

Academic freedom has constitutional protection, though scholars disagree about whether it is a distinct right, and if so, whether it belongs to the teacher, the university, or both. The premise of this article is that the Supreme Court has never recognized a distinct constitutional right of academic freedom. To date, teachers have been subject to the same first amendment protection as other public employees, but after *Garcetti v. Ceballos*, it is imperative the Court establish a discrete legal basis for individual academic freedom. “Institutional” academic freedom is not a positive “right,” but rather a qualified immunity, a policy of judicial deference to the academic community, based upon a cultural tradition of granting intellectual leeway to the thinkers and dreamers.