

**Seton Hall University Faculty Senate**  
**Ad Hoc Committee on Academic Freedom**  
**Report on the Status of Academic Freedom at Seton Hall University**

At the beginning of the 2010-2011 term, the Faculty Senate voted to establish an Ad Hoc Committee on Academic Freedom to report on the status of academic freedom at Seton Hall University. This committee succeeds the Special Committee on Academic Freedom established by the Senate in AY 2009-2010. The Senate elected the following individuals to serve on the 2010-2011 committee: Christopher Ciccarino, Colleen Conway, Marta Deyrup, Ellen Mandel, Philip Moreman, Theodora Sirota, and Jeffrey Togman (chair). The committee members have held discussions on these matters, collected information, and written this report on academic freedom.<sup>1</sup>

**Academic Freedom in the Faculty Guide**

The Faculty Guide of Seton Hall University governs academic issues at the South Orange campus, and protects and guarantees the right of all faculty and students to academic freedom. Section 7.1 of the Faculty Guide on Academic Freedom states in relevant part:

- a. All members of the faculty, whether tenured or not, are entitled to academic freedom as set forth in the 1940 "Statement of Principles on Academic Freedom and Tenure" formulated by the Association of American Colleges and the American Association of University Professors.
- b. Academic freedom is essential to the purposes of the university and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in teaching is fundamental for the protection of the rights of the teacher and of the student.
- c. Faculty members are entitled to freedom in discussing their subjects. They should be careful not to introduce into the classroom matter which does not contribute to student understanding of the course for which the faculty member has responsibility.

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<sup>1</sup> The committee notes that this is not a comprehensive report. In particular, we do not have college-by-college data, other than the information which came specifically from the College of Arts and Sciences and from the Immaculate Conception Seminary School of Theology. The committee further notes that these two schools were not investigated or singled out; rather their inclusion reflects their own initiative and the composition of this committee. Finally, the committee notes that some of the data included here is anecdotal.

- d. When faculty members speak or write they are free from university censorship, but their special position in the community imposes special obligations. As scholars and members of the university, they should remember that the public may judge their profession and the university by their remarks. Therefore, they should at all times endeavor to be accurate, to exercise appropriate restraint, and to show respect for the opinions of others. . . .
- e. Faculty members' primary responsibility to their subject(s) is to seek and to state the truth as they see it. They are expected to devote their energy to develop and improve their scholarly competence. They are obligated to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice academic honesty . . . .
- f. As teachers, faculty members encourage the free pursuit of learning in their students and protect student academic freedom. . . .

The 1940 Statement of Principles on Academic Freedom and Tenure, referenced in section 7.1.a, states:

1. Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
2. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.[2] Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.[3]

The notes refer to the 1970 Interpretive Comments to the 1940 Statement, developed by the same bodies and essentially merged with the 1940 Statement to form one document.<sup>2 3</sup> The relevant notes are:

2. The intent of this statement is not to discourage what is “controversial.” Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster. The passage

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<sup>2</sup> The 1970 Interpretive Comments are included in the 1940 Statement document released by the AAUP. 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments, in American Association of University Professors, AAUP Policy Documents & Reports (10<sup>th</sup> ed. 2006), available at <http://www.aaup.org/AAUP/pubsres/policydocs/contents/1940statement.htm> . That document states:

In the thirty years since their promulgation, the principles of the 1940 *Statement* . . . have undergone a substantial amount of refinement. . . . These comments represent the attempt of the two associations, as the original sponsors of the 1940 *Statement*, to formulate the most important of these refinements. Their incorporation here as Interpretive Comments is based upon the premise that the 1940 *Statement* is not a static code but a fundamental document designed to set a framework of norms to guide adaptations to changing times and circumstances.

<sup>3</sup> A member of the committee dissents from this view and believes the 1970 comments are not merged with the 1940 statement. This member take this position because of archival research which indicates, in his opinion, “at no time was the church-related institution clause, integral to Seton Hall’s identity, considered as surpassed by subsequent Faculty Guides.”

serves to underscore the need for teachers to avoid persistently intruding material which has no relation to their subject.

3. Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 *Statement*, and we do not now endorse such a departure.

The rights of faculty to academic freedom in their scholarship and research is further addressed in Article 9.2 of the Faculty Guide, which states in relevant part:

a. The university imposes no limitation on the freedom of the faculty in the choice of fields of inquiry or the dissemination of the results obtained.

b. The university shall accept or administer only those research grants and contracts that clearly retain for the faculty investigators unrestricted control with regard to the manner in which research is carried out and conclusions are reached.

These governing documents not only guarantee academic freedom, they also define it.

Academic freedom means, “When faculty members speak or write they are free from university censorship” (7.1.d). This freedom from university censorship “applies to both teaching and research” (7.1.b). Academic freedom is further defined by the 1940 Statement as “the free search for truth and its free exposition” (AAUP Policy, 10<sup>th</sup> ed., p.3). The 1940 Statement extends academic freedom beyond teaching and research, and applies it to “extramural activities” as well (AAUP Policy, 10<sup>th</sup> ed., p.3). The absolute nature of academic freedom in research is defined in Article 9 of Seton Hall’s Faculty Guide, which states, “The university imposes no limitation on the freedom of the faculty in the choice of fields of inquiry or the dissemination of the results obtained” (9.2.a).

### **Arts and Sciences Survey on Academic Freedom**

During the 2009 – 2010 academic year, the Faculty of the College of Arts & Sciences conducted a Survey on Self-Censorship in Teaching, Research, and Academic Freedom. There were 84 valid responses--enough to get a general sense of what faculty in A&S are thinking. The majority of faculty did not feel that they self-censored their teaching or research, and the majority approved of the state of academic freedom in the college. While this is the case, we should not dismiss the significant percentage

of faculty who did indicate that they self-censored in their research (16.7%) and teaching (38%). Moreover, 37% indicated that they had experienced discrimination in the workplace, although it is not clear that is directly related to academic freedom as such. Similarly, while more than half (58%) ranked the current state of academic freedom on the campus as an 8 or above on a scale of 1-10, 42% gave rankings of 7 or below. The comments included in the survey lend some specificity to the experience of the respondents. (See Appendix A for the complete survey results.)

### **Special Topics Course on the Politics of Gay Marriage**

In the fall of 2010, Professor W. King Mott taught a special topics course on the politics of gay marriage as part of the university's undergraduate curriculum in political science. The president of Seton Hall's Board of Trustees, the Most Reverend John J Myers, was quoted in April of 2010 by the Star Ledger as saying that the course conflicted with the teachings of the Catholic Church, and that the Board of Trustees had asked the Board of Regents to investigate the course.

The course ran and was fully enrolled. Professor Mott reported, "I experienced unwavering support from my academic colleagues including my departmental chairperson, the dean and the provost." Neither Professor Mott, nor the department chairperson, Professor Jeffrey M. Togman, were ever asked to cancel the course by university officials.

However, Professor Mott did receive threatening emails, phone calls, and letters. Anti-homosexual blogs and websites posted his name, his home address, his telephone number, and his email address.

### **Academic Freedom in the Immaculate Conception Seminary School of Theology**

The Immaculate Seminary School of Theology is not covered by Article 7.1 of the Faculty Guide,

which guarantees academic freedom on the South Orange campus.<sup>4</sup> However, the subject of academic freedom is treated in the Faculty Guide of Immaculate Conception Seminary School of Theology (cf. art 7.2 a-h). Within the general academic discipline of theology, the Immaculate Conception Seminary School of Theology subscribes to the Statement on Academic Freedom adopted by the Association of Theological Schools of the United States and Canada (“Faculty Guide of Immaculate Conception Seminary School of Theology” 7.2.b).

All who teach theology within the Seminary School of Theology must request a mandate to do so from the Archbishop of Newark. The mandatum is defined as “an acknowledgement by Church authority that a Catholic professor of a theological discipline is a teacher within the full communion of the Catholic Church... [It] recognizes the professor’s commitment and responsibility to teach authentic Catholic doctrine and to refrain from putting forth as Catholic teaching anything contrary to the Church’s magisterium” (“Norms on the Application of *Ex Corde Ecclesiae* in the United States” 4.4.e.i; iii). The need to request and receive the mandatum is clearly stated in writing in the hiring process for all new faculty members.

In the final academic faculty meeting of the Seminary School of Theology of the fall semester of 2010, the question of whether or not the faculty and students of the Seminary School of Theology enjoy academic freedom was placed on the agenda and discussed. The faculty of the Seminary School of Theology unanimously agreed that they have the benefit of full and authentic academic freedom in teaching and research in their areas of scholarly competence. While this discussion and agreement took place in open discussion, opportunity was also provided for faculty members to express views privately or anonymously, should they so choose. None did.

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<sup>4</sup> Nor is the School of Health and Medical Sciences, or the School of Law.

During the discussion, the Seminary Faculty stated that both the Faculty Senate and the ad hoc Committee have declined to articulate a definition of what is meant by the term “academic freedom” here at Seton Hall. Several faculty members expressed concern over this lack of a definition of what is meant by “academic freedom” at a Catholic university in general and Seton Hall University in particular.

Thereafter the subject of academic freedom was brought up to the chair of the student association of the Immaculate Conception Seminary School of Theology. The chair stated that, in his opinion, the students believe that they too enjoyed authentic academic freedom in their studies. He then submitted this matter to the officers of the student association for discussion. He reported that they too agreed unanimously that authentic academic freedom is fully enjoyed by the students of the Seminary School of Theology. However, in their discussion, undergraduate Theology majors reported instances, in each academic year since the Theology degree began, of anti-Catholicism in classes which they took outside of the Immaculate Conception Seminary School of Theology. The chair of the student association of the Seminary School of Theology specifically requested that these experiences be noted, and stated he considered them to be an abuse of academic freedom.

### **Academic Freedom for Students**

The Faculty Guide protects the academic freedom of students at Seton Hall University. In part, this is the right of students to be taught by faculty who enjoy academic freedom (7.1.b). Furthermore, students themselves are entitled to “the free pursuit of learning” (7.1.f). Members of the faculty “protect student academic freedom” (7.1.f).

The committee contacted both the Student Government Association (SGA) and the Setonian for student views and experiences. The SGA president, Melissa Boege, replied, “I am not very familiar with the issue of academic freedom on campus, and to my knowledge, SGA has not been approached in recent years with concerns of this nature.”

The editorial staff of Vol. 87 of *The Setonian* stated that it viewed academic freedom as a “very newsworthy topic.” They also stated that they saw the core curriculum as raising issues of academic freedom. Some expressed that the core courses were taught “too conservatively,” while others said their experience was “more liberal.” The editorial board also recognizes “the position of the University as Catholic and conservative,” and it recognizes “the challenges and difficulties this may pose” to students at Seton Hall. The *Setonian* is committed to covering these issues from “an objective point of view.”

### **Academic Freedom in Research**

The committee made inquiries to faculty assemblies and associations in the various schools and colleges, and informal conversations were held with individual members of the faculty. In general, many faculty reported that the academic deans are supportive of academic freedom in research. However, there was one report that a dean requested that a faculty member’s research proposal be reviewed by the Office of Mission and Ministry. It was reported that the dean in this case rescinded that request after objections from the faculty member.

Several members of the faculty reported that their research was restricted or rejected by the IRB. The IRB objected in various instances to the topics of research, the populations to be studied, and the use of methodological instruments. Faculty reported these restrictions and rejections extended to student proposals as well. Some stated that the rejections were arbitrary and capricious. Others stated that well-known and valid psychosocial measurements were rejected because of items related to sexuality in the instruments. Several faculty reported that they believed that the IRB was censoring research on the basis of religious “correctness.” Some reported self-censoring their research in anticipation of IRB opposition. Other members of the faculty reported that the Office of Grants and

Research questioned faculty about research that it deemed “inappropriate” in light of the Catholic mission of the university.

### **Conclusions and Recommendations**

The majority of the committee finds that academic freedom is clearly defined in, and strongly defended by, the Faculty Guide. The fact that it is codified in the Faculty Guide, a document that cannot be altered without the consent of the Faculty Senate, provides further assurances that faculty and students are entitled to academic freedom, and are free from censorship. Since, as noted in this report, the governing statements on academic freedom are spread across at least two articles of the Faculty Guide, and a separate statement issued by the AAUP, the committee understands why some might believe Seton Hall does not have a clear definition of academic freedom. It is the hope of this committee that this report, by bringing together these strands, has helped crystallize the governing definition of academic freedom as it exists at Seton Hall.

However, the committee is concerned that Seton Hall might have both a culture and a set of institutional practices that have a chilling effect on faculty and students alike, and inhibit the free exchange of ideas. The committee is very concerned that 38% of faculty in the College of Arts and Sciences reported self-censoring their teaching, and 16.7% reported self-censoring their research. The committee is also concerned by the anecdotal accounts that the IRB might in some instances exceed its mandate to assure the safety of research subjects in a way that violates academic freedom. The committee is not in a position to verify or falsify these claims at this time. The committee recommends that the Faculty Senate look into this issue in the immediate future.

In order to promote a culture of true academic freedom where ideas are authentically expressed, and in fact compete openly, leadership is needed from many quarters. First and foremost,



the Provost and the Academic Deans need to make clear that Seton Hall is an intellectual community where faculty and students alike enjoy academic freedom. The committee recommends that the faculty, through the Faculty Senate, make clear its expectation that individual holders of academic leadership posts express their unwavering support for academic freedom, and act accordingly.

Finally, the committee believes that academic freedom and the Catholic mission of Seton Hall are not mutually exclusive. Indeed, in the fall 2011 semester Seton Hall is scheduled to offer both the course on the politics of gay marriage and a course on the theology of marriage taught by a tenured member of the faculty who is a Catholic Priest with a mandatum. The committee urges the university at large to embrace its identity as a Catholic University where faculty and students enjoy academic freedom, and that the academic leadership of the university clearly promote this vision of Seton Hall University.