

# First Amendment & Academic Freedom



community enjoy the rights of free speech as well as freedom from harassing or discriminating behaviors. In theory, academic freedom and freedom from harassment should not be competing values. In reality however, they sometimes conflict.

## First Amendment

In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved. Free speech rights apply in the classroom (e.g., classroom lectures and discussions) and in all other education programs and activities of public schools (e.g., public meetings and speakers on campus; campus debates, school plays and other cultural events; and student newspapers, journals, and other publications). In addition, First Amendment rights apply to the speech of students and teachers.

Title IX is intended to protect students from sex discrimination, not to regulate the content of speech. The Office of Civil Rights (OCR) recognizes that the offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a sexually hostile environment under Title IX. In order to establish a violation of Title IX, the harassment must be sufficiently serious to deny or limit a student's ability to participate in or benefit from the education program.

Moreover, in regulating the conduct of its students and its faculty to prevent or redress discrimination prohibited by Title IX (e.g., in responding to harassment that is sufficiently serious as to create a hostile environment), a school must formulate, interpret, and apply its rules so as to protect academic freedom and free speech rights. For instance, while the First Amendment may prohibit a school from restricting the right of students to express opinions about one sex that may be considered derogatory, the school can take steps to denounce those opinions and ensure that competing views are heard.

**Source:** <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.html>

## Academic Freedom

The University subscribes to the following principles: (1) faculty members are entitled to freedom in the classroom in discussing their disciplines and in selecting teaching aids and library materials; (2) faculty members are entitled in their areas of specialization to freedom in research and investigation and in the publication of results; and (3) faculty members are entitled to freedom in participating as responsible citizens in community affairs.

Academic freedom is the freedom to teach, both in and outside the classroom, to research and to publish the results of those investigations, and to address any matter of institutional policy or action whether or not as a member of an agency of institutional governance. Professors should also have the freedom to speak to any matter of social, political, economic, or other interest to the larger community, subject to the academic standard of conduct set forth in paragraph D below (see source).

The above statement is not to be interpreted as protective of an incompetent or negligent faculty member, nor does it prevent the University from evaluating the work of each faculty member according to the published criteria and guidelines of the University and college.

When the alleged discrimination/harassment takes place in an instructional setting and the accused believes the allegation of discrimination/harassment infringes upon academic freedom, the Title IX Coordinator; Vice-Provost for Academic Affairs and Human Resources will be consulted.

**Source:** <https://www.wku.edu/academicaffairs/documents/wku-faculty-handbook-25th-edition.pdf>

It is the position of The Office of Student Conduct that among the violations of misconduct considered to be of an especially serious nature are those that represent a threat to the safety and health of members of the University Community. These include but are not limited to, harassment, physical violence or threat of violence, non-consensual sexual contact, rape or any form of sexual violence.