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From the Los Angeles Times

## DUST-UP

### Fireproofing the Ivory Tower

Is tenure the real problem? Why should teachers be shielded from the demands of pleasing their paying customers in a way that other intellectuals are not? Michael Shermer and Greg Lukianoff debate.

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*Today, Shermer and Lukianoff finish their Dust-Up with a discussion on lifetime tenure for professors. Previously, they discussed allegations of instructor bias in classrooms, whether it's proper for schools to set limits on the expression of their students, if theories such as intelligent design should be taught in classrooms, and diversity of curricula in K-12 education.*

#### Free-market tenure

By Michael Shermer

On Tuesday I mentioned that I attended Pepperdine University, a distinctly religious institution with a well-defined Christian environment, exactly what I was looking for as part of my undergraduate education. Here I would like to conduct a counterfactual thought experiment: Let's say that I was still a Christian and Pepperdine hired me to teach there, was pleased with my academic performance, and in time granted me tenure. Then I became an militant atheist, spewing anti-religious sentiments whenever I had the chance, calling Christians ignorant, closed-minded, dogmatic and deluded, and trying to convert them to atheism. Should my employment there be protected, my tenure for life enforced in the name of free speech?

Most academics would say that it should. Their reasoning is that academic freedom trumps institutional needs, and the opportunity for faculty growth and the volition to change your mind is more important than student preferences or collegiate predilections. I disagree. If students and their parents are paying in excess of \$40,000 for a quality education within a Christian environment, the Pepperdine administration should have the option of firing any employee whose actions clearly violate the mission of the college and the contractual arrangement with that professor to fulfill the duties of the job.

Having taught as an adjunct professor at four different institutions over 20 years ( Glendale Community College, California State University Los Angeles, Occidental College and now Claremont Graduate University), one solution occurs to me: Let the market decide; that is, allow individual institutions to define the parameters of tenure according to their unique core values.

For example, if Pepperdine offers its customers (parents and students) a conservative Christian-learning atmosphere, and as one of their professors I was purposefully undermining that mission through social activism inside and outside the classroom, then by all means the administration should do what it needs to do to preserve the integrity of the university's core values, even if that means firing me. By contrast, Occidental, well-known as a far left-leaning institution (I kept my fiscal conservatism to myself when I taught there), can market to its potential customers that it fosters a politically liberal-learning atmosphere. An extreme religious fundamentalist professor thumping a Bible on campus might reasonably be considered polluting this campus atmosphere.

On the other hand, if an institution is willing to tolerate some deviance from its foundational norms as part of an intellectual diversity program, then contracts with faculty should specify such deviance parameters; where a contract cannot anticipate specific instances of parameter violations, conflicts can be resolved through institutional arbitration. In neither example is an all-encompassing rule about tenure -- enforced through state or national teacher unions or courts -- necessary or even possible.

The problem in the case of Ward Churchill and the University of Colorado (for stepping beyond the bounds of his duties as a college professor when he penned an essay that equated the victims of 9/11 to "little Eichmans", among other things) -- as with so many tenure disputes -- is the difficulty involved in attempting to apply a single overarching principle to a system as complex and multivariate as the academy. A simple solution, then, is to retain the spirit of tenure across the academic board while allowing each institution to define tenure within the parameters of its own core values. This market solution elegantly addresses the problem of grafting a general principle onto a extraordinarily varying human institution, a problem well captured by that sage dispenser of pop philosophy, Yogi Berra: "In theory there is no difference between theory and practice. In practice there is."

*Michael Shermer is the publisher of Skeptic magazine (skeptic.com), a monthly columnist for Scientific American, an adjunct professor at the School of Economics and Politics at Claremont Graduate University and the author of 10 books.*

#### Tenure protects campus speech

By Greg Lukianoff

I'd like to say that it's been a fun week, Michael, and thanks for introducing me to a new Yogi Berra quote.

However, you're wrong on the facts of the Churchill case; the misunderstanding is relevant for what we are talking about. Churchill was not fired for "stepping beyond the bounds of his duties as a college professor when he penned an essay that equated the victims of 9/11 to 'little Eichmanns.'" Rather, an advisory committee found (correctly) that Churchill could not be fired for his speech, no matter how inflammatory it was (and this principle applies whether you are Churchill, Richard Berthold or John C. Yoo). What the University of Colorado did fire Churchill for were his <https://www.cu.edu/content/resolution-matter-dismissal-professor-ward-churchill> ">  
[www.cu.edu/content/resolution-matter-dismissal-professor-ward-churchill](http://www.cu.edu/content/resolution-matter-dismissal-professor-ward-churchill) of academic misconduct -- an offense so inimical to scholarship that it can

get anyone fired from the academy, tenured or not.

Despite its [growing unpopularity](#) in some circles, tenure serves a crucial function in higher education. Once earned (and it is not easy to do so), tenure allows accomplished professors to freely pursue their fields of study and even criticize the campus administration without fear of official reprisal. Without tenure, one can imagine the intellectual purges that would have taken place during American academic history as one fashionable idea gave way to another.

Now on to the scenario in your opening paragraph, Michael: As I explained in a piece of [extracurricular writing](#) regarding our discussion Tuesday (yes, I know, it's kind of like cheating), I do understand that there exists a free-association right to form institutions -- including colleges and universities -- around a set of ideals, whether religious or secular. However, if a school is not going to provide free speech, academic freedom or, in this case, tenure, it must be clear about this institutional decision to its incoming students, professors and alumni as well as to the public at large. By doing so, the institution upholds our society's normative commitment to truth in advertising and avoids fraudulently inducing students or faculty to attend.

Some schools -- most often religious institutions like Pepperdine -- can publicly state that they place certain values above freedom of speech and academic freedom and still attract a sufficient number students and faculty. But the overwhelming majority of colleges recognize that as a matter of principle and practicality, they must publicly commit to upholding free speech and academic freedom -- and, subsequently, tenure.

I say "principle" because freedom of speech, freedom of association and tenure rightfully are considered fundamental to a college's ability to truly be a marketplace of ideas. I say "practicality" because if colleges want the best students and professors, they must at the very least appear to live up to these commonly held academic ideals. After all, now that tenure is an established part of the academy's institutional structure, wouldn't the best professors avoid colleges that reserve the right to fire faculty members whenever a dean can argue they are at odds with the school's "larger ideology"?

The Foundation for Individual Rights in Education's current case at Brandeis University is instructive. Here, a tenured professor of 47 years was found guilty of racial harassment for explaining and deriding the term "wetback" in his Latin American politics course. (The abuse of racial harassment policy is not uncommon; just look at the recent case in which a student employee was found guilty of racial harassment for reading a book.) While Brandeis' status as a private college may allow it to fairly decide that it does not wish to provide free speech, academic freedom or tenure, the fact is that Brandeis does promise as much -- and in glowing language ([pdf](#)). Thus Brandeis' behavior here is a clear violation of its contractual promises -- not to mention a public relations disaster, as the school's actions here are utterly at odds with the words and deeds of its namesake, Supreme Court Justice Louis Brandeis, famous in our nation's constitutional jurisprudence as a champion of free speech.

Academic freedom, free speech and tenure are demanded not only by the marketplace of ideas, but also by the larger marketplace. Not all institutions can or must provide this package of rights, but those that choose not to do so at their own peril.

*Greg Lukianoff is a constitutional lawyer and president of the Foundation for Individual Rights in Education ([thefire.org](#)). He is a frequent guest on national TV news programs and a blogger at the [Huffington Post](#).*

[<< Previous day's Dust-Up](#) | [Main Page](#)  
[Day 1](#) | [Day 2](#) | [Day 3](#) | [Day 4](#) | [Day 5](#)

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