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Critiquing the AAUP Rule Protecting Professors Against Complaints by Non-Students

Arthur Gross-Schaefer,^{*} Sona Gala,^{**} and Warren Terry^{***}

In August 2011, the American Association of University Professors (AAUP) adopted a report entitled *Ensuring Academic Freedom in Politically Controversial Academic Personnel Decisions*. The report contains a Rule that protects the jobs of professors who make controversial statements about cultural, advocacy, and political groups during their classroom lectures.¹ In the AAUP's opinion, complaints filed by campus-wide student groups or individuals not in the professor's class are unreliable because the complainer did not directly hear the statement in question.² Allowing the Rule to continue to stand is extremely detrimental to the rights of every member of academia, except professors. The Rule fails to acknowledge the power imbalance that exists between professors and their students. Because of this power imbalance, many students in a classroom are fearful of filing complaints on their own.³ They look for outside assistance.⁴ By disallowing student organizations and other campus personnel to file complaints, students have one fewer outlet from which their voices can be heard. Moreover, the Rule fails to grasp the reality of the situation that arises when a professor abuses his or her power and makes statements that influence students' beliefs that can be hurtful, improper, and wrong.

The AAUP Rule should be eliminated because students need resources, such as student organizations, university personnel, and faculty, to assist them in filing complaints against professors. Without these

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¹ Peter Wood, *Politicizing the Classroom, Part Two*, CHRON. HIGHER EDUC. (February 22, 2011, 10:08 AM), <http://chronicle.com/blogs/innovations/politicizing-the-classroom-part-one/28657>; Peter Schmidt, *AAUP Proposes New Protections for Politically Controversial Academics*, CHRON. HIGHER EDUC. (February 18, 2011), <http://chronicle.com/article/AAUP-Proposes-New-Protections/126436/>.

² Wood, *supra* note 1; Peter Schmidt, *Complaints Greet AAUP Report on How to Handle Objections to Controversial Scholars*, CHRON. HIGHER EDUC. (June 8, 2011), <http://chronicle.com/article/Complaints-Greet-AAUP-Report/127859>.

³ Schmidt, *supra* note 2.

⁴ Wood, *supra* note 1.

resources, students will likely do nothing to challenge their professors' inappropriate conduct for fear of retaliation. Moreover, students will be left without a voice if organizations cannot speak on their behalf, and professors will have a virtual firewall against complaints.

The real problem with the Rule is that it ignores that the current debate over academic freedom is not about academic issues at all, but rather about who maintains authority within the university.⁵ Academic freedom has become a wall that announces "hands off" and "no institution, individual, or group has the right to monitor, question, challenge, or influence what goes on inside the walls of academe."⁶ With this unregulated power comes the increased potential for abuse in the classroom by professors.

Should the Rule continue to stand as written, there will be serious consequences for students' rights on college campuses. Students will be discouraged from filing complaints, and those students who do file complaints will likely fear retribution. Accordingly, the Rule should be eliminated to ensure that both professors and the students they teach each have a voice that allows them to take action when opinions in a classroom stray from the purpose of higher education.

⁵ Arthur Gross-Schaefer, *Academic Freedom: Moving Away from the Faculty-Only Paradigm*, SCHOLARS FOR PEACE MIDDLE EAST (Jan. 25, 2011), <http://spme.org/spme-research/analysis/academic-freedom-moving-away-from-the-faculty-only-paradigm/9311/>.

⁶ GARY A. TOBIN, ARYEH K. WEINBERG & JENNA FERER, *THE UNCIVIL UNIVERSITY* 45 (2005).