

On Nov 12, 2017 11:00 PM, "Borse Gregory" <borse@uamont.edu> wrote:
Thank you for sharing this, Joshua and thanks Rob, in turn, for sharing as well.

*Ultimately, these administrative rule-makers seem to thrive on the expectation that the Constitution is not the end all in determining the protection of the rights of all individuals in any legal process

*Which is to say, the General Counsel of the UA System sees itself as the extension of an extra-legal layer of administrative rule making that is somehow protected from Constitutional scrutiny via its "regulatory" existence, rather than it's "legal" responsibilities, vis-a-vis the Constitution and legal precedent

*As a result, it feels that it exercises a prerogative that exists so long as its machinations are not submitted to the real "light of day" and are accomplished in a way that cannot be openly challenged

*As a further result, it regards its function in "interpreting" law as separate from actually making policy (which it will, publicly, defend by saying that the BOT and the Legislature in Arkansas play that role, while Council's role is to write rules to smoothly make that law/policy effective); but what it is doing, in reality, is actually writing policy (law) that the BOT and the Legislature has seen fit to leave to the General Counsel to write for it

*This reveals the Legislature and the BOT as lazy

*Neither the Legislature nor the BOT has actually effectuated a change in Law in Arkansas--they have both left it to the General Counsel to write the policy for them and then ratify it as "law." This is backwards

*It is obvious that the President of the System either wants to be able to fire tenured professors more easily or that the BOT wants the same or both; or, the General Counsel wishes to change policy after the fact to cover for practices that have not been consistent with the Law of the Land in Arkansas

*Nothing in the current policy change suggests that the recommendations are founded in some real defect to the existing tenure policy as articulated in BOT policy 405.1

*This alone is enough to reject the recommended "improvements" to said policy

More soon.

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