

# **BMCC Academic Freedom Manual**



## Table of Contents

1	Prologue	3
	Definition	3
	Background – History of Academic Freedom	3
	Committee of the Academic Senate	5
	CUNY Policies and Bylaws	5
2	Charge of the Academic Freedom Committee	6
3	Types of Situations That May Arise	7
	Case Studies	7
	Choice of Materials	7
	Use of Technology	8
	Choice of Learning Activities	10
	Determining Grades	11
	Choices Related to Classroom Discourse	12
	Conduct Beyond the Classroom	14
4	Privacy and Confidentiality	15
5	Form of Complaints	16
	Informal Inquiries	16
	Formal Complaints	16
6	Procedures	17
	Hearing a Complaint	17
	Gathering Information	17
	Making a Determination	17
	Report of the Committee	17

# 1 PROLOGUE

## Definition of Academic Freedom

Academic freedom is a complex issue. It has been defined in a variety of ways by different groups in varying circumstances. We provide here three working definitions for use at BMCC:

Academic definition: The freedom of teachers and students to express their ideas, thoughts and opinions without restriction or fear of reprisals.

Legal Definition 1: The right of a teacher or student, especially at the college or university level, to discuss or investigate an issue, or express any opinions on any topic without interference or fear of penalty or reprisal from either the school or the government.

Legal Definition 2: A school's freedom to control its own policies without government interference, penalty, or reprisal. The extent to which academic freedom exists depends upon many facts, including whether the school is a public or private institution, and whether it is a primary or secondary school or a college or university.

The academic definition presented above is a synthesis of many definitions available on-line. The legal definitions are taken from *Webster's New World Law Dictionary* 2010 (Wiley Publishing).

## Background – History of Academic Freedom

According to the Professional Staff Congress of the City University of New York,

Academic freedom is a professional right of the faculty. It is grounded in the faculty member's qualifications for the position as reviewed by his/her peers. It consists in the freedom to teach, research, write, and speak in our capacity as citizens without restraint by the administration.

This right differs from the Constitutional right to freedom of speech and assembly guaranteed by the First Amendment in the sense that it is the necessary condition for a faculty member to fulfill his/her professional obligations and responsibilities as a teacher, researcher, and writer. It is also meant to protect faculty members from reprisal for exercising their free speech rights.

Along with the protection to practice our craft, academic freedom protects the faculty in taking part in the governance of the institution by speaking out on matters of educational policy, even when or especially when opposing the views of the administration.

The American Association of University Professors defined academic freedom in 1940 and in 1970 supplemented this definition with interpretative comments. The AAUP's original definition is as follows, with later interpretative comments in brackets:

1. Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
2. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter, which has no relation to their subject. [The intent of this statement is not

to discourage what is “controversial.” Controversy is at the heart of the free academic inquiry, which the entire statement is designed to foster. The passage serves to underscore the need for teachers to avoid persistently intruding material, which has no relation to their subject.] Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment. [Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 *Statement*, and we do not now endorse such a departure.]

3. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution. [This paragraph is the subject of an interpretation adopted by the sponsors of the 1940 *Statement* immediately following its endorsement which reads as follows: If the administration of a college or university feels that a teacher has not observed the admonitions of paragraph 3 of the section on Academic Freedom and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning the teacher’s fitness for his or her position, it may proceed to file charges under paragraph 4 of the section on Academic Tenure. In pressing such charges, the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility, and the American Association of University Professors and the Association of American Colleges are free to make an investigation.]

Paragraph 3 of the section on Academic Freedom in the 1940 *Statement* should also be interpreted in keeping with the 1964 *Committee A Statement on Extramural Utterances*, which states *inter alia*: “The controlling principle is that a faculty member’s expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member’s unfitness for his or her position. Extramural utterances rarely bear upon the faculty member’s fitness for the position. Moreover, a final decision should take into account the faculty member’s entire record as a teacher and scholar.”

Paragraph 5 of the *Statement on Professional Ethics* also deals with the nature of the “special obligations” of the teacher. The paragraph reads as follows:

As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons, they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

Both the protection of academic freedom and the requirements of academic responsibility apply not only to the full-time probationary and the tenured teacher, but also to all others, such as part-time faculty and teaching assistants, who exercise teaching responsibilities.

### **Committee of the Academic Senate**

In 2010, in response to requests from faculty, the Academic Senate established a standing committee on academic freedom at BMCC. The charge of this committee is discussed in the following chapter.

### **CUNY Policies and Bylaws**

[http://policy.cuny.edu/manual\\_of\\_general\\_policy/article\\_i/policy\\_1.02/#Navigation\\_Location](http://policy.cuny.edu/manual_of_general_policy/article_i/policy_1.02/#Navigation_Location)

[http://policy.cuny.edu/bylaws/#Navigation\\_Location](http://policy.cuny.edu/bylaws/#Navigation_Location)

## **2 Charge of the Academic Freedom Committee**

### **Monitoring**

The Academic Freedom Committee is charged by the Academic Senate to monitor and examine the state of academic freedom at BMCC. The members of the committee will take note of developments that might restrict academic freedom on campus and will report annually to the Senate on the status of academic freedom at the college.

### **Designated Voting Members**

- **Chair**
- **Other members**

### **Recommendations**

The Academic Freedom Committee is charged by the Academic Senate to make appropriate recommendations to the Academic Senate on those policies and practices that affect academic freedom and, as appropriate, through that body to the University Faculty Senate. Such recommendations may be made in the committee reports at any regularly scheduled Academic Senate meeting and will be filed in writing to become part of the minutes of the meeting. Such recommendations will also be included in the Academic Freedom Committee's annual report to the Academic Senate.

### **Investigations**

The Academic Freedom Committee is charged by the Academic Senate to investigate any infringements on academic freedom at BMCC and to report on its investigations to the Academic Senate. Such investigations may be instigated by individual faculty members, the Academic Senate, or the Academic Freedom Committee itself.

### **Serving the Faculty**

The Academic Freedom Committee is charged by the Academic Senate to serve all members of the faculty by educating them about the nature and importance of academic freedom and about how it affects the faculty generally. It is also charged to hear individual faculty members' complaints about possible infringements of academic freedom at BMCC and to make recommendations about any case that may be brought to the attention of the committee.

### 3 Types of Situations That May Arise

The following are examples of the types of situations that might be brought to the Academic Freedom Committee of BMCC's Academic Senate. They address the degree of freedom faculty have as they conduct themselves within and beyond the classroom. Some of these cases are hypothetical, and some have occurred at BMCC or elsewhere. While they are not all necessarily examples of breaches of academic freedom, all of them are situations that might be brought before the committee. If a given case has been ruled in court, we indicate that fact. Otherwise, we express the committee's current agreement as to whether the case involves academic freedom or not. If we regard the case as unclear or complex, we express that as well.

#### Case Studies

##### Choice of materials:

1. Violation of Academic Freedom
  - a. Example:

An instructor wants to use a new textbook for her course. Her department chairperson says the book she wants to use has controversial readings. Consequently, the chairperson tells her she must use the previous textbook. The instructor demonstrates the need to expose the students to more challenging material. She thinks that the students taking that course have been exposed to just one very traditional perspective of the issues discussed in this course, and students should be challenged to consider other points of view. In addition, she demonstrates that this new textbook will cover the student learning outcomes that the department requires.
  - b. Explanation:

Based on the AAUP definition, this is a clear example of a violation of academic freedom because instructors should be able to choose a textbook of their choice as long as it covers the student learning outcomes and it is relevant for the course.
2. No violation of Academic Freedom:
  - a. Example:

A professor from California State University has been reprimanded after he assigned a textbook (at a price of \$75) along with free online materials for his multi-section Math course in place of the more expensive textbook (\$180) chosen by his department.  
<https://www.insidehighered.com/news/2015/11/09/cal-state-fullerton-upholds-reprimand-professor-who-wouldnt-assign-180-textbook>
  - b. Explanation:

Based on the AAUP definition, this is not an example of academic freedom violation because the departments have "the right to select books for all sections of multi-section courses" (Jaschik 2015).
3. Unclear violation of Academic Freedom:
  - a. Example:

A professor has been denied tenure after the president of the college discussed with him his methods of teaching. The president suggested to him that his pedagogical techniques are not compatible with their students.

b. Explanation:

This is not a clear example of academic freedom violation since there is not enough data to evaluate the case of study. If tenure was denied because a “pedagogical techniques” were ineffective at reaching students then it is not a violation of academic freedom. However, if the objections were content related and masked by the “pedagogical techniques” category this would definitely would be a violation.

Use of Technology:

1. Violation of Electronic Freedom

a. Example:

In 2014, Professor Tim McGettigan, a faculty member in Colorado sent an e-mail message protesting proposed layoffs of faculty at his institution that dramatically compared the layoffs to the 1914 Ludlow Massacre of striking Colorado miners and their families.

Within hours of the post, the university’s deputy general counsel informed the professor that it was terminating his access to the institution’s e-mail system, claiming that the message in question amounted to a violent threat and thus was a violation of their Electronic Communications Policy. In defending the reprimand, the university president compared the danger posed by professor’s message to that of the school shootings at Columbine and Virginia Tech. Although the administration later restored access, the faculty member’s ability to distribute messages on listservs or use University teaching tools, such as Blackboard, remained severely restricted.

b. Explanation:

While institutions clearly have an obligation to protect members of the community from genuine threats of violence, suggesting that messages that refer to violence necessarily constitute such threats, as was surely the case in this instance, can violate academic freedom, particularly when the accused is denied the protections of academic due process before any adverse action has been taken.

<http://aaupcolorado.org/2014/01/18/the-children-of-ludlow-tim-mcgettigans-offending-email-and-csu-pueblos-response/> and <http://aaupcolorado.org/2014/01/20/colorado-conference-responds-to-csu-pueblo-president-lesley-di-mare-regarding-the-censure-of-professor-tim-mcgettigan/>

2. No Violation of Academic Freedom

a. Example:

In several recent instances, outside groups or governmental agencies have sought to obtain records of faculty members’ electronic communications. In 2011, Virginia Attorney General Ken Cuccinelli demanded that the University of Virginia turn over all e-mail messages and other communications related to and produced by Michael Mann, a former professor who was a prominent scientist of climate change, on the grounds that these were public records. The university successfully resisted the request, characterizing the investigation as “an unprecedented and improper governmental intrusion into ongoing scientific

research,” undertaken because the attorney general “disagrees with his [Mann’s] academic research regarding climate change.”

Subsequently, a private group, the American Tradition Institute, filed a FOIA request that mirrored the attorney general’s subpoena. The AAUP and the Union of Concerned Scientists (UCS) filed a joint amicus brief in support of UVA and Professor Mann, urging that “in evaluating disclosure under FOIA, the public’s right to know must be balanced against the significant risk of chilling academic freedom that FOIA requests may pose.” The ATI justified its broad intrusion by claiming that its purpose was to “open to public inspection the workings of a government employee, including the methods and means used to prepare scientific papers and reports that have been strongly criticized for technical errors.” The AAUP- UCS brief argued, however, that “in the FOIA context, the public’s right to information is not absolute and courts can and do employ a balancing test to weigh the interest of the public’s right to know against the equally important interests of academic freedom.”

b. Explanation:

In this case the attempts to violate academic freedom came from outside the university and the university and allied groups responded with an appropriate and principled rejection that was also sensitive to the public/private balance of interests. Unfortunately, this type of response is unusual in the extreme.

<http://aaup.org/report/academic-freedom-and-electronic-communications-2014>

3. Unclear Violation of Academic Freedom

a. Example:

In late 2012, a Florida professor, James Tracy, posted on his blog a statement expressing doubt that the murders of students and faculty at Sandy Hook Elementary School in Connecticut earlier that year had actually occurred or, if any had, that the facts corresponded to the official accounts, a controversial position known as “Sandy Hook Trutherism” that ties reports of the massacre to a federal plot to impose stricter gun control. The section of the blog that mentioned the professor’s affiliation with the Florida Atlantic University also included this statement: “All items published herein represent the views of [the professor] and are not representative of or condoned by [the university].”

The FAU administration claimed, despite the disclaimer, that by including his affiliation the professor had failed to distinguish adequately his personal views from those of the university and thereby damaged the institution and further complained that he used the blog to post criticisms of university policy and that the disclaimer was not attached to those posts. He was further alleged to have harassed the parents of a Sandy Hook victim, demanding, among other things, legal proof of the child’s existence. As a result, he was issued a formal letter of reprimand. While the letter noted that it was “a disciplinary action subject to Article 20, Grievance Procedure,” the university later claimed that “no employee has been disciplined for his/her personal activities or publications.”

In the Fall of 2015, Tracy, a former president of the faculty union, protested the university’s requirement that he fill out a form listing his outside work, whether paid or unpaid, which would include his blog and other Sandy Hook Truther activity, arguing that they did not reflect his scholarly work. The university gave him a deadline to file the three missing years worth of the paperwork; his union advised him to do so, but he continued to refuse until a day after the deadline and was dismissed in January 2016. In their dismissal notice, the university claimed that not only the disclosure was in violation, but again asserted that he had failed

to fully separate his views from his role at the university. The professor has since filed suit against the university claiming violation of free speech.

b. Explanation:

Despite the university's denials, the original reprimand was a clear violation of academic freedom because the professor has been disciplined for publishing explicitly disclaimed personal views regarding public and university policies in a public forum. Such expressions are not only protected by the doctrine of academic freedom but by the First Amendment. However, the professor's refusal to file three years worth of disclosure forms and his alleged harassment of a murdered child's parents are not protected and could constitute grounds for dismissal; according to AAUP guidelines, "any restrictions that an institution may need to impose on access and usage must be narrowly defined and clearly and precisely stated in writing," which appears to be the case in terms of the disclosure requirements.

See Scott Jaschik, "Reprimand for a Blog," Inside Higher Ed, April 12, 2013, <https://www.insidehighered.com/news/2013/04/12/florida-atlantic-reprimands-professor-over-his-blog>; and [http://www.nytimes.com/2016/01/07/us/florida-professor-who-cast-doubt-on-mass-shootings-is-fired.html?\\_r=0](http://www.nytimes.com/2016/01/07/us/florida-professor-who-cast-doubt-on-mass-shootings-is-fired.html?_r=0)

Choice of Learning Activities:

1. Violation of Academic Freedom:

a. Example:

In a class on language and social constructivism at Jefferson Community College, Professor Kenneth Hardy led a discussion on how language is used to marginalize oppressed groups. The discussion included as examples terms such as "bitch", "faggot", and "nigger". After a student complaint, the college did not renew Professor Hardy's contract and he sued the college for violating his academic freedom.

b. Explanation:

According to the court, the college did violate academic freedom: "Reasonable school officials should have known that such speech, when it is germane to the classroom subject matter and advances an academic message, is protected by the First Amendment."

2. NO violation of Academic Freedom:

a. Example:

After student complaints, Philip Bishop, a professor of physiology, was disciplined by the University of Alabama for his frequent declarations of his religious views in class and for his offering voluntary extra classes taught from a 'Christian perspective'.

b. Explanation:

The courts found that Professor Bishop's academic freedom was not violated since there are strict limitations on promoting religion at public institutions. So, although other points of view and standpoints may be protected under academic freedom, religious classroom speech and putting forward a particular religious perspective as learning activity is not.

3. Unclear violation of Academic Freedom:

a. Example

Professor A is disciplined by an administrator for refusing to include group work as a teaching method/learning activity in their classes.

b. Explanation

Although this would not violate the First Amendment right to free speech, it could be a violation of academic freedom as established by academic custom and usage as well as by contract. In the case of BMCC, the imposing of teaching methods or learning activities by an administrator would appear to violate academic freedom as common practice and CUNY guidelines declare that in the absence of formal department, college, or university wide policy, individual faculty members retain the right to make all academic decisions. Moreover, according to CUNY guidelines, faculty must be the judges of teaching content and methods: "Concerning how a subject is to be taught, faculty are the judges of teaching methods, class size and needed materials, including texts, databases, and artistic works."

Determining Grades:

1. Violation of Academic Freedom

a. Example 1:

A professor at Northeast Mississippi Community College was fired for criticizing the school's special treatment of a basketball star, specifically for refusing to change the student's grade from an "F" in the professor's psychology course. She claimed the student had not attended class and failed to take the final exam. A federal jury ultimately awarded her \$571,000.

b. Explanation:

According to the AAUP, academic freedom includes a teacher's right to assess a student's academic performance, inclusive of the assignment of grades.

a. Example 2:

A professor at Tennessee State University sued the administration when his contract to teach was not renewed because he refused to sign a memorandum changing a student's grade from a "B" to an "A." The court ruled that an individual professor cannot be compelled by the administration to change the grade assigned the student.

b. Explanation:

According to the AAUP, academic freedom with respect to the determination of grades means no grade may be assigned or changed without faculty authorization.

2. No violation of Academic Freedom

a. Example:

A professor claimed that his contract had not been renewed because he had refused to inflate his grades or lower his expectations and teaching standards. Ultimately it was ruled by a court that no violation of academic freedom had taken place.

b. Explanation:

Further investigation showed that the professor's dismissal was proper because the grades awarded to several students did not correspond to the grades they had received in exams and course work.

3. Unclear violation of Academic Freedom

- a. Example:  
A court ruled that an administrator who had changed a student's grade from "withhold" to "B" had not violated the respective professor's academic freedom. The AAUP concurred with this ruling.
- b. Explanation:  
The grading incident, which in many ways appeared arbitrary and inconsistent with the rubric the professor claimed to be using, corresponded to a by then well established pattern of unprofessional conduct in regard to grading.

Choices Related to Classroom Discourse:

1. Violation of Academic Freedom

- a. Example:  
In an introductory psychology course at Brandeis University, Abraham Maslow acquainted his freshmen students with various psychoanalytic ideas, including how the unconscious works and the nature of repression. Distressed by his many direct references to sex, one of his students complained to the college administration. Had the college administration demanded that Maslow modify the content or style of his teaching, which it did not, his academic freedom would have been violated.

- b. Explanation:  
Based on the AAUP definition, this is a clear example of a violation of academic freedom because: "On a campus that is free and open, no idea can be banned or forbidden. No viewpoint or message may be deemed so hateful and disturbing that it may not be expressed". (AAUP, Resources on Academic Freedom: "On Freedom of Expression and Campus Speech Codes").  
<https://blackboard.central.edu/bbcswebdav/library/Faculty%20Handbook/Adobe%20.pdf%20documents/Handbook%20Attachments/Attachment%205%20AAUP%20Statement%20on%20Freedom%20of%20Expression%20and%20Campus%20Speech%20Codes.pdf>

"College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution"

AAUP, *Policy Documents & Reports* 3-4 (9th ed. 2001) (hereafter "Redbook").  
<http://www.aaup.org/issues/academic-freedom/professors-and-institutions>

2. No violation of Academic Freedom

- a. Example:  
An adjunct professor at a Christian college suggested, as part of a discussion of classical drama, that the old Greek myths were no more implausible than many of the stories in the Christian Bible. Several students said they were offended by this assertion and complained to the college dean. The dean told the professor that he had the right to present his own viewpoint but should do so in a way that was sensitive to his students' and the university's religious affiliation.

- b. Explanation:  
Based on the AAUP, this is not an example of academic freedom violation because: "rules that ban or punish speech based upon its content cannot be justified". The dean acknowledged this position and the professor wasn't penalized, therefore this is a case of No violation of Academic Freedom.  
<https://blackboard.central.edu/bbcswebdav/library/Faculty%20Handbook/Adobe%20.pdf%20documents/Handbook%20Attachments/Attachment%205%20AAUP%20Statement%20on%20Freedom%20of%20Expression%20and%20Campus%20Speech%20Codes.pdf>

3. Unclear violation of Academic Freedom

- a. Example  
Bonnell v. Lorenzo (Macomb Community College), 241 F.3d 800 (6th Cir. 2001):  
The Sixth Circuit upheld the college's suspension of John Bonnell, a professor of English, for creating a hostile learning environment. A female student sued the professor, alleging that he had repeatedly used lewd and graphic language in his English class. The court stated that, "[w]hile a professor's rights to academic freedom and freedom of expression are paramount in the academic setting, they are not absolute to the point of compromising a student's right to learn in a hostile-free environment." The court found the professor's use of vulgar language "not germane to the subject matter."
- b. Explanation  
This is not a clear example of academic freedom violation since there is not enough data to evaluate the case of study. If it were demonstrated that the "lewd and graphic language" is germane to the topic of the course, i.e. discussing *Lady Chatterley's Lover*, then this would be a violation of academic freedom. However, it appears that this was not the case.

Conduct beyond the Classroom:

1. Violation of Academic Freedom

- a. Example 1  
A newly hired faculty member was preparing to relocate to the university where he had just been accepted for a tenured appointment as an associate professor. The appointment still needed final approval by the Board of Trustees of the university, but the individual in question had every reason to believe this was a formality, on the basis of which he had already resigned a tenured position elsewhere. In the interim, he expressed views sharply critical of Israel on Twitter that many found deeply offensive, and on the basis of which, the university's chancellor recommended to the Board of Trustees that they recommend against his appointment, which they subsequently did.
- b. Explanation  
The AAUP ultimately ruled that this was a clear violation of academic freedom, as the individual in question had the right to express his views without fear of retaliation, furthermore given that his appointment was rejected without demonstration of cause, and even after the appointment had been approved and courses assigned him.
- a. Example 2  
The president of a state university censured a faculty member for using an historical massacre as a metaphor in an informal communication with other faculty, criticizing the college's policy aimed at laying off many professors. The

president claimed that in doing so, the faculty member was inciting violence. The metaphor was clearly allegorical and in no way directly sought to incite violence.

b. Explanation

The AAUP rejected the president's censure on the basis that faculty have the right to speak about their conditions of employment inclusive of electronic communications.

2. No violation of Academic Freedom

a. Example 1

A tenured associate professor, a self-described conservative Christian, criticized the university where he was employed as being religiously intolerant, on an electronic media outlet and in a political book he authored. He was later denied promotion to full professor, and claimed that the denial was due to his political speech and his criticism of the college.

b. Explanation

The case was adjudicated as not being a violation of academic freedom, as there was no indication that the denial was a consequence of the views expressed in the column and book.

a. Example 2

Two faculty members criticized their department chairperson, claiming that she was bypassing faculty committee processes and was biased in her handling of faculty evaluations. The faculty members alleged that the department chair retaliated against them for these complaints. The case was adjudicated as not being a violation of academic freedom.

b. Explanation

The case was adjudicated as not being a violation of academic freedom, as the faculty members were unable to demonstrate that the acts in question were of a clearly retaliatory nature, neither could they link them to their earlier complaints.

3. Unclear violation of Academic Freedom

a. Example

A professor wrote a blog suggesting that a former administrator's "forced" resignation was an act of discrimination. Shortly thereafter, the chair of the university's board of governors called the professor to complain about the blog post. While the professor in question was not censored or threatened, the chair was eventually compelled to resign for having implied that the professor could be penalized for having written what she did. Similar cases, however, have not always been deemed infringements on academic freedom, particularly where it was argued that a respective faculty member had not made sufficiently clear that the views expressed were in no way representative of the larger institution with which they were affiliated.

b. Explanation

There seems to be a gray area in terms of whether the views expressed by a faculty member are understood as not representing the larger institution. It is unclear exactly how high the bar is in this respect, and it is perhaps advisable that faculty, when making statements of a potentially controversial nature, make it absolutely clear that the views expressed are their own.

## **4 Privacy and Confidentiality**

The privacy of the party/parties bringing a complaint of a breach of Academic Freedom must be respected, and information obtained in connection with the submission of the complaint and any subsequent investigation or resolution of the complaint must be handled with utmost confidentiality.

## **5 Form of Complaints**

**Initial Inquiries:** Initial inquiries may be made for educational purposes about Academic Freedom by sending an email to the Chair of the Committee. Such an inquiry does not constitute a complaint and is only intended to inform the author of the inquiry about the issue. All inquiries will receive a response from the committee.

**Informal complaint:** If a complaint is made informally and the complainant is unwilling to submit a written, signed complaint, then the Chair of the Academic Freedom Committee, respecting the complainant's right to anonymity, will report the complaint to the committee and initiate an informal "fact-finding" inquiry. The committee will determine if the complaint falls within the purview of Academic Freedom and the complainant will be notified of this determination. Further action will be taken only if the complainant chooses to file a formal complaint

**Formal complaint:** A formal investigation of a breach of Academic Freedom rights will be initiated after a written, signed complaint is submitted by the complainant to the Chair of the Committee. Every written, signed complaint will receive a response as described below.

## **6 Procedures**

Any member of the instructional staff (faculty) can bring a complaint to the Academic Freedom Committee, including full-time and part-time members of the faculty and College Laboratory Technicians (CLTs). Complaints may be made orally or via a written mechanism (including email). Complaints may be received directly from the aggrieved party or from a third party who believes that he/she has observed a breach of an individual's or group's academic freedom rights. Any member of the Academic Freedom Committee may accept a complaint, after which it shall be passed to the Chair of the Committee.

### **Hearing a Complaint**

The Academic Freedom Committee will hear complaints from any member of the BMCC community. Complaints are best lodged with the AFC in writing either on paper or electronically. The committee will also hear complaints orally if a complainant wishes to appear at a regularly scheduled meeting (the first Wednesday of each month during the academic year), as long as he/she notifies the committee chair in time to secure a spot on the agenda.

### **Gathering Information**

Once a complaint has been filed the committee will investigate the charges. Such an investigation will likely include interviews with the complainant, the alleged offender and any other members of the academic community who may have information relevant to the case.

### **Making a Determination**

After it has gathered information, the committee will discuss the case at its next regularly scheduled meeting and make a determination as to whether or not an infringement of academic freedom has occurred.

### **Report of the Committee**

A written report on the determination of the committee will be made and saved in the records of the Academic Freedom Committee. A copy of the report will be given to the complainant. If the committee determines that an infraction has taken place, copies of the report will also be conveyed to the Academic Senate and the offending party.