

NEWSLETTER

Colorado State University Chapter

American Association of University Professors (AAUP)

Academic Freedom for a Free Society Vol. 2:4 Fall (2009)

State Conference/Around the State:

- ***The AAUP Executive Committee.*** The State Conference Executive Committee met at DU in Denver on August 12. Key discussion items included responses to Bruce Benson's shuttering of the Silver and Gold faculty newspaper and Ward Churchill's request for a Colorado Committee for Protection of Faculty Rights investigation. The EC expressed an interest in supporting an effort to establish an electronic statewide newspaper covering faculty higher education concerns (see Silver, Gold, and Green report below). The EC also agreed to investigate the Churchill case under CCPFR procedures in the event that AAUP national's Committee A fails to take up the matter.
- ***Silver, Gold, and Green debut.*** With the support of the AAUP State Conference, a new faculty newsletter, **Silver, Gold, and Green**, will soon make its statewide debut. This electronic newsletter draws on some of the professional talent of CU's now defunct Silver and Gold.
- ***State Conference Annual Meeting.*** The AAUP State Conference annual meeting is scheduled for Saturday, November 14. All are invited, so please mark your calendar. AAUP National Secretary Gary Rhoades is slated to speak. [Steve Mumme will be in touch with details as these become available].

Local Affairs:

- ***Campus Equity Week.*** The AAUP is joining other faculty organizations in supporting the national ***Campus Equity Week*** (October 26-30). Provost Rick Miranda will join a panel of university faculty including AAUP members Laura Thomas, Sue Doe, and Steve Mumme on Thursday, October 29, noon till 3 p.m. in Lory Student Center 203-205, to discuss the efforts of adjunct and temporary faculty to organize and establish an institutional presence on campus to improve remuneration, working conditions, and other occupational protections at Colorado State University. Please try to attend and bring a colleague.

Feature Article

A Faculty Member's Advice for CSU's New President*

*By Dr. John Straayer
Professor, Political Science*

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Perhaps because I've spent the past year splattering my bromides throughout the media, our *Comment* editor kindly asked me if I'd care to offer some advice to our newly selected President.

How could I resist?

My first inclination was to do it in a single sentence, which would have been, "Do what Tony Frank would do." But that seemed a bit circular and far too brief, so I kept writing and here is my prescription for the President.

Number One, in sequence and importance: Remind yourself daily of the purpose of an institution of higher education. It is about nurturing the "life of the mind."

Universities

are not here, first and foremost, to draw research dollars, to win football games, to count faculty publications, to generate student credit hours, to keep the lawn mowed, and book shelves orderly.

These are all important, to be sure, but they are means, not ends. The end, the goal, the purpose, is to develop the human mind and in doing so to prepare successive generations of young people for adaptive, productive, and rewarding lives in vibrant civil societies.

It is all too easy to fall into a pattern of counting and reporting. A former colleague once observed that "it is easier to count than to think," and he was correct. So when the governing board, or the media, ask, "What have we done? What progress have we made?" – and the answers come in numerical and tabular form – be sure to assert, over and over, that these data are indicators of means; they are not the ends.

Number Two: Don't become stuck in the popular notion that "the students are our customers." Customers come with demands, are in

- **Adjunct Survey.** Results of the first ever detailed survey of CSU adjunct and temporary faculty will soon be released. AAUP has learned it will report that academic freedom remains a high priority for adjuncts as does professional autonomy and contact with professional colleagues. Major concerns are salary, professional esteem, and fair treatment.
- **Arbitration initiative:** The Faculty Council convened an open discussion of AAUP's proposed arbitration initiative following its regular afternoon session on October 6. Provost Rick Miranda presented the administrations views supported by General Counsel Mike Nosler. While various concerns were raised related the current position of the Board of Governors and the current legal opinion of the State Attorney General, AAUP's Ray Hogler noted the current opinion was now under review thanks to the intervention of local representative John Kefalas. In general there was little direct criticism of the merits of the proposal and a genuine expression of interest in learning more of its merits. For an independent report on the meeting see **Karrin Anderson's** summary for the College of Liberal Arts in the right hand column. Thanks to Karrin for allow us to use her article.
- **Kefalas Asks for AG Opinion.** Local Representative John Kefalas has asked the Colorado Attorney General for an updated opinion on the status of arbitration under Colorado Law. Thanks John!

Forum: Academic Freedom

Churchill, Yoo and Academic Freedom Stephen Mumme and Bill Timpson

Earlier this year, AAUP President Carey Nelson addressed the John Yoo controversy at Boalt Hall, UC Berkeley, arguing that "Academic freedom does not protect a law professor from, say, clear evidence that he or she does not understand the law." Yoo, of course, is the author of torture memos at the Justice Department that authorized and condoned water-boarding and other abuses of Post 9/11 detainees by U.S. interrogators. Since these became public, many UC Berkeley faculty

charge, decide what they want, and generally get it. The perspective of "students as customers" is a recipe for bad schooling – not just bad education, but a rejection of education. Students are our charges. It is our responsibility to help them come to know what they did not know, to think about what they'd not thought about, and to do things they could not or would not do before they arrived. It is our responsibility to change our students, to make them better, to equip them for their future. This may mean giving students exactly what they do not want – marked-up papers, bad grades for bad performance, long and difficult reading assignments, harsh criticism of research and experimentation, discomforting perspectives. In academics as in athletics, disagreeable hard work may not be what the "customer" wants, but it is what the "customer" needs. The praise and rewards will come, when earned.

Number Three: Wear out your shoes. Walk the campus, drop in, say hello. Professors, staff members, students – we all like to see our leaders. We want to know that they know that we are here, and that they care. If we think they care, we smile more, bitch less, are more productive. Plus, it's a good career-maintenance technique. And do the same beyond the campus. When members of our community, our alumni, and our political and business folk see our leaders and enjoy their company, they will likewise want to see and enjoy our University, and work with us and for us. So, take a hike; take lots of them.

Number Four: Have a Vice President for Heresy. Or something like that. We all get caught up in routines that can insulate us from the concerns and needs of those beyond our immediate circle, and this can be dangerous and destructive – all the more so for those with overloaded agendas. We all remember circumstances in which naysayers and critics were shown the door. Better to have your critics in the role of canary in the coal mine – better for the President and, even more so, better for the University. The President will have to make choices, but the choices will be improved and the University and public best served when these choices are honed by the experiences and wisdom of others.

Number Five: Remember whose university this is. Colorado State University is (1) a public institution, and (2) a land-grant university. We all work for the public. This is the people's place. As a public institution, we may expect public support, and we must remember for whom we work.

and students have protested his continuing faculty role there. Nelson went on to say that any academic review marshaled against Yoo, however antiseptic and purged of political considerations would nevertheless be “situated on Ward Churchill territory.”

Nelson’s comments, which centered on the issue of professional responsibility and academic integrity raised in the Yoo case, nevertheless invite us to reflect on the academic freedom dimension of these two controversial cases. The AAUP has long championed academic freedom. But what does this mean? In the Churchill case, CU’s decision to dismiss Churchill officially side-stepped the issue of his academic freedom, focusing instead on academic integrity, convinced that the original basis of the Churchill charges, the “Little Eichmanns” essay, fell squarely within the bounds of his protected speech, his academic freedom. In the matter of professor Yoo, there is also a presumption that his speech should be protected provided it does not impugn some minimal test of professor Yoo’s professional competence. Are these two judgments at odds?

Well, not really. The AAUP has long argued that academic freedom is conditional, drawing on the larger philosophical understanding of liberty itself. Academic freedom in the abstract embodies a notion of freedom not predicated exclusively on the absence of any restraint to offering a point of view but incorporates a notion of purposive freedom, where the freedom to advocate or propound a particular view is framed by a disciplinary interest and professional knowledge. In this sense it is tied to our professional work and differs somewhat from the concept of liberty of speech which finds its justification in the importance of debate and individual choice in a democratic society. The two concepts are related, of course. Academic freedom is meant to be enabling, supporting the very education conducive to informed choice in a democratic society. That is its fundamental basis, and its defense. But academic freedom finds more of its justification in “freedom for” than “freedom from.”

In Professor Churchill’s case, his right to publish the Little Eichmanns essay is patently covered by the First Amendment to the U.S. Constitution. At CU his right to propound his views is also protected by academic freedom. His essay editorializes in a manner offensive to some but is clearly interpretative and fits a tradition of contrarian thought long associated with the defensive of minority rights and values that draws on his knowledge of the status and struggles of Native Americans as ethnic minorities in the United States and the World Trade Center’s symbolism as the epicenter of the economic globalization resisted by many third world peoples. In the absence of more restrictive professional norms and

It’s been tough recently, with declining state support and an unfriendly economic environment.

Insofar as we hope to see improvement in financial support for our University and higher education generally, we’ll have to be ever-so respectful of our obligation to serve the Colorado public and let them know that we know that we work for them.

The President must be chief salesman – sell the campus on its responsibilities to serve the collective good, and sell the public on the wisdom and responsibility of providing adequate support.

Number Six: Don’t forget numbers one through five.

Keep our University focused.

Growth can be good, and new ventures may sometimes make sense – but not always. The world is full of friends with grand new ideas, but grand new ideas may take our eye off the ball and come at the expense of core institutional functions. The intellectual foundation of the University is its academic faculty. Without its faculty, the University has no purpose. Students are our primary charge. Without them, we’re a research and development branch of a non-existent company. A dedicated administration and staff are necessary support mechanisms. Without them, we’re in largely empty buildings and without heat and light. We are, collectively, in the game of a unique form of public service, which is to advance the life of the mind in the pursuit of a better future for the public for whom we work. Colorado State University has a new leader. Our future is bright

Arbitration Dialogue at Faculty Council, October 6.

By Dr. Karrin Anderson

Department of Communications Studies

Arbitration: Faculty Council Chair Richard Eykholt reserved time for general discussion of the issue of arbitration as an additional option for faculty who have a grievance. Specifically, he wanted input from members of faculty council regarding whether or not faculty council committee time should be spent examining the issue of arbitration in significant detail. The discussion was not designed to determine whether or not faculty council supported or opposed arbitration. Everyone (including Eykholt) stressed that we do not have enough information to make that determination. The question before council regarded whether or not it was worth significant faculty time/effort/resources to research the issue more fully.

On its face, it may seem harmless to research the

standards within his profession, the discipline of Ethnic Studies, his professional writing is protected, provided there is no clear evidence of deliberate falsification or blatant disregard of established facts. The fact his work straddles both the interpretative arts and the social sciences complicates these judgments, but that is a disciplinary problem for ethnic studies at this point in time, and cannot presently be fairly held against Professor Churchill.

Professor Yoo's case is more complicated. At issue are his torture memos and their effects. As official legal judgments, opinions given authoritative standing by the George W. Bush administration, they are fair game for professional review using strict standards of legal judgment. Even here, some experts are likely to endorse his judgment and legal reasoning, affording a degree of legitimation for his views. Boalt Hall Dean Christopher Edley argues that Yoo cannot be disciplined unless he is found guilty of illegal conduct, a view disputed by the California Chapter of the National Lawyer's Guild. What we see here is a shift in focus from the question of academic freedom as such to the problem of academic integrity, the argument being, as Cary Nelson appropriately put it, that the right to academic freedom may be insufficient to shield Yoo from a charge of a professional lapse in scholarly integrity. Should an impeachment of Yoo's academic integrity fail in court, he will almost certainly retain his academic position and continue to enjoy the privilege of academic freedom.

In each of these cases academic freedom is seen to be conditional, tied to professional norms and standards and one's professional responsibilities and legitimate concerns within the university and in higher education writ large. Academic freedom is no shield from scholarly defamation, dishonesty, or deceit.

It is also important to recognize that disciplines are important in framing the limits of academic freedom but cannot be in charge. The university as whole has an obligation to uphold academic freedom erring on the expansive side of purposive freedom in the absence of compelling evidence to do otherwise—evidence grounded in bedrock disciplinary standards and practices and procedures conducive to intellectual inquiry and innovation. To the extent that disciplines and universities become overly restrictive in setting the boundaries of acceptable professional debate and discussion they are limiting academic freedom and the diversity of views available for thoughtful consideration. And those limits have profound social consequences.

At the end of the day, a defense of academic freedom should always seek to amplify the legitimate zone for discourse and debate while remembering that

topic, however there are two significant barriers that have stopped the process thus far: 1) The state attorney general has ruled that arbitration is, essentially, against the law. 2) The Board of Governors staunchly opposes it.

Speaking in favor of increased attention to arbitration as an alternative option to the grievance process were AAUP president Steve Mumme and Ray Hogler. Ray Hogler explained that State Rep. John Kefalas has asked the state attorney general to reconsider whether or not arbitration is both legally and/or constitutionally prohibited. Also providing information during the discussion were Interim Provost Rick Miranda and Mike Nosler, CSU General Council. Rick Miranda offered possible counterarguments to the benefits of arbitration from an administrative perspective, but he stressed that the administration did not want to squelch discussion of this matter. He was asked to discuss various counterarguments for informational purposes and was not advocating specific action. Similarly, Mike Nosler discussed his understanding of the legal complexities surrounding arbitration.

No decisions were made regarding arbitration at this time. Some people expressed support for waiting for the decision of the state attorney general. If it turns out that arbitration becomes a legally viable option, that might warrant additional faculty council time to research a proposal. Some people expressed interest in pushing for more research and a faculty council position regarding arbitration whether or not the state attorney general changed its ruling. Some people expressed the opinion that if the university's grievance procedure is flawed we should fix that rather than relying on the promise of arbitration as an alternative to the grievance procedure. Richard Eykholt underscored that a campus-wide survey about the grievance procedure will go out soon, and that the Committee on Responsibilities and Standing of Academic Faculty is working on revisions to the grievance procedure independent of any action relating to arbitration.

The discussion concluded with Richard Eykholt urging members of faculty council who have examined the materials distributed with the agenda, and who listened to the various arguments presented during discussion, to provide him with individual feedback on what we think is the appropriate course for faculty council to take with regard to arbitration.

societal acceptance of academic freedom isn't a blank check. As the Churchill and Yoo cases reveal, the contours of academic freedom are always tested against its purposes. Those purposes are shaped by scholars and disciplines individually and in concert as professors engage and discuss ideas within the academy.

The liberties of academic freedom are also shaped by prevailing political sensitivities as the emotionality attached to both mentioned cases so clearly reveals. This is why academic faculty and administrators should always be ready to defend academic freedom when necessary. Just a few years back, at Colorado State, an adjunct professor lost any promise of future employment by so much as criticizing America's mission in Iraq, this in a course designed to provoke critical thinking, and during an after class discussion at that. At the time, few rose to his defense even when the case reached the national blogosphere. We must clearly act thoughtfully in asserting our academic freedom but we must also act forcefully in countering politically motivated threats to that same liberty.

AAUP Chapter contact:

Steve Mumme: smumme@colostate.edu

Phone: 970-491-7428 campus

Phone: 970-472-1322 home