

# Asheville-Buncombe Technical Community College

# (A-B Tech) Procedure

## Procedure 201: Academic Freedom

The Board of Trustees recognizes three key aspects of academic freedom.

* **Freedom to discuss subject matter pertinent to the course being** **taught** – Faculty are entitled to freedom in the classroom in discussing the subject. It is expected that faculty only introduce topics that are related to the subject.
* **Freedom to research and to publish** – Faculty are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of other academic duties. However, research for monetary gain must be based upon Policy and Procedure 110: Code of Ethical Conduct.
* **Freedom to speak and write as a member of the learned profession** – Faculty are citizens, members of a learned profession, and officers of Asheville-Buncombe Technical Community College. When faculty 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. Faculty should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should avoid the appearance of representing the institution.

Faculty who believe their academic freedom is being violated should follow the below procedure. Faculty who believe they are being retaliated against for examination of all pertinent material particular to a course should refer to Policy 509.04 Workplace Retaliation and Procedure 509.04 Workplace Retaliation.

The Board recognizes that there are limits to academic freedom. Intellectual dishonesty, serious moral dereliction, or arbitrary and capricious disregard of standards of professional conduct are not protected by academic freedom and can be grounds for disciplinary action detailed in Policy 509.01: Discipline and Procedure 509.01: Disciplinary Procedure.

## Formal Academic Freedom Grievance Process

Academic Freedom grievances should be settled at the lowest level in the Instructional chain of command (chair, dean, VP) as possible. If the grievance is against the chair or dean in the faculty’s chain of command, the corresponding step may be skipped in the following process.

Grievances filed against the President of the College, which cannot be resolved by this process will be presented to the Board of Trustees, following procedures set forth by the Board.

It is expected that the faculty member will abide by directives of instructional supervisors that led to the grievance until the grievance process is completed and a ruling is made.

### Step One – Initial Meeting

A faculty member with a grievance under the Academic Freedom policy (hereinafter “Complainant”) will, within five (5) business days after the action giving rise to the grievance, meet with the department chair to discuss the grievance. An attempt will be made to resolve the academic freedom grievance informally at this level.

The department chair will inform the Complainant of the decision, in writing, within ten (10) business days after the initial meeting. If the Complainant’s department chair does not have the authority to resolve the grievance, or if the grievance involves the Complainant’s department chair and the Complainant cannot reasonably discuss the grievance with the department chair, the Complainant may bypass Step One and move directly to Step Two.

### Step Two – Second Meeting

If the academic freedom grievance is not resolved at Step One, the Complainant may request a meeting with the appropriate division dean within five (5) business days of receipt of the written decision of the department chair. The complainant will submit the meeting request in writing with the following information:

* A brief statement regarding the basis for the academic freedom grievance.
* A brief description of attempts made to resolve the grievance and results of the/those attempt(s).
* The solution/decision/action sought.
* The Complainant’s signature and date of submission.

The Complainant will be notified of the date of the meeting within five (5) business days of receipt of the request for a meeting. The parties will attempt to resolve their grievance informally at this level. The Complainant will be notified, in writing, of the decision regarding the grievance within ten (10) business days after the meeting.

The dean will contact the employee against whom the academic freedom grievance is directed, and the employee will also have the right to provide information regarding the complaint. The dean may contact others who have information about the alleged violation as well.

If the Complainant’s dean does not have the authority to resolve the grievance, or if the grievance involves the Complainant’s dean and the Complainant cannot reasonably discuss the grievance with the dean, the Complainant may bypass Step Two and move directly to Step Three.

### Step Three - Hearing

If the grievance is not resolved at Step Two, the Complainant may request a hearing with an ad hoc academic freedom committee by submitting a written request to the College’s Vice President, Instructional Services or designee within ten (10) business days of receipt of the decision of the division dean. The Complainant will submit the meeting request in writing with the following information:

* A brief statement regarding the basis for the academic freedom grievance.
* A brief description of attempts made to resolve the grievance/complaint and results of the/those attempt(s).
* The solution/decision/action sought.
* The Complainant’s signature and date of submission.

Upon receipt of a timely request for a hearing, Vice President, Instructional Services or designee will convene a College Academic Freedom Committee to hear and attempt to resolve the grievance. The Academic Freedom Committee will consist of the Vice President, Instructional Services or designee, the Faculty Senate President, plus six faculty members, representing a cross section of curriculum. The Vice President, Instructional Services or designee will serve as the Chair for the hearing and will take steps to ensure that no faculty member who has a vested interest in the outcome and/or who is a party, observer, or witness serves on the Academic Freedom Committee.

The Vice President, Instructional Services or designee will notify employees of their service on the Academic Freedom Committee within five (5) business days after receipt of the Complainant’s written request. Employees who are unable to serve on the Academic Freedom Committee may request to be excused from service. The Vice President, Instructional Services will decide whether the individual seeking to be excused from service may be excused from service.

The Chair will convene the Academic Freedom Committee no later than ten (10) business days after receipt of the Complainant’s request for a hearing at a date, time and place determined by the Vice President, Instructional Services or designee.

The Complainant will have the opportunity to appear before the Academic Freedom Committee and will have the right to present evidence via documents and the testimony of witnesses. College employees against whom any academic freedom grievance is directed will also have the right to attend the hearing and present documentary evidence and witnesses. Both the Complainant and the College employee have the right to be accompanied by an institutional peer who will act as an observer.

The Complainant and the Respondent are allowed to be accompanied by an advocate. The role of the advocate is to provide support solely to the Complainant or Respondent and not to speak on behalf of either party unless invited to do so by the Presiding Officer. If the Complainant or the Respondent chooses to have an advocate, the name must be provided as well as the role/relationship of the advocate to the Presiding Officer at least three College business days prior to the initial meeting or hearing date.

Both the Complainant and the College employee have the right to present the testimony of witnesses, who must be a current or former employee of the College who can present testimony or documentary evidence that is relevant and material to the issues before the Committee. Witnesses who are not current or former employees of the College may be allowed to testify at the discretion of the Chair. The Chair will have the right to determine the relevance and materiality of any evidence presented by any witness. The Chair may exclude irrelevant testimony and may direct the witnesses to focus their presentations on the issue(s) before the Academic Freedom Committee.

All witnesses, other than the Complainant and College employee, will be excluded from the hearing room during the testimony of other witnesses. A waiting room will be provided for witnesses. Witnesses will be summoned to the hearing by the Chair when called by the Complainant or the College employee.

Within ten (10) business days after adjournment of the hearing, the Academic Freedom Committee will make a decision and prepare a written report regarding its findings. The Vice President, Instructional Services or designee will inform the Complainant of the Committee’s decision.

If the grievance involves the Vice President, Instructional Services, the Executive Director, Human Resources will chair the committee.

### Confidentiality

The very nature of these proceedings demands confidentiality. Consequently, all members of the Academic Freedom Committee, the Complainant, the College employee, witnesses and observers will sign a confidentiality statement prior to participating in the hearing. Those persons who refuse to sign such a statement will be excluded from the hearing by the Vice President, Instructional Services or designee. In addition, those persons who are not parties, observers or witnesses will be excluded from the hearing by the Chair.

### Step Four - Appeal

Within ten (10) business days after receipt of written notice of the Academic Freedom Committee’s decision, the Complainant may appeal the decision of the Academic Freedom Committee by written notice to the President. If notice of appeal is not received within five (5) business days, the decision of the Academic Freedom Committee will become final.

Upon a timely appeal, the Vice President, Instructional Services will provide to the President a copy of the Committee’s written report along with copies of all pertinent materials presented during the Step Three hearing. The President will review the report and other materials and will, within ten (10) business days after their receipt, either adopt the recommendation of the Academic Freedom Committee or make an alternate determination and will notify the Complainant of this determination in writing.

The decision of the President will be final.

## Definitions:

Advocate: A support person that may accompany the Complainant or Respondent to meetings, conferences or hearings. The advocate can be a friend, family member, attorney, counselor, or any other person the Complainant or Respondent selects.

Owner: Vice President of Instructional Services

Updated: April 5, 2021