

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

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[Josh Berdeaux](#) · a day 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](#) · a day 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....](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 day 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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[+ Comment](#)

Anonymous · 19 hours ago 🔗

I would differentiate between two types of academics,

- Academics that work in STEM fields, where the "ultimate test" is whether theories are verified by

either logical proofs (mathematics) or empirical experiments (the rest).

- All other academics which are basically political ideologues.

I do think that these political ideologues should be treated as such when it comes to academic policy. Meaning, that it should be OK from a legal standpoint to consider "party affiliation" or the political bias of their work, be it in academic papers or op-eds in general publications, when making tenure decisions. To a certain degree, this already happens since most non STEM fields are dominated by liberals, but at least that would make the process more transparent for everyone involved, including those who send their kids to Yale to have them brainwashed by these academics.

Of course, all of them should be treated as "citizens" who have a right to express their political point of view, just as people who work for private businesses have said right, but I do not think that there should be an extra protection for political ideology, beyond what already exists in the private sector, for any academics.

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Josh Berdeaux · 12 hours ago 🔗

I am sure I will be criticized for making the following general statements, but my experience and academic background leads me to generalizations at times.

"Academics that work in STEM[1] fields, where the "ultimate test" is whether theories are verified by either logical proofs (mathematics) or empirical experiments (the rest)."

STEM folks tend to be more right-hemisphere orientated and as such as a very different mind-set, i.e. tend to be multidimensional thinkers than "All other academics which are basically political ideologues." Which I think tends to be more left-hemisphere oriented, i.e. linear thinkers. My personal orientation is being a right-brain thinker and I operate multidimensionally in my thinking.

Therefore, I agree with your generalized division of the sides of academia.

Next you state: "I do think that these political ideologues should be treated as such when it comes to academic policy. Meaning, that it should be OK from a legal standpoint to consider "party affiliation" or the political bias of their work, be it in academic papers or op-eds in general publications, when making tenure decisions."

It would seem that this is a logical extension of a person's mind-set and thinking processes. But then I would question why there is not the same legal treatment of the political bias in their work in the courses they teach, e.g. when a student does not agree with the particular ideologues which bleed through the professor's teachings and grading style. For example I

had a Chinese instructor once that told the class that Americans do not understand their own culture. A bit bold on his part, but then I do not think he understood American Culture as well as it thought he did and this was in a Sustainability course which should have had some STEM elements complementing the course material?

"To a certain degree, this already happens since most non STEM fields are dominated by liberals,"

I guess we are saying that a "liberal" is the opposite of a "conservative" here for simplicity? My problem has always been trying to draw that line between the two sides of the politics to determine what the parameters are for each. But I think we have had three presidents which are Yale graduates and a First Lady, i.e. the Clintons and of course George Bush.

I am sure you know that Old McDonald was a bad speller if your watch the Geico commercials, but did you know on the Yale campus in April 1775 classes are suspended when news of the Concord battle arrives. Ebenezer Huntington<sup>[2]</sup>, a senior, asks for permission to join the gathering troops around Boston. He is denied release, but goes anyway being the first Yale student to enter the Continental Army and his political affiliation was Federalist. I do not know if Federalist were Liberals or conservatives.

But, even back then Yale has a foot-print to the Constitutions later birth. :-)

"Of course, all of them should be treated as "citizens" who have a right to express their political point of view, just as people who work for private businesses have said right, but I do not think that there should be an extra protection for political ideology, beyond what already exists in the private sector, for any academics."

That is a good comparison and agrees there should be equal rights under the law. Unfortunately our courts have recorded for us there is not equal protection under the law. Personally, I am not sure which I am or if I am both since I seem to have some characteristics of each. The dilemma is whether I am a liberal-conservative or a conservative-liberal? But I do know I tend to be a STEM with a bit of each in my studies, but in this case I think I lean more toward math.

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<sup>[1]</sup> Fields of study science, technology, engineering, and mathematics

<sup>[2]</sup> Later an officer in the Continental Army during the American Revolutionary War, and afterwards United States Representative from Connecticut.

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Anonymous · 10 hours ago 🔒

It seems we are on the same page here.

During my stay at Stanford as graduate student, I always saw those in non STEM fields as money wasters. And that is "literally" a fact. STEM professors are expected to get money from research grants while non STEM professors get funded mostly from Stanford's endowment. For the most part, non STEM professors tend to be trouble makers, always advancing their own political pet project and seeing their role as the brainwashers of the next generation.

By contrast, in STEM fields, like the one I got my PhD in, the professors see themselves as training the next generation of scientists and technologists, They polish your analytical mind, plain and simple.

From where I stand, I would fire all the humanities professors and would leave only those who teach things that are useful. In fact, that was Leland Stanford's own desire for the university he founded.

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Anonymous · 9 hours ago 🔒

Anonymous, you might wish to check again on Leland Stanford's vision. Here's a snippet about the founding of the university from [this page](#) at stanford.edu :

"The Leland Stanford Junior University was founded in 1885 by California Senator Leland Stanford and his wife, Jane, in memory of their only child, Leland Jr., who died of typhoid fever at 15. After his 1884 death, the Stanfords determined that they would use their wealth to do something for "other people's" children.

"They decided to create a university, one that, from the outset, was untraditional: coeducational in a time when most private universities were all-male; nondenominational when most were associated with a religious organization; and avowedly practical, producing '**cultured** and useful citizens' when most were concerned only with the former. **The Founding Grant states the university's objective is 'to qualify its students for personal success, and direct usefulness in life' and its purpose 'to promote the public welfare by exercising an influence in behalf of humanity and civilization.'**" (Emphasis mine.)

Better not fire all those humanities professors after all.

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Josh Berdeaux · 8 hours ago 🔒

Anonymous, the page numbers looked very close. Stanford, excellent school. I had Keith Devin for a math course.

“For the most part, non-STEM professors tend to be trouble makers, always advancing their own political pet project and seeing their role as the brainwashers of the next generation.”

I follow school litigation and complaints as kind of an interest because of the decline of quality in Higher-Ed, and K-12 also. My contribution to society is being a disability advocate volunteer for students with disabilities. There does seem to be a pattern with non-STEM's getting more than their share of law-suits and complaints. I feel confident saying that administrators with non-STEM credentials seem to get their share of litigation also. Different mind-set for non-STEM's.

I am not sure if it is due to not having practical work experience in the real world or in their fields rather than just going through school and on into teaching seem to be the most insecure when it comes to being challenged by others, particularly students that are smarter than the instructor. When my dad went through school students and professors had dialogue. He has STEM majors in engineering and taught math courses (well science also since he once taught courses in biology) and the technologies also. So he is a 100% STEM. I kind of patterned some of my educational adventures after his pattern of learning. In one of his former lives (he is 70 now and is still going to school) he was an engineer for Marathon Oil Corp. He has expressed his ideas on doctorates, said he had fun getting his but times were different then.

I have seen some real ego issues floating around universities since I started college. But they do seem to be related to the specialty field of the owner. I think what bothers me most is the double standard for the due process for professors and students. This becomes very clear when the student has a disability which requires some form of accommodation from their school.

One of the reasons I am taking this course is to get a different look at the Constitution. I had one Constitution course as an under grad as part of some law courses. But this one has a different orientation to it which is more in my style of thinking, i.e. kind of out-of-the-box.

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Anonymous · 7 hours ago 

Josh,

I think that the main difference between STEM and non STEM fields is that STEM fields deal with absolute truth. You cannot "spin" the law of gravity or accuse  $G$ , the gravitational constant, of being discriminatory for not being a different number. It is what it is. Even in engineering, where there is more creativity since the goal is to build stuff vs just studying it, what a good "engineering concept" is can be generally well defined. As a student in a STEM field, your goal is to learn from the best and hopefully come up with some good ideas of your own. Even what "peer review" means is different. Take the well known example of Andrew Wiles' proof of Fermat's Last Theorem. The conjecture itself was well defined. The question was whether the proof provided by Andrew Wiles was correct from a mathematical deduction point of view. In fact, the first proof he provided was wrong.

In non STEM fields, all is opinion. And since postmodernism/deconstruction, things have only gotten worse. Thus, a "good idea" is whatever the squeakiest voice says it is. In physics, "hypothetical entities" like super symmetry particles are only interesting if you can show they exist, otherwise, not so much. In Constitutional Law, a US Supreme Court justice can invent a "right to abortion" out of nowhere and all he needs to do is to convince other justices that said right is real.

The same is true of contributors to knowledge. Nobody can accuse physics of being racist just because most (if not all) of its major contributors are white dudes. In non STEM fields, if a given area is dominated by white dudes, it is automatically called "racist" and "affirmative action" remedies are immediately sought.

As a result, non STEM scholars (both professors and students) tend to be nastier and more unsufferable. This is not to say that there isn't a lot of ego going on in STEM fields, but your ego, sooner or later, will have to face the laws of nature which are deterministic and unchangeable :D.

 1  · flagJosh Berdeaux · 5 hours ago 

Good response and interesting thoughts. One in particular got my thoughts moving, i.e. "You cannot "spin" the law of gravity or accuse  $G$ , the gravitational constant, of being discriminatory for not being a different number." As to "absolute truth", this seems to me to be a relative concept, much like time, rather than an absolute.

Well actually  $G$  can be discriminatory as to results due time<sup>[1]</sup> not being constant. Therefore, we can say that if  $G$  is not adjusted for the variation of time not being constant then  $G$  would not be constant.

“Gravitational Constant (G) that is proportional to the radius of the observable universe that increases with time. A time-varying G implies that calculations of the properties of very distant astronomical objects using a constant G need to be corrected. The theory indicates that only a finite value of gravity is possible so that singularities with infinite density and infinite gravity cannot occur in nature.”

See the entire article; [Time Variation in the Gravitational Constant](#) for the rest of the details.

As to STEM's, it is like democrats and republicans, it really depends on which side you are on.

I have degrees from both STEM's and non-STEM's fields, but favor the STEM side of my personality as it makes my brain more comfortable when thinking.

[1] See Einstein's Theory of Relatively.

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Tony Breecher · 9 hours ago 🔒

The study of law is a study of the Humanities. Just pointing out an irony...

I would quite disagree that only STEM is of value, or that \*every\* professor seeks to brainwash their students with political ideology. Having degrees in both History and Religious Studies as well as a JD, I've seen quite a lot of professors in my day. Certainly some were better than others, but it was, in my experience, quite rare for a professor to be so engrossed in their political beliefs that it bled through the material into the classroom. Indeed, I could not now reflect on the professors that I had and tell you for certain what their politics were. Indeed, I was surprised, as a member of the Federalist Society in Law School, who the faculty advisors were for the club, and what their political leanings were because it never came up or came across in class. Generally, we were too busy learning what judges said the law is, versus what the professor thought the law should be. Maybe I got lucky, but the odds are against mere luck being at play here; though, as a STEM person, I would think that would be obvious to you. I'm just saying, I would caution a bit more restraint against the use of gross overgeneralizations and straw-man argumentation.

Just for one more example: I would point out that most of the Framers were lawyers, who had extensive academic training in the Humanities. If you postulate that the Humanities is useless (which



is the contrapositive implication of your final sentence) were true, then it would logically follow that what the Framers did in creating the Constitution, could not have been the result of their useless education in the humanities. Yet, when one reads the Federalist Papers, it is replete with historical analyses of every prior democratic and republican government known to European history. Simply put, their acumen for crafting the Constitution was based heavily on the weaknesses they perceived in historical examples. I would say they got quite a lot of use from their education in the Humanities.

Finally, to the OP: The First Amendment guarantees freedom of speech. According to the case law on the subject, Political Speech is one of the most protected forms of speech. Therefore, it should be the case that Academics may exercise their right to freely express their political points of view in their capacity as private citizens. When an academic of any stripe is at his lectern teaching a class, he has a job to do. It would be inappropriate for the professor to begin complaining about Obamacare or the USA PATRIOT Act, or why *Roe v. Wade* was rightly or wrongly decided. Time, Place and Manner restrictions on speech may be imposed, and will only be held to the Rational Basis test, so long as they are reasonable and content-neutral. A professor still has to be effective at his job, and therefore should not use his lectern as a pulpit because it would be bad for the students and the University for the professor to waste time in such a way. On the other hand, if the State University tries to impose a content-based restriction on speech, the Strict Scrutiny test will usually function to destroy it.

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Anonymous · 7 hours ago 🔒

Law is a bit of a strange animal. There is the "piratical aspect of it" and then there is the "activist aspect of it".

The practical aspect is not STEM but it comes close since it requires a great degree of analytical thinking as to how things are supposed to be (written law) and how things have turned out to be (case law) so that you can predict how things might turn out in a given legal case.

As for the activist aspect of it, in the most controversial issues, it boils down to the ideology of the judges, not to some "clear cut result that can be unequivocally derived from written law and case law". Scalia said in his famous debate with Breyer that the reason he writes such detailed opinions even when he loses is not to convince the public, which only gets a headline in the best case, but to leave a written legacy to convince future students of the court who might later become federal judges themselves.

So, law is more of a professional school, along the lines of medicine and business. In fact, the JD degree is not considered an academic degree but a professional one. Still, when you go to law school, for the most controversial matters, you are getting indoctrination of some sort, there is no question about that.

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Tony Breecher · 5 hours ago 🔒

But there is a very real question about that, given that the overwhelming majority of law students have already fixed their ideologies by the time they reach grad school. For the most part, those who remain impressionable tend to be either the most analytical or the most naïve. The truly analytical ones can be swayed by good and convincing evidence; and the naïve ones can't tell the difference between good evidence and bad so they either vasculate like a windsock or adopt a belief they find aesthetically pleasing and hold it with extreme recalcitrance. Place these personality types on a spectrum and it becomes apparent why such variability exists among individuals.

Still, I still find it to be an unsupportable assertion that all Humanities are useless and should not be taught. As stated earlier, the Framers seem to have found much utility in them; as have others.

Additionally, I find disagreement with the interpretation that all Humanities studies are based entirely on subjective opinions. Indeed, STEM fields of expertise permeate the disciplines of Archaeology, Anthropology and History, as well as many others. The disciplines of Dendrochronology and radioactive decay dating firmly establish sequences of events and shed a great deal of light on questions like causality. Additionally, historians and archaeologists frequently use DNA sequencing to determine the true nature of previously unknown or mysterious pathogens, like those that devastated the population of the Western Roman Empire. Surely you could not be ignorant of these kinds of hard data which underlie such disciplines, given how well-versed you are in STEM.

Indeed, I would hypothesize that STEM has a great weakness: students, graduates, teachers and professionals tend to see the world in a rather binary way. All things either work, or not; are right or wrong; are certain or chaotic. Those who are trained in the most predictable and deterministic STEM field often have trouble with ideas that traverse a spectrum; and the more, overlapping spectral variables in a system, the more difficult it becomes for a deterministic and/or binary mind to appropriately analyze the system. This observation is certainly not true of all STEM trained people; but it illustrates how a supplemental education in humanities can help to counterbalance false senses of certainty and determinism that can sometimes be more troublesome than beneficial.

This is certainly less true of those who have studied Quantum Mechanics, given the inherent nature and thorough permeation of the Uncertainty Principle, as well as the odd kinds of phenomena like Superposition, and the lingering issues like reconciling the descriptions of gravity's behavior in Quantum versus Relativity. Not everything scales properly across the entire spectrum, and to compensate, we sometimes have to improvise with less-than-perfect solutions.

See, my take on the discussion is that much of what has been said is rather oversimplified. Certainly, I have seen quite a few bad teachers, but I think a big part of the problem is how grossly underpaid teachers are, given that their profession requires a master's degree, else penalties are imposed. Simply put, there is not enough money to attract the kind of talent that such a profession requires. Perhaps it explains part of the STEM bias on this discussion

board to note that STEM teachers may be better because they are better paid than Humanities teachers, and therefore, the schools can attract better talent.

That said, my biggest problem with this discussion is how much generalization has been done about how STEM and non-STEM people behave in society. Ironically, I am seeing people who claim to be trained in STEM, but seem to be practicing Sociology, while simultaneously doing so in the complete absence of appropriate evidence. There are no large, scientific, properly controlled statistical surveys; no controlled laboratory tests involving problem-solving experiments or cognitive-behavioral analysis; not even a single fMRI to describe what brain structures are behaving differently between these two, alternatively trained populations. All that has been presented is some anecdotal evidence and a whole slew of bald, conclusory, borderline paranoid statements that 'our kids are getting politically brainwashed in school!'

This kind of dialogue is unworthy of people who have been trained in STEM. Even for engineers!

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[Josh Berdeaux](#) · 3 hours ago 🔗

“...as a STEM person, I would think that would be obvious to you. I'm just saying, I would caution a bit more restraint against the use of gross overgeneralizations and straw-man argumentation.”

I provided my disclaimer in my first sentence knowing I would be criticized for my generalities.

Our political orientations are just one part of our mind-set, yet being a part of it, there is some influence whether overt or not and it still is there and part of how we present our thinking.

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[+ Comment](#)

[Joel Kovarsky](#) · an hour ago 🔗

The idea of science as "absolute truth" is not recent. It is a belief system, an assertion of its own orthodoxy. That does not mean it is not a justifiable subject for debate. Many scientists themselves would make no such assertion, and the insistence itself is framed as a philosophical construct that cannot be "proven." In terms of modern medicine, it is science and it is filled with politics. You can find published arguments going back centuries, but in terms of the Founders, you cannot look at Jefferson--with his intense belief in science--and think that he would reason in these absolute terms. It would be contrary to everything he did with the Univ. of Virginia. It is easier to accept science as a

search for truth, that the questions are at least as important as the answers, that there have been numerous stumbles along the way--unless you have some notion of science as an abstraction, not tied to millennia of history and human searching. There are also people who assert absolute truth in the spiritual realm--harder for most of us now, in Western cultures, to accept.

What is being argued, to some extent, ties to very old conversations about "logical positivism." I have no idea how to parse free speech on college campuses, or in other public arenas. The idea of professing a belief in an acronym (STEM) as substantive justification for greater "freedom" strikes me as problematic. In constitutional terms, it would almost immediately violate the principle of equal protection.

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