

**GENERAL UNIVERSITY POLICY COMMITTEE**  
**Responses to USC Proposed Amendments to ST-83**

October 25, 2024

As requested from the SP Committee Chair, David Dalpiaz, in their September 19, 2024 email to the General University Policy Committee Chair, Joanne Kaczmarek, this document provides further input and recommendations on the proposed *Statutes* revisions known as ST-83 which was transmitted by USC to the three University Senates and simultaneously to the president on August 27, 2024. Below we provide the GP's further input and proposed modifications to the proposed *Statutes* revisions.

**General Comments:**

The process by which GP gathered further input on the proposed *Statutes* revisions involved in-person deliberations that occurred during the October 9<sup>th</sup> GP Committee meeting, after which committee members communicated individually with the Committee Chair. Due to the timing of meetings and the need to get GP's input shared with SP and SEC in time for the November 11<sup>th</sup> Senate meeting, not all members of GP have had the opportunity to thoroughly review all documents and provide thoughtful input.

One member of the Committee communicated individually to the Committee Chair to indicate their support for retaining the term "academic staff" throughout the *Statutes*:

*"I support retaining "academic staff," an option endorsed by UIC and UIUC via separate communications to USC, one with amendments and one fully rejecting ST-83. I am not familiar with the UIS position (though there are two senates concurring). The term has been interpreted since 1944 without known concerns. Additionally, the Academic Freedom expressed in Article X is through an individual's employment. Students enjoy academic freedom as student learners, but it is likely any violation would go to the Office of Student Conflict Resolution. Student graduate employees (assistants) are protected via Article IX, Section 3, c, of the current Statutes. This is another reason to retain academic staff, even if only in Articles IX and X. Notably, there likely will be graduate student employee who will teach outside their "scholarly expertise, " as part of their [faculty] duties and responsibilities."*

**I. Definition of faculty**

We support the expansion of the definition of faculty proposed in Article II, Section 1 of ST-83 and its proposed amendments, intended to broaden the current *Statutes* ' definition of "faculty" which is limited to the tenure-stream faculty category only.

ST-83 and its amendments do not propose to change any of the current *Statutes* ' differentiation of responsibilities and rights granted to various categories of faculty. Deliberating such a significant change to existing policies would require careful consideration and extensive

discussion, which would go beyond the scope of ST-83 and the August 2024 amendments proposed by USC.

We would not support a wholesale rejection of all of the August 2024 amendments to ST-83, among other reasons because the result would be to maintain the current exclusion of the non-tenure-track (specialized) faculty category from the definition of faculty in the *Statutes*.

## **II. Amended wording of Article X, Section 6, Academic Freedom subsections (a) and (b)**

The Committee on General University Policy has carefully considered the implications of the amended wording of Article X, Section 6, subsections (a) and (b). GP advises the President and the Board to consider modifying three aspects of the wording proposed by USC:

[Discussed 10/9/24]

1. We support the USC amendment's emphasis on activities that require the protections afforded by academic freedom policies, as opposed to categories of employees who are covered by them. However, the specification of "faculty and academic professionals" might unintentionally exclude some individuals whose university responsibilities are centrally involved with the protected activities of "inquiry, discourse, teaching, research, and publication." Postdoctoral fellows, for example, might reasonably be considered covered by academic freedom policies, but they are not classified as academic professionals. Rather than to try to expand the list of covered categories of employment in ways that might prove unworkable in the future, we propose modifying the phrase specifying those that may be covered from "faculty and academic professionals" to "faculty, academic professionals, and other individuals".

[Discussed 10/9/24]

2. While the reference to the term "employment" might seem uncontroversial in Article X, Section 4, its use also entails the risk of inadvertently omitting certain members of the university community whose university responsibilities fall squarely within the activities enumerated in subsection (a), but who are technically not employed by the university. For example, a college may confer zero-time, unpaid "clinical" appointments to members of the profession, such as in the Carle-Illinois College of Medicine. When these individuals exercise their responsibilities within the activities specified ("inquiry, discourse, teaching, research, and publication"), they should be covered by the university's academic freedom policy. For that reason, we advise substituting "employment" with "responsibilities."
3. Regarding USC's proposed amendment changing the word "interest" to "expertise": In response to some colleagues' publicly expressed opposition to the use of the term "expertise," we examined policy documents on academic freedom published by the American Association of University Professors (AAUP), the national organization historically associated with the development of the concept of academic freedom and its defense. We found that the AAUP invokes the concept of "expertise" repeatedly in its documents on

academic freedom, either using that same word or an analogous phrase, such as “expert knowledge” (see appendix). Nevertheless, we understand that a narrow interpretation of the word “expertise” may lead some colleagues to fear that its use in the *Statutes* may result in a narrow application of academic freedom protections.

On the other hand, we find the current term “area of scholarly interest” to be so broad that it eliminates the AAUP’s original intention of the concept of academic freedom and the assumption that it applies specifically to activities related to research or teaching *within one’s academic field*: “Academic freedom is the freedom of a teacher or researcher in higher education to investigate and discuss the issues *in his or her academic field*, and to teach or publish findings without interference from political figures, boards of trustees, donors, or other entities” (our emphasis). We therefore support the deletion of the phrase “area of scholarly interest,” and propose that “areas of expertise, teaching, or scholarly research” be used in its place.

4. For greater clarity, we also advise the President and the Board to consider a stylistic amendment to the phrase “full freedom within the law of inquiry, discourse, teaching, and publication.” As it stands currently, “within the law of inquiry” suggests that there is such a thing as a “law of inquiry.” Our interpretation is that “within the law” is meant to modify “freedom,” rather than “inquiry.” We are proposing a restructuring of the sentence to make this clarification.

#### PROPOSED MODIFICATIONS:

a. It is the policy of the University of Illinois System to maintain and encourage full freedom ~~within the law~~ of inquiry, discourse, teaching, research, and publication insofar as it is permitted by law, and to protect all faculty, academic professionals, and other individuals ~~academic professionals~~ engaged in such activities, as part of their university ~~employment~~ responsibilities against influences, from within or without the University of Illinois System, that would restrict the individual’s exercise of these freedoms in the individual’s areas of expertise, teaching, or scholarly research. ~~area of scholarly expertise~~ Academic freedom includes the right to discuss and present scholarly opinions and conclusions both in and outside the classroom. The right to the protection of the University of Illinois System shall not, however, include any right to the services of the University of Illinois System counsel or the counsel’s assistants in any governmental or judicial proceedings in which the academic freedom of the individual may be in issue.

b. ~~Faculty and academic professionals~~ Faculty, academic professionals, and other individuals referred to in Article X, Section 6 (a) who believe that they do not enjoy the academic freedom that it is the policy of the University of Illinois System to maintain and encourage shall be entitled to a hearing on written request before the Committee on Academic Freedom and Tenure of the appropriate university senate. Such hearing shall be conducted in accordance with the rules of procedure established by the Committee. The Committee shall make findings of facts and recommendations to the president and, at its discretion, may make an appropriate report to the senate.

## APPENDIX

### “Expertise” and Academic Freedom: Excerpts from AAUP Documents

#### *AAUP definition of academic freedom:*

<https://www.aaup.org/programs/academic-freedom/faqs-academic-freedom#:~:text=According%20to%20AAUP%20policies%2C%20the,faculty%20members%20are%20individually%20responsible.>

“Academic freedom is the freedom of a teacher or researcher in higher education to investigate and discuss the issues **in his or her academic field**, and to teach or publish findings without interference from political figures, boards of trustees, donors, or other entities. :

“According to AAUP policies, the freedom to teach includes the right of the faculty to select the materials, determine the approach to the subject, make the assignments, and assess student academic performance in teaching activities for which faculty members are individually responsible.

“According to AAUP policies, faculty are entitled to full freedom in research and in the publication of the results.

#### **“Who has academic freedom? Is it an unlimited right?”**

Academic freedom in the AAUP’s definition applies to faculty members; it is a professional right extended to members of the profession and is subject to certain limitations. Academic freedom means that faculty are free to engage in the professionally competent forms of inquiry and teaching that are necessary for the purposes of the university. It does not mean that individual faculty members are free to teach or publish whatever they want without repercussions.

#### **“What’s the difference between academic freedom and free speech?”**

Although academic freedom in the United States receives some protection—at public universities—from the First Amendment, free speech is not a good model for understanding academic freedom because

- “The First Amendment is premised on an “equality of status in the field of ideas.” All expressions are given equal protection under the law.
- **“Academic knowledge is premised on an inequality of status between differing ideas.** Faculty members routinely reject certain ideas as lesser than others, and train their students to do the same. Without this process of designating certain ideas as less worthy than others, knowledge would not progress.

- “Academic freedom does not protect some speech that may be protected by the First Amendment—for example, that which manifests disciplinary incompetence.
- “First Amendment rights are focused on the individual.
- “Academic freedom rights are regulated by the collective--peers determine what constitutes disciplinary competence.”

A few references to expertise (or “expert knowledge”) in AAUP documents on academic freedom:

### 1. AAUP Core Principles

<https://aaupuc.org/resources/aaup-core-principles/>

“In addition, academic freedom does not mean that faculty are completely free to teach whatever they like in any manner they like. The existence and authority of department curriculum committees are consistent with academic freedom. The key is that **faculty who are experts in the field** have the primary authority, as a group, to set academic standards and curricular plans. (See AAUP-UC contract, Article 27.2)”

### 2. AAUP Committee A, “In Defense of Knowledge and Higher Education”

<https://www.aaup.org/news/attacks-expert-knowledge-and-higher-ed-institutions-threaten-american-democracy>

AAUP website, January 2020

“**Expert knowledge** is a process of constant exploration, revision, and adjudication. Expert knowledge, and the procedures by which it is produced, are subject to endless reexamination and reevaluation. It is this process of self-questioning that justifies society’s reliance on expert knowledge.” (p. 3).

“The AAUP has recently reported on the assault on science and technology, as has the Union of Concerned Scientists. Both organizations document what one journalist has called ‘an all-out war on science.’ The war has taken many forms: shutting out **scientific expertise** from decision-making. . .” etc. (p. 2).

“ Knowledge comes in different forms. . . the social sciences and humanities, as John Dewey described them, offer interpretive, evidence-based readings of social structures, of cultural patterns of differentiation, of the construction of art and literature. For that reason, ‘what counts as knowledge’ may be ‘far more controversial’ in these areas of inquiry, but **its advancement is no less dependent on expertise.**” (p. 3).

“The faith that American higher education produces expert knowledge that benefits the entire society has diminished. Indeed, the unequal and unfair distribution of educational opportunity may well have played a significant role in **making expertise appear more like a privilege of the wealthy and an expression of their interests** than a disinterested contribution to the public good.” (p. 5)

3. **Hank Reichman, “[The Foundations of Academic Freedom](#),” *Academe: The Blog of Academe Magazine*, May 28, 2024 [Academe is published by the AAUP]**

From Reichman’s keynote address to the International Symposium “Academic Freedom in the Twenty-First Century,” Stockholm, May 15, 2024.

“In 2023, for example, the state of North Carolina enacted a law declaring that all University of North Carolina campuses ‘shall remain neutral, as an institution, on the political controversies of the day.’ In Indiana, a 2024 law requires that public colleges “must limit the circumstances in which an employee or group of employees from the institution may establish an official institution, school, college, or department position on political, moral, or ideological issues to only those circumstances that affect the core mission of the institution and its values of free inquiry, free expression, and intellectual diversity.” Such laws could render the academic community all but defenseless in the face of external assault when political actors embrace positions that undermine **faculty expertise and knowledge.**”

4. **Keith E. Whittington, “[Academic Freedom and the Scope of Protections for Extramural Speech](#),” *Academe*, winter 2019 [Academe is published by the AAUP]:**

Former Yale Law School dean Robert Post . . . noted that “universities are essential institutions for the creation of **disciplinary knowledge**, and such knowledge is produced by discriminating between good and bad ideas.” Securing the right of free speech generally requires emphasizing our inability, or unwillingness, to distinguish between good and bad ideas. Academic freedom, by contrast, incorporates within itself the effort of a scholarly discipline to filter out bad ideas. Knowledge produced within a scholarly setting is routinely vetted, assessed, and, if necessary, censored. **The scholars who emerge through that process can boast credentials that vouch for their expertise within their chosen discipline, and on the basis of that expertise they in turn can demand autonomy to operate within the bounds of professional norms.** That claim to specialized knowledge justifies the insistence of scholars that nonspecialist administrators, trustees, or politicians not interfere with their choices about what or how to teach or the direction of their scholarly inquiries. In short, as Matthew Finkin and Robert Post concluded in their 2009 study of the work of the AAUP’s Committee A on Academic Freedom and Tenure, “academic freedom establishes the liberty necessary to advance knowledge,” with the understanding that knowledge is best advanced not through the complete freedom to utter every passing thought but through the rigorous and **disciplined application of scholarly modes of inquiry appropriate to particular areas of study.**”