



A Union of Professionals

Metropolitan State Faculty Federation

Newsletter

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Special Edition : ACADEMIC FREEDOM

Academic freedom is the foundation of a robust educational community and lies at the core of MSU Denver’s educational mission and shared governance. Academic freedom ensures that teachers and scholars can freely investigate, present, and discuss ideas inside and outside the classroom, regardless of how controversial these ideas may be. These protections include the right of faculty to speak freely and critically about institutional governance without threat of retribution.

The recent dismissal of Dr. Adriana Nieto as chair of the Chicana/o Studies department highlights the increased threat faculty face when publicly expressing themselves on cam-

pus. Dr. Nieto was reappointed to serve as chair of Chicano/a Studies for another three years by Dean Masserini in July 2023. In early December, the dean abruptly dismissed her as chair, citing one event in which Dr. Nieto voiced criticism of the university about the challenges she faced as a mother trying to get a child enrolled at MSU Denver. He also used an uncorroborated discussion with the Chicana/o studies external reviewer as further evidence against Dr. Nieto. At the time of the dismissal meeting, the report had not been received by either the Chicano/a Studies department or the MSU Denver Academic Program Review Committee, casting doubt on the veracity of some criticisms of Dr. Nieto.

It is our understanding that the report, which has now been received, is explicit that, in the opinion of the reviewer, Dr Nieto has proven herself to be a capable and respected depart-

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ment leader in the face of difficult circumstances. The dean used Dr. Nieto's comments and an uncorroborated and perhaps decontextualized discussion to justify his decision and, in doing so, jeopardized the principle of academic freedom protecting all MSU Denver faculty.

The action against Dr. Nieto is another example of campus leadership's disregard for academic freedom and freedom of expression. According to MSU Denver's Academic Freedom policy, all categories of faculty

are protected from retribution for statements made in public. The policy states, "Academic freedom ... encompasses the right to address, question, and criticize institutional policy or action - both as an individual and in one's role as part of an institutional body engaged in institutional governance." The dismissal of Dr. Nieto as chair is an attempt to silence her voice and intimidate other faculty from freely expressing their ideas about the educational process at MSU Denver.

While MSFF acknowledges the

MSU Denver policy giving deans the power to appoint department chairs, this does not mean that deans can violate handbook policy to weaponize their power in selecting department chairs. Dr. Nieto's case serves as a reminder that such violations and abuse of power can suppress opposing viewpoints, destabilize the functioning of departments, and harm the relationship between faculty and their students.

Academic freedom serves the common good of MSU Denver. The freedom to critically analyze our teaching, research, profession, and institution's governance cannot be censored simply because others disagree with us, especially when it involves unequal power relationships inherent to the governing structures at the university.

MSFF supports Dr. Nieto, as we do with all faculty experiencing violations of the Faculty Handbook and university policies. Our legal rights as faculty only matter to the extent they are enforced. MSFF plays a central role as an independent defender of those rights, and union dues fund MSFF's ability to enforce faculty rights through legal means.

As MSFF grapples with increased faculty grievances, our ability to defend faculty rights has come under increasing financial strain. Consider making a donation to the Legal Defense Fund.

**DID YOU KNOW:
GRIEVANCE
& TENURE
PROTECTIONS**

The MSFF Grievance Committee is available to all faculty members to advise on faculty rights pertaining to academic freedom in the classroom, ensuring due process for disciplinary cases, and preventing deceptive interrogation practices. Dues-paying members are eligible for outside legal aid through the AFT or the MSFF lawyer on those rare cases where needed for a reasonable outcome, within the constraints of a limited budget. Union involvement has sometimes made a difference in decisions as weighty as tenure.

**Metropolitan
State Faculty
Federation**
AMERICAN FEDERATION OF TEACHERS

www.msudenverff.org

MSFF Legal Defense Fund

MSFF is deeply engaged with securing the due process and academic freedom rights of faculty. By shaping policy on the front end, we try to ensure that policies and processes respect the role of faculty at this institution. Despite our efforts, it is occasionally necessary to retain legal counsel to ensure that these policies are applied fairly and in good faith. It has been a busy year on that front.

The MSFF Legal Defense Fund stands as a beacon for protecting the rights of faculty members at MSU Denver. It acts as a safeguard against injustices that threaten the professional, academic, and personal integrity of faculty.

Faculty members are the backbone of educational institutions. However, we often face challenges that jeopardize our rights, such as unfair dismissal, discrimination, or attacks on our academic freedom. The MSFF Legal Defense Fund steps in to provide crucial legal support, ensuring that these individuals receive fair treatment and representation in the face of disciplinary action.

If you are in a position to contribute, this fund is an investment in the preservation of faculty rights. It enables the provision of legal resources and

expertise, empowering faculty to defend themselves against unjust actions and to uphold their rights.

By supporting the MSFF Legal Defense Fund, you champion not only the rights of individual faculty members but also the principles of fairness, equity, and academic freedom at MSU Denver. Your donation contributes to creating an environment where educators can thrive without fear of reprisal for their beliefs, teachings, or scholarly pursuits.

Your generosity echoes a commitment to ensuring that faculty are protected and valued for their contributions to knowledge dissemination, intellectual growth. And the principles of shared governance. Together, let's reinforce the importance of faculty rights and ensure that educators are supported in their pursuit of excellence within the academic sphere. Join us in



standing up for the rights of faculty members by supporting the MSFF Legal Defense Fund today.

To find out how to donate, please contact Sheila Rucki, Rich Wagner, or Matt Maher. We are stronger together.

Enjoying Your TENURE?

MSFF and AFT restored faculty tenure rights in 2004 by winning a lawsuit against MSCD.

You're Welcome

MSU Denver Academic Freedom Policy

Policy Statement

The Board of Trustees adopts the principle of academic freedom as defined by the American Association of University Professors (AAUP) in the 1940 Statement of Principles on Academic Freedom and Tenure. Academic freedom is the freedom to teach, learn, and discover knowledge inside the classroom and beyond, in a manner consistent with the professional standards of one's discipline and free from censorship or interference.

The mission of an institution of higher education is to serve society by discovering, investigating, communicating, and preserving knowledge through the process of academic inquiry and educating students, as well as society at large. However, teaching, scholarship, and service may all involve material that some students, administrators, members of the public, or legislators may find objectionable. Therefore, this mission cannot be fulfilled without the protections of academic freedom. Academic freedom fosters a climate conducive to sound inquiry, learning, and discovery. The University works to maintain this climate, to promote academic freedom, and to protect academic freedom from internal and external threats.

Academic freedom includes the right to teach and address material regardless of how controversial; to maintain academic standards; to conduct research, scholarship, and creative activities, as well as the right to publish, perform, or otherwise disseminate results; and to perform voluntary service to the University, scholarly bodies, and

the community.² In their academic coursework, students are entitled to full freedom of learning. The University advocates and protects its students' freedom of inquiry. Academic freedom protects students and scholars against retribution for legally protected statements made in public or private, regardless of medium or format. All members of the faculty and other persons serving in an instructional or scholarly capacity, whether tenured or not, permanent or visiting, full-time or part-time appointees, and all students are entitled to academic freedom.

Academic freedom also encompasses the right to address, question, and criticize institutional policy or action—both as an individual and in one's role as part of an institutional body engaged in institutional governance... Expressions made by faculty and students that do not relate to their teaching, scholarship, or service activities or do not relate to a matter of public concern are bound by the MSU Denver Freedom of Expression policy.

Academic freedom also encompasses the right to address, question, and criticize institutional policy or action—both as an individual and in one's role as part of an institutional body engaged in institutional governance. The University recognizes the inextricable link between academic freedom and shared governance. Similarly, public service requires that faculty and students shall be free to address both the University community and the larger society on broader societal

issues, such as matters of public concern, both within and beyond their areas of expertise. Faculty members measure the urgency of these obligations in light of their responsibilities to their subject, to their students, to their profession, and to their institution. As members of a profession that depends upon freedom for its health and integrity, University faculty have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom. However, as academics, faculty should remember that the public may judge their profession and

institution by their statements and therefore have the responsibility to act in accordance with the highest standards of their profession. Academic freedom does not protect unethical behavior or professional misconduct, nor does academic freedom protect behavior by students who violate the student code of conduct.

Because of the protections of academic freedom, faculty and students may speak without fear of institutional censorship or discipline, provided that the statement relates to their teaching, scholarship, or service activities or the statement relates to a matter of public concern. Faculty and students are also granted free speech rights under the First Amendment of the U.S. Constitution. The protections of academic freedom are not coextensive with First Amendment rights. While academic freedom addresses rights within the educational context of teaching, learning, and research, the First Amendment safeguards expression on all

sorts of topics and in all sorts of settings from regulation by public institutions. Expressions made by faculty and students that do not relate to their teaching, scholarship, or service activities or do not relate to a matter of public concern are bound by the MSU Denver Freedom of Expression policy. When speaking publicly, faculty and students should make every effort to indicate that they are not writing or speaking on behalf of the University unless authorized to do so.

Academic Freedom derives immediately from the University's commitment to the advancement of knowledge and understanding. Only serious abuses of this policy—ones that rise to the level of professional misbehavior or professional incompetence—should lead to adverse consequences.⁷ Any such determinations shall be made in accordance with established, formal procedures as articulated in the MSU Denver Faculty Employment Handbook or as established by the Dean of Students.

MSU Denver Freedom of Expression Policy

Policy Statement

MSU Denver values the principle of freedom of expression embodied in the First Amendment to the United States Constitution and Article II, Section 10, of the Colorado State Constitution. The University community, defined as students, faculty, staff, administrators, officers, trustees, and invitees, are responsible for protecting the University as a forum for the free expression of ideas.

A. Rights

MSU Denver welcomes diverse and divergent perspectives in its governance and decision-making processes. Therefore, MSU Denver students and employees have the right to assemble peacefully, to communicate ideas freely, and to discuss any issue affecting the University community without fear of institutional discipline or retaliation.

B. Definition of Free Expression

1. Free expression means the unrestricted exchange of ideas, regardless of topic or medium. Free expression includes, but is not limited to, all forms of peaceful assembly, protests, verbal communication, holding signs, circulating petitions, and distributing printed or digital materials.
2. Free expression does not include expression that is not within the First Amendment's protection, including speech or conduct that is a credible threat, fraudulent, harassing, obscene, defamatory, or otherwise unlawful; that violates the privacy or confidentiality rights of students or employees; that is primarily for commercial purposes, including the sale, promotion, or distribution of products or services; or that violates other University policies, including policies governing employee and student conduct.

Solution Web Results – Student Retention

What Works and What Doesn't at MSU Denver?

Please contribute to our [Solution Web : Student Retention](#). We are structuring the discussion around several questions:

- What suggestions do you have to improve retention?
- What ideas do you have for the process in improving retention?
- What concerns do you have about current proposals?
- Do you have any other comments, questions, or concerns?

Student Retention Solution Padlet

- What are we doing right?**
Tuition lock, helping students with FAFSA and the Colorado one, tuition assistance for displaced Aurarians, in-state tuition for undocumented students, etc.
On-campus jobs, both work-study and hourly (though the work study debacle this semester did not help). Earn and learn and other paid internships.
Faculty work: flexibility in classes
- What are we doing wrong?**
Getting students through and out successfully requires flexibility in class size and scheduling that is not forthcoming. Students suffer when classes are cancelled because of low enrollment and I think it is discouraging for them when they want to take a course, even an elective, that excites them only to have it cancelled. The obvious answer, if the dean is going to fixate on class size, is to offer more independent studies
- Thoughts on the strategic plan proposals from your Dean?**
They're pretty short-term, so hard to say. In CLAS, Masserini seems to be at least cognizant of workload issues and is trying to not dump everything on faculty. He's also pushing against the "do everything everywhere all at once" strategy that MSU seems to prefer, so that's good.
- Other thoughts you'd like to share.**
This place has become a much less fulfilling place to work in the last year. I feel like some deans and upper administration have decided that we are the problem if not the enemy. I try to put on a good face for my students but I suspect they are aware that something is amiss. I'm not able to bring my passion to the classroom as I once was. It's tough to get that into strategic plans

What can we do together?

Defend academic freedom, tenure, & shared governance

- Support adjunct faculty
- Advance equity & inclusion
- Champion the interests of faculty and students

Together, we shape the future.

Join the MSFF union!

Grievance Committee Update—2023

The Union supports members facing disciplinary action or who have had their due process or academic freedom rights infringed upon by the University. We also support department chairs disciplined for activity undertaken as part of their faculty obligations. During 2023, this included securing external legal advice and representation (funded by your dues as well as those of AFT members across the state and country), assistance in interpreting the *Faculty Employment Handbook*, providing advice and support in responding to misconduct allegations, providing assistance and advice in filing complaints with the Colorado Division of Civil Rights (CDCR), and undertaking informal negotiations to head off brewing conflicts.

We also offer formal and informal mediation services to resolve peer disputes and support when members are called to investigative interviews. The MSFF Grievance Committee is also available to help members work through the costs and benefits of filing formal and informal complaints against peers and supervisors.

All issues taken to the Grievance Committee are kept confidential unless or until the

member asks us to move forward publicly.

2023 was an unusually active year. We undertook the following:

- ▶ Legal advice, representation, and court filings on issues of academic freedom and professional misconduct
- ▶ Advice and support on issues of academic freedom
- ▶ Assistance filing complaints with the CDCR and investigative interviews related to those filings
- ▶ Advice, support, and informal negotiations on issues of due process and selective enforcement of Handbook provisions
- ▶ Advice and support on interpersonal conflicts

Grievances can be costly in terms of both time and resources. When issues can be resolved through mediation or informal

discussions, we strongly encourage members to do so. We recognize that sometimes this is not possible, either because the violation of academic or due process rights is so grievous or because one or more of the parties is unwilling to mediate in good faith. Nevertheless, we always encourage members to pursue these options first, particularly when the conflict is between faculty peers. Members of the Grievance Committee are trained mediators and always ready to help resolve these conflicts before they metastasize into crises, requiring formal resolution.

If you find yourself in a situation where you would like to discuss an issue with us or engage in facilitated mediation and conflict resolution, please do not hesitate to reach out. Providing this support is key to our mission.

We are stronger together.

More Work

- More mandated tasks
- More inefficient systems
- More student accommodations
- More students per class
- More committees, taskforces, working groups, etc.

Less Support

- Less sabbaticals
- Less scholarship support
- Less usable computers and equipment
- Less departmental summer revenues
- Less replacement for faculty lines

Review the [Grievance Procedures](#) here.