

UNIVERSITY OF WISCONSIN'S RESPONSE TO FOIA REQUEST EMPHASIZES IMPORTANCE OF ACADEMIC FREEDOM

The University of Wisconsin issued two documents in response to the request for Professor Bill Cronon's emails: a message from the Chancellor, and a letter from the General Counsel to WI's GOP. As the GC letter describes, UW has withheld the following documents, among others.

4. Personal communications. The Wisconsin Supreme Court's decision in *Schill, et al. v. Wisconsin Rapids School District, et al.*, Case No. 2008AP967-AC (July 16, 2010), allows the university to withhold e-mails containing purely personal communications that do not relate to Professor Cronon's employment as a faculty member or the official conduct of university business, even though they were sent or received on university e-mail and/or computer systems.

5. Intellectual communications among scholars. Faculty members like Professor Cronon often use e-mail to develop and share their thoughts with one another. The confidentiality of such discussions is vital to scholarship and to the mission of this university. Faculty members must be afforded privacy in these exchanges in order to pursue knowledge and develop lines of argument without fear of reprisal for controversial findings and without the premature disclosure of those ideas. The consequence for our state of making

such communications public will be the loss of the most talented and creative faculty who will choose to leave for universities that can guarantee them the privacy and confidentiality that is necessary in academia. For these reasons, we have concluded that the public interest in intellectual communications among scholars as reflected in Professor Cronon's e-mails is outweighed by other public interests favoring protection of such communications.

In her message, Chancellor Biddy Martin explained the importance of privacy to academic freedom.

We are also excluding what we consider to be the private email exchanges among scholars that fall within the orbit of academic freedom and all that is entailed by it. Academic freedom is the freedom to pursue knowledge and develop lines of argument without fear of reprisal for controversial findings and without the premature disclosure of those ideas. Scholars and scientists pursue knowledge by way of open intellectual exchange. Without a zone of privacy within which to conduct and protect their work, scholars would not be able to produce new knowledge or make life-enhancing discoveries. Lively, even heated and acrimonious debates over policy, campus and otherwise, as well as more narrowly defined disciplinary matters are essential elements of an intellectual environment and such debates are the very definition of the Wisconsin Idea.

When faculty members use email or any other medium to develop and share their thoughts with one another, they must be able to assume a right to the privacy of those exchanges, barring violations of

state law or university policy. Having every exchange of ideas subject to public exposure puts academic freedom in peril and threatens the processes by which knowledge is created. The consequence for our state will be the loss of the most talented and creative faculty who will choose to leave for universities where collegial exchange and the development of ideas can be undertaken without fear of premature exposure or reprisal for unpopular positions.

As I have suggested, emails of Michigan professors FOIAed in similar fashion will almost certainly be exempted under personal exemptions under MI law (I've spoken to a bunch of people in MI since I wrote the post, and most people, particularly the lawyers, agree).

Of course, this won't end it. It's this concept of freedom that the Republicans are trying to assault, not to mention the autonomy of universities.

But I'm glad UW made such a statement in support of academic freedom.