not “the government” and so therefore outside activities are not protected from institutional sanction. However, Academic Freedom protects faculty speech within the institution, making those policies even more critical. Currently these protections exist through ACCJC requirements and our collective bargaining agreements.

Our Academic Freedom Protections are outlined in [Board Policy 4030](#). While our District may not be able to silence or restrict a faculty member’s speech, for the most part the District is not responsible for others challenging faculty members’ positions or even telling them to be quiet.

So then, can a student walk into your classroom and begin to shout at you because they disagree with the content of your lecture? No. As with most laws, Academic Freedom is not absolute. For example, the institution can sanction you if you refuse to teach the content of a course, or lecture on an unrelated topic (such as teaching a Cultural Anthropology class instead of the Physical Anthropology class you were assigned, or lecturing on film criticism in a Welding class). Contractually identified poor instruction or substandard scholarship is also not protected. Politically motivated grading is not protected. And just like Free Speech Protections, inciting violence or other illegal activity, and true threats are not protected. In terms of students or other community members, Time, Place and Manner restrictions for their Speech apply. These are outlined in our [Board Policy 3900](#) and [Administrative Policy 3905](#).

Hate Speech is, unfortunately, protected under the First Amendment, provided it does not conform to prohibitions on harassment. Our District outlines this distinction in [Administrative Policy 3430](#). But again, while our District as the “government” cannot restrict hate speech, others can certainly respond, challenging these positions, telling them to be quiet, and even socially sanctioning them. In this era of legislative micromanaging of our profession, we luckily have organizations like FACCC that are strategizing for the best way to protect Academic Freedom, the essence of our profession. In the last legislative session, a FACCC sponsored [Resolution](#) passed the legislature. This will hopefully lay the groundwork for future legislation that will codify Academic Freedom into law.



FACCC Encourages You to Vote NO on Prop 30

<https://votenoprop30.com/?gclid=CjwKCAjw2OiaBhBSEiwAh2ZSPzOV50LynV3qK69lZJP1Oa0Mkyl-ndc0kn62CuZ5y7czss3r23cPwBoCqw8QAvD BwE>

Reading for the Week: *“We’re not going to close the equity gaps”*



<https://calmatters.org/education/2022/10/california-community-colleges-graduation/>

Meet your FA Communications Officer (and FACCC Representative): Sarah Thompson, Sociology Faculty, LPC



Hi everyone! I've been at LPC since 1996, teaching sociology and holding multiple leadership positions, most notably the President of the LPC Academic Senate (now for my 3rd time). I have 2 daughters in college, one at UCSC (currently in the UK for her junior year abroad - featured above) and the other at Scripps College in the Claremont Consortium. I have way too many pets, and I get my heart broken every year by my hometown team the Dallas Cowboys. I'm fond of wine and chocolate (for those who were wondering), I love to ski, and I see as many Oscar nominated films as possible every year. I feel deeply grateful for my profession, my students, my academic community, which includes all of you.