



THE ACADEMIC BILL OF RIGHTS

Leadership in an Era of Legislative Oversight

by Sandra Packard, Ed.D.

On October 30th, 2003, House Concurrent Resolution 318, the Academic Bill of Rights, was introduced to the United States Congress by Representative Jack Kingston (Republican-Georgia) and co-sponsored by 36 additional Representatives (35 Republicans and one Democrat). A non-binding resolution, the Academic Bill of Rights encourages all public institutions of higher education and those private institutions that present themselves as canons of academic freedom to establish an institutional Academic Bill of Rights, along with policies and procedures to protect students from indoctrination and to ensure faculty and institutional compliance with the principles of intellectual independence and diversity. Private institutions, such as Christian colleges, choosing to restrict academic freedom on the basis of creed are exempt, but they are encouraged to articulate their restrictions. House Concurrent Resolution 318 is modeled on the Academic Bill of Rights authored by David Horowitz, President of the California based Center for the Study of Popular Culture, founder of the national student organization, Students for Academic Freedom, and a major lobbyist for the resolution's passage.

The resolution begins with a statement of its intent, "Expressing the sense of the Congress that American colleges and universities should adopt an Academic Bill of Rights to secure

the intellectual independence of faculty members and students and to protect the principle of intellectual diversity” (H.Con.Res.318, 2003, p. IV). It continues with fourteen “whereas” statements regarding the purposes of a university, the principles of academic freedom, and the rights of students to be free of indoctrination. It concludes with the following resolution:

Now, therefore, be it *Resolved by the House of Representatives (the Senate concurring)*, that, to secure the intellectual independence of faculty members and students and to protect the principle of intellectual diversity—

(1) the Congress encourages all public and private colleges and universities in the United States to adopt an Academic Bill of Rights and to observe the following principles and procedures—

(A) all faculty shall be hired, fired, promoted and granted tenure on the basis of their competence and appropriate knowledge in the field of expertise and, in the humanities, the social sciences, and the arts, with a view toward fostering a plurality of methodologies and perspectives;

(B) no faculty member will be hired, fired, or denied promotion or tenure on the basis of his or her political, ideological, or religious beliefs;

(C) no faculty member will be excluded from tenure, search, and hiring committees on the basis of his or her political, ideological, or religious beliefs;

(D) students will be graded solely on the basis of their reasoned answers and appropriate knowledge of the subjects and disciplines they study, not on the basis of their political, ideological, or religious beliefs;

(E) curricula and reading lists in the humanities and social sciences will respect the uncertainty and unsettled character of all human knowledge in these areas and provide students with dissenting sources and viewpoints;

(F) while teachers are and should be free to pursue their own findings and perspectives in presenting their views, they

should consider and make their students aware of other viewpoints;

(G) academic disciplines should welcome a diversity of approaches to unsettled questions;

(H) exposing students to the spectrum of significant scholarly viewpoints on the subjects examined in their courses is a major responsibility of faculty members;

(I) faculty will not use their courses for the purposes of political, ideological, religious or anti-religious indoctrination;

(J) selection of speakers, allocation of funds for speakers' programs, and other student activities will observe the principles of academic freedom and promote intellectual pluralism;

(K) because an environment conducive to the civil exchange of ideas is an essential component of a free university, the obstruction of invited campus speakers, the destruction of campus literature, and other efforts to obstruct this exchange will not be tolerated;

(L) academic institutions and professional societies should maintain a posture of organizational neutrality with respect to the substantive disagreements that divide researchers on questions within, or outside, their fields of inquiry, recognizing that—

(i) knowledge advances when individual scholars are left free to reach their own conclusions about which methods, facts, and theories have been validated by research; and

(ii) academic institutions and professional societies formed to advance knowledge within an area of research, maintain the integrity of the research process, and organize the professional lives of related researchers serve as indispensable venues within which scholars circulate research findings and debate their interpretation; and

(2) the Congress recognizes that the principles and procedures described in paragraph (1) fully apply only to public universities and to private universities that present themselves as bound by the canons of academic freedom; and

(3) it is the sense of the Congress that private institutions choosing to restrict academic freedom on the basis of creed

have an obligation to be as explicit as is possible about the scope and nature of these restrictions. (H.Con.Res.318, 2003, pp. 4–7)

Supporters of the Academic Bill of Rights believe that it will balance the current liberal bias among college and university faculties and that it will help protect students who have been stifled and alienated by liberal professors. As evidence for the existence of this liberal bias, Horowitz cites his survey of 32 “elite” universities in which he found that Democratic professors outnumbered Republican professors by a ratio of ten to one (Hebel, 2004, p.A18). The Academic Bill of Rights, its supporters believe, will create a more politically neutral environment on campuses.

Those opposed to the Academic Bill of Rights are concerned that the opposite may occur. That in seeking to create an ideological balance on campus, colleges and universities may place more emphasis on ideological or political views, such as considering a candidate’s views in hiring and tenure decisions. They are also concerned that the Academic Bill of Rights would inhibit, rather than encourage, a faculty member’s ability or willingness to discuss legitimate, but controversial, scholarly issues in classes; or that a mandate for intellectual diversity and plurality may be interpreted as a mandate for the consideration of all ideas, regardless of academic merit.

After introduction, the House of Representatives referred the Academic Bill of Rights to their Committee on Education and the Workforce, which subsequently referred it on November 17, 2003 to the House Subcommittee on 21st Century Competitiveness. To date, neither committee has acted on the resolution, but according to *The Chronicle of Higher Education*, Republican leaders have included a softened version of the resolution in the pending higher-education reauthorization legislation. The reauthorization bill states that it is the right of students to be “presented diverse approaches and dissenting sources and viewpoints within the institutional setting” (Klein, 2004 p. A22). Though the language speaks to rights

and responsibilities, not mandates or sanctions, many higher education leaders are concerned about the unintended outcomes of including such language within an appropriations bill. They fear that the Academic Bill of Rights will open the door for unprecedented federal intervention in college curricula and activities (Klein, 2004, p.A22).

While the debate continues at the national level, several states have already passed or are considering similar resolutions. In March, 2004, an Academic Bill of Rights resolution introduced by Senator Eric Johnson sailed through the Georgia State Senate. Horowitz described the Georgia vote as a “monumental victory for academic freedom” and urged the state’s universities “to carry out the mandate for academic freedom and intellectual diversity set forth by the Senate in this historic vote” (Students for Academic Freedom, 2004, para.3). In Colorado, a statute based on the Academic Bill of Rights was passed by the House Education Committee on February 25, 2004 (Students for Academic Freedom, 2004, para.3). It was dropped by the Colorado Legislature when the presidents of the major Colorado universities signed a *Memorandum of Understanding* agreeing to incorporate the principles of the Academic Bill of Rights into their institutions (Students for Academic Freedom, 2004). Similar legislation is also in preparation or under consideration in Missouri, Michigan, Oklahoma, Massachusetts, Utah, Ohio, California and Washington.

Campus student organizations are also pursuing the matter. In the past year, student governments at universities as diverse as Utah State University, Brown University, and the University of Montana passed an Academic Bill of Rights. The Students For Academic Freedom, a self-described “nationwide campus movement dedicated to promoting intellectual diversity and to removing political partisanship from the classroom”, has 135 campus chapters to date (Dogan, 2003, ¶ 1). Prominent on its agenda is working with the American Legislative Exchange Council, a bi-partisan body of 2,400 state legislators, for passage of the Academic Bill of Rights in all fifty

states. They are also collecting documentation of alleged political abuses in the classroom, publishing information on alleged political abuses on their website, and serving as an advocate for students in selected cases (Dogan, 2003, ¶ 1).

According to Horowitz, “The Academic Bill of Rights is based squarely on the almost 100-year-old tradition of academic freedom that the American Association of University Professors has established. The bill’s purposes are to codify that tradition; to emphasize the value of ‘intellectual diversity,’ already implicit in the concept of academic freedom; and, most important, to enumerate the rights of students to not be indoctrinated or otherwise assaulted by political propagandists in the classroom or any educational setting” (Horowitz, 2004, p.B12). The American Association of University Professors, however, strongly disagrees with Horowitz’s position. In a statement approved for publication by the Association’s Committee A on Academic Freedom and Tenure, they state:

A fundamental premise of academic freedom is that decisions concerning the quality of scholarship and teaching are to be made by reference to the standards of the academic profession, as interpreted and applied by the community of scholars who are qualified by expertise and training to establish such standards. The proposed Academic Bill of Rights directs universities to enact guidelines implementing the principle of neutrality, in particular by requiring that colleges and universities appoint faculty “with a view toward fostering a plurality of methodologies and perspectives.” [H. Con. Res. 318]

The danger of such guidelines is that they invite diversity to be measured by political standards that diverge from the academic criteria of the scholarly profession. Measured in this way diversity can easily become contradictory to academic ends. (American Association of University Professors, 2003, ¶1–3)

The use of political standards in the assessment of faculty or the determination of curricula would, in the words of the AAUP statement, “profoundly corrupt the academic integrity

of universities” (American Association of University Professors, 2003 ¶ 3). A basic purpose of higher education is to endow students with the knowledge and capacity to exercise responsible and independent judgement. Faculty can fulfill this objective only if they possess the authority to guide and instruct students. . . . College and university professors exercise this authority every time they grade or evaluate students . . . the Academic Bill of Rights undermines the very academic freedom it claims to support. It threatens to impose administrative and legislative oversight on the professional judgement of faculty, to deprive professors of the authority necessary for teaching, and to prohibit academic institutions from making the decisions that are necessary for the advancement of knowledge. (American Association of University Professors, 2003 ¶11)

Commenting on the controversy surrounding this resolution, John Leo in *U.S. News and World Report* describes the resolution as an effort by Horowitz, “to protect students and professors from the aggressive leftist monoculture that dominates campuses today. Though clearly taking aim at the left, Horowitz scrupulously framed the bill in language that would protect everyone on campus, left and right” (Leo, 2004, p.20). Stanley Fish, former Dean of the College of Liberal Arts and Sciences at the University of Illinois at Chicago, characterizes Horowitz’s use of the concept “intellectual diversity” as a “Trojan horse of a dark design” (Fish, 2004, p.B13). Using the left’s own rhetoric, the political right has succeeded in persuading the American public that “universities are hotbeds . . . of radicalism and pedagogical irresponsibility where dollars are wasted, nonsense is propagated, students are indoctrinated, religion is disrespected, and patriotism is scorned” (Fish, 2004, p. B13).

Recent public opinion survey data support Fish’s pessimistic perception of the American public’s perspective of higher education. In a recent survey of 1,000 randomly selected men and women ages 25–65 conducted by *The Chronicle of Higher Education* and TMR Inc., 93% of those surveyed

agreed or strongly agreed that, “Colleges and universities are among the most valuable resources to the U.S.”. However, 51% of those surveyed also agreed or strongly agreed that “Colleges and Universities improperly introduce a liberal bias in what they teach”. Fifty-one percent also felt that compared with their political views, college professors were more liberal (Public’s Confidence, 2004, A12). While the public’s confidence in the value of higher education remains strong, the public’s trust in the intellectual integrity of higher education faculty is eroding. With distrust comes the desire for public accountability and governmental oversight. An excellent example of the relationship between trust and oversight is the No Child Left Behind Act of 2001, which was approved by Congress after years of growing public disillusionment with the education profession’s ability to monitor and improve its performance.

Is the Academic Bill of Rights the beginning of a new era of governmental oversight and public accountability for higher education? And if so, should this be a concern? American higher education is a staunch supporter of external accountability. Most institutions regularly and voluntarily participate in both regional and professional accreditation reviews, which are time consuming and costly endeavors. In fact, it was leaders in higher education that began our current system of external accreditation in the early 1900’s. Why, then, does the Academic Bill of Rights raise concern about public accountability? One reason may be who will be responsible for determining the accountability criteria and who will judge an institution’s success or failure to meet those criteria. Current accreditation is an assessment endeavor undertaken by those within the profession itself, i.e. those with specific disciplinary knowledge and expertise. Opponents of the Academic Bill of Rights fear that future assessments may become the prerogative of politicians: “Someone is going to say, let’s monitor those lefty professors and keep tabs on what they are saying; and while we’re at it, lets withhold federal funds from programs that do not display ‘ideological balance’ . . . and let’s

demand that academic institutions demonstrate a commitment to hiring conservatives; and let's make sure that the materials our students read are pro-American and free of the taint of relativism; and let's publish the names of those who do not comply" (Fish, 2004, p.B14).

Depending upon your perspective, the Academic Bill of Rights is either a reasonable extension to students of the 1940 American Association of University Professors' Statement of Principles on Academic Freedom and Tenure for faculty, or it is an unprecedented attempt by conservative political forces to control curricula and instruction in higher education (American Association of University Professors, 2004). Should the principle of academic freedom in teaching and research for faculty be extended to include students' academic freedom to learn? Do students need the protections promised by the Academic Bill of Rights? Horowitz claims that, "Under the name 'political correctness,' student speech rights have been curtailed and students' academic freedoms abused on an unprecedented scale. Courses of indoctrination masquerading as education have spread through the curriculum and become familiar objects of public ridicule" (Horowitz, 2003, ¶ 2). Phyllis Schlafly reports in the April 2004 issue of *The Phyllis Schlafly Report* that "Now there are literally tens of thousands of 'hard line Marxists' in academic sinecures. . . . These hard core leftists have no shame about using the classroom podium for political speechmaking. They may be teaching a course in biology or Shakespeare, but that doesn't inhibit them from launching into tirades against American policies or in favor of the Communists in El Salvador, or assigning students to write a paper on why George W. Bush is a war criminal" (Schlafly, 2004, ¶ 4).

Jesse Walker, Associate Editor of *Reasononline.com*, worries that the Academic Bill of Rights will be misused in a similar way as was the Fairness Doctrine of the Federal Communications Commission. The Fairness Doctrine was established to require radio and television stations to promote the free exchange of ideas and to balance contentious commentary with

opposing opinions. “In practice, it was a way politicians or interest groups could harass stations that aired views they disliked,” according to Walker (Walker, 2004, p.4). The Fairness Doctrine was abandoned in 1987. Thus, even if agreement could be reached on the principles within the Academic Bill of Rights, implementation would create far more problems than it would solve. What would constitute intellectual abuse or ideological indoctrination? Who should decide? What remedies or sanctions should be applied for those found guilty and what recourse should exist for those falsely accused?

Whether or not the Academic Bill of Rights passes at the federal level or in a majority of states, it has raised important questions that higher educators should not ignore. Who should establish higher education policy and determine its curricula? In these times of economic restriction and political pressure, what values in higher education must be held inviolate and who bears this responsibility?

Presently, higher education must compete for public support and attention with war, crime, elections, and the amorous adventures of sports and media stars. Perhaps we should thank Horowitz and his supporters for raising higher education’s national profile? Perhaps not! There are more than 4000 institutions of higher education in the United States serving millions of students annually. Seventy percent of U.S. high school graduates attend college (Beaver, 2004, ¶ 1). To determine the intellectual bias of higher education faculty by the percentage who belong to one political party or another at less than 1% of all colleges and universities, or by anecdotal complaints of an equally minute percentage of students attending college, is a grave disservice to the thousands of dedicated professional college and university faculty.

The campus environments described by Horowitz or Schlafly are not the environments I experienced in my 40 plus years as a faculty member or university administrator. The seven colleges and universities where I have worked (and the dozen more I visited as a consultant or member of an accreditation review team) were characterized more by their com-

plexity and diversity, than by their homogeneity or uniformity on any single dimension. Their faculties were equally diverse and outspoken in their differing perspectives from each other. At committee meetings and councils, ideas were rarely taken at face value and faculty engaged actively in deliberative dialogue. In their classrooms, faculty taught students to critically analyze existing knowledge as the first step toward the creation of new knowledge. Of course, I worked with some faculty members who were dogmatic and intolerant of ideas contradictory to their own, but these were few. The majority, however, challenged students to think for themselves and challenged themselves to continuing growing as teachers. Passage of the Academic Bill of Rights might cause a few intolerant faculty members to change their ways. More likely, it will motivate many good teachers to seek employment elsewhere.

REFERENCES

American Association of University Professors. (2004, March). *1940 Statement of principles on academic freedom and tenure with 1970 interpretive comments*. Retrieved July 21, 2004, from <http://www.aaup.org/statements/Redbook/1940stat.htm>

American Association on University Professors. (2004, January / February). AAUP statement on the academic bill of rights. *Academe*, 90(1), 79–81. (In *Student for Academic Freedom* (Commentary) Retrieved April 14, 2004, from <http://www.studentsforacademicfreedom.org/archive/december/AAUPstatementonABOR.htm>)

Beaver, W. (2000, Summer). Cheapening college. *Outlook*, Retrieved July 28, 2004 from http://www.americanoutlook.org/index.cfm?fuseaction=article_detail&id=1214.

The chronicle survey of public opinion in higher education. (2004, May 7). *The Chronicle of Higher Education*, p. A12.

Dogan, S. (2003). Students for Academic Freedom Year-End Report. In *Students for Academic Freedom* (News), Retrieved July 21, 2004, from <http://www.studentsforacademicfreedom.org/>

Dogan, S., Call, R., & Kaplan, L. (2004). Student Handbook.

Students for Academic Freedom. Retrieved July 10, 2004, from <http://studentsforacademicfreedom.org/texts/SAF%20handbook%20FINAL%202.pdf>

Fish, S. (2004, February 13). Intellectual diversity: The Trojan horse of a dark design. *The Chronicle of Higher Education*, 50(23), p. B13.

H.CON.RES.318. 108th Cong. (2003). Retrieved 2004, April 22, from <http://www.congress.org/congressorg/issues/bills/?billnum=H.CON.RES.318&congress=108&size=full>.

Hebel, S. (2004, February 13). Patrolling professors' politics: Conservative activists and students press campaigns against perceived bias on campuses. *The Chronicle of Higher Education*, 50(23), p. A18.

Horowitz, D. (2003, December 5). The professors' Orwellian case. *ForntPageMagazine.com*. Retrieved April 12, 2004, from <http://www.studentsforacademicfreedom.org/archive/december/HorowitzAAUPResponse120503.htm>.

Horowitz, D. (2004, February 13). In defense of intellectual diversity. *The Chronicle of Higher Education*, 50(23), p. B12.

Klein, A. (2004, July 9). Worried on the right and the left: Provision being considered in Capitol Hill would urge colleges to present diverse view points. *The Chronicle of Higher Education*, 50(44), p. A21.

Leo, J. (2004, February 1). A kick where it is needed. *U.S. news and world report*, 136(7), p. 20.

No Child Left Behind Act of 2001, Public Law 107-110 § 115 Stat.1425 (2002). Retrieved April 12, 2004, from www.ed.gov/policy/elsec/leg/esea02/107-110.pdf.

Schlafly, P. (2004, July 31). Confronting campus leftists. *Eagle Forum*, 37(9). Retrieved July 4, 2004, from <http://eagleforum.org/psr/2004/apr04/psrapr04.html>.

Selingo, J. (2004, May 7). U.S. public's confidence in colleges remains high: Chronicle poll also finds concern over costs, sports, and 'legacy' admissions. *The Chronicle of Higher Education*, 50(35), pp. A1, A10–A11.

Students for Academic Freedom. (2004, March 24). Academic Bill of Rights Sweeps Georgia Senate, 41-5. S. Dogan (Ed.), *Students*

for Academic Freedom. (From *Front Page Magazine.com*, 2004, March 24, by S. Dogan Retrieved July 13, 2004, from <http://www.studentsforacademicfreedom.org/>)

Students for Academic Freedom. (2004). Colorado Memorandum of Understanding. S. Dogan (Ed.), *Students for Academic Freedom*. Retrieved July 13, 2004, from <http://studentsforacademicfreedom.org/reports/COMemorandumofunderstanding.htm>.

Walker, J. (2003, September 17). Chilling effects: David Horowitz tries to redefine academic freedom. *Reasononline*. Retrieved April 22, 2004, from <http://www.reason.com/links/links091703.shtml>.