

# Professors call for state to reverse the changes to tenure in Mississippi

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When University of Mississippi history professor and anti-racism activist James Silver told members of the Southern Historical Association in November 1963 that Mississippi had become a racist and totalitarian "closed society" that tolerated no dissent, the state's most powerful leaders joined in a multi-pronged effort to silence him, nearly affirming Silver's point.

Gov. Ross Barnett said the professor should have been fired long before his speech. U.S. Congressman John Bell Williams attacked Silver for biting the hand that fed him and demanded a full-scale campaign to rid the state's universities and colleges of any rebellious faculty. Members of the university's Board of Trustees called for Silver's firing.

What kept them from being successful was the fact that Silver was a tenured professor and nationally known scholar and author with 28 years of service to the university. Firing him might have jeopardized the university's accreditation. Still, threats and harassment finally forced Silver to leave Mississippi and take a post with the University of Notre Dame.

Silver was hardly alone in his targeting. In 1964, Alcorn State University terminated two faculty, Paul and Bessie Taylor, for contumacy. Their likely crime: membership in the American Association of University Professors (AAUP), which advocates for academic freedom and shared governance on campuses. Two years earlier, the University of Mississippi rejected the tenure bid of William Murphy, a law professor, anti-segregationist, and member of the American Civil Liberties Union.

Mississippi is no longer the "closed society" Silver and others experienced. Yet academic freedom and the university tenure policies that protect that freedom face continual threats here and around the country. Mississippi state Sen. Chris McDaniel has pushed legislation that would eliminate tenure altogether. In Florida, Gov. Ron DeSantis, a potential Republican presidential candidate, has declared his intention to put restrictions on tenure at public universities.

More ominous, however, are the recent actions of the Mississippi Institutions for Higher Learning Board of Trustees (IHL), an entity charged with overseeing the state's eight public universities. Following a secret meeting in March, the board approved without discussion new policy language that, among other changes, would add "contumacious conduct" and lack of "collegiality" as well as lack of "effectiveness, accuracy and integrity in communications" to the standalone reasons for which a faculty member can be fired.

**Indeed, "at will" employment policies are widespread in the private sector, allowing employers to fire employees without the need for a just or good cause. Tenure policies at public universities and schools are an exception. Firing a tenured faculty members requires a good or just cause.**

The action was quickly condemned by respected national organizations like PEN America and the Foundation for Individual Rights (FIRE) as "untenable" and potential threats to First Amendment rights.

Although most people agree that contumacy, insubordination, non-collegiality and ineffective communication are best avoided in college settings, those standards are ripe for abuse and have long been deployed — and continue to be deployed — against the most vulnerable faculty, particularly members of underrepresented groups, and those who challenge orthodox thinking. These are exactly the groups that a university needs to thrive, especially if it aims to advance learning and serve the full spectrum of people in the state.

United Campus Workers of Mississippi, a member of the Communications Workers of America, is sending an open letter to the IHL — thus far signed by more than 120 faculty members across the state — opposing the new language as a "violation of long-established norms of shared governance and transparency at universities" and a "direct threat to the quality of education" that could particularly silence minority professors.

Academic freedom is a gateway "to discover truths about the world" and "knowledge of what is true is good for society as a whole," noted philosopher and Karl N. Llewellyn Professor of Jurisprudence at the University of Chicago Brian Leiter told members of United Campus Workers of Mississippi and the AAUP in November.

Prof. Leiter also explained that the IHL's recent changes to tenure in Mississippi, if enforced, would likely invite a lawsuit, since changing the terms of employment for existing faculty could amount to a breach of contract. In the cases of both new and existing faculty, the changes could infringe on a faculty member's constitutionally protected free speech rights. (The full presentation is viewable here).

The Mississippi IHL board's March meeting, during which it discussed at length its subsequently approved changes in tenure (and hiring) rules, was

held without public or faculty input. Yet reports surfaced about the discussions that took place. At one point, the board was told that even tenured faculty can be fired for just or good "cause."

"But I can terminate without cause in my company," CITE Armored President and board trustee Teresa Hubbard responded, according to Mississippi Today. CITE Armored manufactures SWAT vehicles.

Indeed, "at will" employment policies are widespread in the private sector, allowing employers to fire employees without the need for a just or good cause. Tenure policies at public universities and schools are an exception. Firing a tenured faculty members requires a good or just cause.

Tenure not only protects academic freedom but also a faculty member's constitutional right to "speak on matters of public interest as a citizen without being punished by government," said Leiter, who is also director of the Center for Law, Philosophy & Human Values at the University of Chicago.

Usually granted to worthy faculty members after six years of service, tenure also serves as a "form of nonmonetary compensation for highly educated employees and professionals" who would demand higher wages without it, Leiter said. Furthermore, if tenure were to be eliminated in Mississippi, Leiter said, "faculty won't come to Mississippi. They'll go to Louisiana, to Oregon." Tenure ensures universities will have faculty with a long-term commitment to the institution and an investment in helping that institution thrive, he said.

In Mississippi and across the country, university boards of trustees typically include members from the private sector. In their service to public institutions of higher learning, however, they need to know the importance of the special role those institutions play in American society, the fragility of concepts such as academic freedom, and yet the necessity of such concepts as those institutions search for truths that benefit all of society.

Finally, the board members of the IHL need to remember that while a business, by definition, seeks profit, a public university aims to further learning and serve the public good. There is nothing wrong with running a university efficiently — and even firing faculty for cause when it is warranted. But punishing faculty for views with which the majority or administration disagrees serves no one and only undermines our claim to be a leading state of higher learning.

Mississippi and its students deserve better.

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