1

The Justification of Academic Tenure

Richard T. De George

Universities can exist without academic freedom and tenure, as they have done in many countries and for many years. Academic tenure as understood in the United States is of relatively recent origin when considered in the light of the history of the university as an institution.[1] Nonetheless, academic tenure as it has developed in the United States is a crucial part of the American academic scene, and its demise would be an enormous loss to colleges and universities as we have come to know them and as they now exist. This claim is not only not self-evident but it is being questioned increasingly by some powerful and influential voices both outside and, perhaps surprisingly, inside the walls of academe. The role, function, and justification of academic tenure are often simply equated with unnecessary, undeserved, and counterproductive job security for an elitist, self-serving group of overpaid and underworked college and university professors.

Because academic tenure has come under attack from both inside and outside the academy, I shall evaluate it to the extent possible on its merits, and see what sort of and how strong a case can be made for it. After providing an initial definition, I shall argue first that academic tenure is appropriate for a certain kind of university in a certain kind of society; second, that its justification in that sort of setting is based on the good of society,

Originally published in Richard T. De George, *Academic Freedom and Tenure: Ethical Issues*, pp. 3–28, 1997, Rowman & Littlefield. Reprinted by permission of Rowman & Littlefield.

not of individual faculty members; and third, that even in that setting there are certain norms to which the process must conform if it is to be justified. Attacks on academic tenure are based explicitly or implicitly on academic tenure's failure on one of these three counts.

I. What Is Academic Tenure?

The first task is to make clear what academic tenure is. Calling it *academic* tenure puts emphasis on the fact that it is a special kind of tenure, tied to a special rationale. Academic tenure in the United States is traditionally linked with institutions of higher education. Teachers on the primary and secondary levels of education may have job security or guaranteed reappointment or something else comparable either contractually negotiated or simply bestowed by the local school board or governing officials, but that is not the same as academic tenure.

Academic tenure, as the American Association of University Professors (AAUP) uses the term, and as I shall use it, is tenure held by members of a faculty at an institution of higher education, where this is defined as postsecondary education. The typical case is tenure held by a faculty member at a university or four-year college.

Academic tenure is explicitly tied to the academic function of faculty members. We can compare it to and distinguish it from other types of tenure. Judicial tenure is held by federal court judges. This is a guarantee that unless they fail to perform their functions, they have a guarantee of continued employment in their position as judges until they die or retire. The purpose of judicial tenure is to prevent the threat of dismissal from influencing their judicial decisions. Briefly stated, the argument is that for judges to make impartial judgments, they must feel free to make them on the basis of evidence, the arguments, and their best insights. If they could be fired for making unpopular judgments or if they had to worry about whether members of the executive branch of government liked or did not like their decisions, they would not be as free to render impartial decisions as otherwise.

Faculty members do not render judgments in the way judges do. Yet the kind of tenure appropriate to academics is tied to what they do in a way comparable to the way that judicial tenure is tied to what judges do. The claims of impartiality, of objectivity, and of lack of extraneous pressure are analogous in both cases.

Academic tenure is not the same as a guarantee of continuous employment, even though academic tenure may functionally be a guarantee of continuous employment. A guarantee of continuous employment may come about in many ways, for many reasons, in many different kinds of firms, organizations, or enterprises, and for many different reasons. It might be

negotiated by a union for its members, or it might be bestowed by an employer on certain employees as a matter of principle or out of gratitude for long and excellent service. Usually the guarantee, just as with academic tenure, is contingent upon the financial viability of the entity guaranteeing the continuous employment and on the continued acceptable performance of the worker. Some civil service positions have the equivalent of guaranteed continuous employment as long as one's performance stays minimally satisfactory. Even though in some ways functionally equivalent to guaranteed continuous employment, academic tenure differs from these other cases by virtue of the ground on which it is bestowed and the function it is expected to play.

Academic tenure, considered as guaranteed continuous employment, was traditionally granted until the faculty member reached the mandatory retirement age set by the institution. With the demise of mandatory retirement ages, how long an institution guarantees continuous employment is no longer clear. Presumably it is until the faculty member dies, voluntarily retires, or is fired or otherwise relieved of his or her duties because of incompetence or failure to perform at an acceptable level.

Whether academic tenure is a right, and if so, what kind of right it is, are debated questions. As an approach to an answer, we can start by noting that no one has a right to any particular position. The doctrine of employment-at-will[2] still holds insofar as an institution has the right to hire certain individuals and not hire others. An institution may not ethically or legally discriminate against any candidate for a position on the basis of characteristics not related to the job, such as gender, race, national origin, and age. But an institution may describe its open positions as it wishes, and it may choose from among those applicants who satisfy the job requirements by any nondiscriminatory job-related criteria it wishes. No candidate can claim that he or she has a right to be hired by any given institution because of being the best or most qualified or for any other reason. The institution retains the right to hire whom it chooses, for the nondiscriminatory job-related reasons it chooses.

Initial hiring does not obligate the institution to grant continuous or even renewed annual employment. What ethics requires is that an institution make known to the applicant and to the newly hired faculty member the conditions of employment, including the terms and conditions of the initial contract, the possibility of a renewed appointment, the possibility of eventual tenure if that is the case, other conditions of employment, and the criteria that will be used in judging performance. Included in full disclosure of conditions of employment are the criteria that must be met for renewed appointment and, if appropriate, for academic tenure. Unless all this is clear upon the initial appointment, the agreement between the

new appointee and the hiring institution is difficult to defend from an ethical point of view because the contract lacks the complete disclosure that is required if the contract is to be entered into and agreed upon knowingly and willingly. A binding contract from an ethical point of view requires that the contract be entered freely by both parties, and it requires that appropriate knowledge at least be available to both parties. For either party to hide something relevant to the contract is to knowingly deceive the other party, and so to undermine the ethical force of the agreement.

Tenure becomes a legitimate expectation when it is presented to a faculty member as something that may be earned and the conditions under which it may be earned are specified. To call tenure a right is to say that a faculty member who satisfies the stated criteria has a legitimate claim on it. But most institutions do not guarantee tenure or see it as something a faculty member can legitimately claim. Rather they see tenure as something bestowed by the institution and legitimately withheld by the institution for a wide variety of reasons. Tenure is rarely given automatically by an institution. It is usually granted only after an extensive review of the faculty member's performance by one or more committees and/or administrators. Some institutions have a formal or informal rule about the percentage of the faculty who may be tenured or who may be tenured in a given department. If such limits exist, that is pertinent information that affects the conditions of employment and that should be made known to faculty members upon initial appointment. An institution may also change its tenure policy, making it more or less strict because of growth or attrition in the number of students or because of financial reasons. This is permissible, as long as the policies are not ad hoc and are publicly defensible, and the affected faculty members are given adequate time to meet the new requirements.

If a right is a justifiable normative claim or entitlement, and if what we have said is correct, then untenured faculty members have no right to be granted tenure. What they have a right to is fair consideration for tenure in accordance with the criteria they have been told will apply. If they are refused tenure, they have a right to know why, providing they had a legitimate expectation that it would be awarded.

Just as no individual faculty member has a right to be awarded tenure, so no institution has an obligation to award tenure in a particular case or to have the practice of awarding academic tenure. It may be shortsighted of the institution not to have academic tenure, it may identify the institution as being of a certain kind or quality, and it may open it up to censure by the AAUP and other similar organizations or to boycott by potential faculty and by faculty elsewhere. But as long as the conditions of employment are clearly stated, those accepting appointment in such an institution cannot claim that they have a right to tenure since they were told from the start that the institution does not grant academic tenure.

Although tenure is not a right that one can claim, the granting of tenure confers certain rights on the faculty member, the principal one of which is guaranteed continuous employment, providing certain conditions are met on both sides. Once tenure is granted, the institution commits itself to certain conditions to which the faculty member has a legitimate claim or entitlement and so to which the faculty member has a right. The right is alienable, in that the faculty member may freely give up the claim. An institution that wished to phase out tenure, for instance, might offer large salary increases guaranteed for a specified number of years to faculty members who agree to give up any claim to tenure after the specified number of years. Faculty members at such an institution would be free to accept or reject such an offer. On the face of it, there is nothing unethical in either making or accepting such an offer, providing there is nothing unethical in undermining the institution of academic tenure once it has been established—a topic we shall discuss later.

Academic tenure is by definition academic. This means not only that it is held by people at postsecondary academic institutions, but that it is related directly and importantly to the academic mission and function of such institutions. Typically, academic tenure is not conferred by a college or university on administrators—not even the chief administrator or president or chancellor. Nor is it conferred on nonacademic appointees, such as clerical and support staff. It is restricted to those who teach and/or do research, although it is sometimes extended also to certain other classes of faculty-equivalent positions, such as librarians. These are the academic functions of the university, and it is to safeguard these that tenure was instituted and that it receives its clearest justification.

Although teachers in primary and secondary schools may be given guarantees of continuous employment, they do not usually receive academic tenure. The reason is that their relation to knowledge and to what they teach is considered importantly different from that of faculty at institutions of higher education. They are typically not expected to engage in research, or publish, or advance knowledge in the way that faculty members in postsecondary schools are expected to do. It may well be objected that what and how some high school teachers teach and what and how some junior college or college or university teachers teach is identical. Although this is true, the nature of the institutions in question and their function and role in society are different, and that difference makes the decisive difference with respect to academic tenure. What that difference is, we shall discuss shortly.

Academic tenure is defined by the AAUP as follows:

> After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service

> should be terminated only for adequate cause, except in case of retirement for age, or under extraordinary circumstances because of financial exigencies.[3]

The 1940 document allows moral turpitude as a legitimate cause for dismissal. This is defined by the 1970 Interpretative Comments as violating a standard of "behavior that would evoke condemnation by the academic community generally."[4] Also generally included under adequate cause would be academic incompetence and failure to meet one's professional obligations.

Academic incompetence is often difficult to substantiate. Any faculty member who has earned a doctorate and successfully passed the requirements for tenure was at least at that time considered competent. Failure to keep up with developments in one's field does not constitute incompetence, much less does failure to contribute to the developments in one's field. Nor does failure to communicate effectively one's knowledge to students. Perhaps with the elimination of mandatory retirement ages senility might become a basis for declaring a faculty member incompetent. But incompetence is a seldom used justification for terminating a tenured faculty member, and this is understandably the case.

On the other hand, failure to meet one's professional obligations is in some cases clear. For instance, repeated failure to go to one's classes or to teach the subject of the course during one's classes or to grade one's students' work constitute quite clear failure to meet one's professional obligations. Yet failure to publish in one's field after attaining tenure is not clear evidence of failure to meet one's professional obligations, for many colleges consider publication an extra, deserving reward, but not a deficiency to be penalized.

The 1940 Statement of Principles does not specify what constitutes failure to meet one's professional obligations, nor should it, since obligations vary widely among departments, fields, and institutions. This does not mean that the faculty within an institution, together with the administrators, cannot agree on broad guidelines of what constitutes failure to meet one's professional obligations. Having such guidelines both informs the faculty of what is expected and provides criteria for possible dismissal of tenured faculty members.

The possibility of dismissal for cause is a legitimate part of the practice of academic tenure, and it is a necessary part of academic tenure, if it is to be justified. Nonetheless, academic tenure is difficult to attain and is awarded by an institution upon the evaluation and recommendation of one's peers. The onus of proving one's worth is on the faculty member. Academic tenure should be commensurably difficult to lose, if it is to have meaning and serve its function. A tenured faculty member should be fired

only upon the evaluation and recommendation of one's peers, and the onus is on the institution to prove adequate cause. Dismissal of tenured faculty is appropriately rare and exceptional and difficult, but not impossible.

II. The Justification of Academic Tenure

One of the arguments sometimes given for tenure is that it is justified in part because of the relatively poor salaries of most professors, given the years of study necessary for them to attain their positions.[5] It implies that relatively low salaries are justified for faculty members because they have tenure. That is, it implies that at some point faculty members traded job security for low salaries. This is historically inaccurate. Faculty salaries were low before academic tenure came on the scene. The other implication is that if faculty salaries were commensurate with the amount of study required to hold such a position, tenure would not be justified. But if, as I shall argue, and as the AAUP has consistently maintained, academic tenure is justified primarily because of its relation to academic freedom, then whether faculty members are well paid is beside the point. Academic tenure would be justified, if it is justified, even if faculty were relatively or even very well paid. If pay were a serious basis for tenure, then it is not clear why faculty should not be given a choice of either higher salaries without tenure or lower salaries with tenure. However, to offer any such choice is to imply that academic tenure is primarily a financial issue. It is not.

At best the financial argument is a justification given to some outside constituencies who do not understand the real basis for academic tenure, and to whom the claim that there is a trade-off between tenure and low salaries seems to make economic sense. There is an economic relation between job security and lower salaries. But this relation also serves as justification for keeping faculty salaries relatively low. To this extent academic tenure might well seem to some faculty members to be a disadvantage rather than an advantage. And certainly to some extent they would be correct. The argument for academic tenure is strengthened, not weakened, if accepting it brings with it a lower salary than faculty members would otherwise receive. For then the real reason for academic tenure becomes basic and overriding. What is that justification?

The justification is that academic tenure is the best means our society has devised to secure and preserve academic freedom.

In the former Soviet Union professors had job security, just as all workers did. The Soviet Constitution called for full employment and the government was the sole employer. Discharging any worker was very difficult under this system. Even though the professors in effect had guaranteed

employment they did not have academic tenure because they could lose their positions if they attempted to publish or teach what was ideologically unacceptable. In 1924 over a hundred philosophers were removed from their positions and exiled. The only philosophers allowed to teach were Marxists. Some freedom of discussion among them was allowed until 1929. Then the leaders of the country stepped in and ruled against one of two competing factions. The winners in turn were replaced by a decree of the Central Committee of the Communist Party in 1931 for a list of ideological offenses. Thereafter, the leaders of the Communist Party were the ultimate authorities on what could and could not be taught. They were the defenders of the purity of Marxism and, in their minds, of the truth. Not without reason, they held that only the truth should and would be taught in all schools and universities.

In such a society the notion of academic freedom has no place. Since some group—in this case the leaders of the Communist Party—had both the truth and control over all the institutions of society, the task of those institutions was to promulgate the truth as defined by the leaders. Not only in philosophy, but in all other areas, these leaders—at least through 1951—were the final authority. Quantum mechanics and relativity theory were prohibited because they were bourgeois; Mendelian genetics was prohibited in favor of Lysenko's theories; non-Marxist philosophy could not be taught; only Marxist versions of history could be presented.[6]

Academic freedom involves the freedom to pursue one's research independent of outside political powers and pressures. Academic freedom loses its central meaning in a society in which the external powers that control the university decide what is true and what is not, and so what may be taught or published, and what may not be. In this situation, academic tenure also loses its meaning. At best what is provided is job security. But that is not academic tenure, since it is precisely for one's work in the academic area that one is most likely to lose one's position.

Academic tenure is closely linked to academic freedom. The main purpose of academic tenure is to prevent the possibility of a faculty member's being dismissed because what he or she teaches or writes about is considered by either administrators or some people outside the institution to be wrong or offensive. This is the basic claim in defense of academic tenure. The full argument requires spelling out and involves a discussion of academic freedom. But this rough statement suffices to see that academic tenure makes little sense in a society that does not allow academic freedom.

There are various models of a university. Only some of them are compatible with academic freedom, and hence only some of them are compatible with academic tenure.

One traditional model of a university goes back to its origins at the University of Paris in the thirteenth century. That model consists of a group

of scholars banding together and gathering around them students interested in learning from the masters. The university claimed autonomy in the sense that it ran its own affairs and often even claimed independence from local authorities in the enforcement of laws and the punishment of student offenders. Debates and discussions proceeded without outside interference, even though sometimes certain theological doctrines would be condemned by the Catholic Church. As a model, however, the University of Paris was an autonomous faculty-run institution.

A second model is the student-run institution. Here students wish to be instructed in certain subjects in preparation for jobs of various sorts—law and medicine being the paradigms. The students hire faculty to teach them what they need to know. The faculty may have a voice in what they teach. But the students decide whether to retain the faculty, usually by whether they find their classes interesting enough to enroll in. The faculty in this model is not paid to do research, except insofar as they are expected to keep up with their field so that they can teach their students the latest knowledge.

A third model is the ideological model of the former Soviet Union in which the task of the faculty is to transmit the official state ideology as well as prepare students to fill the jobs society needs done. Here there is no autonomy of the university and it is completely subservient to the state.

A fourth model is the entrepreneurial model. Someone starts a university, hires administrators and faculty members, and pays them to teach students in such a way that students will pay to take their courses. The point is to make a profit, and the faculty are a means to that end.

A fifth model is the state university, which is a mixture of several of the above models. Typically the state university has some autonomy. Although the state supports the institution through tax dollars (and students support the institution through tuition) both the state officials and the students realize that they are not competent to decide what should be taught or how, and the academic part of the university is left primarily to the faculty, who are expected to have knowledge of their fields and of how to educate and train students for various kinds of work, including how to provide a liberal education.

Academic freedom may not be of much concern in models two and four and is of no concern in model three. Academic freedom is of central concern in model one, and it should be of central concern in model five, providing that society is of a certain type, the university is of a certain kind, and academic freedom is understood in a certain way. If the three are of the appropriate sort, then academic tenure is an important ingredient in the university, providing it is carried out in an appropriate manner. What are these types, and what is this manner?

A society should be interested in having a university to which it grants autonomy if the society receives something of benefit in return. The reason

for granting autonomy is that those who wish to have a university and are not part of it believe that some people, whom they will hire as faculty, have specialized, systematic, and advanced knowledge. Unless the faculty have this specialized knowledge that others do not have, there would be little reason for letting them have much autonomy. It would make more sense simply to hire those willing and able to teach what they are told to teach. Typically that is what happens at the primary levels. Parents know they want their children to learn to read, write, calculate, and to know something about history, geography, their country, and a little about other parts of the world. School boards have a hand in developing and approving curricula.

Parents of would-be doctors, on the other hand, do not know what doctors should know, except generally that they should know anatomy and medicine. They must trust people trained in medicine to know what to prescribe for a curriculum and to teach the material and evaluate and certify the students. The same is true in law, engineering, mathematics, history, psychology, and the other areas covered at a university.

A society gives a university autonomy in the belief that the institution can achieve its results better if those who are competent in their fields run it than if people from outside with less knowledge try to run it. Primary among the tasks of a university are the education and training of students in their respective fields and professions. Not only do well-educated graduates fill the available jobs and keep the society functioning and productive, but they also make up an educated electorate, capable of voting intelligently, and of running government and keeping it from becoming a dictatorship, no matter how benign.

A second reason for granting a university autonomy is the belief that knowledge is not yet complete and that no one inside or outside the university knows all there is to know. If some group—a state, a political party, religious leaders—know the truth, then they would have little reason to grant autonomy to a university. At least in those domains in which they knew the truth, they would reasonably wish to ensure that the truth which they knew was taught accurately, that is, as they know it. On the other hand, if those who set up and fund a university believe that not all truth is known, then they would do well, if they also believed that it is worthwhile to pursue the truth and to learn more, to provide a place and to pay competent people to seek that truth. Since no one can say what will be discovered, no one can predict what will be discovered. Hence it would be a mistake to try to restrict the search for truth by establishing procedures or rules that might result in preventing investigators from finding the truth.

A third reason a society might wish to grant a university autonomy is if the society wished to have a place in which all aspects of the society could be freely examined and critiqued, without that examination and critique being expressed in a violent or destructive manner. If a society believes

that it can be improved by having a place where debate takes place without immediate application in practice—as it is in a legislature, for instance—and where some distance from immediate results and politically motivated research can be carried on, then it would be reasonable to fund such an institution. Since it wants the investigations to be free of political partisanship, and at least to that extent to be objective, it can best achieve that result by granting the institution autonomy.

It is within a society such as this that a relatively autonomous university makes sense. The autonomy granted the university is justified not by the good of those within the university but by the good of the rest of society.

Within such an institution, the ends for which the university is given autonomy can in turn best be achieved by granting those within the university academic freedom. The same beliefs and arguments hold within the university as hold for the university. It is only if they do hold that the university can achieve the ends for which it is granted autonomy.

The final claim is that the best way to guarantee that faculty will pursue truth in their areas of competence freely and objectively is if they have no fear that they will be penalized if they break with tradition, try new approaches, or turn up unpopular results. One way to eliminate that fear and to reinforce the social and institutional desire for the advancement of knowledge is to guarantee that the teachers and researchers do not place their jobs in jeopardy by pursuing and reporting the truth as they discover it. That guarantee is what academic tenure provides, at least for those who have served a period of time to demonstrate their competence and their ability to pursue and advance knowledge and to communicate that to students and to pertinent others (colleagues, the general public, other specialists, as the case may be).

III. Academic Tenure and Academic Freedom

Given the above analysis, it is primarily the good of society, not the good of individual faculty members, that is of greatest concern. The argument maintains that society is the loser if the practice of tenure disappears. Without tenure, the faculty members have no guarantee that they will not be penalized for presenting new ideas, for challenging accepted truths or ways of doing things, or for criticizing existing institutions, governments, mores, and morals. Without this guarantee some faculty members will still do all these things, and run the risk of being fired because of it. But many others will not, and will practice self-censorship. The chilling effect of the firing of just a few professors who present their views will be considerable on many, many others.

The result will be a less dynamic and bold faculty, with less in the way of new truths or techniques being developed. Without a free forum for critique and discussion the community and so the state as a whole become impoverished. Without the example and encouragement of teachers who are bold and seek the truth wherever it may lead them, students will in turn be taught by example to be conservative and safe. The detriment to society is a less critical citizenry. Some societies and some political leaders may relish these results. But a free, open society will not.

Although a society may grant a university autonomy based on the belief that it will get commensurable goods in return and that it will achieve more of what it wants by granting the institution autonomy than by not doing so, it does not and need not operate completely on blind trust. It can legitimately exercise some oversight and expect a certain accountability.

Students can tell whether they are learning something. Employers can tell whether their new hires are competent and whether they have learned in their college or university education enough to perform adequately in the positions for which they are presumably qualified because of their education. The members of society can tell whether the younger generation that emerges from college has learned to think clearly and critically. All these assessments are rough and do not imply that those making them have the knowledge or expertise that members of the faculty have. But they do not need that expertise to make their assessments. Patients can tell whether they are benefiting from their doctor's care without knowing medicine in the way that doctors do. People can assess results without knowing how to produce them. This is as true with respect to education as with a great many other areas in which expertise and knowledge are important in producing certain results.

This is not to say that education is a commodity or to be treated as if it were. The university is not a factory or business. Nonetheless, the university exists not primarily for the good of the faculty, but for the good of society.

The argument that I presented for academic tenure hinged on academic freedom. I argued that academic freedom was important to society, and that if academic tenure is the best way to protect academic freedom, then academic tenure is important to society. Yet academic freedom and hence academic tenure are defensible only if the good of society can be achieved thereby. And that means only if there is knowledge that is not yet known that can be pursued and found, and if the university is the place where this is done. If truth is already known, then it has only to be preserved, and those who know it can rightly demand that it be preserved and passed on in the universities over which they exercise control. Academic freedom makes sense only if those outside the university who fund and control it do not

have any privileged access to the truth and stand to gain by its being pursued in a university.

If there is no truth to be pursued, if there is no knowledge to be gained, then once again there is little reason to grant faculty members academic tenure. If all that universities have is the opinion or personal belief of faculty members, none of which is demonstrably preferable to any other, then there is little sense in granting them academic tenure or in believing there is any benefit to society in granting academic freedom. Freedom of speech may benefit a society, but that is not the same as academic freedom.

IV. Academic Tenure and the American University

I have argued that academic tenure makes sense only in a certain kind of society and only under certain conditions. The United States is the kind of society in which academic tenure makes sense—it is a relatively free and open society, and one in which there is a widespread belief that knowledge is useful, and that not everything is known. It is a democracy in which an educated and critical citizenry can play an effective role. And it is a developed society in which creativity and originality have an important function. In such a society academic freedom can be and has been a crucial component in its college and university system. It has gone hand-in-hand with academic tenure.

If, as critics claim, academic tenure is an institution whose time has passed, is the same to be said of academic freedom? Might academic tenure be feasibly applied to only some faculty or restricted to only some departments or only to some colleges and universities?

Consider an institution that gives academic tenure only to some professors but not to others. Of course, this is already the case. Only some faculty members have tenure. Tenure is not held by beginning instructors or assistant professors who work full-time, nor by full-time faculty members who are on limited-term appointments, nor by part-time faculty. There can be no objection in principle, then, in advocating a system of selective tenure. The justification for tenure under the present system, however, is that those with tenure should guarantee the academic freedom of the institution as a whole and so the academic freedom of those who do not have or who do not yet have tenure. The test of whether selective academic tenure is justifiable is whether under such a system those with tenure will be both able and willing to guarantee the academic freedom of the institution and of those without tenure. There would be little reason to expect those with tenure to defend the academic freedom of those who might have