

Academic Freedom Manual

Committee on Academic Freedom, Senate Advisory Committee

Bronx Community College

City University of New York

(Revised: April, 2022)

A. Definition of Academic Freedom

The freedom of instructional staff, students, and invited guests of Bronx Community College (BCC) to express their ideas, thoughts, and opinions in forms of teaching, research, speech, writing, or participation in college governance without restriction or fear of reprisals.

B. Background and History of Academic Freedom

The American Association of University Professors on Academic Freedom

The American Association of University Professors defined academic freedom in 1940 and in 1970. 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.

Professional Staff Congress of CUNY on 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.

University Faculty Senate at CUNY on Academic Freedom

According to the University Faculty Senate at CUNY,

Academic freedom is the indispensable condition for the faculty to carry out its work: the responsibilities of teaching, research and publication, and of participating in college governance. Without the ability to control their work, faculty members will find themselves laboring under conditions closer to those of a corporation than the academy.

Academic freedom is a professional right of the faculty. It is grounded in the faculty's qualifications for the position as reviewed by their peers. It consists in the freedom to teach, research, write, and to speak in their public capacity without restraint by the administration. As a professional right, academic freedom differs from the Constitutional right to freedom of speech and assembly guaranteed by the First Amendment in the sense that academic freedom is the necessary condition for faculty members to fulfill their professional obligations and responsibilities as teachers, researchers and writers.

Academic freedom protects faculty members from reprisals by employers for exercising free speech rights outside the classroom, a protection not afforded most Americans. Academic freedom further protects faculty members when they participate in the governance of their institutions or speak out on matters of educational policy, particularly when opposing the views of the administration.

For full-time members of the faculty, tenure is the main shield against attacks on academic freedom. However, most teaching in the United States, as in the City University, is now done by part-time or contingent faculty not eligible for tenure. Protection of academic freedom therefore rests on the twin bases of the professional staff's Collective Bargaining Agreement, on the one hand, and on the governance charters of the individual colleges in the University, along with the University Faculty Senate, the faculty governance body of the University.

A Senate Advisory Committee at Bronx Community College

In 2017, The Academic Freedom Committee was added to the Governance Plan of BCC as an advisory committee to the Senate.

C. Charges of the Academic Freedom Committee

Functions of the Committee on Academic Freedom, as stated in the 2017 Governance Plan:

- 1) The Committee on Academic Freedom studies, reports, and makes recommendations to the Senate concerning any condition within or without the College which, in its judgment, may affect the academic freedom of the college community. Academic freedom is the freedom from duress or sanction aimed at suppressing the intellectual independence, free investigation, and unfettered communication by the academic community – including but not limited to members of the Instructional Staff, students, and guests.
- 2) Membership of the Committee on Academic Freedom:
 - i) The Chairperson of the Faculty Council.
 - ii) The President of the Student Government Association, or his/her designee.
 - iii) Five members of the Instructional Staff elected by the Faculty Council.
 - iv) Three members of the Student Government Association, elected by the Student Government Association.
 - v) One member designated by the President from among the Vice Presidents, Deans and Directors or their assistants.

D. Types of Situations that May Arise (adopted from Borough of Manhattan Community College Academic Freedom Manual)

The following are examples of the types of situations that might be brought to the Committee. 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 CUNY 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 [BMCC's Academic Freedom Committee] express the committee's current agreement as to whether the case involves academic freedom or not.

Case Studies

Choice of materials:

1. Violation of Academic Freedom

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.

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:

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>

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).

Choice of Learning Activities:

1. Violation of Academic Freedom:

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.

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:

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’.

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.

Determining Grades:

1. Violation of Academic Freedom

Example:

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.

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.

2. No violation of Academic Freedom

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.

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.

Conduct beyond the Classroom:

1. Violation of Academic Freedom

Example:

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.

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.

2. No violation of Academic Freedom

Example:

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.

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.

E. Forms of Complaints

Initial Inquiries

Initial inquiries requesting information or clarification about academic freedom may be made by sending an email to academic.freedom@bcc.cuny.edu. Such an inquiry does not constitute a complaint and is only intended to inform the author of the inquiry about the AFC. 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.

F. Procedures

Any member of the instructional staff, students or invited guests can bring a complaint to the Academic Freedom Committee by sending an e-mail to academic.freedom@bcc.cuny.edu. In addition, anyone with a complaint is recommended to follow union and college procedures with the appropriate grievance counselor and/or the department chair and/or the Ombudsperson. 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 BCC community or invited guests. 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 (complainant can reach out to AFC chair to inquire about the meeting dates), 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 all parties involved. If applicable, the committee will determine policies and practices to recommend to the Academic Senate to protect academic freedom.