

Governance

HIGHER EDUCATION NEWS FOR UNIVERSITY GOVERNORS AND TRUSTEES

WINTER 2017

We're Now the Martin Center!

The Pope Center changed its name to the James G. Martin Center for Academic Renewal in January.

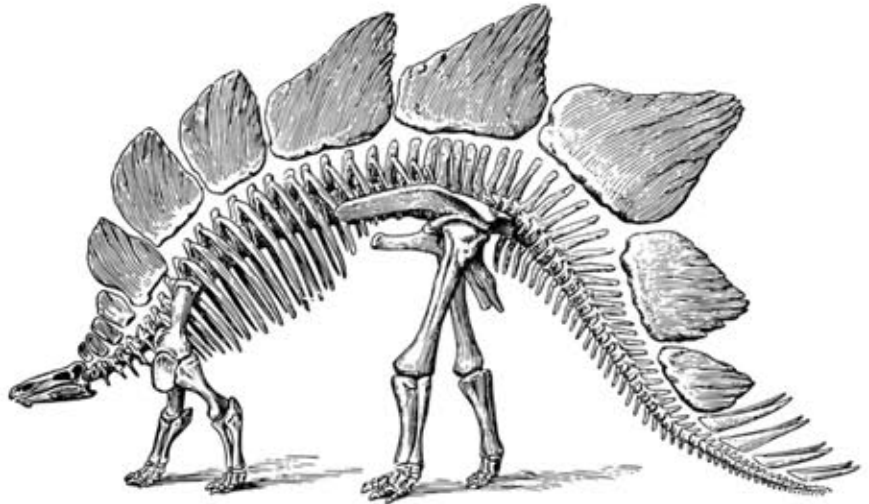


James G. Martin

The new name honors former North Carolina Governor James G. Martin. Governor Martin is a graduate of Davidson College and has a Ph.D. from Princeton University. He developed his interest in education reform as a college chemistry professor at Davidson. During his service as governor from 1984 to 1992, Martin continued to emphasize higher education issues. He also served six terms in the U.S. Congress.

Confusion between the Pope Center and the Pope Foundation prompted our name change. While both organizations were named for John William Pope, they have different missions. The Center is an independent public charity with a mission to promote excellence in higher education, while the Pope Foundation is a private foundation supporting a variety of charitable and public policy causes. Our new name will allow us to be more widely recognized for our distinctive mission, academic renewal.

Our name has changed but our mission hasn't. As always, we are dedicated to excellence in higher education—in North Carolina and across the nation.



Is tenure outdated?

Momentum Builds on Curtailing Tenure

Jane S. Shaw

In two states, Missouri and Iowa, legislators have introduced bills that would end tenure in higher education.

The Missouri bill, proposed by Republican representative Rick Battin, focuses mostly on requiring state universities to make student outcomes more transparent, but it also would halt tenure for new hires.

“Tenure is an outdated system. It relinquishes accountability—in fact, it does the opposite of providing accountability; it guarantees that there is nothing to worry about,” Battin told the Martin Center. In his view, under current policies faculty have a job for life.

To a large extent, this is true. Traditionally, colleges and universities have accepted the position of the Association of American Association of University Professors (AAUP), which is that tenured faculty’s jobs “can be terminated only for cause or under extraordinary circumstances such as financial exigency and program discontinuation.” Extraordinary circumstances have been rare.

continued on page 2

In Iowa, Senator Brad Zaun proposed a bill exclusively about tenure. It would end tenure for faculty by loosening the criteria for termination. Zaun told the *Des Moines Register*, "I think the university should have the flexibility to hire and fire professors and then I don't think that bad professors should have a lifetime position guaranteed at colleges. It is as simple as that."

It's not clear that these bills will go far in their legislatures. "Given all the other priorities in the legislature this year, I don't see this bill rising to the top," says Michael McShane, director of education for the Show-Me Institute, a conservative think tank in Missouri.

And in Iowa, the Board of Regents has officially announced its opposition to Zaun's bill. Yet Senator Zaun is head of the Senate Judiciary Committee. As a result of the 2016 election, Republicans are now in the majority in both houses of the Iowa legislature.

Until recently, tenure was viewed as a "third rail" of policy that most legislatures avoided addressing. But both bills are causing restiveness among faculty, who fear they may lead to consequences similar to those in Wisconsin.

In 2015, with the support of Governor Scott Walker, the Wisconsin legislature removed from state law provisions protecting tenure for university faculty. While that vote merely put Wisconsin at the level of most states—leaving tenure policies in the hands of the system's Board of Regents—that was just the beginning.

In March 2016, the Wisconsin Board of Regents adopted a policy that would allow tenured faculty to be terminated under certain circumstances. Specifically, faculty "may be laid off in the event that educational considerations relating to a program require program discontinuance," the policy says. Such "educational considerations" can include "strategic institutional planning considerations such as long-term student and market demand and societal needs."

"This was widely seen as a way to get rid of tenured faculty," says Donald Downs, emeritus professor of political science at UW-Madison, because it broadened the possibility of termination far beyond the "financial emergency" that had previously been

the requirement. Downs, an acknowledged expert on academic freedom, says that tenure helps protect the academic freedom of faculty taking unpopular positions, such as conservative ones, and thus he opposes this policy. He is not opposed to some strengthening of post-tenure review, however.

The politics of tenure in higher education could be changing. While it is unlikely to go away soon, there are some breaches in the walls protecting it. ■

Free Speech Rights in the UNC System

When the Martin Center first reported on free speech rights in the UNC system, our findings revealed that North Carolina's state universities had dismal records. In 2010, none of UNC's 16 campuses received a "green light" from FIRE (for definitions see below). Eight institutions received "yellow lights" and eight received "red"—the worst designation.

Today, only three red lights remain—a significant improvement. And UNC-Chapel Hill earned a green light in 2015. However, it remains the only campus in the system with a green light, promising true free expression.

University	2010	2017
Appalachian State	●	●
East Carolina	●	●
Elizabeth City State	●	●
Fayetteville State	●	●
NC A&T	●	●
NC Central	●	●
NC State	●	●
UNC Asheville	●	●
UNC-Chapel Hill	●	●
UNC Charlotte	●	●
UNC Greensboro	●	●
UNC Pembroke	●	●
UNC Wilmington	●	●
UNC School of the Arts	●	●
Western Carolina	●	●
Winston-Salem State	●	●

Source: *The Foundation for Individual Rights in Education*

Red light: At least one policy that both clearly and substantially restricts freedom of speech.

Yellow light: Some policies that could ban or excessively regulate protected speech.

Green light: No policies that seriously imperil speech.

A Proposal to Protect Free Speech on Campus

Jenna A. Robinson

On January 31, the Goldwater Institute rolled out model legislation to protect free speech on public college campuses. The Arizona group, named after former senator Barry Goldwater, is a public policy watchdog that protects freedom in the states.

The Campus Free Speech Act is the second piece of university speech legislation designed by the Goldwater Institute. Last year, Arizona passed a law preventing community colleges and universities in the state from creating “free speech zones” that relegate free expression to small areas of campus.

The new proposal goes further. A 2015 blog post by Stanley Kurtz on *National Review Online* provided the initial framework for the legislation. Kurtz, senior fellow at the Ethics and Public Policy Center in Washington, DC, collaborated with two Goldwater analysts to craft the bill. It is patterned on recommendations contained in three classic statements on campus free expression: Yale’s Woodward Report (1974), the University of Chicago’s Kalven Report (1967), and the University of Chicago’s Stone Report (2015).

A white paper from the Goldwater Institute—entitled “Campus Free Speech: A Legislative Proposal”—describes the provisions of the model legislation (quoting directly from the white paper):

- It creates an official university policy that strongly affirms the importance of free expression, nullifying any existing restrictive speech codes in the process.
- It prevents administrators from disinviting speakers, no matter how controversial, whom members of the campus community wish to hear from.
- It establishes a system of disciplinary sanctions for students and anyone else who interferes with the free-speech rights of others.
- It allows persons whose free-speech rights have been improperly infringed by the university to recover court costs and attorney’s fees.
- It reaffirms the principle that universities, at the official institutional level, ought to remain neutral on issues of public controversy to encourage the widest possible range of opinion and dialogue within the university itself.



Stanley Kurtz

- It ensures that students will be informed of the official policy on free expression.
- It authorizes a special subcommittee of the university board of trustees to issue a yearly report to the public, the trustees, the governor, and the legislature on the administrative handling of free-speech issues.

The authors assert that freedom of speech is under siege on America’s college campuses. They list trigger warnings, safe spaces, and free speech zones as just a few of the ways in which administrators discourage and restrict students’ First Amendment rights. Students who shout down or intimidate invited speakers are rarely punished. The bill is designed to overrule campuses’ provisions that restrict speech in these (and other) ways.

Last year, Kurtz and North Carolina Lieutenant Governor Dan Forest spoke together on the topic at an event in Cary, NC. Forest expressed his support for free speech on campus and Kurtz’s plan to protect it through state legislation. North Carolina lawmakers are expected to introduce a version of the bill this year.


Kurtz explained at a January event in Chapel Hill why this proposal is so important: “In the long run a society that practices freedom is a society that promotes civility. In the long run, free speech is our most certain path to mutual respect and civil peace, while the rejection of free speech almost guarantees descent into civil strife.” ■

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Do You Agree?

“ Too often what are called ‘educated’ people are simply people who have been sheltered from reality for years in ivy-covered buildings. Those whose whole careers have been spent in ivy-covered buildings, insulated by tenure, can remain adolescents on into their golden retirement years. ”

Thomas Sowell on *Townhall.com*

The goal of this Martin Center newsletter is to help higher education policy makers to be more effective higher education leaders.

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