

**Statement of Policy on Free Speech (the “Statement”)
Frequently Asked Questions: Free Speech at York University***

**Free speech and free expression are distinct from academic freedom. This FAQ does not apply to academics in contexts where academic freedom applies.*

Q. What kinds of activities are protected by freedom of expression?

A. The Statement reaffirms York University’s protection of and support for freedom of expression. “Expression” includes any activity that conveys or attempts to convey a meaning, and freedom of expression broadly protects such expressive activities. These can include, among other activities:

- speeches
- music
- art
- dance
- sit-ins
- carrying signs and billboards
- postering
- handing out leaflets
- protesting

Q. Are there limits to freedom of expression at York University?

A. Yes. Freedom of expression is always subject to reasonable limits. Some of these limits exist to prevent harm to important public and individual objectives. Such limitations are ‘reasonable’ where they give effect as fully as possible to freedom of expression given the particular objective at issue. Examples of legal limitations on expressive activity in Canada include the prohibition of acts and threats of violence, prohibitions on hate speech and discriminatory expression, the public incitement of hatred, the promotion of hatred against an identifiable group, and advocacy of genocide, among others.

In addition, at York University, there are limits on expression that is incompatible with the statutory mandate of the institution. The objects and purposes of York University, as set out in its governing statute, include the advancement of learning and the dissemination of knowledge, as well as the intellectual, spiritual, social, moral and physical development of its members and the betterment of society. Certain kinds of expression are inimical to and destructive of these objects, and are therefore limited at York University. Examples of these limitations on expressive activities at York University are provided below, and include the prohibitions of threats more generally (not limited to threats of violence), harassing speech or conduct, discriminatory speech or conduct, speech or conduct that tends to denigrate, degrade, or vilify a person or group, or conduct otherwise creating an intimidating or hostile environment to members of York University.

As set out in the *Code of Student Rights and Responsibilities*, in exercising their freedom of expression, York University students have the responsibility to behave in a way that does not harm or threaten to harm another person’s physical or

mental wellbeing and the responsibility to uphold an atmosphere of civility, honesty, equity, and respect for others, thereby valuing the inherent diversity in the University community.

Q. Is offensive and controversial expression protected?

- A. Freedom of expression protects activity that many or most people may find disagreeable, disturbing, controversial, or deeply offensive. Expression that is merely disagreeable or offensive – without otherwise exceeding the limits of free expression – cannot be suppressed for that reason. Expression may well be hurtful and upsetting to others and be protected so long as it does not exceed the limits of freedom of expression at York University.

For example, a protest in which some students advocated a particular political position that other students disagree with would still be protected by freedom of expression. It would be otherwise, however, if the protesting students advocated genocide, engaged in violence or threats of violence, or promoted discrimination against an identifiable group.

York University may limit the place, time, and extent of offensive and controversial expression to ensure that the freedom not to listen is protected, and that individuals who find the expression offensive are not forced to listen to it. For example, York University may limit where disturbing or controversial materials are posted on campus so that persons seeking to avoid them are able to do so.

Q. What are examples of expression that are not protected?

- A. Examples of expressive activity that exceed the limits of free expression include, but are not limited to:
- hate speech, including speech that vilifies the targeted group by:
 - blaming its members for the current problems in society
 - alleging that its member are a “powerful menace”
 - alleging that members of the group are carrying out secret conspiracies to gain global control or plotting to destroy western civilization
 - suggesting its members are engaged in illegal or unlawful activities
 - suggesting that its members are themselves illegal or unlawful, such as by labelling them as “pure evil”
 - describing its members as animals or as subhuman, or calling into question whether group members qualify as human beings
 - violence or threats of violence, including intimidation designed to instill a sense of fear in its recipient
 - harassment, including physical harassment, sexual harassment, harassment through digital means, stalking, or hazing
 - advocacy of genocide
 - discrimination against an identifiable group
 - expressive activity that is directly incompatible with the objects of York University, which include the advancement of learning, dissemination of knowledge and the betterment of its members. This includes expressive activity that:

- degrades, denigrates or vilifies persons or groups
- harasses persons or groups
- creates an intimidating or hostile environment for York University members such as by bullying or engaging in a course of vexatious or bad faith comments or conduct

Q. What is the difference between offensive or controversial speech and the creation of an intimidating or hostile environment?

- A. Members of the York Community are entitled to express points of view or opinions that are controversial and offensive, and which others may find uncomfortable and disturbing. Free and open inquiry and debate are essential to the advancement of learning and the achievement of York University's aims.

If the expression moves from advocacy for a particular view to targeting persons or groups on the basis of that view, it creates an intimidating and hostile environment and exceeds the limits of free expression.

For example, students who express a particular political position that other students find disagreeable or distressing with would still be protected by freedom of expression. If those students advocating that position began to target those who disagreed, by bullying them, harassing them, or engaging in a course of vexatious or bad faith comments or conduct, their expression is not protected.

Q. Is speech that makes York University members feel unsafe protected?

- A. Expression can only be limited in relation to concerns about safety that have an objective basis in fact. For example, threats and harassment are not protected forms of expression.

Offensive and controversial expression may make members of York University feel unsafe or concerned for their safety. Strongly and genuinely held subjective beliefs about safety may not, without an objective basis, reduce the scope of allowed expression.

Concerns about personal physical safety should be raised with the Community Safety Department. Concerns about harassing behaviour should be raised with the Centre for Human Rights, Equity and Inclusion.

Q. Are protests protected by freedom of expression?

- A. As the Statement recognizes, protesting is expressive activity and the preservation of a free and open exchange of ideas and opinion include a robust right to protest. As with all forms of expressive activity, the freedom to protest is subject to the limits on expression set out above. Outside of those limits, peaceful protests and demonstrations have wide latitude in what and how they wish to protest.

York University, as part of its responsibilities and commitments to all members of its community, may regulate the place and manner of a protest and may impose reasonable safety measures to protect protestors, event attendees, and the York University community more broadly. These measures may involve:

- setting up a perimeter for the contested event
- conducting bag checks of event attendees
- limiting the protest to specific locations or times
- limiting the use of sound systems or amplification.

Q. What forms of protest are not protected by freedom of expression?

A protest that provokes, endorses, suggests, and/or commits violent or unlawful conduct is no longer “peaceful” or protected. The exercise of freedom of expression by protestors cannot obstruct other parties from engaging in their own expression. In other words, a protest is not a veto: protestors may not prevent others from exercising their freedom of expression, or their freedom to listen to a message being expressed. For example, where a protest is being carried out peacefully, and it attracts a counter-protest in which the counter-protesters engage in acts or threats of violence towards the original protestors, the counter-protest will cease to be protected by freedom of expression and may be terminated by York.

A protest may robustly criticize, contest, and condemn views or actions of others. For example, a counter-protest may be held in response to a protest in which the counter-protestors advocate a different political position than the protestors.

A peaceful protest may not directly or indirectly obstruct, physically impede, or blockade an authorized York University event or other lawful activity. York University may regulate the place and manner of protest to ensure that they do not interfere with York University events.

A protest is also not entitled to a captive audience. A protest that seeks to force others to listen to its expression by, for example, blocking all entrances to a building or access to a space, is not protected.

Q. Does freedom of expression allow protestors to “drown out” a speaker advancing views they find offensive or controversial?

- A. No. The Statement recognizes a robust right to protest and express dissent, but protestors cannot use their expression to prevent others from engaging in expressive activity, or members of the audience from hearing that expressive activity (should they choose to listen). For example, protestors should not engage in coordinated chanting or use of megaphones with the intention of preventing counter-protestors from speaking. Instead, once the protestors have devoted a reasonable amount of time to advocating for their position, they should allow those with opposing views a reasonable opportunity to advocate for their own positions.

A speaker is entitled to communicate their message during their allotted time, and the audience is entitled to hear the message and see the speaker during that time. Individuals or groups engaged in protest or dissent should not substantially interfere with the speaker’s ability to communicate or the audience’s ability to hear and see the speaker.