



KNOW YOUR
RIGHTS

UNIVERSITY FACULTY: YOUR ACADEMIC FREEDOM AND FREE SPEECH RIGHTS

After the passage of HB 377, many university faculty members have found preparing syllabi and teaching classes stressful and fraught. But the U.S. Supreme Court has made clear how important academic freedom is in our democracy. Academic freedom allows for the free exchange of ideas and the expression of differing and even unpopular views, including by professors.

The guide below is to help you understand your rights, alleviate some of the anxieties you may have experienced, and prepare you in case you face a student-complaint of “indoctrination.”

DOES ACADEMIC FREEDOM APPLY TO ME?

- Academic freedom applies to full-time, part-time, tenure and tenure-track, adjunct professors and lecturers, graduate student instructors, and research assistants.
- U.S. Supreme Court precedent has recognized the importance of the First Amendment on university campuses. The government, which includes state university administration, cannot compel university faculty to avoid discussing controversial topics or viewpoints.

ACADEMIC FREEDOM INSIDE THE CLASSROOM

- You generally have the right to determine the pedagogy of the courses you teach.
- You generally have the right to select course materials and content, create assignments, and assess student performance.
- You generally have the right to make statements that are germane to the subject matter of your class.
- Academic freedom does **NOT** protect faculty from critique or criticism.
- Academic freedom does **NOT** protect against professional ignorance, incompetence, or dishonesty.
- Academic freedom is limited by university policies, such as grading policies.
- Academic freedom is limited by protections against hostile work and learning environments.

YOUR RIGHTS OUTSIDE THE CLASSROOM

- You have the right to express your relevant expertise (inside and outside the classroom) to the public on matters of social, political, or economic concern through any means of communication.
- You have the right to conduct research and publish conclusions based in evidence.

WHAT ABOUT SAYING “WHITE PRIVILEGE” OR DISCUSSING STRUCTURAL RACISM IN THE CLASSROOM?

- You have a right to expose students to unpopular and controversial ideas that are of public concern.
- A student may complain about a professor’s behavior or class content. But those complaints cannot form the foundation of a legitimate adverse employment action if they relate merely to a professors’ legitimate class content or teaching style.
- **HB 377 prohibits directing students “to personally affirm, adopt, or adhere” to various tenets.** If you already avoid directing students to adopt certain views, and instead try only to broaden students’ worldviews by proposing new ideas, HB 377 should not, on its own, change your teaching methods.
- So long as you can establish that your lessons are evidence-based and germane to the subject of the class you are teaching, discussion of controversial topics is generally protected by the First Amendment.

IF YOUR SCHOOL INVESTIGATES YOU OR TAKES ANY ACTION AGAINST YOU FOR DISCUSSING DIFFICULT TOPICS IN CLASS:

- **Write down** everything you remember, including the names of the people involved and details surrounding the incident.
- **Preserve** any messages or other communications from the people involved.
- **Research** your university’s code of conduct and faculty policy.
- **Investigate** your university’s complaint processes and file a complaint.
- **Contact** an employment attorney to go over the facts of your case.
- **Report** to the ACLU of Idaho at <https://intake.acluidaho.org/>. We may be able to help in some cases.