

Academics Fight Maryland Disclosure Law

*How much money does your family have in the bank?
Did an uncle give the kids expensive gifts last year?*

A group of Maryland university professors has decided to fight an extension to the academic campus of financial disclosure requirements rooted in demands for higher public ethic. A new law orders instructors at Maryland's state-supported schools to bare intimate facts about their financial status to an ethics commission, which makes all of the reports available to the general public. Rather than comply with the law, which many instructors believe to be an invasion of privacy, more than 400 of them are suing in federal court to have it overturned.

The dispute is significant because no other state has apparently required professors to comply with rules generally meant for appointed or elected public officials. Members of the American Association of University Professors (AAUP) Maryland chapters, who are spearheading the opposition, are determined to prevent the start of a trend.

The ten-page forms distributed recently by the state seek detailed information on property and business interests, including the names of any partners, the person from whom ownership was acquired, and the amount and value of stock shares; gifts received from anyone doing business with the state; all outside sources of income for the entire family; names of state-employed relatives; and any money or services owed to any of the hundreds of firms who do business with the state.

A large group of professors at the University of Maryland campuses in College Park and Baltimore filed suit in June, just before the financial form's filing deadline. Another suit filed by a group at Maryland's Towson State University has already reached the hearing stage. The complaints in each are similar: the law is unconstitutional because it invades financial privacy, it is unjustly discriminatory because it affects only those earning more than about \$20,000 a year, and it applies to a class of individuals—teachers—who rarely make the procurement and contracting decisions it was designed to safeguard.

These might be unsuccessful arguments, because similar state laws that did not apply to university professors

have been upheld in the courts. As a fallback, the professors have begun to pressure the state legislature into rescinding the part of the law that applies to state schools. So far, their views have had good reception, and a legislative policy committee has endorsed a review of the law that could possibly lead to amendment when the legislature reconvenes in the fall. In the meantime, academic plaintiffs in the suit have mailed their completed forms to the federal judge hearing the case, to be kept secret until it has been decided.

Donald Blair, a nuclear engineering professor at the University of Maryland, has done much of the organizing and fund-raising to support the lawsuit. Blair says that he and his colleagues on the Ad Hoc Committee for Faculty Rights "are not a bunch of radicals and wild-eyed people running about. We're just concerned that this law seriously jeopardizes our privacy rights at the same time it is not going to accomplish its mission." Looking for a financial conflict of interest among professors is a waste of time, he suggests, because none of them has major contracting responsibilities, and if there is "an exchange of money under the table, it sure won't appear on a disclosure form."

Maryland's law is similar to those approved in at least 30 other states, except for the inclusion of professors. Everyone involved in the dispute agrees it was enacted with good intentions as part of the general move toward accountability for public employees. But legislative sources say Maryland's law was influenced by the drama of a particular corruption trial in 1977 involving the governor and other officials, and this is why it goes farther than any other.

The law provides for the detailed financial disclosure forms to be returned to the State Ethics Commission, currently composed of three attorneys, a Baptist minister, and a homemaker. When the commission finds a violation, it can impose disciplinary action and a fine, or it can force someone's resignation, tenure or no.

Ironically, both academics and lawmakers alike seemed surprised when the ethics commission mailed out disclosure

forms to thousands of instructors and even several hundred graduate teaching assistants who met the minimum income test. Instructors had been unaware that the law would apply to academic campuses because it contains references to state employees in managerial, policy-making, or procurement positions. Confronted with such strong opposition from the campuses the lawmakers are saying they too are surprised and that it may all have been a mistake.

In contrast, the state's executive branch is offering no apologies. State attorneys will use a recent decision by the Supreme Court to argue that faculty members do indeed influence and set policy, including purchases, and that they therefore should fit under the law's umbrella. The Court's decision, involving Yeshiva University, held that faculty members "effectively determine . . . curriculum, grading system, admission and matriculations standards, academic calendars, and course schedules . . . faculty hiring, tenure, sabbaticals, termination, and promotion." The attorneys might also point to an ethics commission decision involving three instructors at Maryland's Catonsville Community College, who it determined had violated the ethics rules. The instructors advised the college on negotiations for participation in a cable television plan, while simultaneously owning small amounts of stock in the cable firm involved. One of the professors has sued the commission to overturn its decision, claiming that he was denied due process, and that the ethics rules are so vague as to be unenforceable.

The state might also claim that the disclosure ensures that professors will not attempt to influence students on behalf of a private interest. This has not been a major argument so far, but there is growing agitation in the public interest community to force academics to declare potential sources of private bias on public issues. Steven Brush, a history professor who heads the AAUP chapter at the University of Maryland, finds this argument offensive. "It's ridiculous: what is the state going to do, monitor lectures? Obviously they cannot."

—R. JEFFREY SMITH