

Educational Technology and Academic Freedom

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The Statement of Principles on Academic Freedom and Tenure issued in 1940 and jointly developed by the Association of American Colleges and the American Association of University Professors (AAUP) states that, "Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition" (Special Committee on Distance Education and Intellectual Property Issues 1999, pg. 43). From this it should be clear that academic freedom does not guarantee to sustain the proliferation of the profession of the university professor, nor does it guarantee the right of faculty to a job. However, we must not imagine that money and employment are irrelevant to the question of academic freedom. Academic freedom protects the job of the tenured faculty member against those who might fire her for her opinions or research. Hence, academic freedom provides a level of financial security to the tenured faculty member. Why? Academic freedom does not protect the scholar or researcher from removal for her opinions or discoveries, because once the discoveries have been made, the common benefit would be realized. Protecting the individual's job after the discovery would merely be a matter of furthering the interest of the individual. Rather, the researcher is protected by academic freedom for what she may discover in the future that will bear upon the common good. Hence, academic freedom protects the potential for discovery by sustaining a large body of scholars and scientists free to pursue (through research and teaching) the truth of their disciplines. The assumption built into the principle of academic freedom is that financial security will embolden researchers and scholars to seek the truth, because they need not fear financial injury as a result of unpopular findings. Conversely, the absence of security will prove injurious to the quest for truth and its free exposition.

Most of the discussion concerning academic freedom and distance learning to date has focused on the ownership of intellectual materials that are to be distributed over the Internet. David Noble, Professor of History at York University and outspoken critic of distance learning, and the AAUP have independently identified copyright as the central issue in the development of distance education programs. While this is a concern, I believe that it fails to

acknowledge the real danger posed by distance learning, a misunderstanding brought about by the wrong approach towards distance educational technology.

I will argue that educational technologies, specifically asynchronous, on-line distance learning, are being used in ways that pose a significant danger to the professorate as a whole, and hence academic freedom. I define asynchronous distance learning as pre-recorded lectures or learning materials. Asynchronous distance learning is distinct from synchronous distance learning, which is remote learning with students viewing the professor over a live feed.

My thesis is that the financial benefit realized by employing asynchronous distance learning does not justify risking the common benefit derived from academic freedom. My argument has three parts. First, asynchronous distance learning is being used fundamentally as an economic tool, rather than as a teaching tool. Second, the financial benefit of distance learning is gained by replacing the faculty with technology. Third, by eliminating the faculty, or transforming a significant portion of the existing faculty into facilitators, asynchronous, on-line distance learning will weaken the profession of university professors, weaken academic freedom and hence pose a threat to the common good.

Before I develop my thesis, I will demonstrate why the concerns over copyright are secondary to concerns over changing the role of the faculty.

Section I: Copyright

In the spring of 1999, the Special Committee on Distance Education and Intellectual Property Issues of the AAUP issued a bulletin describing recommendations to protect the rights of university faculty members in the face of the development of distance learning. The bulletin focused on two issues. The first addressed copyright laws as they relate to the development of on-line materials. The second addressed distance learning and the development of distance courses and curriculum. We can summarize the AAUP's position in four points:

- (1) That the faculty should be vigilant to ensure that their intellectual property is protected.
- (2) That the precise terms and conditions of employment should be stated in writing before the teacher takes on distance learning assignments, and

no faculty member should be required to participate in distance learning projects without appropriate training.

(3) That faculty maintain authority over the policies and procedures of distance learning courses and curriculum.

(4) That faculty engaged in distance learning are entitled to academic freedom as a teacher, researcher and citizen (1999, pg. 41-43).

With regards to number one, working out the copyright issues mentioned in the bulletin has turned out to be a mere detail in the development of online course materials. While the AAUP has correctly noted that faculty should be vigilant to ensure that their intellectual property is protected, there is no indication that in the development of on-line course materials, universities are seeking to sell what is not rightly their own. Instead, universities are generally having on-line materials developed as part of the institutional duty, as in the case of NOVA Southeastern University, or as a work for hire, as in the case of the University System of Georgia. At NOVA Southeastern University, faculty must be trained in the use and development of web-based courses as a minimum requirement for employment. The University System of Georgia is developing its on-line courses by establishing small teams of professors who are chosen by the General Education Committee, given release time and financial compensation:

Institutions were provided \$5000 for each faculty member on a team. Of that \$5000, \$3000 was expected to go towards the hiring of a person to teach one course so that the faculty member would be released from that responsibility to work on the e-core; \$2000 was to cover travel costs and any supplies that assisted the faculty member in this effort (Biesinger 2000).

Dr. Kris Biesinger, of the University System of Georgia Board of Regents explains that, "In the call for participation [of faculty in the development of on-line courses] and again in the contract, it was made clear that the course product would be owned by the Board of Regents" (2000). These actions by the University System of Georgia and NOVA Southeastern University transform the product of those faculty members into 'works for hire' and 'joint works,' eliminating the faculty member's ownership of the product.

David Noble has pointed out that, "Universities throughout North America are currently in the process of trying to subvert the intentions of the authors of our copyright law through claims that the university owns course

material, that what faculty produce is “work for hire,” and the like. This is happening everywhere” (Noble 2000).¹ He then points out that, “Without a clear and definitive assertion of the copyright claims by faculty, the universities will usurp such rights by default” (Noble 2000). Similarly, the AAUP bulletin recognizes that, “Works created as a specific requirement of employment or as an assigned institutional duty that may, for example, be included in a written job description or an employment agreement, may be fairly deemed works made for hire,” and hence owned by the institution (Special Committee 1999, pg. 44). Noble and the AAUP rightly recognize the pivotal role of copyright in the development of distance learning courses that improve the profit margins for universities. Unfortunately, the University System of Georgia and NOVA Southeastern illustrate that public and private institutions have already taken steps to ensure that they will maintain the copyright of all materials. In order to reverse this trend, the faculty could conceivably strike and demand that ‘work for hire’ end with regard to the development of on-line courses, but such a response seems unlikely. Even if faculty refused to participate in the development of on-line courses, the private sector is already developing courses. Universities can purchase on-line courses from those private vendors, making any faculty demand for copyright protection irrelevant. The focus on copyright leaves the faculty with very few options in resisting developments in distance learning.

As we shall see, recommendations number two and three (concerning faculty contracts, training and authority over the curriculum) turn out to be irrelevant. Only recommendation number three, suggesting that faculty engaged in distance learning maintain their academic freedom, accurately identifies the danger posed by distance learning. But the AAUP bulletin fails to appreciate the way in which distance learning threatens academic freedom. To fully appreciate the danger we must understand how asynchronous distance learning may alter the role of the faculty.

Section II: The Economics of Distance Learning

Sir John Daniel, self-appointed champion of distance learning and Vice Chancellor of the Open University (England’s largest distance learning university), describes distance learning as, “the offering of educational programs designed to facilitate a learning strategy which does not depend on day-to-day

¹ For transcript:

<http://distancelearn.about.com/education/distancelearn/gi/dynamic/offsite.htm?site=http://www.chronicle.com/colloquylive/transcripts/2000/03/20000330noble.htm>

contact teaching but makes the best use of the potential of students to study on their own” (Daniel 1997, pg. 5).² In the 1970's, the Open University exploited television to transmit its curriculum. Now, the popularity of the Internet has university administrators hoping to cash in on a new academic market by offering courses to people who might not have easy access to the traditional classrooms, due to work schedules, child care, financial limitations or health care concerns. We call these people non-traditional students. But distance learning is not merely a tool to reach non-traditional students. Distance learning is being deployed by universities to increase enrollments while decreasing costs.

Sir John clarifies the grand purpose of distance learning when he explains that American universities are in a crisis of quality and cost. By this he means that in the United States a high quality education is very expensive and distance learning is the way to reduce the expense. He cites a *USA Today* article indicating that the cost of sending a child to college in the United States is approaching 15% of the median family income and rising. (1997 pg. 3). Sir John suggests that the reason our colleges are so expensive is that the American system of higher education is teacher oriented rather than student oriented. What he means by teacher oriented is that teachers make the decisions about higher education, and they naturally resist replacing themselves with machines. “The academic tradition esteems faculty for who they are, not for what they produce. This means that [faculty] instinctively resist the substitution of capital for labor” (1997, pg. 33). Sir John illustrates the cost effectiveness of substituting capital for faculty by pointing out that in the United States our universities spend on average \$12,500 per student per year. The Open University (which has made the substitution) spends closer to \$5000 per student (1997, pg. 4).

Despite Sir John's enthusiasm, these figures inaccurately represent the financial benefit that asynchronous distance learning offers. First of all, the national average in the United States includes major research institutions that spend a significant portion of their budget on research. As the Open University is not a research institution, it is unfair to compare its average cost per student per year to the average cost in the United States that includes research institutions. Second, it is not at all clear that universities in the US can replicate what the Open University has done. The failure of Western Governors Association and the California Virtual University is evidence that distance learning programs are not guaranteed financial winners (Berg 1998).³

² <http://acs-info.open.ac.uk/OU/News/VC/aahe.html>

³ <http://olam.ed.asu.edu/epaa/v6n11.html>

Section III: Replacing Faculty with Technology Improves Profit Margins

The advantage of distance learning is exactly the same advantage as that gained by allowing 600 students into a freshman Biology class, or when we allow the adjunct faculty to teach classes. The university collects more on tuition money (and state revenue) and pays out less in salaries. In the for-profit sector, this is called increased profit margins. Andrew Feenberg, who worked on the design team that created the first online educational program in 1981, says of distance learning that, "it's all about efficiency and, ultimately money. And there is plenty of it for high tech approaches to education, if not to staff the French department" (Feenberg 1999, pg. 5). These high tech approaches to education improve efficiency in the simplest manner. By replacing labor with technology, they reduce the labor force. But asynchronous, on-line distance learning is unique in its labor-saving character in two ways. First, asynchronous distance learning requires minimal labor. Unlike synchronous distance learning, where students view the professor over a live feed and may interact with that professor in real time via video conferencing technology, in asynchronous distance learning, the lectures are recorded. Having developed the course, the faculty developer need no longer be present. Second, on-line courses are not physically limited to the size of a lecture hall. Hence, thousands of students may simultaneously enroll in a single course. Sir John points out that the asynchronous delivery system provides greater economies of scale and he is critical of American's efforts at synchronous, or remote-group, teaching because it is less cost effective: "The individual learning tradition of distance education has much more to offer, in terms of wider access, lower cost, and greater flexibility, than remote-group teaching" (Daniel 1997, pg. 6).

It is no coincidence that the for-profit University of Phoenix has made expansion of its on-line course offerings its number one priority (Bishop 1999, pg. 93). Founder of the University of Phoenix, Gene Sperling explains that for higher education to be profitable, it must rely upon standardization. "Name me one industry, one single industry, where somebody was successful without standardizing his product" (Sperling 1999, pg. 92). The best way to achieve this standardization is through asynchronous distance learning. Sperling looks to Henry Ford for his inspiration, but he may as well look to Sir John. Sir John explains, "we will aggravate the crisis [of cost] if our approach to new technology is simply to let individual faculty members and departments do their own thing" (Daniel 1997, pg. 2). Instead, Sir John recommends that, "this

approach needs to be taken on by the whole university if it is to help resolve the crisis” (1997, pg. 8). Asynchronous distance learning allows for maximal standardization by replacing a department with a couple of on-line course developers and a handful of adjuncts or facilitators to grade papers and exams. Steffan Heuer, a German journalist who covers the technology industry, explains the economics of asynchronous distance learning further in an article on the for-profit universities in the United States,

Teaching a course online gives you economies of scale which are usually only to be found at software vendors. Distribution over an existing network is almost free, no matter how many users are in the virtual classroom – behold the miracle of increasing returns in education, a profession that once prided itself on a low teacher-student ratio. Paying for famous professors to give their name and seal of approval to a course and its curriculum is now a one-time cost. The .edu-enterprise can save overhead for real estate and tenured faculty; online teaching and tutoring can be done by assistants and qualified temps anywhere in the world from a simple laptop with a modem (Heuer 1999, pg. 93).⁴

Andrew Feenberg reiterates this concern and explains that what remains are a few highly paid, content experts acting as stars (Feenberg 1999, pg.8). The rest of the faculty enjoys little more than adjunct responsibilities and privileges.

We can see this in the University System of Georgia’s (USG) plan to develop distance learning courses. The plan is to have the entire first two years of university curriculum available over the Internet by the Fall of 2000, and complete degree programs in all the traditional disciplines by 2002. The USG has already standardized the core curriculum over the 34 state universities. In developing on-line core curriculum courses, the USG Board of Regents selects faculty members (approximately eight per course) from throughout the state university system to construct each core course. Once constructed, each state university will have the option of accepting the e-core courses or not. If

⁴ Original German Text: In Online-Kursen können Inhalte einmal produziert und dann fertig verpackt beliebig oft angeboten werden - ein Prinzip, das die Software-Industrie schon längst nutzt. Und so wie bei Computerprogrammen ist auch bei den Bildungseinheiten im Netz die Verteilung beinahe gratis. Das Wunder der zunehmenden Grenzerträge gilt plötzlich auch für die Bildung. Die Honorare für namhafte Akademiker, die einen Kurs absegnen und ihren Namen zum Marketing hergeben, fallen nur einmal an. Das Bildungsunternehmen spart das Geld für Immobilien und Lehrpersonal, die Online-Betreuung Können Teilzeitkräfte irgendwo in der Welt am Notebook erledigen.

accepted, the university will offer the e-core courses exactly the same way they offer traditional courses. There will be a designated instructor/facilitator for each course, and students will submit assignments to that instructor for evaluation. The only difference is that the students will not interact with the instructor, but instead with the on-line course.⁵

Returning to the question of copyright in Section I, we see that the University System of Georgia's strategy for developing on-line courses will mean that the vast majority of the faculty will never need to concern themselves over copyright issues because the vast majority of the faculty will not participate in the development of on-line courses. Only a select few will be invited to do so.

Worry over the instructor's contract, as expressed in the number two of the AAUP bulletin, is insignificant since only the 'stars' will have anything to do with the development of the e-core. Similarly, training in the development of on-line courses is irrelevant. So long as the instructor can operate e-mail to communicate assignments and collect those assignments from her mailbox, the vast majority of faculty should need no special training.

Faculty authority over procedures and policies, in number three, is guaranteed. The e-core developers will be faculty members, hence the faculty will still have control over the curriculum as per the recommendations of the AAUP. Meanwhile the facilitators will do little more than decide due dates for assignments.

Concerning number four, academic freedom, the developers of the e-core should maintain some freedom. Their contribution to the e-core will be limited only by other 'star' faculty members and the USG Board of Regents' General Education Committee that will review all materials. The Board of Regents' General Education Committee decides whether or not developed courses will be part of the e-core. This review process creates a mechanism by which the academic freedom of the 'star' faculty may be in jeopardy. While academic

⁵ In the Fall of 2000 the Board plans to offer 6 courses taught, each taught by one of the course developers. These courses will be offered at Floyd, Columbus, Clayton, West Georgia and Valdosta State. The courses will be capped at 22 students per course. In order to assure academic honesty, students will take proctored exams at designated locations. The general misunderstanding of the deployment of distance learning is illustrated by the administration at Savannah State University. Faculty members are regularly encouraged to get involved in distance learning. Due to state-wide standardization, involvement only occurs if you are selected to be one of the e-core developers, or if you are chosen to facilitate an e-course.

freedom generally allows the faculty the freedom to create courses true to their discipline, the General Education Committee may be motivated by concerns of marketability or public approval of course content. Nonetheless, this review process is not an essential component of the development of on-line courses, so I do not believe that it represents the primary danger to academic freedom posed by distance learning.

Section IV: Academic Freedom and the Common Good

The question then is, how would the expansion of asynchronous distance learning impact academic freedom? The danger is not that distance learning technology requires the abolition of academic freedom, nor is the danger posed by distance learning technology unique. Academic freedom is under assault on a wide front. The danger of asynchronous distance learning is that the favored use of the technology, to increase profit margins, will significantly hasten the decay of freedoms currently enjoyed by many faculty members in the non-profit institutions. To illustrate the impact of distance learning on academic freedom I will look specifically at the University System of Georgia.

First, if successful, the on-line curriculum will destroy the academic freedom of the facilitators. The University System of Georgia distance learning curriculum is being modeled largely on the Open University (Sir John spoke at the Board of Regents meeting on April 12, 1999, to convince them of the financial advantages of distance learning). He also pointed out to the board at that time that while the Open University has over 150,000 students, they employ only 800 full time faculty, and 7600 adjunct faculty who function as facilitators and graders (Daniel 1999).⁶ Like the adjuncts at the Open University, the facilitator faculty has no academic freedom regarding the courses they facilitate. The course material will be standardized across the University System of Georgia.

Furthermore, their freedom with regards to research may be in jeopardy, based on the model of the Open University. As the role of faculty becomes more akin to that adjunct faculty, there is no reason to believe that they will continue to enjoy the privilege of academic freedom. I suppose university administrators could use distance learning to free up their faculty for research, but my fear is that a reduction in professional responsibility will lead to a reduction in professional autonomy, rather than an increase. Based upon the Open University

⁶ <http://www.peachnet.edu/admin/regents/minutes/1999/apr99.html>

model, there is no reason to believe that distance learning will improve the lot of the faculty.

But this transformation threatens the freedom of all academics, including the 'stars' producing on-line courses. Saul Fisher, researcher at the Andrew Mellon Foundation, has argued that academic freedom was never intended to guarantee a person an academic job, and so we should not equate a reduction in work force, or even a transformation of a large portion of that work force into facilitators, with a threat to academic freedom. He explains,

It may be so that you can't have academic freedom if you don't have an academic job but it doesn't follow that, as one eliminates academic jobs, one chips away at the concept or even the realization of academic freedom. If there was but one academic job in the universe, if the person holding that job had academic freedom, then we should say that the concept was universally realized (Fisher 1999)

In principle, he is correct. But his argument fails in practice on two grounds. First, the common good provided by free exploration and future discovery cannot be met by one person, or even a cadre of stars. It seems safe to assert that university professors are still a significant source of the intellectual progress in this country. If we injure the privileges of this group, we risk doing injury to free exploration and hence the common good.

Second, academic freedom is sustained only by the professionals who enjoy those privileges. There is no independent source for enforcing the principles of academic freedom. Ellen Klein, Professor of Philosophy at Flagler College, has pointed out that the courts no longer recognize the faculty member's right to protected free speech, but rather interpret academic freedom to apply to the institution itself - giving the institution freedom from court intervention. She explains that,

By 1998, even the AAUP had to face the hard fact that although a university's right to academic freedom still maintains a commitment to institutional autonomy, which 'should complement individual professors' rights to free speech...' this no longer seems to work in favor of the professor when it is the institution (as opposed to outside forces) that is attempting to fire, censor, or humiliate a particular professor. With respect to the case of Mr. Jared Sakren of Arizona State, the university

itself played on the juxtaposition of academic freedom and the First Amendment when it cited in its motion against the plaintiff that 'a university's right to academic freedom conflicts with a professor's right to act without interference from an institution...'" (Klein 1999).⁷

Academic freedom is only sustained by the united efforts of professional organizations like the AAUP, with the cooperation of colleges, universities and their boards. So while in principle Dr. Fisher's example is correct, it seems unlikely that an individual or group of stars could sustain their own academic freedom. So not only would these stars be unable to satisfy the social need for free exploration, they would be unable to sustain the right to free exploration in their research and teaching by themselves.

But these concerns about the danger to academic freedom just raise questions about the social need for academic freedom. How many faculty members would need to maintain their academic freedom in order to sustain a healthy level of free exploration? What is a healthy level of free exploration? How many faculty members must lose their jobs in order to realize a significant reduction in academic freedom and hence an injury to the common good? It is impossible for me to answer either of these questions or quantify the threshold for any injury to the common good and that makes it very difficult to use this argument to protect the academic freedom of a small number of faculty members. But the current practices regarding asynchronous distance learning threaten the academic freedom of a rather large portion of the faculty and possibly all of the faculty. If we injure the privileges of this group, we 'risk' doing injury to free exploration, and hence the common good.

It should be noted that Donald Wagner, chair of the AAUP's Special Committee on Distance Education and Intellectual Property Issues is confident that the above scenario is unlikely. He believes that the on-line curriculum will be used primarily to address the increase in enrollment that the state of Georgia anticipates, and he is skeptical about how popular these courses will be (Wagner 1999). Let me say that I respect Professor Wagner's position here, and I will not try to out predict him. I certainly agree with his skepticism concerning the popularity of on-line courses. What is more significant than what he or I thinks will happen, is what the people making decisions about higher education think

⁷ Klein quotes Julianne Basinger, "Arizona State U's Stance on Academic Freedom Angers Faculty Group," *The Chronicle of Higher Education*, May 22, 1998, A15.

will happen. Jessica Summers, a member of the staff on the University of Georgia Board of Regents, has explained to me that the e-core will change the role of the faculty (Summers 1999). Of course she doesn't really know this, but she does know the mind of the Board of Regents, and that is what they anticipate. The change they anticipate is exactly the change Feenberg feared: A change from professor to facilitator for the purpose of reducing costs. And Feenberg and the Georgia Board of Regents are not alone with their predication. In a list of jobs that are likely to disappear in the near future, Julie Rawe of *Time* magazine places teachers at number two, "Distance learning is becoming more popular, and through the miracle of online classes and electric grading, today's faculty lounge could be tomorrow's virtual help desk (Rawe 2000, pg. 72-72).

This argument is not intended as an apocalyptic prediction, but I can offer a reasonable solution that avoids calling upon the faculty to smash their computers. My claim is that universities are developing asynchronous distance learning in order to improve their profit margins on tuition, but that the short term financial benefit will not justify the overall all social benefit provided by academic freedom for the majority of the nation's university faculty. The short term financial benefit is incumbent upon the universities finding plenty of faculty willing to become facilitators. While it is easy to entice a small number of the faculty to become 'star' course developers, there remains some hope that the majority of the faculty will resist the effort to transform them into facilitators. Initially, the transformation will include incentives - release time and financial compensation. But these incentives cannot be universal and still produce the financial benefit that asynchronous distance learning offers. In other words, it will be impossible for university administrators to buy off the entire faculty. This means that for asynchronous distance learning to succeed, the faculty will have to accept the facilitator roles and a reduction in academic freedom. Hopefully, the majority of faculty members will refuse when given the opportunity to facilitate on-line courses.

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