

Can we support academic freedom and the right to criticize academic activists?

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[Josh Berdeaux](#) · 5 hours ago 🔒

Back in the 1960's this would not be much of a discussions given most of the support for various political & social movements came from the academic environments around the country. Contemporary issues, e.g. climate change for example, seem to be less personal than say the civil rights social movement of the 60's, but they are just as important to the welfare of our social systems and speak to the very foundational ideas of the Constitutional elements of a healthy democracy.

One idea is about policies and so-call academic freedom, free speech or even speech codes, etc. for professors and students who use their official affiliations to give credibility to their personal, political convictions within the world of politics. Should professors, for example, who sign a controversial petition or letter supporting the assessment and condemnation by the EPA of a controversial resource project such as the Pebble Mine controversy here in Alaska or the more national controversy of the Keystone XL project be subjected to retaliation or other reprisals by the universities or pressures by state governments or even the federal governments agencies or certain types of legislation such as the PATRIOT Act of 2001 or the corporate supported political representatives?

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[Joel Kovarsky](#) · 12 minutes ago 🔒

Much to the chagrin of past academics, it is not clear that the SCOTUS has ever answered this or that the Constitution defends the right of "academic freedom" under the first amendment. Some thought that the 2010 Virginia case of Jefferson v. Cuccinelli might help to answer this, but it likely did no such thing, because the case was argued under the Virginia fraud statute. There was an interesting discussion in

Slate, by Dahlia Lithwick and Richard Schragger, subtitled "Does the Constitution really protect a right to "academic freedom"?" http://www.slate.com/articles/news_and_politics/jurisprudence/2010/06/jefferson_v_cuccinelli.single.... . Many petitions supporting the concept were signed in this case. From the article discussion:

"...What precisely is "academic freedom," and why would the Constitution protect it? Who can assert "academic freedom"—individual faculty members or the university as a whole? What is the scope of the right, and does it apply to faculty at state universities or those who receive government grants? The Supreme Court has never really answered these questions. *UVA v. Cuccinelli* would be a good time to do so—if the case ever gets that far...

The Virginia fraud statute is clearly the wrong vehicle for prosecuting science, and it's likely a court will deem the subpoena invalid before anyone gets near the big issue of academic freedom. That's too bad. Because a judicial decision in this case could finally clarify that basic scholarly inquiry is at the core of the First Amendment..."

Looking at a summary of the decision (<http://law.justia.com/cases/virginia/supreme-court/2012/102359.html>) it appears that Lithwick and Schragger were accurate, and we do not know what "academic freedom" is, at least in a constitutional sense.

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Joel Kovarsky · a minute ago

I also found a more recent discussion, by Vikram David Amar and Alan Brownstein, concerning the case of *Demers v. Austin* heard before the 9th circuit: <http://verdict.justia.com/2013/09/13/precisely-how-much-academic-freedom-should-does-the-first-amend...> . They do note the following:

"Let us begin by explaining why we think there is a strong case to be made that university professors deserve First Amendment protection for at least some of what they say and do, even when they do it on the government's dime and pursuant to their public-employment duties. It is always dangerous to identify certain classes of public employees who should enjoy more free speech rights than others, but we think that a distinctive protection for professors can be derived from a functional analysis of the jobs that universities are supposed to play in modern society..."

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