**Manufacturing Neutrality: An Analysis of Campus Free Speech Policy Adoption in Wisconsin**

Fragmentation of authority in the U.S., as well as other decentralized governmental systems, makes venue shopping particularly pervasive as there are numerous political and administrative bodies with overlapping authorities to choose from. Specifically, venue shopping is a phenomenon where entrepreneurs seek out policymaking bodies sympathetic to their causes, or at least susceptible to their manipulation, so that they can increase their chances of success. This is in contrast to a more conventional view of government where centralized legislative bodies or executive authorities enjoy policy monopolies, making them “the only game in town.” Of course, the era of networked governance, polycentric institutions, and self-organized policy systems has increased the possibility that one can find an open policy window if she only looks hard enough. While the Multiple Streams Framework provides theoretical tools to understand why decisions occurred as they did within specific venues (i.e., stream coupling), it does not yet explain how actors choose which venue to pursue their goals or what happens when actors are operating within distinct venues in pursuit of the same policy goals.

Wisconsin’s Campus Free Speech Act provides a unique case study to examine these issues. Specifically, conflicts over freedom of expression and protest on university campuses have proliferated in recent years, moving from concerns within particular higher education institutions or systems onto the legislative agenda at the state and federal levels (see, for example: Federal Register, 2020; Murphy et al., 2020; *Shaw v. Burke*, 2019). In general, legislative solutions attempt to restrict student protests against and limit university authority to block speakers deemed hateful or disruptive. Proponents of such policies claim student protest silences conservative voices (Brooks, 2018; Franks, 2019), while opponents argue that the issue is so small as to not merit attention and that such policies further suppress the voices of the marginalized populations most likely to protest in the first place (Franks, 2019). Legislation concerning free speech issues on university campuses has been considered in some 40 states (AAUP, 2018; NCSL, 2021), but Wisconsin is a particularly unique case. Between 2017 and 2019, the Wisconsin State Assembly twice introduced and successfully passed the Campus Free Speech Act, but twice it failed to make it through the State Senate (NCSL, 2021).

Subsequent to the passage of the legislation in 2017, a policy nearly identical to the legislation passed by the State Assembly reached the agenda of the University of Wisconsin (UW) Board of Regents, the governing body for the UW System (*Board of Regents*, 2021). After brief consideration, The UW Board of Regents adopted the policy as Resolution 10952 in October of 2017 (Board of Regents, 2017b), effectively implementing the Campus Free Speech Act without legislative action, a situation unique among states that have considered such measures (AAUP, 2018). Considered through the lens of the Multiple Streams Framework, this of course leaves one wondering how a policy window that closed for the State Senate opened for the Board of Regents. The novelty of this case provides a unique opportunity to examine how policies advance through different policymaking bodies, as well as how policy entrepreneurs use strategic venue shopping to their advantage in poly-centric institutional arrangements. Thus, we ask: how did campus free speech policy come to be considered and adopted by the UW Board of Regents? When these events are considered holistically, they illustrate that manipulating institutional structures and fragmented authorities is a useful entrepreneurial strategy.

**The Multiple Streams Framework**

First proposed in 1984, the Multiple Streams Framework (MSF) has been cited profusely in the public policy agenda setting literature, and scholars have also extended its contributions to other phases of the policy process (Cairney & Jones, 2016). Over the past four decades, concepts from the MSF have been applied domestically to various levels of government and to a wide range of policy areas, and have also been used as an analytical tool for comparative analysis in international relations (Jones et al., 2016). Drawing its inspiration from the Garbage Can Model of organizational decision making (Cohen et al., 1972), the MSF offers a lens through which to understand why some policy proposals advance to the agenda as others languish unconsidered. Through this lens, policymaking does not proceed in a strictly rational fashion and is instead often encumbered by difficulty defining problems, solutions, and participants under consideration. Time constraints interact with this ambiguity to limit the number of problem solutions that may be considered, giving rise to unclear policy preferences among policymakers. Finally, decision making bodies are often characterized by fluid participation, problematic preferences, and unclear technology.

Guided by these assumptions, Kingdon (2011) proposed that the MSF consists of five structural elements—problem, politics, and policy streams; policy windows; and policy entrepreneurs—that each play unique roles in the elevation of a policy to the agenda. At any given time a nearly infinite number of issues vie for the limited attention of policymakers. Within the problem stream, MSF identifies several mechanisms by which the focus of policymakers may be drawn to one particular problem in this mélange of potential foci. For instance, indicators such as the ongoing measurement of a particular issue may be used by policymakers to identify a problem through changes in the problem or assessment of magnitude. In contrast to the ongoing and often routine nature of indicators, focusing events in the form of crises, disasters, personal experiences, or other abrupt challenges to the status quo serve to shift policymakers’ attention to a problem illuminated by that event. Problems may also attract the attention of policymakers through feedback, the formal or informal provision of information to policymakers about ongoing programs (Kingdon, 2011; Jones et al., 2016; Herweg et al., 2017).

Independent of this lurching policymaker attention, solutions to problems are crafted over time within the policy stream (Cairney & Jones, 2016). Within this “policy primeval soup” (Kingdon, 2011, p. 116), policy communities discuss, advocate for, and revise policy ideas. While many solutions are crafted in the policy stream without eventually gaining entrée to the policy agenda, MSF suggests that policies surviving this primeval soup meet several criteria for survival: feasibility, value acceptability, public acquiescence, and financial viability (Herweg et al., 2017). The political stream hosts events such as new majorities in legislative bodies and participant bargaining to build consensus (Kingdon, 2011). Within this stream lie three primary subcomponents: 1) the national mood comprises the general feelings, beliefs, and values of the public and acts as a motivating or constraining factor for public officials; 2) the actions of organized political forces such as interest groups necessitate a balancing of interests in the political stream; and 3) changes to the composition of government alter the agenda setting landscape within the political stream (Kingdon, 2011; Jones et al, 2016; Herweg et al., 2017).

In Herweg et al.’s (2015) extension of the MSF, the three streams flow beyond the agenda setting stage to reach the decision-making stage, allowing for consideration of agenda setting and decision making as separate but related processes. In this extension, the relative influence of the streams changes as policy reaches the agenda and transitions to decision making, with the political stream usurping the problem and political streams’ position as the opener of the policy window. While the streams continue to flow along relatively independently, it is no longer in the policy stream that actors vie for influence, but within the political stream where decision makers bargain, build coalitions, and negotiate support for the policy under consideration. Crucially, MSF holds that none of the three streams alone can force a decision. Rather, a viable solution, compelling problem, and political support for the policy alternative must exist simultaneously in order to advance a policy (Kingdon, 2011). It is only during these brief moments of coupling that actors may take advantage of policy windows, “the opportunities for action on given initiatives” (Kingdon, 2011, p. 166). Policy windows may open in either the problem or political streams and “provide the institutional context and the constraints and opportunities within which specific policies are created” (Jones et al., 2016, p. 16).

Herweg et al. (2015) further proposes a distinction between the agenda window analogous to Kingdon’s original usage and the decision window, or the opportunity for policy to not only be considered, but formulated and legitimated. In this treatment, the streams must couple twice—first for a policy proposal to reach the agenda, and again for a policy adoption. While the agenda window is opened by a coupling of the streams driven by policy entrepreneurs acting in the policy stream, it is the political stream that plays much more prominently in the opening of a decision window as political entrepreneurs bargain their way to agreement and policy adoption. To provide agency in the process of stream coupling at the agenda setting stage, MSF turns to the policy entrepreneur. Policy entrepreneurs are those willing to invest their resources into influencing the policy process, and who also have the political access and strategies necessary to couple the three independent streams at a time when a policy window opens (Jones et al., 2016; Kingdon, 2011). The role of the policy entrepreneur extends beyond simple advocacy to active manipulation of the policy process through the strategic influencing of problematic preferences and unclear technology (Mintrom & Norman, 2009). Thus, the presence of a policy entrepreneur is a necessary condition for the coupling of the streams at the agenda setting stage (Kingdon, 2011).

It is important to define the conditions under which each stream is ready for coupling in the MSF. The problem stream poses little difficulty in this regard as policy entrepreneurs do the work of framing conditions as problems that match particular policy proposals (Herweg et al., 2017). Similarly, the policy stream’s readiness for coupling is easily defined by the existence of at least one policy proposal that meets the criteria for survival (Herweg et al., 2017). More ambiguous, however, are the conditions under which the political stream is primed for coupling, in part due to the lack of unidirectionality in the three components—national mood, interest group campaigns, and government—that comprise the political stream (Herweg et al., 2017). While Zahariadis (1995, 2003) suggests the merger of these three elements into one variable measuring party politics, others have built upon this work to argue that the minimum necessary to couple the political stream at the agenda setting stage is active support from one key policymaker (Zohlnhöfer, 2016).

Extending the logic of the MSF to the decision window shifts coupling agency into the political stream where it becomes the purview of those within the decision-making body considering the policy now on the agenda. Though the responsibility for action changes at this stage, it is the linking of policy and political entrepreneurs that provides the momentum for this shift. Policy entrepreneurs acting to couple the streams in the agenda setting policy stream actively pursue politicians receptive to their ideas who will become the political entrepreneurs that advance the policy to adoption in the decision-making political stream (Herweg et al., 2017). Herweg et al. (2015) propose three mechanisms by which a political entrepreneur may see a policy through to adoption: package deals, concessions, and manipulation. Manipulation is of particular importance as it is closely connected to the idea that choices are less an exercise in rational thought, and more of a function of who is paying attention to what, when (Zahariadis, 2007). To this end, manipulation is the process of framing and reframing information and concepts until policymakers come to an understanding that facilitates a decision that is aligned with the goals of entrepreneurs.

While MSF scholarship does consider the manipulation of process as a strategy used by entrepreneurs (e.g., salami slicing) (e.g., Herweg, et al. 2017), it does not effectively account for how policy entrepreneurs shop for potential window openings within complex institutions that include multiple policymaking bodies where some are better aligned with preferred policy solution, political alignment, and/or problem focus than others. Under normal circumstances, it is largely assumed that policy follows a rather textbook pathway through a conventional legislative body, and once a decision has been rendered, the process ends. Of course, entrepreneurs may choose the wrong window or fail to effectively couple the streams (e.g., Avery, 2004) but this does not end the pursuit of their goals. Further, it also largely assumes that policymaking venues are locked in, rather than chosen by entrepreneurs. Although some policies are often taken up by certain bodies that have established their authority over a particular policy sphere, there has been an increasing amount of competition between fragmented jurisdictional authorities in recent years, as networked governance has become a prominent milieu of the political class (e.g., Agranoff & McGuire, 2001; Riverstone-Newell, 2017). Thus, accounting for venue shopping within MSF adds an important dimension to policy governance, as a process that includes polycentric decision-making.

**Venue Shopping**

Venue shopping is the tendency of those influencing the policymaking process to target their advocacy towards a policymaking setting in which they may perceive the best chances of policy success (Holyoke et al., 2012). As suggested by Baumgartner and Jones (1993), actors maximize their chances of policy success by avoiding disadvantageous venues in favor of those where they are favored by institutional arrangement. Further, issue advocates may be attracted to particular venues by the ideological compatibility of advocates or a given venue’s policymakers (Constantelos, 2010). Much of the scholarship studying multi-level venue shopping has considered the European Union as its focal point (e.g., Constantelos, 2018). Though the phenomenon has received less attention in the U.S., Constantelos (2018) argues that, despite obvious differences between the U.S. and the EU, political decentralization in U.S. federalism increases the number of available policymaking venues through which actors may try to influence policy. The mechanisms and motivations for venue shopping play on the same dynamics in both the EU and US; fragmented jurisdictions and poly-centric policymaking bodies spread decision-making authorities across a venues, creating opportunities for entrepreneurs to manipulate these dynamics as they search for someone who will make a decision that aligns with their goals.

While not always framed as venue shopping, scholars of U.S. intergovernmental relations are often interested in how power and authority flow between institutions particularly for complex problems that cross-cut jurisdictions (e.g., Feiock & Scholz, 2010). For instance, the American Legislative Exchange Council (ALEC) has made a name for itself by shopping model legislation to state legislatures across the U.S. as a mechanism to advance policy goals through friendly venues (Collingwood, El-Khatib, & O’Brien, 2019; Ulloa, 2020). Of course, environmental advocacy groups have long found advantage in targeting state and local governments to create more rigorous regulatory standards due to the amenability found in some locales (e.g., Pralle, 2010). It is also noteworthy that in recent years liberal coalitions and the Democratic Party in the U.S. have shifted strategies to focus more on state and local government, as opposed to federal action, as the numerous venues offered at the lower levels provide more opportunities for success, particularly when Republicans can use control of Congress or the White House to create gridlock for their agenda (Goelzhauser & Rose, 2017). Other scholars also examine the dynamics of competition and cooperation in terms of the strategic choices that political and administrative actors make in addressing policy problems that stretch across jurisdictional boundaries (e.g., Agranoff & McGuire, 2001; Riverstone-Newell, 2017; Fowler & Rabinowitz, 2020).

While a few studies have featured multilevel designs to test this (e.g., Baumgartner et al., 2009; Holyoke et al., 2012; Pralle, 2003), interest has been primarily in the movement between the federal and state, or state and local, levels. Notably, in the U.S., poly-centric institutions and fragmented authorities mean that venues often include courts, executives, administrative agencies, and/or legislatures, as well as collaborative institutions, at federal, state, and local-levels. With trends toward bottom-up federalism in recent years, the power of traditional policymaking venues that once dominated institutions has been supplanted by other venues with lesser authorities, but still well-positioned to shape how governance systems respond to policy problems (Agranoff & McGuire, 1998; McGuire, 2006; Gamkhar & Pickerill, 2012; Fowler & Jones, 2019). However, less developed in current scholarship are considerations of these concepts in the context of legislative and administrative bodies operating at the same governmental level. In most states, legislatures delegate authorities to administrative bodies creating, by default, power to make policy in the absence of legislative action. Where legislatures may be gridlocked or unamenable to certain policy issues, administrative agencies can often quietly promulgate rules or procedures with more expedience.

One of the most developed theoretical frameworks, the Adaptive Venue Shopping framework, sets out a logic of venue choice that depends on the strength of group resources, opponents’ resources, opponents’ degree of dominance, venue image receptivity (i.e., the idea of an amiable venue), and venue accessibility. Importantly, this means that policy entrepreneurs often have multiple opportunities to find a venue in which their resources outweigh those of their opponents in order to put them in the best position to get the policy answers they are seeking (Ley & Weber, 2015). Aligning with this perspective, Coen, Guidi, Yordanova, & Heritier (2018), examining how NGOs make choices in regulatory bodies, argue that venue shopping is most often to occur where issues are highly salient, highly technical, and high stakes are involved, and they are likely to target bodies with a high degree of competence and expertise on the issues. In other words, in addition to resource differentials, entrepreneurs may also seek out venues in which decision-makers have the expertise and capacity to understand the complexities of the policy problems at hand. This is likely important where issues are more ambiguous, since a certain level of technical knowledge is likely necessary in order to effectively understand the arguments put forth by entrepreneurs.

Other scholars think of these issues in the context of collective action, or specifically how institutions create obstacles for solving collective action problems. Although most of this scholarship focuses on how administrators or policymakers make choices while navigating barriers to efficient policy solutions, this scholarship would also suggest that there is certain advantage for policy entrepreneurs in using institutional barriers to manipulate how governmental authorities are organized and address collective problems. MSF scholarship suggests that entrepreneurs are prone to manipulating sequential decision-making (i.e., salami slicing), so it would also be reasonable to assume that they may try to manipulate processes and institutions as well. In particular, the Institutional Collective Action (ICA) framework argues that authorities with a vested interest in solving a collective action problem are often constrained in doing so by institutional boundaries that reframe the transaction costs of collaboration or cooperation, and lead to either stagnation or conflict and competition. In these cases, entrepreneurs may find advantage to their broader policy goals by seeking out venues that can create new institutional barriers that reshape the rational choices of policy actors operating from other venues.

Incorporating venue shopping into MSF analyses suggests that the framing of a policy problem can determine the appropriate venue for its solution (Ackrill & Kay, 2011; Cairney, 2018; Sarmiento-Mirwaldt, 2015), and MSF studies at the subnational level suggest that entrepreneurs may be more effective at smaller or more local levels of government (Cairney & Jones, 2016). While agenda setting windows are opened by entrepreneurs acting in the policy stream, the same coupling tactics may be targeted at different audiences simultaneously, so that entrepreneurs can see that their policy proposal raises to the agenda of different venues at the same time (Herweg et al, 2015). Certainly, we see these mechanics at work with moral panics (e.g., critical race theory) that gain the attention of policymakers across divergent (and often disconnected) policymaking venues, where entrepreneurs have constructed a narrative that pushes new proposals on a multitude of localized agendas simultaneously. But, given that decision windows are subject to the dynamics of the political stream and the bargaining powers of local policy actors, entrepreneurial strategies must be more targeted at this stage, so that entrepreneurs must choose which venues to focus on (Arnold, 2021). Of course, this also means that if a dead-end is reached in one venue, entrepreneurs can still shift attention to other venues and find success before the policy proposal fades from the agenda.

Given this, the situation in Wisconsin suggests that policy entrepreneur action to couple streams for agenda setting is not necessarily independent of stream dynamics at the point of policymaker decision making, and that policy entrepreneurs may recalibrate their efforts through venue shopping when faced with obstacles or time constraints in the political stream. First, policy entrepreneurs seized an opportunity to open agenda windows across an array of venues by pushing broad narratives that couple streams. Then, policy entrepreneurs took advantage of the open policy window that they believe is most likely to be amenable to their cause; in this case, the Wisconsin State Legislature, likely because it is the preeminent policymaking venue in the state. Though having successfully elevated the policy to the agenda, political obstacles blocked access to the decision window and resulted in policy failure. Here, however, we see the connection between the two levels of policy venue where policy entrepreneurs shifted attention to an alternative venue, which, lacking the same political obstacles, allowed for the streams to couple again and advance the proposal through the open decision window.

**A Brief History of Campus Free Speech Policy**

Despite the intensity of today’s rhetoric and the recent nationwide diffusion of campus free speech legislation, contention over protest on college campuses is not a new phenomenon. The social upheaval of the 1960s drew attention to the legal and political issues of civil disobedience playing out on campuses across the country. Given this, it is helpful to briefly examine the historical precedent for today’s free speech policies before turning to the specifics of Wisconsin. The historical roots of today’s campus free speech legislation can be traced to two institutional policy reports issued in the wake of the turbulence of the 1960s: the Kalven Report (Kalven Committee, 1967) and the Woodward Report (Woodward Committee, 1974). Reviewing the University of Chicago’s obligations to social issues in response to student protests opposing the institution’s release of student records to the Selective Service program, the Kalven Report argued that institutions must remain neutral on political issues and that such neutrality arises from “respect for free inquiry and diversity of viewpoints” (Kalven Committee, 1967, p. 2). The report further established grounds for neutrality echoed in modern free speech legislation, seeking to distance the institution from any value-laden stance by arguing that the “instrument of dissent and criticism is the individual faculty member or the individual student. The university is the home and sponsor of critics; it is not itself the critic” (Kalven Committee, 1967, p. 2).

In response to student demonstrations against Nobel-prize winning physicist William Shockley’s beliefs in the genetic inferiority of African-Americans (Zelinsky, 2015), Yale University’s Woodward Report codified the actions deemed necessary to enforce the neutral stance recommended by the Kalven Report. Three recommendations from the Woodward Report remain particularly salient to understanding the political climate of the issue today. First, the committee advanced the need for a “program of reeducation” (p. 28) and called for the inclusion of “explicit statements on freedom of expression and right to dissent” (p. 29) in all university catalogs. Second, the report defined “the limits of protest in a community committed to the principles of free speech” (p. 30), arguing that coercion as a means of protest was a punishable offense and that audience members of an invited speaker are “under an obligation to comply with a general standard of civility” (p. 31). Finally, the committee provided a list of pragmatic actions the university could take to fulfill its obligations to protect freedom of expression on campus, concluding that “if sanctions are to work as a deterrent to subsequent disruption, they must be imposed whenever disruption occurs” (p. 34) and that “disruption of a speech is a very serious offense against the entire University and may appropriately result in suspension or expulsion” (pp. 34-35).

Together the Kalven and Woodward reports established the precedent upon which future policy action would take place, and those reports and their historical contexts are easily linked to the expansion of legislative action related to the issue and the climate in which such legislation has come to fruition. In the years since the Kalven and Woodward reports, issues of campus free speech have been elevated from matters of internal institutional policy to concerns garnering significant legislative attention. While most of this legislative attention has been at the state level, Congress has waded into the fray (Campus Free Speech Restoration Act, 2020), and the Executive Branch has also taken up the call to action with the issuance of an Executive Order aimed squarely at issues of free inquiry on college campuses (*Exec. Order No. 13864*, 2019), Department of Justice Statements of Interest (*Shaw v. Burke*, 2019), and Department of Education proposed rules (Federal Register, 2020, p. 59979). Beginning with Missouri’s consideration and enactment of such a bill in 2015, some 40 states have since considered some form of legislation restricting university policies related to protest or requiring universities to adopt policies affirming rights to free speech (NCSL, 2021), as well as targeting free-speech zones, speech codes, safe spaces, and trigger-warning policies (AAUP, 2018).

Most campus free speech legislation has roots in a piece of model legislation introduced by the Goldwater Institute in 2017 (Davis III, 2019). “Campus Free Speech: A Legislative Proposal” argues that freedom of speech “is dying on our college campuses and is increasingly imperiled in society at large” (Kurtz et al., 2017, p. 2). Directly referencing the Kalven and Woodward reports, the model legislation the bill emphasizes that “the university, as an institution, ought to maintain a position of neutrality” (Kurtz et al., 2017, p. 9). Among other objectives, the model legislation nullifies institutional speech codes, prevents administrators from exercising the discretion to disinvite controversial speakers, and establishes a system of disciplinary sanctions for those deemed to have interfered with others’ free speech rights (Kurtz et al., 2017). The Goldwater Institute’s model legislation has found a receptive audience, with about half of state legislation introduced since 2015 having been directly inspired by the conservative think tank’s suggested text (AAUP, 2018), and some research has suggested that the model legislation has not only inspired state legislative action, but has also been incorporated into policy at the state higher education system and individual campus levels (Davis III, 2019).

**Campus Free Speech in Wisconsin**

In an echo of the mid-70s events at Yale University that spawned the Woodward Report, student protestors at the UW organized protests to disrupt a November 2016 speech by conservative commentator Ben Shapiro (McAvaddy, 2019). While the protest remained peaceful, this marked the beginning of the debate over free expression on campus in Wisconsin. Several months later in May of 2017, the Wisconsin State Assembly introduced Assembly Bill 299, the Wisconsin Campus Free Speech Act (Campus Free Speech Act - 2017, 2017), which adopted language nearly identical to that of the Goldwater Institute’s model legislation and represented at the time perhaps the most ambitious state legislation yet introduced on the issue (McAvaddy, 2019). After passing the State Assembly with a vote along party lines, AB 299 ultimately died with the adjournment of the Wisconsin State Senate in 2018 (NCSE, 2018). The same fate later befell Assembly Bill 444, which was introduced and passed by the State Assembly in 2019 before again dying in the State Senate (Campus Free Speech Act - 2019, 2019). In marked contrast to the progression of campus free speech policies considered by other state legislative bodies, the inability of AB 299 to advance in the State Senate did not mark the end of the policy process in Wisconsin.

The UW Board of Regents has a history of intermittently reaffirming its commitment to principles of academic freedom and free speech, having done so several times between 1894 and 2015 (Board of Regents, 2015), though statements issued and ratified by the Board had been largely symbolic and without the weight of substantive policy change. Following the Wisconsin State Assembly’s passage of AB 299, however, then Board President John Behling instructed UW System President Ray Cross to “review the System’s current policies and develop potential changes that will actively ensure all students have the freedom to express their views on campus” (Board of Regents, 2017a). The findings of this review were presented at the October 2017 Board of Regents meeting, and Resolution 10952, “Commitment to Academic Freedom and Freedom of Expression,” was proposed to supersede all institutional policies concerning freedom of expression (Board of Regents, 2017b). With language much aligned with the Goldwater Institute’s model legislation, Resolution 10952 adopted a stance of neutrality and outlined disciplinary action for students found to be disrupting the free speech rights of others. Resolution 10952 was adopted after brief discussion, putting the Goldwater principles into action without legislative action (Board of Regents, 2017b), a situation unique among all states that have considered legislation aimed at free speech issues on university campuses

In contrast with the state legislature, the UW Board of Regents has a narrow policymaking authority and chiefly serves as a non-partisan, administrative body. As the governing body for the entire UW System, the Board of Regents is responsible for the rules and policies governing the 13 universities and 13 additional branch campuses that comprise the UW System (*Board of Regents*, 2021). This governing body consists of 18 members, 16 of whom are appointed by the Governor and subject to confirmation by the State Senate. At the time of these events, all appointed members of the Board of Regents had been appointed by then Governor Scott Walker. Half of these appointed members had terms expiring before May of 2021, and with the gubernatorial election looming, it was far from certain that Walker would again hold office at the time when these Board seats would vacate. Though acting as a non-partisan administrative body, there is little to suggest that the UW Board of Regents is insulated from broader state politics. In fact, UW Board of Regents policy documents lay out expectations that individual regents may meet with “executive and legislative branch decision makers and other stakeholders to obtain input and explain Board positions” [(UW Board of Regents, 2014)](https://www.zotero.org/google-docs/?Y6NeQ5)**.**

In a critical analysis examining the suppressive effects of Wisconsin free speech policies in interlocking policy systems, Davis [(2019)](https://www.zotero.org/google-docs/?zjEaAh) suggests overlap between the policy venues of the UW System and the state legislature and the possibility of diffusion of influence across concurrent policy contexts. This possibility of the Board of Regents’ susceptibility to political influence becomes particularly salient when one considers the legislative context in which entrepreneurs attempted to advance the Campus Free Speech Act. During the 2017 session, 18 separate bills, among them the Campus Free Speech Act, were sent to the Committee on Universities and Technical Colleges. Each of the 18 bills referred to the committee ultimately died with the conclusion of the legislative session and the committee advanced no bills to second readings. This legislative logjam suggests incentive for policy entrepreneurs to seek greener policy pastures in which to sow their influence despite the fact that in 2016 the Republican Party controlled both houses of the Wisconsin Legislature by significant margins, and held the governorship in Scott Walker’s third term. With significant barriers in their first-choice policy venue, the UW Board of Regents offered a viable alternative venue through which to push free speech policy adoption.

The Wisconsin State Assembly’s Committee on College and Universities’ record of public testimony concerning the bill under consideration illuminates the influence of particular policy entrepreneurs. While the testimony attracted parties both favoring and opposing the legislation, of particular interest is extensive testimony from Stanley Kurtz, Senior Fellow at the Ethics and Public Policy Center and co-author of the Goldwater Institute mode legislation that inspired the bill under consideration. Introducing the model legislation to the Committee, Kurtz identifies the Board of Regents as the preferred policy venue for implementation of the measures, saying that it is in the spirit of Wisconsin’s constitutional guarantee of free speech that “the Campus Free Speech Act would first instruct the Board of Regents of a state university system to craft a university-wide policy statement that unmistakably affirms the centrality of free expression,” a policy that would “supersede and nullify any restrictive speech codes adopted by any constituent school of the state university system” (WI State Assembly, 2017, p. 31). The testimony also turns its attention to other provisions, including the bill’s requirement that the Board of Regents “include in freshman orientation programs a section describing all of these various policies and regulations” (p. 34).

Further instructive is the testimony of UW System President Ray Cross, which suggests an openness to altering Board of Regents’ policy to mimic the Goldwater proposal. Cross, who was appointed by Governor Scott Walker in 2014, notes his agreement “with the first point of the bill in which the legislature directs the Board of Regents to develop a stronger freedom of speech/freedom of expression policy that builds on the resolution the Board adopted in December 2015. We [the UW system] believe a policy is needed and we agree with the authors that the Board of Regents is the most appropriate place for the development of this policy (WI State Assembly, 2017, p. 7). Elsewhere and prior to the State Assembly testimony, Cross noted that “the authors [of the Campus Free Speech Act] have assured us they will work with us moving forward to maintain the free exchange of ideas throughout the UW system” [(Beckett, 2017)](https://www.zotero.org/google-docs/?jdCzr3), suggesting that entrepreneurs had already been at work influencing the institutional policy venue.

The long-standing relationship between Scott Walker and the Goldwater Institute suggests the possibility of the Goldwater Institute’s influence over the Board of Regents through the conduit of Walker. Walker, whose deep ties to ALEC have been long noted in popular media [(Bottari, 2017)](https://www.zotero.org/google-docs/?HkE2My), presented the keynote address at the 2011 Goldwater Dinner, and his use of the Board of Regents as a policy venue to circumvent the need for legislative action has precedent. In 2016, the UW Board of Regents voted to approve policies diminishing tenure protections that were formerly codified in Wisconsin state legislation [(Flaherty, 2016; Lorenzsonn, 2016)](https://www.zotero.org/google-docs/?LKTXIn)**.** Thus, it is easy to infer that Walker and allies were pursuing policy goals through whichever policymaking venue was most amenable, and in this case, his political appointments to the UW Board of Regents and their past actions suggested that they would not pass up the opportunity to act where the State Senate committee failed.

*Coupling the Streams*

A clear example of a focusing event occurred in the protests surrounding Ben Shapiro’s speech on the UW-Madison campus in November of 2016. While the condition of freedom of expression had already been elevated to the problem stream in several other states by this time (AAUP, 2018), neither the legislature nor the UW Board of Regents had taken up the discussion until shortly after the event, which was reported in state and national media (e.g., Kampa, 2016; Lueders, 2017), effectively bringing it to the attention of policymakers in both venues and the public in unison. The lineage of the campus free speech policy stream can be traced as far back as the Kalven and Woodward reports some five decades earlier, and a clearly developed policy stream may be seen leading up to policy consideration and adoption in Wisconsin by looking to the nationwide diffusion of campus free speech model legislation developed by the Goldwater Institute. Based upon the fact that the Goldwater-inspired AB 299 did in fact reach the legislative agenda, it can be surmised that it met the criteria for survival—technical feasibility, value acceptability, tolerable cost, anticipated public acquiescence, and a reasonable chance for consideration among policymakers.

The consideration of campus free speech legislation has historically been championed by conservative lawmakers (AAUP, 2018), a trend that continued in Wisconsin. Critical to the readiness of the political stream for coupling is the presence of a key policymaker willing to actively support a policy’s consideration (Zohlnhöfer et al., 2016). In Wisconsin, support for AB 299 was strong among the Republican-controlled State Assembly. Further, both the State Senate and the governor’s seat were under Republican Party control at the time of AB 299’s proposal. While the political stream was prepared for coupling at the agenda setting stage and policy entrepreneurs indeed found receptive political entrepreneurs in the legislature to champion their proposal, one can see the apparent failure of those political entrepreneurs to fully couple the streams in such a way as to usher the policy to adoption. In addition to an insufficiently opened decision window in the Wisconsin State Senate, entrepreneurs also faced external time constraints in the form of the impending 2018 gubernatorial, State Senate, and State Assembly elections. Governor Scott Walker faced an uncertain bid for reelection due in part to the unpopularity of his education policy (Strauss, 2018), and the fate of incumbent conservative lawmakers was uncertain as the popularity of President Donald Trump sagged in Wisconsin (Murray, 2018).

With nearly half of the UW Regents’ terms set to expire by 2021 (*Board of Regents*, 2021) and the possibility of a future board less receptive to campus free speech policy should the governorship change hands, it was clear that the UW Board of Regents offered a promising venue through which to pass campus free speech policy in the face of political stricture in the legislature. Here, there were also key policymakers willing to support the policy, most importantly Board President John Behling and UW System President Ray Cross. Fewer than three weeks after the passing of AB 299 by the Wisconsin State Assembly, the UW Board of Regents tasked Cross with conducting a full review of all system and campus policies pertaining to freedom of expression (Board of Regents, 2017a), recoupling the three streams to advance the policy to the Board’s agenda. This put both men in a key position to both shape any policy proposal the board considered but also to advocate for the bill’s passage. Several months later, the Board was presented with Resolution 10952, a text directly inspired by the same Goldwater Institute model legislation upon which AB 299 was based (Board of Regents, 2017b). After a brief discussion, and with the only dissenting vote cast by Tony Evers, who was to defeat Scott Walker in the 2018 gubernatorial election, the Board adopted the policy (Board of Regents, 2017b).

**Discussion/Conclusion**

To again summarize this complex narrative, available evidence suggests that campus free speech policy came to fruition in Wisconsin as a result of strategic venue shopping strategies on the part of policy entrepreneurs seeking amenable venues in which to advance policies restricting student protest. Though initially introduced in and passed by the Wisconsin State Assembly as legislation inspired by a model bill produced by the Goldwater Institute, entrepreneurs found a more accommodating policy making authority in the Wisconsin Board of Regents after recognizing the stricture faced by the legislation in the State Senate that would preclude adequate opening of the policy window to allow for passage. Recognizing the fertility of overlapping authority of policy bodies, entrepreneurs successfully accomplished their policy objectives in the Board of Regents when the administrative body adopted system-wide policy nearly identical in content to that of the Campus Free Speech Act. These events would suggest that agenda-setting windows opened in both venues simultaneously, but the more complex institutional arrangement of the legislature (i.e., bicameralism) made it more difficult to push the legislation forward, as compared to the relatively smaller and closed policy sub-system of the UW Board of Regents.

In general, this case study has sought to advance the literature by further incorporating venue shopping into MSF in order to explain how a policy considered and failed in one venue might become policy via another. While extant MSF literature does not delve deeply into the dynamics of venue shopping (e.g., Zaun et al., 2016), it is relatively reasonable to expect that entrepreneurs engage in institutional manipulation in general, and the specific account of the Campus Free Speech Act in Wisconsin provides substantive evidence to this point. Our findings suggest a reflexive relationship between window openings and policy entrepreneurs; that is, while policy entrepreneurs strategically choose their target policy venues based upon where they see opportunities to influence the policy process, the post-agenda setting activity within those venues may also influence entrepreneurial behavior and strategies. Findings also suggests a need to consider the impact of hierarchical institutional arrangements that naturally occur within poly-centric institutions, even within networks where some venues carry greater authority or prestige than others. Structural components in the arrangement of the Wisconsin State Legislature and UW Board of Regents allowed for successful venue shopping among entrepreneurs, and those same components exist elsewhere.

The Adaptative Venue Shopping Framework sheds some light on to how the marginal utility of different policy venues is judged by entrepreneurs, and in this case, one could certainly argue that those in favor of the Campus Free Speech Act would be likely to find the UW Board of Regents to be a better option. However, the Adaptative Venue Shopping Framework does not adequately account for the role of processes and institutions that clearly played a role here, particularly as politics and gridlock created roadblocks in the State Senate, while a smaller policymaking body with a narrow set of authorities could more easily push an initiative like the Campus Free Speech Act through. Certainly, this also links to how policy sub-systems are dominated by advocacy coalitions, and the balance between incremental and radical policy changes (e.g., Baumgartner, Jones, & Mortensen, 2018; Jenkins-Smith, Nohrstedt, Weible, & Ingold, 2018). A closer look at the structures of this particular case and others like it may bear interesting fruit in terms of identifying how venue shopping occurs and its impacts on entrepreneurial activities. Further, given recent scholarship connecting policymaking and implementation using MSF (e.g., Fowler, 2019, 2022), one must also wonder how policy changes of this type are likely to impact implementation; that is, is the Campus Free Speech Act more or less likely to have an impact if it is passed by the UW Board of Regents versus the State Legislature?

This case study is limited, however, in its ability to fully define particular entrepreneurs engaged in the venue shopping process and their choices. Unfortunately, there is no “smoking gun” here, so we must rely on circumstantial evidence to infer relationships. The similarities between the proposed legislation and the policy adopted by the UW Board of Regents suggest that interest groups such as the Goldwater Institute were active in both policy venues, while the timing of consideration and evidence of legislative logjam in the State Senate suggest incentive for policy entrepreneurs to proactively seek greener policy pastures in the UW Board of Regents. Of course, no one involved is likely to explicitly admit to their role in a coordinated strategy, and it is likely that some of this process occurred implicitly as ideas flowed across political networks. Moreover, we cannot be fully confident in how organized these efforts are, and whether they played out through a disorganized collective of entrepreneurs working towards similar goals without a coordinated strategy. Given the politically charged nature of free speech on college campuses, it is unsurprising that little documentation exists of entrepreneurial activity vis-à-vis the Board, leaving open the possibility that entrepreneurs other than those active in the legislature preemptively negotiated the rise of campus free speech policy to the Board’s agenda.

In the absence of particular documentation of entrepreneur actions, entrepreneurial venue

shopping in response to political stream obstacles in an adjacent, higher level policy venue remains hypothetical. Future research would be well served to further explore the possibility of multi-level venue shopping, particularly with respect to administrative policy bodies that contribute to fragmented authority within a federalist system, as well as considering the dynamics of the hierarchies of venues. Scholars should also explore the possible strategic and tactical changes in entrepreneurial activity when venue shopping occurs, and how the possibility of alternative venues may impact entrepreneurship. While outside the scope of this analysis, several interesting questions about entrepreneurial activity remain unanswered. If indeed entrepreneurs are incentivized by political stream blockages to shop for more advantageous policy venues, do they recalibrate their tactics in response to the new venue context, or are alternative venues selected to align with already established tactics employed in the failed first venue? In sum, venue shopping is a key tool for policy entrepreneurs seeking to manipulate institutions and decision-makers.

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