**MEMORANDUM** 

**TO:**Committee on Faculty Affairs

**FROM:**Steering Committee

**RE:**Policy on Academic Speech

**DATE:**October 24, 2011 

**Background:**

The Faculty Senate (see attached memo) has raised concerns about appropriate protection of faculty speech on institutional academic matters and governance.  The Senate’s concerns, as described in that memo, grow out of court decisions and concerns raised by the American Association of University Professors. Additional information can also be found in the complete AAUP Report, “protecting an Independent Faculty Voice:  Academic Freedom after *Garcetti v. Cebalos.*”

**Charge:**

The Steering Committee charges the Committee on Faculty Affairs to review the Faculty Senate memo and the materials it references and to determine whether it believes there should be such a policy at The College of New Jersey and, if so, to draft such a policy. Because of the legal context in which such a policy would have effect, the Steering Committee encourages the Committee on Faculty Affairs to consult with the college’s General Counsel as it carries out this work.  Additionally, the AAUP Report on this matter also provides suggested wording for such a policy, and the Steering Committee encourages CFA to utilize this information as it considers this charge.

**Timeline:**

The Steering Committee requests that this work be completed by the end of the end of the Spring 2012 semester, if possible.

**TCNJ Governance Processes**

**Step #1 -- Identifying and reporting the problem:**When a Standing Committee receives an issue from the Steering Committee, the first responsibility is to clearly articulate and report the problem to the campus community through regular updates to the campus community and the Governance Web Page ([www.tcnj.edu/~steering](http://www.tcnj.edu/~steering) ).  The problem may have been set out clearly in the charge received from the Steering Committee, or it may be necessary for the Standing Committee to frame a problem statement.  The problem statement should indicate the difficulties or uncertainties that need to be addressed through new or revised policy, procedure, or program.  The problem statement should be broadly stated and should include a context such as existing policy or practice.  Problem statements may include solution parameters but should not suggest any actual solutions.  Clearly stated problems will lead to better recommendations.

**Step #2 -- Preparing a preliminary recommendation:**Once the campus community has received the problem statement, committees can begin to collect data needed to make a recommendation.  Committees typically receive input through committee membership, formal testimony, and open comment from affected individuals and all stakeholder groups.  Committees must be proactive in inviting stakeholder groups (including Student Government Association, Staff Senate and Faculty Senate) to provide formal testimony prior to developing a preliminary recommendation.  When, in the best judgment of the committee, adequate clarity of the principles contributing to the problem are known, a preliminary recommendation should be drafted and disseminated to the campus community through regular updates and the Governance Web Page.

**Step #3 -- Making a Final Recommendation:**Committees must use sound judgment to give the campus adequate time to review the preliminary recommendation before making their final recommendation.  Again, committees are expected to be proactive in receiving feedback on the preliminary recommendation.  If a full calendar year has passed since the formal announcement of the preliminary recommendation, the committee must resubmit a preliminary recommendation to the campus community.  When, in the best judgment of the committee, the campus community has responded to the proposed resolution of the issue, the committee shall send their final recommendation (complete documentation) to the Steering Committee.

**Testimony**

The presenting of testimony is central to the concept of shared governance.  All stakeholder groups will have an opportunity to provide input into governance issues through direct membership as well as invited testimony.  Individuals appointed or elected to the governance system are expected to take a broad institutional perspective relative to issues being considered.  In contrast, invited testimony will reflect the stakeholder perspective on the issue being considered.  Committees are expected to be proactive in inviting stakeholder groups to provide testimony at both step # 2 and #3 of the process.  Committees need to identify stakeholder groups that are interested in each particular issue and invite their testimony at scheduled Committee meetings or hearings.  Committees should report in their minutes which groups were targeted as stakeholders, how testimony was invited, the form of the testimony (written, oral, etc.), and the substantive content of the testimony.