

First Amendment Does Not Protect Grading Decisions

The Third Circuit Court of Appeals has ruled that a tenured professor may be fired for his refusal to follow the directive of the president of the university to change a grade in a course taught by the professor. The professor had assigned a grade of “F” to a graduate student who had attended only three of fifteen classes during the semester. The president ordered that the grade be changed to an “incomplete.” When the professor refused to do so and lost his job, he sued the president, alleging a violation of his First Amendment rights of academic freedom and free speech.

The trial court ruled in favor of the professor, but the appellate court disagreed and reversed that decision. The court held that “the assignment of a grade is subsumed under the university's freedom to determine how a course is to be taught.” A professor does not, therefore, have a First Amendment right of expression via the grade assignment process. *Brown v. Armetti*, No. 00-1587 (3d Cir. April 17, 2001).

The court distinguished this case from one in which the professor may have been expressing his opinion about a matter of public concern, such as grade inflation. In such case, the court noted, his comments might have First Amendment protection. However, where an employee merely expresses dissatisfaction with an employer’s administrative decision, such protection is not available.