



8.1 OVERVIEW

The most complex employment issues generally involve the instructional staff. Teachers exercise a high degree of autonomy in their classrooms, and may be reluctant to defer to administrative/board/institutional directives, policies, and decisions.

This tension is exacerbated by the concepts of tenure, academic freedom, and shared governance, which many faculty members only understand in broad terms. Formal tenure systems and faculty contracts that guarantee employment security protect faculty autonomy. Academic freedom assures teachers and faculty that relatively few constraints can be placed on their statements in or outside the classroom. In addition, substantial procedural rights are afforded to teachers and faculty members before they are subject to dismissal

or other discipline. Attempts by school or college administrators to erode tenure or limit rights have spurred faculty collective bargaining. The concept of shared governance is intended to guarantee the faculty a significant degree of autonomy by providing that faculty participate in critical decisions about the institution and be the primary voice in academic decision-making.

This chapter covers general concepts applicable in most institutions when tenure or a similar system provides employment security for faculty members. Specifically, Section 8.2 summarizes the basic types of faculty-employment arrangements and the difficulties that institutions can encounter in forming and implementing employment relationships. Section 8.3 discusses the always-dicey situation of disciplining faculty members with contract or tenure rights, while Section 8.4 takes on the equally daunting subject of reconciling academic freedom and other institutional priorities. Section 8.5 considers the legal issues raised in an era of increasing unionization among faculty members (especially in public institutions). In each section, the discussion offers a number of practical preventive law suggestions by which institutions can avoid problems and minimize potential liability.

