**To: Steering Committee**

**From: Faculty Senate**

**Subject: Academic Speech and College Governance**

In 2006 in *Garcetti v. Cebalos*, The United States Supreme Court ruled that the First Amendment does not prevent public employees from being disciplined for expressions they make pursuant to their professional duties. Writing the majority opinion, Justice Kennedy stated that public employees are not speaking as citizens when they are speaking to fulfill a responsibility of their job. The court reserved for a future decision the issue of whether its analysis would apply in the same manner to a case involving speech related to scholarship or teaching.

In subsequent lower court rulings, this decision has been applied to faculty work in administrating grants, in writing editorials for newspapers, in the filing of a union grievance, and in participation in college governance. Each of these activities was determined to be part of the faculty member’s work as a public employee and was deemed to be not related to scholarship or teaching, so that the court’s postponement of its analysis of speech in these areas did not apply. Accordingly the AAUP has called upon AAUP chapters and faculty senates at both public and private colleges and universities to develop policy statements at the institutional level that will explicitly incorporate protections for faculty speech on institutional academic matters and governance.

Therefore the Faculty Senate asks that Steering direct CFA or another governance committee deemed appropriate by Steering to develop such policy. We would further recommend that such protections be extended to staff, students, and administrators acting within the governance system in addition to faculty, as clearly our governance system depends upon the ability of all committee members to participate freely without concerns of retribution.

We have attached the Executive Summary of the AAUP report, “Protecting an Independent Faculty Voice: Academic Freedom after *Garcetti v. Cebalos*.” This executive summary includes suggested language for policy which the CFA may wish to consider. The full report is available at <http://www.aaup.org/NR/rdonlyres/B3991F98-98D5-4CC0-9102-ED26A7AA2892/0/Garcetti.pdf> , and a summary of the relevant legal cases is available at <http://www.aaup.org/AAUP/programs/protectvoice/Legal/> . CFA may be interested in reviewing this material as well.