

A Defense of Freedom of Expression in Schools: The Case from Differentiation of Instruction

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Abstract: A basic principle about freedom of expression says you can morally constrain freedom of expression only if you can show some person(s) freely expressing themselves have a duty to stay quiet. Freedom of expression benefits the teaching-learning process when teachers use student voices to harmonize lessons with student learning needs, student interests, and students' outside of school lives. Therefore, freedom of expression should be allowed in schools unless it can be shown that some act of freedom of expression will do harm to the education process by silencing/subverting student voice. Focusing on the education process as benefitting from free exchange of information and ideas between teachers and students provides an example to follow when developing educationally relevant rules/reasons for permitting/limiting freedom of expression in schools.

The American Bill of Rights is founded upon freedoms comprising freedom of expression, but when it comes to one's education, freedom of choice and freedom of expression are conveniently omitted. "Freedom of expression refers to the ability of an individual or group of individuals to express their beliefs, thoughts, ideas, and emotions about different issues free from government censorship. The First Amendment of the U.S. Constitution protects the rights of individuals to freedom of religion, speech, press, petition, and assembly. Some scholars group several of those freedoms under the general term "freedom of expression." (Freedom Forum Institute, n.d.) "The freedom of expression is vital to our ability to convey opinions, convictions, and beliefs, and to meaningfully participate in democracy... freedom of individuals to express their opinions, convictions, and beliefs is often imperiled (endangered) when states are not required to meet a substantial justificatory burden when limiting such freedom." (Gunatilleke, 2020, 91) This paper will seek to explore how schools might reasonably handle "a substantial justificatory burden" of permitting and limiting freedom of expression in cases of instructional innovation.

Currently, as Brophy, et al. (2018, 10 and 15, respectively) observe, "with the increased pressures of standards and testing, there is much debate about whether planning is part of teachers' professional practice or has been coopted by district or school administrators." This deprives opportunity for teachers, Brophy continues, "[to] create powerful, meaningful, deep units of study that go beyond what is required and create well-rounded students who are excited about learning and school." Concern about that threat compelled Bixler (1954, 18) to argue, long before Brophy's complaint, that teachers need the freedom to teach, and students need the freedom to learn, and schools will be all the better run "if all of us would go to work at obtaining and maintaining those freedoms."

We must give educators the freedom to choose their lessons and teaching styles since they are the only ones who truly know their students. Without academic freedom, there is little room for teachers to be able to differentiate their lessons to meet the academic, personal, and developmental needs of their students. This does an extreme disservice to students and hinders their learning because it does not provide an opportunity for students to challenge themselves. This is particularly important when teachers are teaching in multicultural contexts. A downside of this is, in most classes, students rarely or never have opportunity to share about their cultures. However, when a teacher's directions in the classroom are in harmony with students' cultures,

these instructions may enhance the students' achievement and confidence due to increased comfort in the classroom. (Darling-Hammond, et al., 2020)

As part of a study conducted to find out what makes a good teacher (Devine, et al., 2013), 73 teachers were asked about how important it is to teach diversity in their classrooms. Recognizing the individuality of each student was found to be "Important" by 53.2% and "Very Important" by 37.1% (90.3% in the combined categories). Understanding the socio-economic and cultural backgrounds of students was found to be "Important" by 64% of teachers surveyed and "Very Important" to 13.6% of teachers participating in the study (77.6% overall). In a study conducted on college students (Roska, et al., 2017), 2,500 students were interviewed from a 4-year institution where 43 percent of African American students reported having a "high" number of negative diversity interactions, as well as 37 percent of Hispanic students and 40 percent of Asian students. Twenty-five percent of white students said the same. Negative diversity experiences reported by the students in Roska's study made participants feel "their ideas and opinions were shut down due to prejudice and discrimination; when they felt insulted or threatened based on their racial, religious, ethnic or gender identity; or when they had hurtful, unresolved interactions with diverse students (304)." On the other hand, positive diversity experiences reported by the students Roska surveyed promoted constructive conversations, meaningful experiences, and friendships between those of different backgrounds, and allowed students to challenge each other's viewpoints and consider complex issues. "It's one thing," Roska notes, "to have a diverse student body -- that is a crucial first step -- but you have to ensure that interaction between groups is positive (319)." Schools should, without a doubt, give their teachers the freedom to explore both the positive and negative cultural and racial experiences of students to better understand their situations and provide an environment where students from different backgrounds can be brought together and enjoy and benefit from diversity in the classroom.

Arguments like ones given in defense of adapting teaching to cultural/racial diversity extend to differentiated learning at the individual level, as well. Conducting research and using data is an effective way in which teachers can assess student learning and use that information to differentiate their instruction to meet students' needs. In a study conducted across 62 public charter and district schools (Pane, et al., 2015), researchers concluded that, "compared to peers, students in schools using personalized learning practices are making greater progress over the course of two school years, and those students who started out behind are catching up to perform at or above national averages." The study found 1) teachers at most schools were using data to understand student progress and make instructional decisions, and 2) all schools offered time for individual academic support, and the use of technology for personalization was widespread. The schools who saw these results used effective student grouping strategies driven by data to effectively pair students with programs run by the school to help achieve learning goals. They also reassessed whole group strategies and created individual learning pathways. Thus, Pane provides statistical evidence that the academic achievement of students improved with the addition of differentiated learning.

An even more radical form of freedom of expression that promotes differentiation of instruction is giving students the freedom to choose curriculum and freedom to choose how to exhibit what they have learned about what they are studying. According to Usher (2019), "Elementary students have a better chance of showing what they've learned when they have a choice about how to show it." She claims, "differentiation is key because it's about giving more

opportunities for students to grow to their highest potential, and it is beneficial for all students... Giving students a choice allows them to take ownership of their learning as well as create a product that feels authentic to them. They work on something that they're good at creating or try something they want to get better at." Studies show that providing students with a choice "benefits all learners and lowers classroom behavioral problems since students are more engaged in subject matter." (Latz, et al., 2008, 30) An interview with students from Elizabeth Cleaners Street School in New York City, a school that conscientiously let students guide curriculum development, revealed "[t]he students raise the question of collective rights and responsibilities of students to control their own education within the context of a more direct relationship with the urban community of which they are part... According to the students, teachers alienate children by acting authoritarian and superior to them when control of schools has been placed in the hands of the bureaucratic administrators." (Interview, 1970, 613)

The benefits of teacher academic freedom as a form of freedom of expression make clear the importance of the right of teachers and students to negotiate curriculum content, lesson delivery, and assessment of learning. This provides material to construct a principle for when freedom to plan lessons should be allowed and when it should be limited. The focus of this principle when used in specific school contexts must be on what ways student choice may be made the best guide to quality lesson planning. Schools should promote teacher differentiation in lesson planning, etc., so long as it can be shown that the planned lessons may reasonably be expected to improve quality and quantity of student learning. On the other hand, schools should limit teachers in lesson design if and only if evidence of reasonable expectation of improved learning is not available or evidence exists to suggest differentiation would deter student achievement. This principle articulates a "substantial justificatory burden" schools must bear to limit freedom of expression among students and teachers.

Two objections to this line of thought, one that questions student capacity to negotiate differentiation and one that questions teacher capacity to differentiate, serve only to strengthen support for teacher-guided, student decision making about schooling. First, Vopat (2010), arguing specifically about issues of freedom of expression in schools surrounding use of school uniforms, makes two general observations questioning the capacity of students to guide decision-making about their school lives. Vopat distinguishes between "mere expression" and "substantive expression." Mere expression concerns rights that protect mere choices. Substantive expression concerns rights that protect substantive interests. Using this distinction against arguments for student choice, Vopat (209) concludes "most children, particularly those in the preteen years, lack the cognitive ability to exercise the latter [substantive expression]." Kids, that is, can't tell the difference between what they want and what they need. However, even if we grant Vopat's potentially prejudicial view of student capacity to make decisions about their schooling, the involvement of teachers in the decision-making process undercuts his conclusion. In discussion with teachers about curriculum, students will learn the difference between mere expression and substantive expression as they learn to distinguish whim from wisdom in working with their teachers to differentiate instruction.

Second, the capacity of teachers to make wise decisions about differentiation may similarly be questioned. In the absence of general principles describing effective differentiation, teacher-student decision-making may take on the feel of mere expression rather than substantive expression. Negotiations about differentiation may be no more than a process of teachers and students making things up as they go along. That is why reasons offered for differentiation of

instruction may seem not only inadequate, but arbitrary and even unfair. However, this objection misses the point. Allowing, for the sake of argument, that there are no general theories guiding decisions about differentiation, developing sound principles to guide differentiation becomes a matter of empirical importance. That is, we must experiment with differentiation to discover how best to do it. This adds a sense of urgency to exercise of freedom of expression in differentiating instruction so that teachers may become adept, even expert, at optimizing learning for students in schools.

When all is said and done, it becomes clear that schools have a moral duty to differentiate instruction insofar as differentiation improves the process of teaching and learning. Conversely, therefore, schools bear the burden of showing that freedom of expression will somehow impoverish the teaching-learning process before restricting freedom of expression. Schools cannot assume from the start of deliberations that freedom of expression is wrong or dangerous or inappropriate. Rather, educators have a moral responsibility to support freedom of expression as educationally beneficial practice and to determine how best to implement freedom of expression to optimize learning in specific school contexts.

An environment that promotes freedom of expression helps to cultivate a classroom of students who feel comfortable to speak up because they know they are being listened to. Thus, when students exercise free speech; teachers are obligated to listen. According to Brophy et al. (2018, 137), “A community culture supportive of free expression of ideas is also critical to fostering productive classroom discourse, particularly discussion. In a classroom where students feel comfortable with and trust each other enough to take risks in the kinds of things they say, substantive discussion (including civil disagreements) can occur. Students need to understand that even though they may disagree with one another, they can still be friends (a notion with which young children, in particular, have difficulty).” As Doda and Knowles (2008), speaking specifically about teaching adolescents, remind us, “...students want quality relationships with their teachers and peers. Students feel teachers too often underestimate or overestimate the capacities of young adolescents, and, at times, use the perils of puberty to dismiss student disengagement; but students from classrooms that explicitly value and engender student voice perceive middle-school relationships and learning in qualitatively different ways. (30)” Rose, Dix, and Farrington (1902) made similar comments more than one hundred years ago. As they pondered in the pages of *The Journal of Education* the titular question, “How Can We Cultivate the Power of Expression in Class?”, Rose, Dix, and Farrington, respectively (216, 216, 217), offered the following tidbits of practical advice: “...stop the teacher from talking too much and be patient as the student tries to say something;” “...students should be encouraged to say something;” and “...a friendly relationship between teachers and students should be maintained to stimulate expression in the school setting.”

If it is true we are morally justified to take away freedom of expression only if there is evidence to prove that freedom of expression is harmful; *and* it is true that freedom of expression in support of differentiation of instruction is mostly beneficial, where the pros highly outweigh the cons, schools have a moral obligation to encourage freedom of expression and a moral responsibility to justify in educationally relevant terms any limitations they impose upon freedom of expression. Despite pockets of resistance, the law is beginning to align with the ethical on the issue of freedom of expression in schools. In their review of case law concerning freedom of expression in schools, Clarke and Trask (2014) see recent opinions trending towards the legal conclusion that “... in the absence of evidence of harm to students, school boards cannot

justify limiting such expression (105).” Similarly, in a study of Canadian law and policy on freedom of expression in schools de Britto (2018) frames the issue by saying, “...the ethical duties of preventing harm to students and engaging in responsible pedagogy circumscribe [teachers’] freedom of expression (803).” Finally, to make the strongest case for the moral propriety of freedom of expression in schools, Chasi (2014) borrows an idea from indigenous peoples of southern Africa, *ubuntu*, (meaning ‘humanity’ or ‘humanity towards others’ but more adequately translated as ‘I am because we are.’ or ‘I am because you are.’) *Ubuntu*, Chasi observes, conveys the fundamental truth of social life that “[f]reedom of expression enables everyone to be respected and governed in ways that are associated with the establishment of communities where everyone can be the most they can be (508).” That may be the happiest future we can project for schools and classrooms . If we wish to make teaching as effective as possible by enjoying the benefits of differentiated instruction, we must enjoin teachers and students to engage fully in freedom of expression in classrooms, to see and treat one another as real and important persons in the learning process.

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