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[David Moshman, Contributor Intellectual freedom activist](#)

Giving Students the Finger

David Moshman

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Does academic freedom protect giving students the finger?

On August 25, University of Nebraska-Lincoln sophomore Kaitlyn Mullen set up a table on campus outside the student union to promote Turning Point USA, a campus-based libertarian/conservative organization. TPUSA is known for its Professor Watchlist, which seeks to “expose and document college professors who discriminate against conservative students and advance leftist propaganda in the classroom.”

Before long, there were people demonstrating against her. Ultimately, Mullen was harassed and intimidated by several individuals employed to teach at UNL, with the apparent intent of suppressing her intellectual freedom. One of them labeled her a “neo-fascist” and gave her the finger.

The encounter received extensive publicity, as a result of which UNL has been denounced and threatened by donors, state senators, and others. Many have demanded that those responsible for Mullen’s treatment be punished. Others have responded that the instructors involved are protected by academic freedom.

Obviously UNL should not punish anyone or violate its normal processes just to satisfy external demands. But does academic freedom really protect giving a student the finger? I think not.

Granted, giving someone the finger is an expressive activity protected by the First Amendment. There can be no law against flipping off those you think should be flipped off. If the UNL

situation involved passersby in the streets of Lincoln, the First Amendment would likely protect everyone involved.

But most employers reasonably expect their employees to treat people with at least minimal respect. UNL would generally be justified in taking action against an employee who gives a student the finger. Even though UNL is a public university subject to the First Amendment, disrespectful treatment of a student may be punished even in cases where it consists of speech that would otherwise be protected by the First Amendment.

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And now the key question: Does it matter that the employees were teachers? Even if the First Amendment does not generally protect UNL employees who give students the finger, are instructors who flip off students protected by academic freedom?

This is not a matter to be taken lightly. If teachers can't give students the finger, what else can't they say or do? Will this start us down a slippery slope of exceptions to academic freedom? What will be left? Where do we draw the line?

The answer, I suggest, is that we draw the line at academic work. Academic freedom is the intellectual freedom needed to engage in genuine teaching, learning, and inquiry. It includes the freedom of teachers to strongly disagree with their students and confront them with ideas they abhor, even if the students are shocked and offended, because alternative ideas and open discussion are critical to education.

And what about giving students the finger? Even what looks like giving a student the finger may be protected by academic freedom if it is part of a class exercise or research project concerning, say, abusive expression.

But actually giving a student the finger to show your disrespect for her and her ideas serves no academic purpose. On the contrary, such disrespect for students undermines their education by violating their academic freedom to learn, which includes thinking for themselves, expressing ideas of their own, and engaging in discussion. Respect for students includes respect for their intellectual freedom, regardless of their political or other views.

The harassment of Mullen at UNL took place in a public area, rather than a classroom, and the instructors who harassed her were not her teachers in any class. Rather than seeing this as an academic interaction of teacher and student, one might see it instead as a nonacademic interaction of UNL employees with a student. But then there is no question of academic freedom.

So far at UNL, the graduate teaching assistant who labeled Mullen a neo-fascist and gave her the finger has been removed from the classroom, but this has been described as a reassignment for security reasons after multiple threats, not a punishment. It remains to be seen what happens next.

David Moshman blogs about intellectual freedom in education. He has served as president of the ACLU of Nebraska and of the Academic Freedom Coalition of Nebraska. A professor emeritus of educational psychology at the University of Nebraska–Lincoln, his publications on reasoning, rationality, adolescence, development, education, and human rights have been cited in thousands of scholarly books, journal articles, and dissertations. His books include *Liberty and learning: Academic freedom for teachers and students* (2009); *Adolescent rationality and development: Cognition, morality, and identity* (3rd edition, 2011); and *Epistemic cognition and development: The psychology of justification and truth* (2015).

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