

# *Public Higher Ed: Battleground in the Tenure Wars*

*By William E. Scheuerman*

**I** make no bones about the fact that I am an unabashed champion of tenure. I will not pretend otherwise. The institution of tenure is absolutely essential to promoting academic freedom, and academic freedom is the engine of educational progress and change.

The only problem with tenure is that not nearly enough faculty have it.

I am also a staunch advocate of public higher education, and I am afraid that the attack on tenure is simply part of a larger assault that aims is to dismantle public higher education.

We all know that America's higher educational system is under the gun. It's being sniped at, shot, shelled, bombed, and blasted for its many alleged failures.

What are these supposed failures? Standards are dropping, political correctness has replaced "real" scholarship, great books aren't taught anymore, teaching comes in a distant second to

research, "deadwood" faculty sit on their duffs while bright young Ph.D.'s drive cabs, and the university remains a stronghold for socialist professors and other such undesirables.

Worse, critics charge, there's nothing you can do about this situation because the outdated institution of tenure props up all the academy's flaws. Tenure, they say, is the enemy of progress and change.

So what else is new? Someone is always attacking tenure. College presidents still wake up every morning hoping that tenure vanished during the night. Every new batch of Ph.D.'s always complains about the academic job market.

What's new is this: Although the theoretical potshots cross all boundaries—public and private, large campuses and small, two-year, four-year, and research institutions—the current battleground over tenure has shifted largely to public higher education.

Simultaneously, public higher

---

**William E. Scheuerman** is president of the *United University Professions, AFT, AFL-CIO*, the largest higher education union local in the nation. UUP represents 21,000 academic and professional faculty members on 29 State University of New York campuses. He has published in scholarly journals on political science, sociology, labor studies, economics, and English. Scheuerman has written two books, *The Steel Crisis in 1986* and *Private Interests, Public Spending: Balanced Budget Conservatism and the Fiscal Crisis in 1994*.

***We live in an epoch characterized by the wealthy feeding at the public trough in the form of tax cuts.***

---

education is facing unprecedented financial attacks. State legislatures are trying to micromanage public institutions to a degree unequaled by their predecessors, and the tax-paying public is disenchanted as never before with government and most things that government supports.

Critics of higher education point their heaviest artillery at the public sector for several reasons. First, many private colleges and universities simply decamped in the 1970s and '80s when falling enrollments forced them to close their doors.

Second, despite dramas such as the mass firings at Bennington or the recent ousting of the trustees and president at Adelphi, the battles of private institutions tend to be pretty private, too. They affect a contained community of faculty, students, administrators, alumni, and the parents who pay the bills.

Third, in this battle of hearts and minds—for that is what this battle over tenure boils down to—one state legislature commands far more territory than a dozen private boards of trustees.

Finally, to paraphrase Willie Sutton, public higher education is where the money's at. State colleges and universities have it, and the interest groups of the right want it.

That's why the catch phrase of

the day is "Follow the money." For the money leads us to what Sid Plotkin and I in our recent book, *Private Interests, Public Spending*, call Balanced Budget Conservatism.<sup>1</sup> We live in an epoch characterized by the wealthy feeding at the public trough in the form of tax cuts that exacerbate already shrinking public revenue streams.

Under these conditions, the cost of maintaining public institutions of higher learning simply overwhelms many state and local budgets. Physical plants deteriorate for lack of adequate funding, faculty salaries stagnate, and tuition climbs as tax monies allocated to public education fail to keep pace with institutional and public needs.

**R**ight-wing tax PACs, often bolstered by the dubious data generated by their bogus research arms—such as our nemesis here in New York, CHANGE-NY's Empire Foundation—spew their mean-spirited ideological rhetoric against government and in favor of tax policies aimed to fatten corporate coffers with the promise that the benefits will trickle down to the rest of us.

For the vast majority of taxpayers, this promise translates into minuscule tax cuts, which we pay right back out in "user fees" for public services that our tax dollars no longer support. Or we pay it to

---

***Critics say tenure protects deadwood, ideologues, and other forms of irrelevancy and therefore must go.***

---

private businesses for services the state no longer provides.

The traditional promise for working and middle-class people of affordable, high-quality higher education becomes just one more big budget item that needs “major restructuring”—a leftover ‘80s euphemism for firing people and cutting back services.

Yes, the public higher education budget is the target, but colleges and universities are not as easy to downsize as other social institutions. And herein lies the battle.

The obstacle to such streamlining, critics say, is tenure. Tenure protects deadwood, ideologues, and other forms of irrelevancy. Tenure, then, must go, or, failing that, it must be restructured. For as long as tenure exists, the argument goes, the university will remain an ossified, stagnant, big-budget institution incapable of responding efficiently to the ebb and flow of the magical marketplace.

Instead of engaging in a reasoned discussion of adequate funding for higher education, the political right has engaged in an out-and-out assault on tenure and the principle that it staunchly guards—academic freedom.

In this highly charged polemical debate, the real issues of tenure are frequently cloaked in a financial mantle, if not lost altogether in the passionate talk of money.

For the purposes of this debate, let’s clarify what tenure is and what tenure isn’t.

Critics claim that tenure is a lifetime job and that faculty members with tenure cannot be touched. Consequently, the argument goes, tenured faculty may or may not work effectively; they may teach outdated or, worse yet, politically unacceptable courses. In fact, they may do almost anything—or they may do absolutely nothing—and there is just no removing them because they can hide behind the protective armor of tenure.

**T**his assertion that tenure provides a lifetime job has galvanized much public hostility. It feeds into the perception that university faculty are an odd and privileged lot accountable to no one.

The trouble is, the assertion is false. Tenured faculty can be, and have been, terminated for adequate cause and in cases of financial exigency. Tenure does not guarantee a lifetime job. However, tenure does guarantee the protection of due process before a tenured faculty member is removed. A tenured professor accused of incompetence, a crime, or other egregious sin cannot be terminated just on the whim of the accuser. The accused can face the accuser and provide a defense. Again, tenure does not mean a lifetime job. It means that the quali-

***In all the assaults on tenure, its attackers usually gloss over the fact that tenure is not lightly bestowed.***

---

fied faculty member who earns tenure cannot be removed without cause.

In this respect, tenure is to the academy what civil service is to the political system. Both systems guarantee due process in order to insulate the employee from the vicissitudes of ever-changing political winds. The average civil servant, of course, gains this protection at far less personal cost than do tenured faculty.

**I**n all the assaults on tenure, its attackers usually gloss over the fact that tenure is not lightly bestowed in the first place. Remember, less than 40 percent of all faculty have tenure. The tenure hopeful has survived four to eight years of graduate training, a Darwinian struggle to secure one of a small number of tenure-track positions, and, once hired, a probationary period between three and seven years wrought with tests and annual evaluations of teaching, research, collegiality, and service.

This is followed by a rigorous tenure review, typically conducted not only by department faculty but a college-wide committee as well, not to mention scrutiny by the department chair, dean, college provost, president, and distinguished outside faculty.

Tenure is the sign that the college community has judged the

recipient capable of making a significant lifelong contribution to students and to the discipline and, having met the test, deserves the guarantee of academic freedom only tenure can provide to fulfill this potential.

The rigorous testing it takes to earn tenure, the fact that only a minority of faculty are tenured, and that tenure is little more than the protection of due process enjoyed by many civil servants may actually fuel the argument against tenure in the view of its attackers. The tenure system, they say, is just too cumbersome.

Clearly the process is cumbersome to the administrator who is chomping at the bit to get rid of a particular tenured faculty member and to politicians who want to show the electorate that they're tough on waste or commies or degenerates.

Tenure's protections force administrators to follow specific procedures in an environment where the burden of proof is on their shoulders. It's up to the institution to demonstrate that the faculty member did something wrong.

Given the reasons for tenure in the first place, the "de-tenuring" process cannot have too many safeguards. I'm talking about tenure's role in promoting and protecting academic freedom. Let's take a closer look at the issue of academic freedom.

---

***Some people claim that the cost of protecting academic freedom through tenure far outweighs its value.***

---

Think of the modern-day Galileo who refutes conventional dogma. We know what happened to Galileo—that heretic. Contemporary Galileos are protected by tenure. They will not be easily dismissed when their research and teaching are controversial. Consider the case of a faculty researcher at an institution endowed by a large tobacco company discovering that smoking causes cancer. Without the protections of tenure, what might happen to that faculty member? Or, worse for the rest of us, what might happen to that research?

**S**ome attackers are willing to acknowledge that tenure served a useful purpose once, but, they argue, the days of “Scopes”-like faculty firings that led to the formation of the AAUP in 1915 and the scurrilous attacks of the McCarthy era are long gone. In the broad history of the academy in America, threats to academic freedom are rare, they would say. Some people claim that academic freedom itself is outdated, and, even if it’s not, the cost of protecting academic freedom through tenure far outweighs its value.

Yes, today we are not hounded by McCarthy or other such ideologues. But does that mean that academic freedom is no longer threatened? Just look at the ongoing backlash against the 1960s civil

rights and anti-war movements, against feminism, and other challenges to the status quo.

These are not, as some would argue, legitimate complaints against intellectual fads taking over the academy. These are attacks on academic freedom.

Or consider the case when a conservative governor is elected. Would liberal faculty and “liberal” programs be under the gun? And, vice versa, when liberals are elected, will conservative faculty begin packing their bags?

Without the protections of tenure, a state’s university system could very easily be turned into a political machine in which the pursuit of truth is subject to the dominate party’s agenda. Is this any way to pursue the life of the mind? Of course not.

Let’s also keep in mind other less obviously partisan attacks on tenure. In a recent essay in the *Trusteeship*, AAUP’s Ernst Benjamin reminds us that being on the “wrong” side in the fights over multiculturalism and political correctness is “dangerous to one’s professional health.”<sup>2</sup>

And how about the more subtle pressures we face everyday? Take, for example, the pressure to generate tuition revenues that many institutions, particularly in the public sector, are facing. When a campus administrator passes the

***Tenure comes to the rescue by allowing us to practice our crafts free from outside political meddling.***

---

word that enrollments are down, the implied message that many faculty will hear is “Oh, oh, I think ‘they’ want me to give out more A’s.” That’s a commonplace threat to our academic freedom. But tenure comes to the rescue by allowing us to practice our crafts free from outside political meddling. In short, we won’t be fired for refusing to ease up on our grading.

Most attacks on tenure that I’ve read at least pay lip service to academic freedom. Preserving academic freedom is a noble end, they agree, at least publicly. Some contend that tenure may no longer be essential because the law protects academic freedom. The court’s interpretation of the First Amendment makes tenure extraneous. This new argument against tenure is rooted in a 1968 Supreme Court case ruling that public employees have First Amendment protections. Keep in mind that the ruling applied to public-sector workers, not employees at private institutions.

Putting this major limitation aside, subsequent court rulings have made it crystal clear that the First Amendment is no guarantor of academic freedom. Speech is not protected unless it relates to issues of “political, social, or other concern to the community.”<sup>3</sup> Even speech that meets these criteria may not be protected if it prevents managers from managing and creates

great disharmony among workers. More, court rulings have also upheld the right of a public employer to fire an employee based on the employer’s reasonable belief of what the employee said.<sup>4</sup>

**A**lthough the case law is still developing and may eventually make the First Amendment coextensive with academic freedom, that is certainly not the case now. Regardless, constitutional law is beside the point. Reliance on the courts to protect academic freedom has serious consequences that undercut academic freedom. When academic freedom is protected by the courts, the burden of proof is shifted from the institution to the accused individual.

Think of that modern-day Galileo who is dismissed because of “irresponsible” views. Once fired, Galileo must turn to the courts. He had better have sufficient time and money to prove his case against a well-financed institutional adversary. The simple knowledge that questioning the conventional wisdom could lead to costly litigation is likely to have a chilling effect on many creative and powerful minds.

Are there other ways to maintain academic freedom without tenure? J. Peter Byrnes suggests that institutions committed to academic freedom may achieve that goal without tenure through sever-

---

***If a grievance process can't really protect untenured faculty now, why should it do so when everyone is untenured?***

---

al methods, including a special grievance procedure and the establishment of structural devices such as the length of the employment contract.<sup>5</sup> But the limitations to these devices are obvious.

These adaptations also shift the burden of proof to the faculty member, who must now prove his or her worth and might still have to resort to expensive litigation to do so. The grievance process is worthless because the clever administrator will never ostensibly fire a faculty member for what he or she says.

The charge will always be poor teaching, insufficient publications, lightweight research, or insufficient funds. The fact that a college's faculty handbook or union contract has an academic-freedom statement and due-process procedures hasn't stopped administrators from firing untenured faculty on these grounds when the real issue is that they were "troublemakers."

The *Chronicle* publishes a half-dozen stories like this every year. The untenured faculty member who can prove sex or race discrimination might stand some outside chance of getting reinstated by the courts, but such is rarely the case.

So if a grievance process can't really protect untenured faculty now, why should we expect it to do so when everyone is untenured? And if everyone is untenured, those faculty sitting on that grievance

committee will be vulnerable to an aggressive administration if the vote doesn't go the right way. Witness the ongoing skirmishes at Bennington as faculty who survived the initial bloodbath are now being picked off one by one if they voice their objections to the president's new policies.

**F**inally, and most obviously, whatever the length of an employment contract, absent tenure, it will have an expiration date. There will be a day, however distant, of atonement.

Given these limitations, it is little wonder that the author of these proposals concludes that "it is more difficult without tenure to construct alternative procedures that ensure more subtle aspects of academic freedom."<sup>6</sup>

But perhaps the nexus between academic freedom and tenure, however strong, is just too expensive these days. Tenure, the argument goes, removes the professoriate from accountability and encourages what some critics have called "paid retirement." These criticisms sound seductively plausible. But, again, they are simply not true. Let's put aside the rhetoric and look at the facts.

First, keep in mind a statistic I've already noted: Less than 40 percent of all faculty have tenure. Academic institutions are respond-

***It is difficult to maintain high academic standards when the workforce consists of exploited part-time people.***

---

ing to the fiscal squeeze by making it increasingly difficult to attain tenure. More and more faculty are hired on temporary, nontenure-track lines. In fact, a colleague from the private sector who recently switched careers to become an academic made an obvious observation that many of us miss. He was surprised at the large percentage of faculty at his institution who had no hope of ever attaining permanent employment. This, he noted, was quite different from his experience in the private sector.

**W**e also have to note an increasing trend for universities to rely on part-time faculty. Adjunct faculty who teach the occasional specialized course serve a very useful purpose to the academy.

However, it is exceedingly difficult to maintain high academic standards when the workforce consists of exploited part-time people, many of whom do not even have office space, let alone the most marginal opportunity to participate in departmental activities.

Part-timers faculty teach over a third of college classes already. What guarantees do we have that short-term contract employment would not replace the tenure system altogether should tenure suddenly disappear?

This reliance on part-timers,

temporaries, and teaching assistants to reduce the payroll already feeds the public's perception that colleges are failing to provide undergraduates with first-class instructors.

Clearly, those that portray tenured faculty as interested only in research or teaching graduate students should be obligated to report also that this rise in contract faculty and graduate assistants is directly related to the gutting of full-time tenure-track lines.

Harvard's Richard Chait proposes another alternative to the current system: Let newly hired faculty decide for themselves whether theirs will be a tenure/tenure-track position at one rate of pay or a limited-term contract at a higher rate.<sup>7</sup>

Chait argues that this will open the door to full-time employment, however tenuous, for a large number of ill-paid fringe faculty, at the same time giving administrators much-needed flexibility to meet demands of the market.

I find this proposal objectionable on several grounds.

First, I don't understand where all the money is going to come from to pay for those who wish to trade tenure for money. This assumes, of course, that people who entered the community of scholars and are acculturated into the life of the mind suddenly do an about-face



---

***We need to think about the good of the academic community and how tenure enhances our society.***

---

and want to trade their highest values for cash.

Putting this rather unreasonable assumption aside, what is likely to happen during the period of Balanced Budget Conservatism? Will institutions entice people with lucrative offers to give up tenure only to dump them later on for cheaper labor? So instead of 30-year-old Ph.D.'s driving cabs, we'll have 50-year-old Ph.D.'s driving hacks.

**S**econd, let's go back to the academic freedom issue. As a social scientist I'm very conscious of Robert Lynd's argument in his great book, *Knowledge for What*, that radical research—in the sense of going to the root of a problem—may, at times, strike at the heart of a society's power system.<sup>8</sup>

This, as Lynd shows, is likely to lead to bad things happening to the researcher. These run the gamut from a loss of grant money to professional ridicule. That's pretty bad. But at least tenure allows us to follow our pursuit of truth without fear of job loss.

What reputable scholar would give up tenure and the pursuit of truth for a few pieces of silver? Of course, the scholar who always aims to please those in power has little to worry about. But we all know that that's not the pursuit of truth.

A third problem with allowing individuals to choose money over tenure is the fact that this is not a simple individualistic choice. By protecting academic freedom, tenure has proven to be the best way for our society to promote research and learning.

What do we gain as a society by allowing individuals to undercut the tenure system for a few extra dollars? We need to think about the common good, the good of the academic community, and how tenure—and its consequence, academic freedom—enhances the lives of the people in our society. This commitment should not be sacrificed to please a handful of individuals whose main function might be to serve those who hold power. How would society progress and develop under these conditions?

Finally, let's look at the facts on the familiar "deadwood" issue. A 1993 study of national postsecondary faculty conducted by the United States Department of Education shows that tenured faculty teach more classes, publish more, and serve on more committees than their nontenured colleagues.<sup>9</sup>

Yes, there are occasional faculty—a very small minority of the whole—who may rightly be characterized as "deadwood." But so-called deadwood is a management problem. Behind every truly deadwood professor is at least one dead-

***The very concept of public higher education itself is under attack, not just tenure.***

---

wood administrator. Managers must manage, and college administrators have many management tools in their arsenals.

First is the awarding of tenure itself, presumably to the most productive and talented. In 10 or 15 years, that newly tenured faculty member will be up for promotion to full professor after another arduous review by department and college faculty and administrators.

The yearly review for discretionary merit raises common to most campuses is another obvious club an administrator can use to beat unproductive faculty into line. Administrators have even more powerful and immediate weapons at hand on a daily basis—course assignments, teaching load, scheduling, office space, lab space, equipment, supplies, graduate assistants, travel money, all the resources a faculty member depends on to function.

Tenure protects academic freedom as no other mechanism can. Tenure ensures long-term stability not only for the individual faculty member but for the institution—where the discovery, creation, and transmission of knowledge is a long-term process.

State legislators should recognize tenure for the friend it is in times of financial crisis: Who else but tenured faculty would put up with zero raises year after year

without too much fuss? Who else would accept salary cuts to meet a crisis in exchange for a little release time or a little make-up money later?

Significantly, it is the big state systems, not the star institutions in the private sector, that are most aggressively trying to undermine tenure. And what this tells me is that the very concept of public higher education itself is under attack, not just tenure.

I return to my initial observation: Tenure is a red herring used to deflect our discussion from the far more vital issue of funding public higher education sufficiently to meet its mission of being able to provide the opportunity for an affordable, quality education to every citizen.

**T**hose who propose that we do away with tenure are saying that we should run our public universities on the cheap. They want a faculty consisting of low-paid, exploited part-timers and temporary faculty who will, out of necessity, have no long-term relationship to their institution. Let's not forget that this is the bottom line when tenure goes.

So here is the picture of what the academy without tenure will look like. Everyone will always be looking for his or her next job. Open discourse and the free exchange of

ideas will be nonexistent. Research and scholarship as we know it will disappear as faculty wait for the ax to fall in their current job or lose months or even years settling into the next job. Students will have to hire private detectives to track down gypsy faculty for letters of recommendation.

I could go on, but I think you get the picture. In addition to everything else that would be lost with the demise of the tenure system, faculty and students would lose the stability they need to get on with their jobs of teaching and learning.

In defending tenure, am I sug-

gesting that all is fine and well in higher education in the United States? Although we're still the world's best, we need to respond to public perceptions, however erroneous, of our problems. We need to educate the public on what tenure is and what tenure isn't. And we need to make our reward system more responsive to the complexities of diverse institutional missions. I hope the ongoing dialogue will play a role in this public awareness process.

Higher education in the United States is far from perfect. But tenure doesn't cause our problems. Tenure, in fact, reduces them. ■

## Endnotes

- <sup>1</sup> Plotkin and Scheuerman.
- <sup>2</sup> Benjamin, 15-21
- <sup>3</sup> Finkin, 191.
- <sup>4</sup> Ibid., 192. *Waters v. Churchill* 114 S. Ct. 1878 [1994].
- <sup>5</sup> Byrne, 16.
- <sup>6</sup> Ibid.
- <sup>7</sup> Chait.
- <sup>8</sup> Lynd.
- <sup>9</sup> Lee.

## Works Cited

- Benjamin, Ernst. "Misconceptions About Tenure," *Trusteeship* (January/February 1995): 15-21.
- Byrne, J. Peter. "Academic Freedom w/o Tenure?" *AAHE, Inquiry* #5, 1997.
- Chait, Richard, "Why Academe Needs More Employment Options." *The*

*Chronicle of Higher Education* (7 February 1997).

Finkin, Matthew, *The Case for Tenure*. Ithaca, New York, Cornell University Press, 1996.

Lee, John, "Tenure," *NEA Higher Education Update* 1, no. 3 (September 1995).

National Study of Postsecondary Faculty, Washington, D.C.: National Center for Educational Statistics, 1994.

Lynd, Robert S. *Knowledge for What: The Place of Social Science in American Culture*. Princeton: Princeton University Press, 1967.

Plotkin, Sidney, and William Scheuerman, *Private Interests, Public Spending: Balanced Budget Conservatism and the Fiscal Crisis*. Boston: South End Press, 1994.

*Waters v. Churchill* 114 S. Ct. 1878 [1994].