

Annual Report to HEQCO on Implementation of Free Speech Policy

York University



INTRODUCTION AND CONTEXT

York University has a long-standing commitment to freedom of speech as fundamental to the academic enterprise and to the promotion of open and respectful dialogue within a diverse academic community. The importance of enabling and protecting free speech is enshrined in a number of institutional statements and policies which also recognize that free speech comes with responsibilities and does not encompass hate speech or speech that is harassing, threatening, discriminatory or otherwise contrary to law. In responding to the Government of Ontario's directive, York undertook a process to synthesize its existing policies on free speech in a consolidated [Free Speech Statement of Policy](#) (the "Statement of Policy") which applies to all University activities and every York community member. A benefit of this approach is that it brings together in one place a clear statement on free speech as well as a comprehensive list of the underlying institutional policies and the procedures and mechanisms to facilitate complaints, enforcement, remedies and dispute resolution to ensure compliance with these policies and the Government's directive.

York's Free Speech Statement of Policy was approved by the Senate and Board of Governors in December 2018. This first Annual Report on implementation covers the period of the Policy from January 1, 2019 to August 1, 2019. Detailed reporting information and data is set out below under the headings "Events" and "Complaints". In summary:

- there were no complaints received under the Statement of Policy and, consequently, there are no unresolved complaints that need to be referred to the Ontario Ombudsperson
- as there were no complaints under the Statement of Policy, no disciplinary action was required
- there were no instances where the University determined that the Statement of Policy was not followed appropriately
- to the University's knowledge, there were no free speech complaints forwarded to the Ontario Ombudsperson
- there were no instances of a non-curricular on-campus event not proceeding due to free speech or safety costs or concerns
- no issues emerged in the first year of the implementation of the Statement of Policy which identified a need to review or amend it or its associated policies; the University continues to carefully monitor matters, and is open to enhancing its processes should issues arise
- York has created a President's Working Group on Freedom of Speech to provide a forum to continuously enhance and refine institutional policies and practices related to freedom of speech, and to create space for the ongoing discussion on how best to preserve open and respectful dialogue on its campuses
- an incident relevant to free speech issues took place as described below under the heading "Complaints". The incident did not lead to a formal complaint but encouraged an engaged discussion of free speech issues in the York community.



INSTITUTIONAL CULTURE AND POLICIES

There has been ongoing open dialogue on campus regarding free speech both before and after the Government's directive regarding an institutional free speech policy.

During broad consultations to develop York's Statement of Policy, several suggestions emerged for follow-up actions to further clarify specific policies and promote dialogue on free speech issues. The Statement of Policy therefore commits that: "Additional guidelines, tool-kits, education and training with respect to free speech will be developed from time to time as needed. Relevant policies will be reviewed in a timely, consultative and effective manner pursuant to applicable governance processes" (s.6). The President's Working Group on Freedom of Speech will pursue these suggestions in addition to providing a forum for continuing dialogue around free speech matters. The Draft Terms of Reference for the Working Group have been posted online: <https://secretariat.info.yorku.ca/files/Draft-TORs-Free-Speech-Working-Group.pdf>. It is proposed that the Working Group also be responsible for "developing a process to obtain ongoing input from community members with respect to use of the Statement of Policy on Free Speech, to inform annual reporting to the Higher Education Quality Council of Ontario (HEQCO)" and for "identifying potential gaps or revisions to York University policies as they relate to free speech and making recommendations for addressing them". The Working Group will also be tasked with reviewing the various offices on campus which may receive a free speech

related question or complaint and considering how best to achieve a consolidated point of contact. The President's Office will be soliciting expressions of interest from students, faculty and staff in the fall of 2019 to participate in the Working Group.

While the Working Group on Freedom of Speech is being established, the University has already initiated two specific reviews. York's Code of Student Rights and Responsibilities includes provisions on free speech rights and responsibilities: <http://oscr.students.yorku.ca/csrr>. The Code itself mandates that it be reviewed every three years (s.16). The Office of Student and Community Relations (OSCR) launched the current review in fall 2018. It has consulted with a wide range of groups and individuals across the University and the review is scheduled to be completed in the fall of 2019 for implementation in 2019 - 2020. The consultations thus far have emphasized the importance of maintaining the inclusion of references to the rights of freedom of expression and peaceful protest on campus in the Code.

York is also reviewing the structure of its Office of the Ombudsperson, including the role of the Ombudsperson in relation to free speech issues and complaints. The President's Working Group on Free Speech will be invited to contribute to this review by "providing input and advice into the role of the University Ombudsperson as it relates to freedom of speech" (Draft Terms of Reference, s.5).



EVENTS: NON-CURRICULAR

Coordinating Offices: TUUS and ACS

Two offices coordinate requests for campus space for various non-curricular events. The Office of Temporary Use of University Space (TUUS) receives requests from the University community, including student organizations. The office of Accommodation and Conference Services (ACS) receives requests from parties external to the University community to use campus space on a commercial or paid basis for their own meetings or events. During the reporting period, 837 events took place on campus. TUUS coordinated 820 requests for use of campus space (520 of which were sponsored by student organizations). ACS coordinated 17 events on campus which were organized by parties external to the University.

Department of Community Safety

When requested or appropriate, the Department of Community Safety reviews requests for events on campus. During the reporting period, the Department reviewed approximately 470 event requests forwarded to it by other University offices.

These requests included events such as meetings, religious gatherings, demonstrations and presentations.

The Department of Community Safety conducts a neutral review of proposed events, focusing on the safety of participants, all members of the York community, and any others who may be affected. Consideration is given to factors such as space capacity in accordance with fire code regulations, safe ingress and egress, supports required for speakers and other higher profile participants, and crowd control requirements. None of the events for which reviews were requested were denied due to free speech or safety-related costs or concerns, and the Department has not received any complaints about its review process. The events proceeded peacefully with no disruptions to the free speech rights of participants.

During the reporting period, the Department's security services were called to respond to safety incidents at approximately 15 events (a combination of sporting and protest events). In every case, the safety incidents were addressed and the events proceeded as planned: no event was terminated or cancelled.

COMPLAINTS

York's Statement of Policy draws from and preserves a number of specific University policies which address free speech issues arising in a wide variety of contexts. Each of these specific policies provides for complaint procedures or other mechanisms designed to address the specific situation which a complainant may face and ensures compliance with the Statement of Policy. Depending on how a free speech complaint arises and the type of concern or concerns being raised by the community member, the relevant policies and procedures clearly set out the appropriate procedure to be followed. The relevant policies are listed in the Statement of Policy, with electronic links on the webpage. For example, should a student wish to complain about harassment by other students for expressing an opinion at an event, the student can refer to the Code of Student Rights and Responsibilities which directs them to the Office of Student Community Relations. If a staff member wishes to complain about harassment in the workplace related to the expression of their views, the staff member is directed to the Workplace Harassment Prevention Policy.

There were no formal complaints made relevant to free speech events or incidents on campus (curricular or non-curricular).

One incident of note occurred at a non-curricular event during the reporting period. The incident occurred at a vigil on campus to commemorate victims of the tragic attack at a mosque in Christchurch, New Zealand. An individual attended the vigil wearing a piece of apparel with a slogan that many event attendees found offensive. This incident attracted the interest of the University community, with some suggesting that the slogan was inappropriate and may constitute a hate crime. The incident was reviewed (including video evidence) by relevant offices on campus in relation to possible free speech and community safety concerns. No formal complaint was filed by any member of the community and no subsequent action was taken. Concerns raised about the incident led to a productive discussion of free speech rights and responsibilities at the March 28, 2019 meeting of the University Senate. In communications around the Christchurch tragedy, the President of the University reiterated the importance of respectful dialogue and the support services available to students.

York University looks forward to continuing to promote ongoing dialogue around free speech.