Photo courtesy of Socially Responsible Agricultural Project.

"KNEECAPPING" ACADEMIC FREEDOM

By Robert R. Kuehn and Peter A. Joy

This year, across the nation, state legislators and powerful corporate interests with financial ties to universities and influence over them have launched an unprecedented number of attacks on law school clinics.

As universities increasingly seek to educate students through service-learning courses, law school clinics may be the bellwether for determining whether the faculty's academic freedom in teaching will transcend the traditional classroom or be left at the classroom door. Recent legislative and corporate efforts to interfere in the operations of law clinics indicate that academic freedom is at risk when hands-on student learning bumps up against "real-world" disputes.

In spring 2010, a law-clinic lawsuit against a $4 billion poultry company triggered a legislative effort to withhold state funds from the University of Maryland unless its law school provided the legislature with sensitive information about clinic clients and case activities. While the threat of cuts was finally withdrawn, one legislator boasted that the university now knows "we'll be watching" if it takes on other business interests favored by politicians. And in Louisiana, when Tulane University this spring refused to drop an academic program that sometimes represents citizens challenging petrochemical-industry environmental permits, the industry developed an eleven-point plan, in the words of its spokesperson, to "kneecap" the university financially. The attack plan included the introduction of legislation that would forfeit all state funding if a university offered certain types of law-clinic courses.

The AAUP has recognized potential threats to academic freedom in teaching since its founding. The 1915 *Declaration of Principles on Academic Freedom and Academic Tenure* identifies the "special dangers to freedom of teaching," referring to "the danger of restrictions upon the expression of opinions which point toward extensive social innovations, or call in question the moral legitimacy or social expediency of economic conditions or commercial practices in which large vested interests are involved." The 1940 *Statement of Principles on Academic Freedom and Tenure* notes that academic freedom in teaching is "fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning." And, in 2007, the AAUP released *Freedom in the Classroom*, a report that responded to legislative attempts, more frequent after September 11, 2001, to monitor what faculty members teach. Yet, as teaching moves increasingly into the real world, respect for the faculty's expertise and even the university's freedom to control the curriculum are being challenged. One Maryland legislator likened the recent attacks on law clinics to politicians "going into somebody's class and trying to change their syllabus."

Clinical Legal Education and Service Learning

To understand why attacks on law school clinics are a harbinger of threats to academic freedom when teaching moves outside the classroom, it is important to understand the role of clinical legal education in American law schools and as part of the service-learning movement in higher education.

Clinical legal education is similar to the internship programs of medical schools. Like medical students working inside the hospital with patients, students in law school clinics have the opportunity to learn by doing: they practice law and solve client problems through the actual representation of clients under the close supervision of law faculty. Legal commentators, lawyers, and judges all agree that clinical legal education is the best way to teach lawyering skills and professional judgment, because students are able to act as lawyers for real clients and benefit from faculty supervisors who help students develop their capacities to reflect upon professional conduct through the use of self-critique and feedback. Law faculty receive course-load teaching credit for clinical courses, and students receive academic credit for learning the skills and professional values necessary to become ethical, effective lawyers.

Decades ago, recognizing the importance of clinics to the education of law students, every state adopted rules of student practice that permit students to represent clients under the supervision of attorneys, usually full-time faculty members. The accrediting body for law schools, the American Bar Association, requires schools to offer substantial opportunities for live-client or other real-life practice experiences with appropriate supervision. Law school clinics are a primary vehicle for meeting this educational goal.

While some form of clinical legal education has existed in the United States for more than a century, law school clinics began to spread in the 1960s, in large part as a response to both professional and student demands for more practical legal education. Even in its earliest form, clinical legal education embraced dual goals: providing students with hands-on training in lawyering skills and providing traditionally unrepresented clients access to legal representation.

Today, there are law clinics in almost all of the nation's more than two hundred accredited law schools. Working with faculty members, clinic students provide free assistance to a wide variety of community groups and individuals who otherwise would not be able to afford legal representation. Clinic students assist nonprofit organizations and small businesses, domestic-violence survivors, children, the elderly, disabled veterans, families facing foreclosure, and others in myriad cases. A national survey recently found that students in clinical programs provide more than 2.4 million hours annually of free legal services to more than 120,000 clients who otherwise would not have access to legal assistance or, in the case of clients facing criminal charges, would require the state to pay for attorneys.

Like medical and law schools, other professional schools, such as schools of nursing, urban planning, and social work, include real-life experiential course opportunities in their curricula. In the last few decades, a growing number of universities have begun to require service learning and other experiential educational opportunities for undergraduates. Yet, each time teaching leaves the confines of the classroom, the potential exists for conflicts with

the interests of others. This is particularly true when the activities outside the classroom involve assisting individuals and groups whose interests put them at odds with the interests of those with strong ties to the university or elected officials, especially corporate interests.

Disputes about teaching in the outside world have not been limited to law clinics. In fall 2009, a prosecutor in Chicago subpoenaed grade information, student notes, e-mail correspondence, and other records of journalism students who were earning academic credit in a course at Northwestern University that sought to uncover evidence of wrongful criminal convictions. The Landmark Legal Foundation, a conservative organization that focuses on the environment and education, has lodged public records requests and complaints against labor-education centers at public universities around the country, seeking to restrict what the centers can do and whom they can serve. The complaints allege that the centers illegally provide services that benefit the private interests of unions rather than the public, ignoring the fact that universities often serve private economic interests through business schools, economics departments, and centers that provide service-learning opportunities for businesspeople and training for future business leaders and entrepreneurs. Other examples of real-life learning opportunities that have run into resistance include efforts to stop social-work students in Appalachia from working for coal-miner compensation and attempts to stop public-health students in Tennessee and Virginia from helping communities document pollution sources. In each of these instances, the faculty members involved sought to prepare students for work in their respective academic fields by moving their learning outside the traditional classroom.

Working on behalf of poor and other politically marginalized clients often puts law clinics at odds with powerful interests and government officials.

A History of Attacks on Law Clinics

A brief history of attacks on law school clinics helps illustrate the underlying motivations and strategies of those interfering with academic freedom when learning takes place in the real world. Working on behalf of poor and other politically marginalized clients often puts law clinics at odds with powerful corporate interests and government officials, many with strong financial ties to and influence over universities. Rather than respect the right of faculty members to determine how best to teach students, these special interests and officials have sometimes sought to limit exactly which needy citizens can be helped by law clinics, to cut state funding to university clinics that dared to represent clients with valid legal claims against certain businesses or government bodies, and to control what students do in their clinical courses.

More than thirty instances of interference in law school clinics have been publicized since the late 1960s (see sidebar). The first occurred in 1968 at the University of Mississippi, where the appointments of two untenured professors were terminated following complaints that their new clinical program participated in a desegregation lawsuit. After an AAUP investigation found that the action violated the professors' academic freedom and a court ruled the terminations unlawful, the administration offered to reappoint the professors.

Although the early Mississippi attack was based on politics, most interference has been motivated primarily by money. Starting in 1981 and continuing into the 1990s, timber companies attacked the environmental law clinic at the University of Oregon because they were upset over clinic cases that interfered with their plans to log national forests. In efforts to terminate the program, clinic opponents sponsored a bill in the legislature to withdraw state funding for the entire law school. In the face of this threat, the clinic ultimately moved off campus and reorganized as an independent nonprofit public-interest law office where students could work for credit during the semester.

Tulane University has repeatedly been targeted because of its environmental clinic. In 1993, then-governor Edwin Edwards was so upset at statements the clinic's director made that the governor threatened to deny financial assistance to state residents attending the university and to prohibit Tulane medical students from working in any state hospital unless the director was fired. Tulane's president at the time, Eamon Kelly, declined to intervene, arguing that academic freedom protected the professor. A few years later, the clinic's success in representing a low-income, minority community opposed to a proposed chemical plant led then-governor Mike Foster and business interests to threaten to revoke Tulane's tax-exempt status and deny it access to state education trust-fund money, to organize an economic boycott of Tulane, and to refuse to hire its graduates. When the university still refused to terminate the course, clinic opponents successfully persuaded the Louisiana Supreme Court to impose restrictions on whom law school clinics can assist and what kinds of representation students can provide.

Events at the University of Pittsburgh in 2001 demonstrate that external threats over service-learning courses can also bend a university's commitment to academic freedom. When state legislators expressed disapproval of a law school clinic's representation of citizens concerned about a proposed highway, university officials began charging the clinic for the university's overhead costs, prevented it from approaching funders unless it agreed to avoid certain cases that might upset legislators, and pressed it to separate from the school and move off campus. After the faculty senate's tenure and academic freedom committee found that the administration's actions "clearly involve infringement upon the principles of academic freedom," university officials did an about-face and decided to support the clinic. The law school's dean, who initially wavered in the face of opposition to the clinic

by university officials, explained: "At some point you have to stand by your principles. You have to stand up for academic freedom and the principles of our profession and teach your students by model behavior. . . . What are we teaching law students when we decide not to represent people who otherwise would not have a voice because of this legislative pressure?"

The past year has seen an unprecedented number of attacks on law clinics. The clinical program at Rutgers University is defending itself against a lawsuit brought by a developer, who was defeated in a clinic case and is now seeking to use the state's public records law to gain access to internal clinic case files that would otherwise be beyond the reach of a party to a lawsuit. A dispute in Michigan this past winter demonstrates that attacks also can occur when students get in the way of powerful government interests. The district attorney in Detroit, upset with the efforts of a University of Michigan innocence clinic to exonerate a man it alleged was wrongfully imprisoned for ten years, sought to force the students to testify at trial against their client, an unprecedented effort to interfere in the students' attorney-client relationship.

In Maryland, Jim Perdue, chair and chief executive officer of Perdue Farms, was angered by a University of Maryland clinic lawsuit alleging his company and its contract farmers were unlawfully polluting the Chesapeake Bay. Perdue persuaded legislators to attach a rider to the university's appropriations that conditioned $750,000 in funding on submission of a report detailing clinic cases, clients, expenditures, and funding, much of which is confidential information. The dean of the law school, Phoebe Haddon, objected that the restriction interfered with the school's ability to control its academic program and the clinic's professional obligations to its clients. The rider was defeated after the AAUP and other organizations successfully argued that the action was a serious violation of academic freedom that threatened the ability of institutions of higher education to serve the state's numerous constituencies. Even in defeat, one of the rider's sponsors was confident that the university had gotten the message—don't select cases based on educational or legal merit but instead ask whom you might offend if you go forward.

An even harsher attack occurred in Louisiana this past spring, where the Louisiana Chemical Association (LCA) pushed for legislation, subject to narrow exceptions, that would forfeit all state funds going to any university, public or private, whose clinics brought or defended a lawsuit against a government agency, represented anyone seeking monetary damages, or raised state constitutional claims. The bill also would have made clinic courses at the state's four law schools subject to oversight by legislative commerce committees. The LCA sought the legislation after a Tulane University clinic filed a lawsuit that would have required LCA members to pay millions of dollars in fines for violating air pollution laws. The bill was part of a leaked LCA strategy to force Tulane to drop its environmental law clinic. The strategy included ceasing all corporate support for Tulane, not hiring any Tulane graduates, contacting donors to persuade them to withhold donations from Tulane, urging the Louisiana Board of Regents to withdraw all support, and getting the governor and congressional delegation to pressure Tulane to close its clinic.

The AAUP, in its letter to the chair of the Louisiana senate's Commerce, Consumer Protection, and International Affairs Committee, noted that the legislation would force the state's universities to choose between providing the best possible education and receiving state funds ($45 million annually to Tulane alone) and would punish universities for providing programs that serve a broad range of concerns and interests, rather than simply narrow corporate interests. Legislators debated the bill while oil was gushing in the Gulf of Mexico from BP's oil rig, and the bill was defeated in committee, although its supporters were unrepentant in defeat and threatened to return with a revised bill that would more narrowly focus on Tulane.

The state bill was part of a leaked Louisiana Chemical Association strategy to force Tulane University to drop its environmental law clinic.

These are just a few troubling examples of a much larger phenomenon. In a 2005 survey of clinical law professors, 12 percent reported similar interference in their courses, with more than a third reporting that they worried about how the university might react if they took on controversial cases or clients. As one would expect, these worries chill the professional judgment of a significant number of professors: one in six reported self-censoring their choices about the legal cases students should handle because of concerns about adverse reactions to potentially controversial clinic coursework.

Academic Freedom Outside the Classroom

In response to attacks on law school clinical programs, some faculty members have argued that courtrooms, hearings, and other practice settings are their classrooms and the cases their teaching materials. As the AAUP stated in *Freedom in the Classroom*, although "in many institutions the contents of courses are subject to collegial and institutional oversight and control," a faculty member is generally free to choose a textbook, provided it addresses the relevant subject area and is not so outdated as to be detrimental to student learning. By analogy, the same academic freedom norm that supports the right of the institution and faculty to select course material supports their right to select the issues on which students in service-learning courses focus and the persons in the community with whom they work.

One traditional justification for academic freedom in teaching is that the faculty member is the expert on a particular subject and should be allowed to determine how best to educate students. Deference to the curricular decisions of the faculty also nourishes

an environment of discovery and intellectual experimentation. Respect for academic freedom in teaching helps keep politics and the caprice of public opinion from interfering with educational excellence, preventing, as historian Walter Metzger once put it, the university from being converted "into a bureau of public administration . . . and the act of teaching into a species of ventriloquism."

Finally, giving faculty members the choice about what and how to teach promotes the university's neutrality by allowing the school to avoid taking sides in a dispute. So, a university or college could have both a labor center that might offer a course in which students work to improve employee-safety standards and a business school course in which students help local business owners solve problems and maximize their profits. In such instances, as with law students in clinical programs, students are learning by doing under the supervision of faculty members, just as students learn in a physics or biology laboratory.

Although academic freedom in teaching is well established as a professional norm in university policies and contracts, academic freedom as a right protected by the First Amendment is unsettled law in public colleges and universities, even when teaching is limited to the classroom. In its 1957 decision in *Sweezy v. New*

Publicized Instances of Interference in Law School Clinics

INSTITUTION	YEAR	DESCRIPTION	RESOLUTION
University of Mississippi	1968	Clinical professors on desegregation lawsuit are dismissed under employment policy.	Court rules dismissal unlawful and employment policy is rescinded.
University of Connecticut	1971	Dean proposes that clinic cases be approved by the dean and faculty.	Policy is rescinded because of American Bar Association Ethics Opinion 1208.
University of Arkansas	1975	Legislative rider states that no professor can handle or assist in any lawsuit.	Court rules restriction unconstitutional.
University of Tennessee	1977	Tennessee Valley Authority pressures school to drop clinic lawsuit.	Clinical professor removes case from clinic and handles case on his own.
University of Colorado	1980	Business interests are critical of clinic advocacy group working out of school.	Dean successfully deflects criticism.
University of Oregon	1980	University donor criticizes clinic and withholds $250,000 gift.	University president severs ties with outside sponsor.
University of Tennessee	1981	Attorney general challenges clinic request for attorneys' fees in suit against the state.	New trustees policy prohibits significant suits against the state.
University of Colorado	1981	Legislation prohibits law professors from assisting in suit against the government.	Governor vetoes legislation.
University of Oregon	1981	Timber interests are critical of outside sponsorship of clinic.	University president says clinic must sever ties with outside sponsor.
University of Iowa	1981	Legislation proposed that would prohibit funds for suits against the state.	Legislation is defeated.
University of Connecticut	1981	Legislator threatens legislation to restrict criminal clinic.	Legislation is never introduced.
University of Idaho	1982	Legislation proposed that would prohibit courses that assist in suits against the state.	Legislation passes only one chamber of the legislature.
University of Oregon	1982	Opponent seeks to depose clinic and dean over funding.	Court says depositions are allowed.
University of Oregon	1983	Timber interests allege clinic is illegally using public funds for private benefit.	Attorney general says educational goals are a public benefit.
University of Oregon	1986	Ethics complaint alleges clinic's selective evidence misled judge.	Ethics board deems complaint without merit.
Rutgers University, Newark	1987	State claims law prohibits clinic from appearing opposite agency.	Court says there is no violation of conflict-of-interest statute.
University of Maryland	1987	Governor proposes that clinic funding be contingent on not suing the state.	Policy is withdrawn, but the clinic must notify the state before suing.
Northwestern University	1990	Attorney for the defense in case pressures university to withdraw and sues clinic attorney.	University rebuffs pressure, and suit against clinic attorney is dismissed.
University of Oregon	1993	Legislature threatens to defund law school over clinic cases.	Clinic moves off campus and operates as a public-interest law firm.

Hampshire, the U.S. Supreme Court observed that academic freedom is "the exclusion of governmental intervention in the intellectual life of a university" and that its contours include the right of the university "to determine for itself on academic grounds . . . what may be taught [and] how it shall be taught." In other contexts, including its 1990 decision in *University of Pennsylvania v. EEOC* and its 1985 decision in *Regents of University of Michigan v. Ewing*, the Court has reiterated that respect should be accorded to university academic decision making and that the expertise to make those decisions resides in universities, not courts.

But if academic freedom as a constitutional right imposes some limits on the regulation of public higher education, the scope of this protection when applied to service learning has yet to be defined. Although courts generally have upheld a university's power to decide and control its curriculum when students, taxpayers, or individual faculty members have challenged that power, the legality of efforts by legislatures or other government officials to restrict directly the method or content of university courses is less clear, especially when those courses move outside the classroom.

In *Southern Christian Leadership Conference v. Supreme Court of Louisiana*, a 2001 case challenging a new Louisiana Supreme

INSTITUTION	YEAR	DESCRIPTION	RESOLUTION
Tulane University	1993	Governor threatens to cut state funds over clinic director's comments.	University president says director has academic freedom.
Tulane University	1993	Governor asks state supreme court to investigate clinic activities.	Court says there is no reason to exercise oversight.
Arizona State University	1995	Legislator threatens to cease all funding of clinics.	Rider is adopted that prohibits clinic from participating in prisoner suits against the state.
Rutgers University, Newark	1997	Opponent in lawsuit challenges clinic's right to represent citizens against the state.	Court says help is not improper donation of public funds.
Tulane University	1997	Governor and industry threaten to cease university funding and donations and seek restrictions on clinic cases.	State supreme court imposes limits on clinic representation.
Saint Mary's University (Texas)	2000	Law dean is unhappy with clinic's human-rights case against Mexico.	Dean unilaterally withdraws clinic from case.
University of Pittsburgh	2001	Legislator threatens to reduce university funding because of forest suit.	Budget for university prohibits use of state funds for environmental clinic.
University of Pittsburgh	2001	University threatens to cut funding and close clinic over its involvement in highway dispute.	University changes stance and refuses to restrict clinic.
University of Denver	2002	Alumni attorneys complain after clinic seeks fee award in successful case.	Professor ordered not to seek fees but does; his position is not renewed.
University of Houston	2002	District attorney refuses to hire students who participated in innocence clinic.	After news reports, district attorney denies he discriminates.
University of North Dakota	2003	Legislator complains that clinic cannot represent clients against the state.	Attorney general says nothing in state law prevents such suits.
University of North Dakota	2004	Rejected client claims bias in clinic's case-selection criteria.	Court says plaintiff is allowed to put on proof of discrimination.
Hofstra University	2006	Trustee threatens to withhold funds after clinic lawsuit against trustee's properties.	University president rebuffs attack, citing academic freedom.
Rutgers University, Newark	2008	Opponent makes public records request for clinic's internal documents.	Court says public records law does not require access to case information.
University of Michigan	2010	District attorney lists innocence-clinic students as witnesses for prosecution.	District attorney drops case after witness list is challenged.
University of Maryland	2010	Legislative rider conditions funding on report of clinic's cases, expenditures, and funding.	Rider is amended to drop funding conditions and to limit required report.
Tulane University	2010	Bill introduced to strip funds to universities whose clinics sue the state or seek monetary damages.	Legislation is defeated in committee after public outcry.

Adapted and reprinted with permission from Robert R. Kuehn and Bridget M. McCormack, "Lessons from Forty Years of Interference in Law School Clinics," *Georgetown Journal of Legal Ethics* 24, no. 1 (2010).

Court rule that restricted whom law students in clinical courses could assist, a federal court found that the First Amendment did not prohibit the viewpoint-neutral limit on what students could do as part of a clinic course. However, the Court has found that efforts to exclude a group from a government program based on a desire to suppress a particular point of view are unconstitutional.

Government actions that single out certain professors or courses for restrictions have not been successful. In the 1998 case *Hoover v. Morales*, a court struck down a law restricting the activities of faculty members in Texas because the legislation drew a distinction based on the content of the employees' speech, which we believe to be an impermissible feature of many of the efforts to restrict law clinics. Similarly, in the 1969 case *Trister v. University of Mississippi* and the 1977 case *Atkinson v. Board of Trustees of University of Arkansas*, efforts to restrict the activities of professors involved in unpopular lawsuits were held to violate the Equal Protection Clause, as those restrictions singled out some professors for discriminatory treatment because of the clients they assisted. While these cases were not based on First Amendment protection of academic freedom, J. Peter Byrne of the Georgetown Law Center argues in "Academic Freedom: A 'Special Concern of the First Amendment'," a 1989 article in the *Yale Law Journal*, that if constitutional academic freedom means anything, it should prevent political interference in academic decision making—the very attacks seen so often with law clinics.

University of Maryland law students Erin Doran (far left) and Matt Peters (far right) talk with Michele Merkel of the Waterkeepers Chesapeake (holding binder) and Tina Meyers, staff attorney of the University of Maryland Environmental Law Clinic.

State constitutions often enhance the academic freedom of universities to control their curricula and to choose appropriate teaching approaches. Provisions in many state constitutions give boards of regents and universities the power to control academic programs. Where this independent constitutional authority exists, public universities should be protected from legislative interference in academic policies addressing the nature and content of courses offered.

A number of state attorney-general and court opinions have upheld the right of universities to offer law-clinic courses. The Oregon attorney general in Opinion 549B held that it was not an improper use of state funds for faculty members and students in a course to provide free legal assistance: "It is well established that a substantial public benefit [of hands-on education] is not defeated because a private purpose also is served. . . . We see no legal reason why the University cannot define the Environmental Law Clinic as a course of study and lawfully appropriate public funds for that purpose." Likewise, in 1999, a court in New Jersey held in *New Jersey Department of Environmental Protection v. City of Bayonne* that because a clinic course served the valid public purposes of assisting in the enforcement of state laws and providing hands-on educational experience, a clinic's provision of free assistance to a nonprofit public-interest organization did not violate a provision in the state's constitution that prohibits donations of land or money to private parties. The North Dakota attorney general in Opinion 2003-L-42 similarly found it within the authority of the state board of higher education and the University of North Dakota to create a law clinic, even one that would represent clients bringing claims against the state or its political subdivisions. The opinion recognized the neutrality of the university in such suits, explaining that participation by faculty members and students in such matters did not constitute the state's or the university's position on the dispute.

Particularly in disciplines where students are expected to be educated not just in doctrine and technical skills but also in the customs and values of the profession, out-of-classroom courses can be essential to what the Carnegie Foundation recently called, in *Educating Lawyers: Preparation for the Profession of Law*, the apprenticeship of "professional identity and values." The North Dakota attorney general observed that ethical norms of the legal profession, which law schools strive to teach and emulate, direct lawyers to provide representation to those who cannot afford attorneys and not to deny such representation to controversial or unpopular clients. The attorney general noted that American Bar Association Ethics Opinion 1208 even states that law schools

should avoid making rules that prohibit acceptance of cases against public officials, government agencies, or influential members of the community.

Hence, just as field placements in schools of social work reflect the professional ethic to pay "particular attention to the needs and empowerment of people who are vulnerable, oppressed, and living in poverty," so, too, is it appropriate and indeed necessary to give law students hands-on experience that can at times put them in conflict with the interests of government officials or corporations. In defending the decisions of law schools to offer clinics that represent one side of a contested public issue, Byrne has argued in a 1993 essay in the *Journal of Legal Education* that schools must be committed to the values of the profession to prepare students for their future professional roles properly. A clinical program, which might find itself opposite a $4 billion poultry company or Louisiana's petrochemical industry, "seems amply justified by the legal profession's ethical commitment to representation of those who cannot secure paid representation in the marketplace."

That conflicts are more likely to occur when students leave their desks and learn in ways that might affect others and change the world neither supports eliminating service-learning courses nor justifies restricting the traditional academic freedom of the faculty to determine what may be taught and how it may be taught. As the Oregon attorney general concluded in refusing to second-guess how the law school should best educate its students, the cases or projects selected for students to work on outside the classroom are "a policy choice left to the faculty."

Faculty members need to appreciate the educational value of service learning to students and support other faculty members when their out-of-classroom work comes under attack.

Conclusion

The history of attacks on clinical programs and interference with other educational activities outside of the classroom demonstrates that academic freedom is increasingly at risk when teaching bumps up against powerful political and corporate interests. When those interests feel threatened by such courses, some try to restrict or silence university activities that they cannot buy or otherwise control.

But if, as former AAUP counsel Jonathan Alger has argued in *Academe*, "academic freedom is intended to protect the learning process and the search for truth, it cannot be a privilege enjoyed solely by faculty and students in traditional classrooms." The attacks on clinics and other service-learning activities demonstrate, however, that recognition of the importance of academic freedom in all teaching, particularly teaching outside the traditional classroom, is not well understood. If efforts to preserve academic freedom outside the classroom are to succeed, faculty members, university administrators, and the AAUP need to do more.

Faculty members need to appreciate the educational value of service learning to students and support other faculty members when their out-of-classroom work comes under attack. University administrators, too, need to recognize the importance of service learning and, as the Association of American Colleges and Universities stated in 2006, "recognize that real-world learning may involve students with issues and problems that have been highly politicized." Administrators should explain these courses "to the public, alumni, donors, and government officials and be prepared to defend them," in the words of the AAUP's *Statement on Government of Colleges and Universities*, "when ignorance or ill will threatens the institution or any part of it."

Finally, for many years, the AAUP has vigorously defended the academic freedom of law school clinics that have come under attack. However, its formal statements have never addressed the specific issues of academic freedom that arise when teaching leaves the classroom. Indeed, its assertion in the 1940 *Statement* that teachers are entitled to "freedom in the classroom" and its 2007 *Freedom in the Classroom* statement do not reflect this important aspect of modern university education and suggest a more limited scope by emphasizing "the classroom." A recent AAUP report, *Protecting an Independent Faculty Voice: Academic Freedom after* Garcetti v. Ceballos, does propose new language for faculty handbook policies that defines academic freedom to include "freedom to teach, both in and outside the classroom." This is a good first step, and now is an opportune time for the AAUP to update the meaning of academic freedom in teaching by issuing a formal statement focused on service learning.

With these collective actions, those attacking law clinics and service-learning courses will know that faculty members, university administrators, and the AAUP will stand together and fight to preserve academic freedom when teaching leaves the traditional classroom. Without such a concerted effort, powerful interests may indeed have the ability to "kneecap" academic freedom when teaching enters the real world. ■