

**Committee on Academic Freedom
Conditional Report:**

**What are the Instructor's Rights Regarding Textbook Choice if the Instructor has been
Reassigned to a Section for Which a Text has Already Been Chosen and Advertised?**

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What are the instructor’s rights regarding textbook choice if the instructor has been reassigned to a section for which a text has already been chosen and advertised?

I. Introduction and Context

As the Committee on Academic Freedom began to consider this question, it became clear to the Committee that obstacles to academic freedom in textbook choice have arisen in recent decades that have no clear historical precedent. These obstacles have come in the form of legal requirements of textbook information disclosure, and also in the form of well-meaning expectations on the part of students, College administrators and even some faculty committees. These latter include various subtle and not-so-subtle pressures for instructors to use OER texts or zero cost textbooks. This Conditional Report will attempt to lay out the rights of faculty on the above question while also keeping in mind many other legitimate concerns relating to how students are affected by such matters. These student concerns are primarily economic in nature.

II. Do faculty have the right to select which textbook to use in their classes, even in the case where faculty have been reassigned to a section for which a text has been previously selected and advertised to students?

- A. The individual faculty member who is ultimately assigned to the teach the section has the right, protected under the principles of academic freedom, to choose the materials for the course, including the textbook(s).
- B. The American Association of University Professors (AAUP) states: “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, without having their decisions subject to the veto of a department chair, dean, or other administrative officer.”¹
- C. Also, from AAUP: “In a course for which you are the only instructor, you have the right, under principles of academic freedom, to determine the texts (and other materials) the students will be required to read. Your right in this regard is not absolute, however. The texts should be related to the subject of the course and practical concerns about availability and cost should be considered. Still, the principle is clear that the faculty

¹ “The Freedom to Teach,” *AAUP, Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 28.

member who is solely responsible for the course has the freedom to select readings for it.”²

III. Why does the question of textbook choice matter?

- A. Faculty members in higher education typically pursue studies in their respective disciplines because of their interest in that particular field of study. Faculty often hold the view that the subject matter of their discipline is significant for students’ growth, development in knowledge and general understanding of the world, and, in some sense, faculty believe pursuit of such knowledge contributes to the common good. With such value attributed to their fields of study, faculty members often have deeply held, (and well-considered), views about how to approach their subject, and have correlative views about which texts are best to accomplish these pedagogical goals. The freedom faculty have in determining their approach to the subject matter in their courses is fundamental to academic freedom.³ This approach will often be closely tied to the selected textbook(s).
- B. Not only is text choice central in how a subject matter is approached, but it is also closely tied to how faculty craft assignments and how faculty assess student understanding, both of which are clearly protected under academic freedom, according to the American Association of University Professors (AAUP).⁴ In this vein, former President of the AAUP, Cary Nelson notes,

Academic freedom establishes a faculty member’s right to remain true to his or her pedagogical philosophy and intellectual commitment. It preserves the intellectual integrity of our educational system and thus serves the public good.⁵

If faculty prerogative is undermined in these matters due to concerns about what students think about the cost of a text (when students likely have little to no other criteria for judging the text prior to the start of the class), then fundamental features of academic freedom are undermined.

- C. There is often significant variation within a department regarding what textbooks faculty prefer to use, and in how instructors choose to utilize these textbooks in their

² American Association of University Professors Website, <https://www.aaup.org/i-need-help/workplace-issues/contours-academic-freedom#c2>.

³ “The Freedom to Teach,” *AAUP, Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 28.

⁴ “The Freedom to Teach,” *AAUP, Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 28.

⁵ “Defining Academic Freedom,” *Inside Higher Education*, Dec. 21, 2010. <https://www.insidehighered.com/views/2010/12/21/defining-academic-freedom>

courses.⁶ Some of this variation is due to differences in subject matter, some is due to teaching style, and surely to many other factors. Variation and diversity in approach to a subject matter are highly valued in the academy. It would be problematic to encourage uniformity in teaching, content, and approach to academic subjects, as this would conflict with the fundamental principles of academic freedom. Definitively limiting textbook choice in any way (beyond the limits imposed by the relevant course outline of record) *would* undermine academic freedom.⁷

IV. But doesn't academic freedom conflict with the Higher Education Opportunity Act's (Public Law 110-315) requirement of educational institutions to disclose on the institution's Internet site the ISBN and price of textbooks in order to increase student access to textbook information by which they can make educational decisions?

- A. The intent of the Higher Education Opportunity Act (HEOA) is to maximize transparency in textbook and supplemental materials costs for students in order assist them in their educational plans and decisions.
- B. However, the language of HEOA contains the following: "Rule of Construction. -- Nothing in this section shall be construed to supersede the institutional autonomy or academic freedom of instructors involved in the selection of college textbooks, supplemental materials, and other classroom materials."⁸
- C. Further, the language of HEOA, in several places, clearly indicates that colleges must disclose textbook information on their Internet sites "to the maximum extent practicable". This is a clear acknowledgement that various circumstances may arise that make the disclosure of textbook information more complicated than it may seem at first glance, including last minute changes in faculty assignments.

V. What about cases in which a faculty member is reassigned to a section for which a departmental policy is in place regarding the textbook to be used in the course?

- A. In such cases, the textbook decision has already been made, and so immediate questions about textbook choice are not relevant.

⁶ It is acknowledged that some disciplines may have much more uniformity in textbook content due to the nature of the subject matter, and thus will have much less concern over textbook differences. Generally, textbooks in the hard sciences will likely be more uniform than those in the humanities, though it is possible that the orientation of a textbook even in the hard sciences may matter to some faculty. And no doubt the manner in which the content in a textbook is arranged and presented may have significant pedagogical value to faculty, and this may vary significantly.

⁷ One exception to this is when departments have democratically chosen a particular text to be used in a multisection course taught by multiple instructors. See section V below.

⁸ Higher Education Opportunity Act, Public Law (110-315), Section 112, Textbook Information.

- B. The AAUP comments: “In a multisection course taught by several faculty members, responsibility is often shared among the instructors for identifying the texts to be assigned to students.”⁹
- C. Regarding such multisection courses: “The shared responsibility bespeaks a shared freedom, which trumps the freedom of an individual faculty member to assigning a textbook that he or she alone considers satisfactory. The individual’s freedom in other respects, however, remains undiluted.”¹⁰

VI. What about textbook issues in the case where a change of instructor occurs, for whatever reason, later in the semester?

- A. Such a case will be exceedingly rare, and will be the exception.
- B. The longer a course has been running, the more reason there is to continue with the original text. The expectations and rhythms of the course, along with classroom learning environments become established with time.
- C. In cases where a textbook has been already introduced for use in real class time, once a course has passed the two-week mark (in a semester length course), it seems appropriate for initially chosen texts to remain in place in the case of mid-semester change of instructor.

VII. Challenges/Considerations/Qualifications

- A. Changes in course textbooks can have adverse economic consequences for students.
 - 1. The substituted textbook may be higher priced than the initial text. This includes the possibility that the course was initially advertised as OER or zero-cost text, and the reassigned instructor utilizes a text that is neither.
 - 2. It may be more difficult or impossible for the student to return a text if not purchased from the College of the Canyons Bookstore.
 - 3. Some texts may include software that requires an access code. If a student logs in prior to the text change, they cannot return the initially assigned text with the access code.

⁹ “The Freedom to Teach,” *AAUP, Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 28.

¹⁰ “The Freedom to Teach,” *AAUP, Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 28.

4. EOPS vouchers can expire, and if this occurs it would pose an economic challenge for the student.
- B. A related concern includes the *unique role of the community college* in the state of California.¹¹
1. The California community college (CCC) system was built to democratize higher education, to ensure that all students have equal and equitable opportunities to take full advantage of a quality education. Education outcomes ought to be the result of students’ abilities, will and effort, rather than their personal circumstances.
 - a. Therefore, CCCs function to ameliorate “opportunity gaps.”¹²
 2. Three concerns may animate the role of a community college in relationship to the academic freedom of an instructor.
 - a. CCCs emphasize access for students. Access refers to “the ways in which educational institutions and policies ensure—or at least strive to ensure—that students have equal and equitable opportunities to take full advantage of their education. Increasing access generally requires schools to provide additional services or remove any actual or potential barriers that might prevent some students from equitable participation in certain courses or academic programs.”¹³
 - b. CCCs emphasize fairness for students. Fairness refers to the goal of removing obstacles to the full development of talent that stem from economic and social circumstances over which individual students have no control. If students’ achievements are more likely to result from their abilities and factors that students themselves can influence, such as their will or effort, educational systems are fairer. Such systems are less fair the more they are conditioned by contextual characteristics or “circumstances” that students cannot influence.¹⁴
 - c. CCCs emphasize inclusion for students. Inclusion refers to the objective of ensuring that all students, particularly those from disadvantaged backgrounds or traditionally marginalized groups, have access to high-

¹¹ “Academic Freedom and Faculty Authored Textbooks,” Committee on Academic Freedom Conditional Report, (2021). Section VII.B is taken directly from this earlier report.

¹² This term refers to the ways in which race, ethnicity, socioeconomic status, English proficiency, community wealth, familial situations, or other factors contribute to or perpetuate lower educational aspirations, achievement, and attainment for certain groups of students. (*LSU Libraries: Diversity, Equity, & Inclusion (DEI) Resources*. <https://guides.lib.lsu.edu/c.php?g=1052777&p=7644571>)

¹³ Ibid

¹⁴For example, gender, race or ethnicity, socio-economic status, immigrant background, family structure or place of residence. PISA 2015 Results (Volume I): Excellence and Equity in Education © OECD 2016

quality education and reach a baseline level of skills.¹⁵

C. In light of the above, it is reasonable that faculty who require a different text upon reassignment do their best to minimize potential adverse economic repercussions for students.

D. When faculty are reassigned to a course and they make the decision to utilize a different text, it is understood that students may experience a short delay in obtaining this new text. However, choosing to supplement course materials for a couple of weeks rather than use an entirely unfamiliar text for the entire semester may be preferred by some faculty.

VIII. Suggestions to Help Mitigate Adverse Consequences for Students

A. Deans should do everything they can to stay on top of enrollment numbers, and when possible, to make reassignments early enough to allow for timely changes in texts if needed.

B. Require all orientation letters (in relevant cases) to include a clear notice that students should not login using their access code until the semester begins and the textbook is finalized.

C. Require the bookstore to work with students in such cases to allow easy returns of textbooks. This should include any edition of a text the bookstore has sold to a student for the semester in view. (It is reported the bookstore does not accept returns of older editions sold to students.)

D. Make sure the bookstore's electronic text ordering apparatus is up and running in order for textbook changes to be enacted quickly and easily. If the change is made at, or before, the beginning of the semester, there should be no problem with EOPS vouchers expiring.

E. Instructors should have multiple copies of the textbook at the reserve desk in the library.

Approved by the Academic Senate April 14, 2022

¹⁵Ibid