**MEMORANDUM**

**TO:**Steering Committee

**FROM:**Committee on Faculty Affairs

**RE:**Policy on Academic Speech

**DATE:**October 8, 2012

**Background:**

In a memo dated October 24, 2011 the Steering Committee informed the Committee on Faculty Affairs of concerns raised by the Faculty Senate about appropriate protection of faculty speech on institutional academic matters and governance.  The Senate’s concerns grew out of court decisions and concerns raised by the American Association of University Professors, rather than anything that took place on the TCNJ campus. Additional information was provided through a link to the complete AAUP Report, “Protecting an Independent Faculty Voice:  Academic Freedom after *Garcetti v. Cebalos.*”

**Charge:**

The Steering Committee charged 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 encouraged the Committee on Faculty Affairs to consult with the college’s General.

**CFA Recommendation**

Article V of the 2007-2011 Agreement between the State of New Jersey the Council of New

Jersey State College Locals, AFT, AFL-CIO states:

**ARTICLE V: ACADEMIC FREEDOM**

**A.**Academic freedom derives from the nature of the quest for knowledge. It is essential to the full search for truth and its free exposition, applies to both teaching and research, and shall not be abridged or abused. Academic freedom does not relieve the employee of those duties and obligations, which are inherent in the employer-employee relationship.

**B.**Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it responsibilities correlative with rights. Both parties to this Agreement subscribe to the following principles of academic freedom:

1. Employees are entitled to full freedom in research and in the publication of results.

2. An employee is entitled to freedom in the classroom in discussing his or her subject.

3. Employees are citizens and members of a learned profession. When the employee speaks or writes as a citizen, he or she is free from institutional censorship or discipline, but should not represent himself or herself as a spokesperson for the institution.

(<http://www.cnjscl.org/Library/AFT%20FT-PT%2007-11%20Agreement.pdf>)

CFA consulted with the AFT leadership and the TCNJ General Counsel. Any policy drafted by CFA and approved through the Governance Process would exist at the pleasure of the Board of Trustees and  be considered, for all intents and purposes, a set of principles by which we would like to abide, but would have no legal standing. The AFT contract is a legally binding document that takes precedence over any Policy that might be drafted and approved through the Governance Process. The contract is drafted in broad terms that try to cover any cases that might present themselves. Any existing State legislation would, in turn, take precedence over policies stated in the union contract.

Given the status of Article V of the AFT contract as legally binding, and the fact that any policy on the protection of faculty speech on institutional academic matters and governance would have no legal standing, CFA recommends that no such policy be drafted.