



# Justice Centre

for Constitutional Freedoms

JCCF.ca

## **The state of campus free speech in 2012**

A report on 35 Canadian universities and student unions

By John Carpay and Michael Kennedy

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## About the authors

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## About the Justice Centre for Constitutional Freedoms

***"Never doubt that a small group of thoughtful, committed people can change the world. Indeed, it is the only thing that ever has."***

The free and democratic society which the *Canadian Charter of Rights and Freedoms* holds out as our ideal can only be fulfilled by honouring and preserving Canada's traditions of freedom of speech, freedom of religion, freedom of association, other individual rights, constitutionally limited government, the equality of all citizens before the law, and the rule of law.

And yet these core principles of freedom and equality continue to be eroded by governments and by government-funded and government-created entities like Canada's public universities, and human rights commissions at the federal and provincial levels.

The Justice Centre for Constitutional Freedoms (JCCF) was founded in 2010 for the purpose of advancing and promoting the core principles of freedom and equality through education and litigation. The JCCF is a registered charity (charitable registration number 817174865-RR0001) and issues official tax receipts to donors for donations of \$50 or more. The JCCF is funded entirely by the voluntary donations of freedom-minded Canadians who agree with the Centre's goals, mission, vision and activities. The centre is independent and non-partisan, and receives no funding from any government or government organization.

Promoting discourse is not always enough. Therefore, the JCCF provides *pro bono* legal representation to Canadians facing a violation of one of their human rights or constitutional freedoms.

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### Staff

Calgary lawyer and JCCF President John Carpay received the *2010 Pyramid Award in Ideas and Public Policy* from the Manning Centre for Building Democracy, in recognition of his work in constitutional advocacy. Student-at-Law Carol Crosson earned her LL.B. at the University of Calgary, and will be called to the Alberta Bar in 2012. Karin Manser serves as administrative assistant and is also a mature student at Mount Royal University in Calgary, completing her B.A. in anthropology.



# Campus Freedom Index criteria for letter grades

## 1. University policies and principles – grading rubric

**Grade A** – The university has a clear and unequivocal commitment to free speech on campus, set out in its mission, vision, or policy documents. An anti-disruption policy makes it clear that the university will not condone students (or other people) engaging in the blocking, obstruction, suppression or interruption of speech with which they disagree. The university makes it clear that its human rights policies and anti-discrimination policies cannot be used to censor unpopular, controversial, or politically incorrect speech. Policies governing security fees make it clear that their imposition will not be used as an indirect method to censor controversial or unpopular speech on campus.

**Grade B** – The university has a clear commitment to free speech on campus, set out in its mission, vision, or policy documents. Human rights policies and anti-discrimination policies cannot be used to censor unpopular or controversial speech. However, there are no anti-disruption policies, and there is a potential for security fees to be used as an indirect method of censoring controversial or unpopular speech on campus.

**Grade C** – It is unclear whether express or implied commitments to free speech (including anti-disruption policies) supersede human rights policies or anti-discrimination policies that contain ambiguous language that could potentially be used to censor unpopular or politically incorrect speech. Discretion is given to officials and administrators to interpret policies that could be used to censor unpopular speech. It is unclear whether unpopular speech can be priced out of students' reach by imposing security fees on the expression of unpopular speech.

**Grade D** – Express or implied commitments to free speech (including anti-disruption policies) do not exist, or are meaningless in light of policies which clearly limit or restrict speech that a listener might find “offensive,” “discriminatory,” “disrespectful,” “inappropriate,” or “creating a negative environment.” Discretion is given to officials and administrators to determine rules around content and expression in lieu of policies with specific criteria. Unpopular speech can be priced out of students' reach by imposing security fees on the expression of speech deemed “controversial” or “high risk”.

**Grade F** – University policies express no commitment to campus free speech, and policies severely limit or restrict speech that a listener might find “offensive,” “discriminatory,” “disrespectful,” “inappropriate” or “creating a negative environment”. There are no anti-disruption policies, and unpopular speech is priced out of students' reach by imposing security fees on the expression of unpopular speech.

## 2. University actions and practices – grading rubric

**Grade A** – The university has acted decisively to permit the expression of unpopular speech on campus, by rejecting demands to cancel events or otherwise suppress speech,



and by providing adequate security to ensure that people cannot engage in the blocking, obstruction, suppression or interruption of speech with which they disagree.

**Grade B** – The university has never censored or restricted speech on campus, however, the university’s commitment to free speech has not been tested by having to defend the expression of unpopular speech. Policies are sufficient, however, to protect free speech on campus and to compel officials to stand up for free speech rights, if the policies are adhered to when unpopular opinions are expressed on campus.

**Grade C** – The university has not censored or restricted speech on campus, however, the university’s commitment to free speech has not been tested by having to defend the expression of unpopular speech. Policies are not sufficient to protect free speech on campus, [comma added] or to compel officials to stand up for free speech rights.

**Grade D** – The university itself has not censored or restricted unpopular or controversial speech, but the university has not spoken or acted to support the expression of unpopular speech on campus, and has failed to provide adequate security to ensure that people cannot engage in the blocking, obstruction, suppression or interruption of speech with which they disagree.

**Grade F** – The university has actively censored unpopular speech on campus by doing one or more of the following: denying equal access to campus spaces and facilities; imposing special conditions or restrictions on the expression of some groups; charging its students with trespassing for expressing unpopular opinions; prosecuting students for non-academic misconduct for expressing unpopular opinions; the student union knowingly and deliberately condoned the physical obstruction or disruption of unpopular speech.

### **3. Student union policies and principles – grading rubric**

**Grade A** – The student union has a stated commitment to free speech on campus, set out in its mission, vision, or policy documents. The student union’s policies are worded such that they cannot be used to censor unpopular, controversial, or politically incorrect speech; its written policies prevent the student union executive from discriminating against a club on the basis of its beliefs, opinions, or philosophy. The union has student elections rules and regulations which do not empower the Chief Returning Officer (or other officials or staff) to censor student election speech. The student union advocates for students on issues related to post-secondary education, but does not adopt or promote formal positions in respect of provincial, federal or international issues.

**Grade B** – The student union may have implied or expressed commitments to free speech. The student union has policies with language that can be used to censor unpopular, controversial, or politically incorrect speech. The student union’s policies are worded such that they cannot be used to censor such speech; the student union executive



cannot deny certification or funding to a club on the basis of its beliefs, opinions, or philosophy. The student union advocates for students on issues related to post-secondary education, but does not adopt or promote formal positions in respect of provincial, federal or international issues.

**Grade C** – The student union may have policies in support of campus free speech, however ambiguous language in its human rights policies or its anti-discrimination policies could potentially be used to censor unpopular or politically incorrect speech, by denying certification or funding to a club, or by censoring its expression on campus. Discretion is given to officials and administrators to interpret policies that could be used to censor unpopular speech. The student union adopts formal positions in respect of provincial, federal or international issues not related to post-secondary education.

**Grade D** – The student union has policies which can be used to limit or restrict speech that a listener might find “offensive,” “discriminatory,” “disrespectful,” “inappropriate” or “creating an unwelcoming environment”. The policies have no safeguard to prevent the student union executive from denying certification or funding to a club on the basis of its beliefs, opinions, or philosophy. Discretion is given to officials and administrators to determine rules around content and expression in lieu of policies with specific criteria. The student union adopts formal positions in respect of provincial, federal or international issues not related to post-secondary education.

**Grade F** – The student union has no policies in support of diversity of opinion on campus, and requires all campus clubs to adhere to the beliefs, opinions, and philosophy of the student union. Any club which disagrees will be denied certification, funding, or both.

#### **4. Student union actions and practices – grading rubric**

**Grade A** – The student union has spoken or acted to support freedom of expression for unpopular opinions and beliefs on campus, by rejecting demands to cancel events or otherwise suppress or censor speech, and by standing up against university actions that suppress free speech rights. The student union does not advocate for political positions on provincial, federal, or international issues that are not directly related to post-secondary education.

**Grade B** – The student union has not censored or restricted speech on campus, however, the student union’s commitment to free speech has not been tested by having to defend the expression of unpopular speech. Policies are sufficient, however, to protect free speech on campus and to compel officials to stand up for free speech rights, if the policies are adhered to when unpopular opinions are expressed on campus. The student union does not advocate for political positions on provincial, federal, or international issues that are not directly related to post-secondary education.

**Grade C** – The student union has not censored or restricted speech on campus, however, the student union’s commitment to free speech has not been tested by having to defend the expression of unpopular speech. Policies are not sufficient to protect free speech on



campus or to compel officials to stand up for free speech rights. The student union has condoned through silence, the actions of the university in restricting, suppressing or censoring unpopular speech on campus. The student union advocates for political positions on provincial, federal, or international issues that are not directly related to post-secondary education.

**Grade D** – The student union has acted to censor or restrict unpopular speech on campus, by denying equal access to spaces and facilities to groups with unpopular opinions, or by imposing restrictions on clubs because of their opinions. The student union has actively supported the actions of the university in restricting, suppressing or censoring unpopular speech on campus. The student union advocates for political positions on provincial, federal, or international issues that are not directly related to post-secondary education.

**Grade F** – The student union has decertified, or refused to certify, campus clubs purely on the basis of the club's beliefs, opinions or philosophy. The student union actively discriminates against students and clubs who disagree with the student union's official positions on political issues.



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## 1. University policies and principles: B

Acadia University's governing policies uphold the value of free speech and commit the institution to its protection. The *Strategic Plan for Acadia University* includes the following statement:

As part of its commitment to the environment, Acadia also seeks to create an interpersonal, relational, and community environment characterized by civility and mutual respect. It is committed to a strong sense of connectedness and community on campus and to maintaining an atmosphere of open discourse and a tone of mutual respect that facilitates free speech and encourages the expression of a diversity of viewpoints and ideas.

[http://board.acadiau.ca/tl\\_files/sites/board/resources/PDF%20Files/Acadia\\_Strategic\\_Plan%5B2006%5D3.pdf](http://board.acadiau.ca/tl_files/sites/board/resources/PDF%20Files/Acadia_Strategic_Plan%5B2006%5D3.pdf)

Furthermore, in the *Non-Academic Judicial Handbook* at Acadia University is included the following under "Statement of Principles":

Acadia University strongly supports the principle of freedom of expression and inquiry, will protect the right of its members to express un-popular opinions and ideas and conduct re-search in unpopular areas, and will expect that members of the Acadia University community will recognize their responsibility to protect these rights for all other members of the community. The University does not tolerate intimidation (which includes, but is not limited to, harassment and "silencing" of unpopular opinions). We also believe that a fundamental code of behaviour is sensitivity to the effect of one's personal behaviour on others and respect for their personal and property rights.

[http://studentaffairs.acadiau.ca/tl\\_files/sites/studentaffairs/documents/2011-2012%20Judicial/Judicial%20Handbook.pdf](http://studentaffairs.acadiau.ca/tl_files/sites/studentaffairs/documents/2011-2012%20Judicial/Judicial%20Handbook.pdf)

Acadia University also has an Equity Officer, as well as Senior Administrative Officers, whose jobs include banning discrimination, sexual harassment, and personal harassment regardless of whether it is in regard to individual complaints. Acadia University's *Policy Against Harassment and Discrimination* includes the following passages:

A.6: The University, through the Equity Officer, will take reasonable steps to protect the health, safety, and security of any member of the University community in relation to this policy.

B.2: Specifically, Senior Administrative Officers bear a primary responsibility for maintaining a learning and work environment free from discrimination, sexual harassment, and personal harassment. Unit Heads shall act to maintain a learning and work environment free from discrimination, sexual harassment, and personal



harassment, whether or not they are in receipt of individual complaints.  
[http://hr.acadiau.ca/tl\\_files/sites/hr/Policies%20and%20Procedures/Harassment%20&%20Discrimination.pdf](http://hr.acadiau.ca/tl_files/sites/hr/Policies%20and%20Procedures/Harassment%20&%20Discrimination.pdf)

Given that terms such as “discrimination” and “personal harassment” are not defined specifically and could therefore be interpreted by Administrators according to subjective definitions, Equity Officers run the risk of being empowered to censor speech based on the content of a student's message.

## **2. University actions and practices: B**

The authors could not find cases of the University censoring speech made by students or student groups on the grounds of the subject matter of the speech.

## **3. Student Union policies and principles: C**

The Acadia Student Union *Constitution* includes the following passage under *Policy and Procedures*, “Section 3: Club Policy”:

2. The Union shall not recognize or fund any group that does not uphold the provisions and spirit of the Nova Scotia Human Rights Act as amended and the Canadian Charter of Rights and Freedoms, or do not allow open membership to all members of the Union.

As well, there is a radio station, Axe Radio, run by Acadia students which the Student Union has no bearing on content as indicated in the following passage from the Acadia Student Union *Constitution* under “Constitutions of Internal Organisations,” Section 10: The Axe Radio:

(a) The purpose of the *Axe Radio* is to provide information and entertainment that is generally an alternative to mainstream, media; to promote access to the media for individuals or groups with ideas and views not readily available from other media sources; to create an awareness of global, national, and local issues for the purposes of stimulating the free flow of information and encouraging constructive debate between members of society; to provide technical and stylistic training for interested individuals; to offer consulting services for any group wishing to establish a new radio station under the government definition of “campus and community” radio; and to discuss any potentially controversial content in a manner conducive to free thought and open debate, while maintaining a focus on factual information and not condoning irrational contempt of any particular group.

Source: <http://www.theasu.ca/ASU%20Constitution%202012.pdf>



The Student Union does not ban speech on a particular topic. There is an Equity Officer who represents all Acadia students, especially of student groups who are underrepresented as indicated in the *Acadia Student Union Constitution* under “Memorandum of Job Descriptions: Section 4: Councillors”:

2. The Equity Officer shall:

- (a) Be responsible for representing the Acadia student body as a whole, with a particular focus on representing the interests of groups underrepresented on the Acadia campus;

The Equity Officer, however, has no apparent responsibilities for banning any speech. There are no policies that exist to protect student groups from having their events disrupted. There also do not appear to be any “security fee” policies that allow the University to charge a student group an extra fee based on the content demonstrated at a particular event.

During Election periods, all materials used for campaigning, including online campaigning, are to be approved by the Chief Returning Officer as indicated in the following passages from the *Acadia Student Union Constitution* under “Union Elections: Section 8 Campaign Rules and Regulations”:

6. Campaign Materials:

- (c) Any electronic campaigning including Facebook, MySpace, Twitter, blogs, etc. must be approved by the Chief Returning Officer before it may become publicly available.

7. Posters:

- (a) All campaign materials including posters, signs, sheets, and banners located both on and off campus must be officially stamped on the side shown to the public by the Chief Returning Officer.

There is, however, no indication of what the qualifications are to meet approval. This leaves administrators of the policy able to set criteria subjectively, which could result in students and student groups being restricted in what they can say. Such widespread administrative power, concentrated in the hands of a Union-appointed Chief Returning Officer, is potentially dangerous for free speech on campus.

Candidates cannot slander or verbally attack each other, as indicated in the following passage from the *Acadia Student Union Constitution* under “Union Elections: Section 9 Election Publicity through the Union Media”:

9. No candidate may slander another candidate in his or her write-up. Candidates may address another candidate’s platform, but attacks of a personal nature shall not be tolerated.



Exactly where the line is drawn between discussions of platform and personality is open to debate. For example, if a candidate remarks on a fellow candidate's past experience in a student society, would this be judged to be policy-related or personal? By giving elections officials the power to decide what constitutes a personal attack, the door is left open for the abuse of free speech rights during election periods. Many legitimate election issues, like the financial record of a candidate in a past executive capacity, are arguably necessary and important in any election but could be prevented from being brought forward if election officials decide the attack is too "personal".

#### **4. Student Union actions and practices: C**

The authors could not find incidents of the Acadia Student Union censoring the speech of students and student groups. There are also no cases of residence assistants censoring speech.

##### **Sources:**

Strategic Plan for Acadia University:

[http://board.acadiau.ca/tl\\_files/sites/board/resources/PDF%20Files/Acadia\\_Strategic\\_Plan%5B2006%5D3.pdf](http://board.acadiau.ca/tl_files/sites/board/resources/PDF%20Files/Acadia_Strategic_Plan%5B2006%5D3.pdf)

Non-Academic Judicial Handbook:

[http://studentaffairs.acadiau.ca/tl\\_files/sites/studentaffairs/documents/2011-2012%20Judicial/Judicial%20Handbook.pdf](http://studentaffairs.acadiau.ca/tl_files/sites/studentaffairs/documents/2011-2012%20Judicial/Judicial%20Handbook.pdf)

Acadia University's Policy Against Harassment and Discrimination:

[http://hr.acadiau.ca/tl\\_files/sites/hr/Policies%20and%20Procedures/Harassment%20&%20Discrimination.pdf](http://hr.acadiau.ca/tl_files/sites/hr/Policies%20and%20Procedures/Harassment%20&%20Discrimination.pdf)

The Acadia Student Union Constitution:

<http://www.theasu.ca/ASU%20Constitution%202012.pdf>



## 1. University actions and practices: D

Bishop's *Mission Statement* states that "Bishop's offers students from Quebec, Canada, and the International community the opportunity to exercise the rights and responsibilities of good citizenship and to engage in the tolerant and informed dialogue that sustains democracy."<sup>1</sup>

Principal Michael Goldbloom in his opening address<sup>2</sup> stated that the strengths of Bishop's University are:

An intimate learning environment in which our faculty and staff give students the personal attention they require. It is a university where students have the chance to make a difference, where opportunities abound for discovering and developing talents and assuming leadership roles. It is my expectation that, regardless of their field of study, the common characteristics of a Bishop's graduate will include a capacity:

- to listen well
- to analyze critically
- to advocate effectively in speech and in writing; and
- to engage with others to effect change

In sum, our students should leave here with a constant inclination to ask why, an unwavering determination to ask why not and the skills to lead constructive and effective change.

In the *Charter of Students Rights and Responsibilities*<sup>3</sup>, the university addresses the issues of student assemblies and freedom of expression directly. The policies are written in a manner so that students understand that the university will not protect them should they break the provincial or federal laws as they stand. In the instance of *Loi 78*<sup>4</sup> in Quebec, it is now interesting to see the correlation between said law on assemblies and the students' rights on campus. As of yet, there has been no conflict at the university that went against the policy or the law. Article 4 of the *Charter* states:

Students enjoy freedom of opinion, expression and peaceful assembly within our University Community, provided these are exercised in a civil, respectful manner. This includes the right for any group to debate any matter and to engage in lawful

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<sup>1</sup> <http://www.ubishops.ca/about-bu/mission-statement.html>

<sup>2</sup> <http://www.ubishops.ca/about-bu/mission-statement/address-by-michael-goldbloom.html>

<sup>3</sup> <http://www.ubishops.ca/administration-governance/university-policies/charter-of-student-rights-and-responsibilities.html#c3894>

<sup>4</sup> <http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=5&file=2012C12A.PDF>  
 The Law put forth by the Quebec National Assembly entitled, *An Act*



demonstrations. Students have the right to organize, publicize, belong to, or participate in any lawful association, and shall not be subject to prejudice by the University because of their membership in such groups.

Article 1, “General Rights and Responsibilities,” states:

Every student has an equal right to be treated equitably and with dignity and respect. This right must not be impaired by discrimination based on race, colour, ethnic or national origin, civil status, religion, creed, political convictions, sex, gender, sexual orientation, social condition, age, or personal handicap. It is understood that a distinction, exclusion or preference based on relevant academic or physical aptitudes or qualifications does not constitute discrimination. Every student has the same responsibility to treat every other member of our University Community equally, without discrimination, in a civil and respectful manner that neither demeans nor degrades the other person. This applies to all person-to-person contact as well as to references made in writing or via any electronic medium that is intended to become public, or ought reasonably to be expected to become public (such as social networking websites).

In addition, Article 1 provides the resources for complaints and calls to action when these rights are not respected as,

The University has the responsibility to provide avenues of recourse for students who feel they have suffered discrimination, through the office of the Dean of Student Affairs, and/or the University Ombudsperson.

The tendency of the University is to allow freedom of speech so long as it does not do harm to the students of the university. This in itself can be taken into consideration, for what exactly consists of harm? Article 3 on Harassment/Abuse/Disruptions deals with the behavior of students, staff, professors and the community acting towards one another by stating that,

Every member of our University Community has the right to be free from vexatious conduct, from verbal, physical, or psychological abuse or intimidation, and from sexual or any other form of harassment... Students have the responsibility to refrain from behaviour that obstructs teaching, learning, or any class or function, and the responsibility to refrain from malicious, vexatious or abusive conduct, and acts of intimidation, harassment, or assault.

The Dean of Student Affairs is the most common official on campus to deal with the variety of incidents that may occur. The Dean ensures respect by receiving complaints, holding the committee meetings, reviewing the Charter, recommending sanctions, and he is the one who approves the use of facilities for major student activities and events. To date, the authors are unaware of an open case of discrimination against a group of students wishing to use the facilities of the campus due to their opinion or affiliation with a specific group.



In addition to the *Charter of Student Rights and Responsibilities*, Bishop's has a *Policy on Harassment*<sup>5</sup>, approved by the Executive Committee in 1998. The Preamble says that Bishop's seeks to foster a work environment free from harassment where individuals are treated with respect and dignity. Article 2 elaborating on the Harassment Committee, subsection 2.1.2 Informal Resolution, states that the university aids by providing consultation and intervention, such as mediation when necessary prior to the exercise of a formal investigation as laid out in subsection 2.1.3. Nothing within the text suggests an infringement on a student's right to free speech.

Additional clout is added to the *Charter of Students Rights and Responsibilities*, with the creation of the *Code of Student Conduct*<sup>6</sup>, effective as of July 2005.

Article 4 of the *Code*, "Rules of Conduct and Offences," focuses on the ability of students to peacefully demonstrate and picket. This is the one area where the university tips the line towards inhibiting freedom of expression and peace.

#### **4.1 Disruption**

No student shall, by action, threat or otherwise knowingly obstruct University activities...Nothing in this Code is intended to prohibit student academic freedom, peaceful assemblies, demonstrations, lawful picketing, or to inhibit free speech.

##### **4.11 Picketing and Demonstrations**

No student shall, on University property, individually or with a group, including during a rally or picketing:

**4.11.1** knowingly use words or signs which threaten violence or bodily harm to any group or individual whether or not the group or individual thus threatened knows of such threatening words or signs, or

**4.11.2** knowingly use words or signs in a situation of clear and imminent danger which incite others to commit offences under this Code.

Overall, Bishop's University has a number of policies and procedures outlined and in place to deal with the situations that may arise should a person's freedom of speech be inhibited within the jurisdiction of the university. They are conscious of the importance of a person's right to opinion and expression and encourage all students to do so without fear.

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<sup>5</sup>[http://www.ubishops.ca/fileadmin/bishops\\_documents/admin\\_governance/u\\_policies/Policy%20on%20Harassment.pdf](http://www.ubishops.ca/fileadmin/bishops_documents/admin_governance/u_policies/Policy%20on%20Harassment.pdf)

<sup>6</sup>[http://www.ubishops.ca/fileadmin/bishops\\_documents/admin\\_governance/u\\_policies/Policy%20on%20Harassment.pdf](http://www.ubishops.ca/fileadmin/bishops_documents/admin_governance/u_policies/Policy%20on%20Harassment.pdf)



## 2. University actions and practices: C

The authors are not aware of the university acting in a manner contrary to the policies and procedures outlined above. Speakers are brought in from many different backgrounds and in different fields, such as Kevin O’Leary, Jesse Jackson, Margaret Somerville, Romeo Dallaire and many more. Students are free and encouraged to ask questions after the presentations.

## 3. Student union principles and policies: D

Bishop’s University has a Student Representatives Council. The University does not have a formal student union. With this in mind, the only policies in place are the *Constitution of the Bishop’s University Representative’s Council*<sup>7</sup>, created and effective as of March 2012 and their *Mandate*<sup>8</sup>.

The *Constitution* illustrates the goal to uphold the rights of students as dictated in the Charter as part of their purpose.

iii. To safeguard the rights of the individual members of the SA, as given in the Bishop’s University *Charter of Student Rights and Responsibilities* and as given in the Canadian and Quebec Charters of Human Rights and Freedoms.

1.02: The SRC shall not recognize any club or organization in violation of the Bishop’s University Charter of Students Rights and Freedoms or the Canadian and Quebec Charters of Human Rights and Freedoms.

Under Article VI on The President, the duty of the President is outlined,

V. The President, with the assistance of the Executive Cabinet, shall act as the principal liaison between students and the faculty, staff and administration. He/she shall also act as a spokesperson for student rights and concerns to university administration and to the greater public...

Under Article VIII on The Vice President of Student Affairs, it states,

V. The VPSA shall chair the Student Affairs advisory committee, which shall consist of the four (4) Student Affairs Representatives with the express purpose of advocating for student rights and ensuring that the university is serving students to the best of its ability in a fair and adequate manner, (eg. All questions of students’

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<sup>7</sup> <http://busrc.com/wp/wp-content/uploads/2012/03/The-Constitution-of-the-Bishops-University-Students-Representative-Council-March-2012-Final-Version-Voted-on-by-GA.pdf>

<sup>8</sup> [http://busrc.com/wp/?page\\_id=34](http://busrc.com/wp/?page_id=34)



non-academic rights, student services, and student affairs issues) and will report to the GA on any student affairs issues.

Under Article XIII on The Student Affairs Representatives,

13.01

i. The Student Affairs Representatives will assist the VPSA in representing students and advocating student rights.

Under the Section “Club Bylaws and Regulations”, clubs are given criteria to meet in order for posters to be approved:

Appendix III: Bishop’s University SRC Poster Policy

3.01 Criteria

i. Any individual or group wishing to advertise or place posters in the Student Union Building and in all academic buildings must conform to the following policy. All posters/advertisements must be tasteful and inoffensive. Any poster/advertisement that violates this policy will be removed and discarded. Failure to comply with any of the criteria will result in immediate loss of poster privileges.

Appendix IV: Bishop’s University Plasma Screen Policy

4.01 Student Content Policy:

ii. Fifty One Percent (51%) of all material published on the SRC plasma screen must be student based content  
 iii. All student-based content must also adhere to the Student Code of Conduct  
 iv. Any student in good standing at Bishop’s University who takes issue with plasma screen content may ask that content be removed.

The last two sections focusing on *Poster Policy* and *Plasma Screen Policy* raise a concern for freedom of speech on the Bishop’s campus. The definition of a student in good standing with the SRC is pertinent to the abilities of the club to attain equal ranking and also provides more power in deciding what should be allowed as content on campus. This part of the *Poster Policy* is not content-neutral and also gives much power to the officials of the SRC to control the clubs’ actions and ability to express their opinions and beliefs equally on campus.

#### **4. Student union actions and practices: C**

The authors are not aware of the Student Representatives Council (SRC) discriminating against a group or club due to their views or opinions alone. In conjunction with the university administration, the SRC has brought in a multitude of speakers of different backgrounds, races and opinions, without discrimination. To set up a table, students must make a reservation through the SRC for a time and place and provide an adequate reason for the use of the space.



## 1. University policies and procedures: C

CBU's collective agreement with its faculty association includes a defence of the ideal of academic freedom:

Article 12: academic freedom: The common good of society depends upon the search for knowledge and its free expression. Academic freedom in universities is essential to both these purposes in the teaching function of the university as well as in its scholarship and research. Academic freedom does not require neutrality on the part of the individual; rather, academic freedom makes commitment possible.

Source: [http://www.cbufa.ca/main/images/uploads/CBUFA\\_Agreement\\_2009.pdf](http://www.cbufa.ca/main/images/uploads/CBUFA_Agreement_2009.pdf)

Cape Breton University's *Strategic Research Plan* further outlines the institution's commitment to freedom of expression and academic freedom:

It is important to state that the research concepts and foci identified in this document are only a subset of the full research activities within CBU and that to the best of its abilities CBU will encourage and support research in all areas pursued by its faculty. CBU also fully supports the academic freedom of its researchers.

Source: [http://www.chairs-chaieres.gc.ca/program-programme/srp-prs/cape\\_breton-eng.pdf](http://www.chairs-chaieres.gc.ca/program-programme/srp-prs/cape_breton-eng.pdf)

The definition of "harassment" in the *Discrimination and Harassment Policy* could possibly be used to censor speech on a multitude of issues, referenced in the text below:

Harassment is unwanted, intimidating, abusive, unfair, offensive, or demeaning treatment of a person or group of persons by another person or persons. It may be based on any one or more of the grounds of discrimination set out in the Nova Scotia Human Rights Act, or it may be the result of personal harassment not related to a ground of discrimination.

CBU's *Discrimination and Harassment Policy* defines "harassing behaviours" to include "verbal abuse," "unwelcome remarks, jokes, innuendos or taunting" about a person's "body, attire, age, marital status, ethnic or national origin, religion, sexual orientation, gender," "display of sexually explicit, racist or otherwise offensive" material, "practical jokes which cause awkwardness or embarrassment," "intimidation," and "offensive gestures". Disturbingly, the *Policy* goes on to define harassing behaviour as "behaviour which undermines another's self-respect and/or which exhibits an air of superiority."



Fortunately the *Policy* does include an exemption of its applications for teaching purposes.

Source: Page 2, <http://www.cbu.ca/sites/cbu.ca/files/pdfs/discrimination-harassment-policy.pdf>

CBU does not ban speech on a particular topic. This said, any number of topics or subject matter could be considered to “exhibit an air of superiority” depending on how any number of students feelings from a particular remark, speech or lecture.

There are no anti-disruption policies at CBU that protect students and speakers from having their right to express their views disrupted by others, which means that there is no guarantee that, in the event that a controversial speaker was confronted by protestors while trying to deliver her address, the university would intervene to allow her to speak. This is troubling if one wishes to maintain a climate of free speech promotion and protection on campus.

There are Human Rights Officers that enforce the *Discrimination and Harassment Policy*. Their role is defined to be “the person who hears and assesses concerns and complaints under this *Policy*, and who then determines which process is appropriate under this *Policy*.”

The Human Rights Officer has considerable discretion to censor speech or to impose penalties on students for the content of their message, since the Officer both selects the investigators for any complaint and then acts upon their recommendation. This is very dangerous to students who have been accused of being “offensive” or any number of things, even if the student is practicing his/her right to free speech.

There were no policies found at CBU which give university officials discretion to refuse room-bookings or campus-space bookings to certain groups based on the group’s opinion, belief, or expression. The University has few policies related to space-bookings for student groups because these responsibilities are owned by the Student Union.

## **2. University actions and practices: C**

The authors are unaware of Cape Breton University denying equal access to university facilities, or to prominent, well-travelled, open spaces on campus, based on the content of a group’s expression. Most student groups deal exclusively with the Student Union on matters of space-booking and event planning, and the University administration is only involved in cases where it is a department or university-sponsored event.

The authors could not find evidence of failures on the university’s part to be content-neutral in how it treats various clubs and groups. This is not to say that CBU is proactively working to ensure a tolerant free speech climate on campus, but, rather, that the administrations has little dealing with student clubs and societies as the Student Union handles these matters.



### 3. Student Union policies and procedures: D

The Cape Breton University Students' Union *Administrative Policies and Procedures* states that:

Any student or group within the Students' Union membership shall be allowed to create, participate in, or otherwise form a society.

This statement is contradicted by other policies that govern the Union. The Cape Breton University Students' Union (CBUSU) maintains an *Office Operations Policy* within its "Administrative Policies and Procedures" manual. Page 50 of the *Policy* prohibits the use of specific high-traffic spaces to promote "any materials which threaten, harass, or otherwise promote discrimination against any individual or groups within the CBU community and the community at large."

This *Policy* could easily be used by CBUSU officials to justify censorship of students and student groups on campus. The policy contains a number of references to vague or ambiguous terms; the Students' Union does not define "discrimination" in any other policy or document, but also does not adopt CBU's definition, so a CBUSU official could define the term according to a number of interpretations.

Likewise, it is unclear how expansive is the reference to the 'CBU community' and 'community at large'. The term "community" is vague and could include CBU's administration, special interest groups such as the Women's Centre, student clubs, faculty, and students themselves. If any one of these groups felt discriminated against (according to their own and/or the CBUSU officials' definition of the term) the policy could justify the restriction of free speech rights.

CBUSU's *Operations Policy* discriminates against student groups based on whether their vision is political or religious in nature. Section 19 of the *Policy* states:

Groups that represent a religious or political affiliation may not approach people walking through the Lobby and/or Commons. The person must make the decision to approach their tables to receive information.

Exactly what is considered political or religious is left undefined, which means that any number of issue-centered groups could be subject to this policy. CBUSU therefore creates two "classes" of student groups: those whose message could be considered religious/political in nature, and those whose message is not considered religious/political in nature. The latter group has a clear advantage in spreading their message since they can use the high-traffic areas like the Lobby and the Commons and can directly engage students in conversation about their issue, but the former group is denied these important channels. The policy, then, effectively discriminates against a plethora of important groups on campus.



In speaking with students representing various politically-affiliated clubs on campus, such as the CBU Young Liberals, the CBU Young NDP Association and the CBU Greens, most were unaware of the policy and did not recall any cases where this policy has been practiced to shut down their message/awareness campaigns.

CBUSU officials have considerable discretion to restrict “offensive” and other controversial speech on campus. In the Cape Breton University Students’ Union “Administrative Policies and Procedures Manual”: *Poster Policy*, Page 54, it reads, “Posters seeking approval must not have any inappropriate imagery or text.” This effectively empowers student union staff, or those holding elected offices, to censor any speech that they dislike or disagree with.

#### **4. Student Union actions and practices: C**

The authors are not aware of the Student Union denying equal access to venues, rooms or facilities, based on the content of a group’s expression.

The authors are not aware of the CBUSU infringing on the free speech rights of students. That said, as expressed in Section 3 of this report, the potential for such incidents is high given that many of CBUSU’s policies are vaguely defined and give considerable discretion to CBUSU officials.



## 1. University's policies and principles: C

Carleton University states that “The frank discussion of controversial ideas, the examination of various or competing perspectives, the pursuit and publication of controversial research, and the study and teaching of material with controversial and even offensive content in the context of conscientious, professional instruction in the University are protected within academic freedom” (4.2, *Human Rights Policies and Procedures*).

Carleton's *Student Rights and Responsibilities Policy* defines freedom of discussion and its boundaries:

### 2. Freedom of Discussion:

The traditional privileges of freedom of inquiry and freedom of expression which are enjoyed by members of a university community are reflected in the concept of academic freedom. These can be assured only if all members of the community share the responsibility of granting these freedoms to others and accept the obligation of a standard of behaviour which respects the rights of others. Students may think, speak, write, create, study, learn, pursue social, cultural and other interests and associate together for these purposes subject to the principles of mutual respect for the dignity, worth and rights of others as outlined by the Ontario Human Rights Code and the Carleton University Statement on Conduct and Human Rights”, which appears in Carleton’s omnibus Human Rights Policy.

Source: <http://www2.carleton.ca/secretariat/ccms/wp-content/ccms-files/Student-Rights-Responsibilities-Policy.pdf>

Carleton “respects the rights of speech and dissent and upholds the right to peaceful assembly and expression of dissent” (6, *Human Rights Policies and Procedures*).

However, the “Discrimination and Harassment Policies” of the *Human Rights Policies and Procedures* can be used to restrict speech deemed to be expressions of “discrimination” or “harassment” on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, gender and sexual orientation. There is also a section on “Systemic Discrimination”, otherwise known as a “chilly climate” that may arise within the University:

Every member of the Carleton University community has the right to study, work and live in an environment free of systemic discrimination or harassment on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, political affiliation or belief, sex, sexual orientation, gender identity, age, marital status, family status or disability as defined in the Ontario Human Rights Code.



Section 10 describes harassment as “engagement in conduct (including innuendo), based on a human rights ground protected in this Statement, that is abusive, demeaning, threatening, vexatious or intimidating or involves the misuse of authority or power that exceeds the bounds of freedom of expression or academic freedom.”

The University has an Equity Services division which is mandated:

- To advocate for human rights;
- To provide accommodation advice related to religion, disability, family status and pregnancy;
- To promote education and employment equity;
- To intervene to prevent discrimination and harassment;
- To foster equality without regard to ethnicity, culture, gender, race, sexual orientation or disability;
- To deliver education and enhance awareness on human rights issues;
- to provide information and training on human rights issues;
- To promote a barrier-free campus.

Part IV, Section 6 of the *Human Rights Policy* prohibits name-calling and derogatory remarks as part of the policy prohibiting discrimination and harassment.

The University does not appear to have security fee policies for events that charge disproportionate or varying rates based on the content of the expression of the group that is organizing the event. There are no policies which expressly deny equal access to University facilities, or open spaces on campus, based on the beliefs, opinion, philosophy or expression of students or campus clubs. It does not appear that any “time, place and manner” regulations restrict speech or discriminate against students or groups on the basis of the content of their expression.

Carleton’s *Booking Space on Campus Policy* states that all applications for space must include a complete description of the intended event, including the following:

- The purpose or nature of the table rental/event
- Complete list of all activities, displays and promotion planned
- General set-up guidelines, including maps, placement, etc.
- Signed declaration to abide by Space Booking Policy and all related policies of the University

Failure to abide by this *Policy* would result in the cancellation of booking privileges. (6, Booking and use of table space in the University Centre Galleria in *Booking Space on Campus Policy*)



## 2. University's actions and practices: F

In June of 2012, Carleton University allowed a controversial conference, titled “The Contemporary Awakening and Imam Khomeini’s Thoughts,” to go ahead in its facilities despite backlash by faculty, students and community members. The event was organized by a student group, the Iranian Culture Association of Carleton University, in collaboration with the Culture Centre of the Islamic Republic of Iran to honour the 23rd anniversary of Khomeini’s death. Carleton University’s official statement in response to the controversy reads:

Student groups at Carleton University host many events each year on campus, sometimes on controversial subjects. The views expressed by the speakers at this event in no way reflect the views of the University as [a] whole. There are more than 160 student groups and societies registered at Carleton. And Carleton, like all other Canadian universities, encourages a culture of debate and free expression.

<http://news.nationalpost.com/2012/06/27/carleton-University-takes-heat-for-event-that-ignored-khomeinis-dismal-human-rights-record/>

While welcoming controversy and diversity of opinion about the Islamic Republic of Iran, Carleton University continues to censor pro-life speech on campus. Carleton is aggressively defending itself against the court action brought by Ruth Lobo and Nicholas McLeod, two members of Carleton Lifeline, a pro-life student group. In October of 2010, four members of Lifeline were arrested on campus because they tried to set up a pro-life display at Tory Quad, a well-travelled and high-traffic area on campus. The display included graphic images of aborted fetuses as well as pictures of the Rwanda genocide and the Holocaust. Carleton University asked the Police to arrest the students for “trespassing” in order to prevent them from peacefully expressing their views on campus. The police arrested the students before they had even set up the display, and confiscated their materials.

Lifeline had applied in advance to hold its event on Tory Quad on that day, but the University administration denied them the space because of the content of the group’s expression. Carleton offered Lifeline an out-of-the way room where no passers-by would see the display. The group rejected this location because, as one of the arrested members stated, “they want us to express our views in a closed room because they are deemed to be offensive by the University.” The group felt that the “place” limitation imposed by the University would have effectively silenced their message, because the location was in a room in a secluded corridor on campus.

A video recording on YouTube shows the police confronting the students before they put up their display. An unnamed member of the University administration can be heard saying “*this* display at *this* place is a prohibited activity.”

While the University’s Assembly Policy says “Peaceful assemblies, demonstrations and lawful picketing are allowed within established laws, (3, *Student Rights and*



*Responsibilities*), the University claimed that the students were “trespassing.” The Crown Prosecutors later withdrew the trespassing charges, which suggests that the charges were without merit.

News articles and the YouTube video of the arrest of the students can be found at: <http://www.lifesitenews.com/news/archive/ldn/2010/oct/10100402> and at <http://life.nationalpost.com/2010/10/04/arrest-of-carleton-students-over-anti-abortion-posters-framed-as-free-speech-issue/> .

After the students were arrested, Carleton also informed the students they could not display smaller, hand-held anti-abortion signs on campus, a demand not based on any University rule, policy, bylaw or regulation. No other group on campus has faced demands from the University for any restrictions or limitations to be imposed on the expression of any opinion or viewpoint.

Carleton has no rules or policies against visually disturbing images, and tolerates graphic displays by People for the Ethical Treatment of Animals (PETA) featuring gory images of seals being beaten and killed. Further, while Carleton claims to be neutral on the subject of abortion, the University invited Planned Parenthood to have a table at "clubs day" in the fall of 2011, even though Planned Parenthood is not a campus club.

Section 430 of the *Criminal Code* makes it an offence to obstruct, interrupt or interfere with any person in the lawful use, enjoyment or operation of property. The students’ signs are “property” which they used as their means of communicating their message. Further, Carleton’s own policy on Freedom of Discussion (see above) states that “the traditional privileges of freedom of inquiry and freedom of expression which are enjoyed by members of a University community” can be assured “only if all members of the community share the responsibility of granting these freedoms to others and accept the obligation of a standard of behaviour which respects the rights of others.” In spite of these assertions, Carleton condoned the physical blocking of pro-life students by people using large banners, who made it impossible for the pro-life students to express their views or to engage others on campus in dialogue.

After the students were arrested for “trespassing” on their own campus, Ryan Flannigan, head of Student Issues for the Administration, invited the students to a meeting but insisted that the students could not bring their lawyer with them. At the meeting, Mr. Flannigan threatened the students with charges of non-academic misconduct. He presented the students with an offer allowing them limited rights to express their views on campus, without any guarantee that their expression of opinion on campus would be protected from criminal activity like physical blocking and physical obstruction. The students have rejected this offer to have their speech restricted by various conditions that are not imposed on any other campus clubs or students.

Carleton justifies its position on grounds that “other members of the University community” should be “afforded the opportunity to decide for themselves as whether they want to view these images and become engaged with” Lifeline’s campaign.



However, this approach is not taken in respect of any other campus group, and is not based on any University policy, regulation, bylaw or rule.

Source: <http://oncampus.macleans.ca/education/2011/02/24/23328/>

Ruth Lobo and Nicholas McLeod Statement of Claim (November 2011):  
<http://carletonlifeline.files.wordpress.com/2011/11/fresh-as-amended-statement-of-claim.pdf>

### 3. Student Union principles and policies: F

In regards to academic freedom, the Carleton University Students' Association (CUSA) outlines in the *Declaration of Students' Institutional and Academic Rights Policy* in their policies that:

Every student, full or part-time, has the right to openly question and freely comment on course material without penalty.

CUSA “unequivocally condemns all forms of racism, sexism, xenophobia, ableism, sizeism, ageism and homo/bi/lesbophobia along with any group or person who actively promotes the previous ideologies” (1, *Discrimination on Campus Policy, The Policies of the Carleton University Students' Association*). CUSA prohibits its services from carrying or distributing any material that have such ideologies (2, *Discrimination on Campus Policy, The Policies of the Carleton University Students' Association*).

Sections 5 and 6 of CUSA's *Discrimination on Campus Policy* state that CUSA respects and affirms “a woman's right to choose her options in the case of pregnancy” and states that CUSA will not support “any campaign, distribution, solicitation, lobbying effort, display, event etc. that seeks to limit or remove a woman's right to choose her options in the case of pregnancy” such that “no CUSA resources, space, or funding will be allocated for the purpose of promoting these actions. This is an explicit denial of equal access to student union facilities and the granting of club status, based solely on that group's belief or opinion.

Source: [http://www.cusaonline.com/downloads/ccl\\_cusa\\_policies\\_2010\\_11.pdf](http://www.cusaonline.com/downloads/ccl_cusa_policies_2010_11.pdf)

CUSA states that it explicitly discourages and will actively work to prevent speakers on campus from, the Ku Klux Klan, the White Aryan Resistance, the Heritage Front, Canadians for the Preservation of English, the Heritage Foundation and any other group who promotes hate or discrimination from coming to Carleton University to promote hate or discrimination as their presence is unwanted and undesirable.” (4, *Discrimination on Campus Policy, The Policies of the Carleton University Students' Association*). The Heritage Foundation is one of the most well-known and respected conservative think-tanks in the U.S., employing a large number of highly educated policy analysts, many of whom have served as senior government officials. Members, supporters and staff of the



Heritage Foundation would be extremely surprised, not to mention offended, to hear that they have been equated with the KKK and the White Aryan Resistance.

Student clubs can become de-ratified according to Section 5.2(b) of the CUSA *Clubs Conduct Code* when actions taken by the Club or Society are contrary to the *Constitution, Bylaws, or Policy Manual* of the Carleton University Students' Association, or to the constitution of that Club or Society”

Source: [http://www.cusaonline.com/downloads/clubs\\_conduct\\_code.pdf](http://www.cusaonline.com/downloads/clubs_conduct_code.pdf)

In 2006 the Student Council for CUSA passed a motion banning all groups from using CUSA resources and space if they expressed messages that were intended to “limit or remove a woman's right to choose”. These policies are recorded in Section 6 of the *Discrimination on Campus Policy*:

[http://www.cusaonline.com/downloads/ccl\\_cusa\\_policies\\_2010\\_11.pdf](http://www.cusaonline.com/downloads/ccl_cusa_policies_2010_11.pdf)

In regards to the student union elections policy, CUSA outlines the *Consolidated Electoral Code Policy* within The Policies of the Carleton University Students' Association. The following sections are pertinent to free speech on campus:

12.7 All campaign material shall be submitted first for approval of the CEO. Approval of the CEO shall be denoted by a stamp of the Office of the CEO, which shall appear on all material. The CEO shall refuse any item if, in the opinion of the CEO, the material contravenes the CUSA Constitution, is libelous, or if the material does not clearly identify its originator(s).

12.20 Candidates are to campaign in a fair and respectable fashion, as defined by the Carleton University Human Rights Code.

14.1 Campaigning candidates and their workers shall be entitled to conduct their campaigns so as to reach the maximum number of students as long as they do not commit an Electoral Offence.

These offences include:

- I. A breach of the Carleton University Human Rights Code.

As is evident, the Chief Electoral Officer determines much of the free speech within the election process; therefore one must be fully confident in the ability and integrity of said officer to warrant a fair process.

Source: [http://www.cusaonline.com/downloads/ccl\\_cusa\\_policies\\_2010\\_11.pdf](http://www.cusaonline.com/downloads/ccl_cusa_policies_2010_11.pdf)

#### **4. Student union actions and practices: F**

The Carleton University Student Association (CUSA) decertified Carleton Lifeline, a pro-life group, stripping this campus club of its status in November 2010 based solely on the group's beliefs and opinions.



During the 2011-2012 school year CUSA has continued to deny Carleton Lifeline its official club status based on CUSA's *Discrimination on Campus Policy* (see Section 3, above). Carleton Lifeline's *Constitution* states that "Carleton Lifeline believes in the equal rights of the unborn and firmly believes that abortion is a moral and legal wrong, not a constitutional right. Therefore, Carleton Lifeline shall work to promote the legal protection of the unborn and their basic human rights to life."

Upon stripping Carleton Lifeline of its club status on campus, CUSA invited Carleton Lifeline to amend its constitution and create one that "respects our anti-discrimination policy." If Carleton Lifeline complies, it can once again be certified as a campus club.

In March 2012, a general referendum was scheduled that included a question representing the Carleton Lifeline in a negative light and seeking affirmation that the student body supports their lack of status. The question read as follows:

3. Are you in favour of banning events and displays that use inaccurate information and violent images to discourage women from exploring all options in the event of pregnancy from Carleton University campus?

The question was affirmed by a vote of 513 to 315.

The referendum originally had proposed another question that sparked controversy on campus, as it was thought to be aimed at decertifying a particular campus club, the Firearms Association of Carleton University. The question read:

Are you in favour of amending CUSA's anti-discrimination on campus policy to include banning all groups that promote guns and gun violence?

When the final referendum text was released, however, this question had been removed.

Source: <http://www.charlatan.ca/2012/03/cusa-finalizes-2012-referendum-questions/>



## 1. University policies and principles: C

The Statement of Principles of the Concordia University *Code of Rights and Responsibilities* states:

The Code is not to be applied in such a way as to detract from the right of Members to engage in the frank discussion of potentially controversial matters, such as race, sex, sexual orientation, gender identity, politics or religion. Furthermore, the Code shall not be interpreted in such a way as to limit the use of legitimate instructional techniques, such as irony, argument, conjecture and refutation, or the assignment of readings, which may present a controversial point of view.

Source: <http://registrar.concordia.ca/calendar/17/17.30.html>

The sub-section “Rights Promoted and Protected by the Code” states “the freedom of conscience and religion; freedom of thought, belief, opinion and expression; freedom of peaceful assembly and freedom of association” are all rights and freedoms valued by the *Code*. In principle, then, Concordia appears to place a very high importance on free speech and expression by incorporating those values into their legal documents and explicitly stating that the *Code of Rights and Responsibilities* is not to be used to infringe upon those rights.

Section V, Article 28 of the *Code of Rights and Responsibilities* defines harassment as “repeated, hostile and unwanted behaviour that infringes upon another university member’s right to safely pursue their work or studies at Concordia”. This wording does not seem to prohibit expressing controversial opinions on campus.

The *Code of Rights and Responsibilities* (Section V, Article 28E) has the following policy on “Communication of Discriminatory Matter”:

It is an offense for a Member to engage in the distribution, communication, publication or public exhibition by any means of any matter deemed to be discriminatory or to expose a person or persons to hatred or contempt by reason of the fact that that person or those persons are identifiable on the basis of a prohibited ground of discrimination, as contemplated under the Québec Charter of Human Rights or under the Canadian Human Rights Act, and for which there is no bona fide and reasonable justification.

Discrimination is defined similarly to hate speech, making it possible for a member of an identifiable and protected group to make a claim of hate speech in regard to distribution of material or in a speech. The question becomes how the university administration



chooses to reconcile this contradiction in values. Parliament's recent repeal of the speech-restricting Section 13 of the Canadian Human Rights Act diminishes the potential for abuse.

Section V, article 29G of the *Code* addresses the conflict between the right to peaceful assembly with the right of members of the university to go about their studies appropriately undisturbed. It recognizes the importance of free expression in the form of peaceful protest:

Obstruction or disruption of teaching, research, administration, study, student disciplinary procedures or other University activity. Notwithstanding the preceding, Members are free to engage in peaceful and orderly protest, demonstration, and picketing that do not disrupt the functions of the University. For example, peaceful picketing or other activity in any public space that does not impede access nor interfere with the activities in a class or meeting is an acceptable expression of dissent and shall not be considered an infraction of this article.

The *Policy on the Recognition of Student Organizations and the Use of University Space* explicitly states that the university will not try to censor or restrict the materials displayed or used on campus space, provided the manner in which the materials are presented complies with the *Code*.

However, the *Policy* also states that University officials reserve the right to restrict campus-space booking on the basis of high demand for a particular space, as well as on the basis of discretion. Section 15 of the *Policy* states:

University space and facilities may be made available to recognized student associations and organizations for extra-curricular activities. The University, however, shall be under no obligation to permit such use and is free to exercise its discretion in permitting it.

Source: <http://www.concordia.ca/vpirsg/documents/policies/VPS-10.pdf>

## 2. University actions and practices: F

In April 2012, tuition hike protesters hijacked an event where the University community was supposed to meet the potential new president, Alan Shepard. After students began chanting and using a megaphone to send the message that they would continue to disrupt the school year in this manner, the event was cancelled and Shepard never had the chance to speak. Despite the University's anti-disruption policy, the University allowed the protesters to silence the speaker and prevented other students and staff from meeting Mr. Shepard.



During a student boycott in the winter 2012 session at Concordia, the University simply asked the professors to continue holding classes for students that chose not to participate in the boycott, while giving the professors some discretion in how they dealt with students who chose not to attend classes or pass in assignments. The official stance of the university on the strikes can be found here:

<http://www.concordia.ca/now/campus-beat/concordia-community/20120312/concordias-official-position-on-student-protests.php>

Information Concordia University passed on to students can be found here:

[http://www.concordia.ca/newsletters/FAQs-about-Student-Protests\\_Students.pdf](http://www.concordia.ca/newsletters/FAQs-about-Student-Protests_Students.pdf)

Instructions for Concordia's staff can be found here:

[http://www.concordia.ca/newsletters/FAQs-about-Student-Protests\\_Faculty.pdf](http://www.concordia.ca/newsletters/FAQs-about-Student-Protests_Faculty.pdf)

While the University attempted to uphold the rights of students on both sides of the issue—those who wished to strike and those who chose to attend classes—the University did act forcefully when the strikers posed a security threat. On March 23<sup>rd</sup>, there was an official march of all students in Quebec wishing to oppose the proposed tuition hikes. Yet, many students opposed the strike even more than the tuition increases, and wished to attend classes as normal. In part, these students opposed the strike to communicate their right to get an education and also to make a statement to the Concordia Student Union that they did not support the radical action they had chosen to take. On March 22<sup>nd</sup>, the University shut down all its facilities for security purposes, fearing the riots that would come from the protesters if the university remained open. As much as it was a statement for the protesters to boycott their classes, many felt it was just as much a statement to attend classes and for those who opposed the strike, it felt like closing the University limited their free expression. Shutting down the campus for that day also sent a message to the protesters that despite not being on their side necessarily, the University would waver in their policy against disruption of classes in favour of their free expression.

Section V, article 29G of the *Code* prohibits “Obstruction or disruption of teaching, research, administration, study, student disciplinary procedures or other University activity.”

In 2004 a Jewish students' group, Concordia Hillel, invited former Prime Minister of Israel Ehud Barak to speak at Concordia. For fear of a security problem, Concordia refused to let Barak speak on campus, and proposed that Concordia Hillel co-sponsor an event at an alternative venue where Barak could speak. A risk assessment team informed the University that it did not believe Concordia was equipped to secure an on-campus presentation from the former Israeli Prime Minister. The university's decision to move the event off-campus and not provide adequate security was criticized as a failure to protect free speech on campus; providing adequate security is as necessary a role as the upholding of free speech rights.



In its defence, Concordia stated:

Concordia University's decision not to host on our campuses the proposed speech by former Israeli Prime Minister Ehud Barak, but to instead co-sponsor the event at a more securable location, has been distorted as a failure to protect free speech and a caving in to mob rule. This is simply not true.

The university has a responsibility to protect the security of students, staff, professors and neighbours while promoting free speech - at a location that security experts consider appropriate. This is precisely what we have done. That the organizers of Mr. Barak's proposed visit have rejected our offer to facilitate, co-sponsor and help pay for the event at one of several recommended Montreal sites calls into question whether they truly wish to hear Mr. Barak's views or, rather, wish to advance their own political agenda without regard for the potential consequences for Concordia University.

Since the events of September, 2002 when a group of violent protesters, many of whom were not our students, prevented another former Israeli prime minister, Benjamin Netanyahu, from speaking, there has been pressure on the university to demonstrate that it is not anti-Semitic and that Jewish speakers are welcome. The University is sensitive to this issue. We are equally sensitive to similar concerns from all the constituencies that are part of the diverse Concordia community.

However, it would have been negligent for the university to respond to such pressure by attempting to host the event on campus against responsible advice. Nor is it necessary. The facts are that Jewish students, professors and staff as well as members of many other ethnic and religious groups interact daily in complete freedom. Only yesterday, a distinguished Jewish scholar from Princeton University spoke to an overflow audience on the history of Jewish-Muslim relations. The lecture and an extended question period took place in an atmosphere of respect and civility.

In summary, we would have been pleased to have Mr. Barak speak to our students, and were prepared to plan for this until our risk assessment team, armed with advice from security authorities, concluded that we do not at present have a locale on campus that can reasonably be made sufficiently secure for such an event. That is why we made the offer to co-sponsor this speech off campus. Unfortunately, this offer was rejected.

[http://www.concordia.ca/now/media-relations/newsreleases/20041008/former\\_prime\\_minister\\_ehud\\_bar\\_1.php](http://www.concordia.ca/now/media-relations/newsreleases/20041008/former_prime_minister_ehud_bar_1.php)

One must wonder: how could a university the size of Concordia not have a space that could be made secure? Concordia has plenty of large auditoriums, and provides no details or justification for its assertion that no campus spaces are available. Concordia's



“security” rationale could easily be used to ban other controversial speakers from campus, and “safety and security” are routinely used by universities across Canada as the rationale for censoring unpopular speech. In light of Concordia having also chosen to condone the physical disruption of a lecture by its incoming President, and in light of Concordia shutting itself down for a day in March 2012 to appease rowdy “striking” students, the authors are of the view that the grade of ‘F’ is appropriate.

In March 1992, artist Lyne Robichaud was invited to display her paintings at Concordia University’s Women’s Centre. Organizers of the exhibition made a decision to ban some of her paintings that featured women of colour carrying fruit on their heads. Organizers at the Women’s Centre justified the ban, expressing that as a white woman Robichaud should not be painting black women at all, let alone in “stereotypical” “Chiquita Banana” poses. Robichaud, believing the ban to be absurd, noted that by the same logic “only men should paint men and only women should paint women”.

<http://www.cbc.ca/archives/categories/arts-entertainment/visual-arts/artists-busted-censorship-in-canada/university-censors-racist-artworks.html>

### **3. Student Union policies and procedures: D**

The Concordia Student Union (CSU) has no policies that directly address free speech on campus.

There are spaces that may be booked through the CSU by student organizations. Security risks are assessed and the fees that the CSU charges the event organizers are based on the results of the assessment. The assessment empowers security and University officials to discriminate speech and events they consider controversial, and therefore a security risk, imposing burdens on students promoting those views that aren’t imposed on other students with less “risky” messages. There does not appear to be any further details given upon which the assessment is based.

The CSU reserves the right to remove anyone from a booked space that is “objectionable” or “unruly”. Neither of these terms are explained in more detail. Indeed, one can see the potential conflict that could arise if a CSU official deemed a controversial speaker to be “objectionable” and used this to justify banning the individual from campus. It is not expressively stated that student union officials do not have the right to restrict campus-space bookings because of the viewpoints being expressed. Information regarding booking campus space through the CSU can be found here:

<http://clubportal.csu.qc.ca/index.php?module=pagesetter&func=viewpub&tid=3&pid=2>

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#### 4. Student Union actions and practices: D

During the 2011-12 school year, the Concordia Student Union (CSU) was faced with determining its response to the student “strike,” or boycott of classes, as a method of protesting the tuition hikes. At a general assembly, CSU members had the opportunity to debate what form the strike would take, and then vote on whether or not to strike. Students who spoke against the strike received angry responses from the crowd, and often dismissive responses from CSU leaders. The majority voted to strike, but the vote took place by a show of hands rather than secret ballot. After the motion passed, the crowd grew rowdy and hostile against the few that did end up voting against the bill to strike.

Lex Gill, the head of the CSU has yet to explicitly denounce the violence and the interruption of Alan Shepard’s event in April 2012 (see section 2 of this report).

##### News Sources:

[http://www.huffingtonpost.ca/2012/04/25/alan-shepard-concordia\\_n\\_1453802.html](http://www.huffingtonpost.ca/2012/04/25/alan-shepard-concordia_n_1453802.html)

<http://www.cbc.ca/news/canada/montreal/story/2012/04/25/striking-students-silence-incoming-president-introduction.html>

<http://www.montrealgazette.com/news/Students+hijack+meeting+force+cancellation/6511684/story.html>

<http://thelinknewspaper.ca/article/2719/>

<http://concordiastudents.ca/>



## 1. The University's principles and policies: D

Section 14 of the "Dalhousie University Regulations", the *Code of Student Conduct*, states:

Nothing in this Code shall be construed to prohibit peaceful assemblies and demonstrations, or lawful picketing, or to inhibit freedom of speech.

It is unclear as to whether Section 14 provision would protect freedom of speech in cases where administrators deem speech to be "discriminatory" under Section C of the Regulations, which state:

No student shall engage in a course of vexatious conduct, harassment or discrimination that is directed at one or more specific persons and that is based on the age, race, colour, religion, creed, sex, sexual orientation, physical disability, mental disability, an irrational fear of contracting an illness or disease, ethnic or national or aboriginal origin, family status, marital status, source of income, political belief or affiliation or activity of that person or of those with whom he or she associates.

Source: <http://ug.cal.dal.ca/UREG.htm#I14>

The Dalhousie Office of Human Rights, Equity and Harassment Prevention describes its purpose as preventing discrimination on campus. If a student files a human rights complaint against another student, the Human Rights and Equity Office will insist the parties involved meet with "trained neutral mediators" in an attempt to resolve the conflict.

Source:

<http://hrehp.dal.ca/Human%20Rights%20and%20Equity/Statement%20on%20Prohibited%20Discrimination/Complaints%20Against%20Students/>

Dalhousie employs a Human Rights and Equity Advisor, as well as an Equity Assistant, to "foster and support an inclusive learning environment" and administer "the University's human rights, equity, harassment, and other policies."

[http://hrehp.dal.ca/contact\\_us.php](http://hrehp.dal.ca/contact_us.php)

<http://hrehp.dal.ca/index.php>

The Dalhousie Office of Human Rights, Equity and Harassment Prevention outlines "Strategies for the inclusive classroom", suggesting the following:

Ask students to identify possibly discriminatory content in textbooks, readings, etc.



Do your best to be sensitive to language/ terminology issues

Provide guidelines for group discussions to assist everyone in participating.

Never ask a student to act as a spokesperson for his/her group/country/religion/disability/sexuality

Be prepared to address inappropriate or offensive comments

In addition, the Dalhousie Office of Human Rights, Equity and Harassment Prevention sets down rules for individuals on their 'Practices of Inclusion and Respect' webpage. Individuals are told the following:

- Do not laugh at sexist, racist, heterosexist or otherwise demeaning humor.
- Know that offensive comments often come from lack of knowledge or learned biases. Identify your own biases and stereotypes. Resist acting on them and take steps to inform yourself and unlearn them.
- Accept that this is fluid and evolving and you will make mistakes. At the same time listen to the words used by diverse groups and make efforts to keep up with changing terminology.
- Correct mistakes and move on. Apologize if appropriate.
- What is experienced as offensive varies from individual to individual. If someone challenges you, listen to what they have to say and try to understand their perspective. Thank people for guidance.

Under 'Organizational Practices' in this same section, students are told to "strive to make inclusive language the norm" but also to "create an environment where differing perspectives are welcomed and people speak up and out." The statements appear contradictory; if a student with a differing perspective spoke their mind on an issue, but didn't use "inclusive language" as per these suggestions, one wonders how the Human Rights Officer would interpret this policy.

These rules, practices, and strategies leave much room for interpretation as to what is "discriminatory." A failure to apologize for politically incorrect language would clearly violate these policies. Students are told what language to "strive" for, and in which shape they should sit during their meetings. They are told to promote the "fact" that "diversity" benefits everyone even in the absence of "diversity" having any clear or discernable meaning that is commonly understood by all.

Dalhousie University has an *Accommodation Policy for Students* based on the *Nova Scotia Human Rights Act*. This policy can be found in Section 8 of the Dalhousie University Regulations. The policy states:

The University recognizes that its obligation to provide a learning environment and community free from prohibited discrimination includes the obligation to make accommodations for students in instances where a student's learning environment or the University community in which they operate has a discriminatory effect on the student's ability to fully participate in, and have access to, University academic programs, activities, facilities and services. In



particular, the University is obliged to make every reasonable effort short of undue hardship to take substantial, timely and meaningful measures to eliminate or reduce the discriminatory effects of the learning and community environment, including facilities, policies, procedures, and practices.

This policy could open the door to complaints about “discriminatory” speech, and the censorship of speech that does not lead to “a learning environment and community free from prohibited discrimination.”

Dalhousie has an anti-disruption policy in its *Code of Student Conduct* that states:

No student shall, by action, threat or otherwise, disrupt, obstruct or adversely affect any activity organized by Dalhousie University or by any of its faculties, schools or departments, or the right of other persons to carry on their legitimate activities, to speak or to associate with others.

The job duties of residence assistants include “making sure residents respect one another” (<http://bme.medicine.dal.ca/gmaksym/DalAlumniMagazineSummer02.pdf>).

## 2. University’s actions and practices: F

In March 2011, Pro-Life at Dal (PLAD) organized a debate on abortion. The Vice-President of Student Services wrote a lengthy letter imposing various requirements on the event including requiring PLAD to pay a \$350 security fee. On the night of the debate, the club was suddenly told that security officers would *not* intervene if any disruptions occurred. The room was vandalized prior to the event, and stink bombs in the room that went off intermittently throughout the debate. Dalhousie Security did not intervene at any point, and made no effort to find out who vandalized the room and disrupted the event.

PLAD’s president wrote to the Vice-President of Student Services and expressed concern about Dalhousie’s failure to provide adequate security, and how this emboldens those who would disrupt future events. The University replied by expressing a preference for not permitting future events, rather than removing individuals who obstruct and disrupt events.

In November of 2010, controversial British MP George Galloway was scheduled to speak at Dalhousie, but the University then deemed him to be a security risk (“because he speaks about controversial topics”) and demanded extra money for increased security services. The organizers of the event cancelled their booking, and Galloway spoke at a local church instead.

(<http://unews.ca/story/item/galloway-moved-off-dal-campus-because-of-bureaucratic-barriers/>).



In 2007, Jared Taylor was invited to the University to debate a professor on racial diversity. Several weeks before the scheduled debate was to be held, the University issued a statement saying it “learned more about the background and standpoint of the others involved in the proposed debate and has concluded a debate with people who held such views would not be a useful way to explore the topic [of racial diversity]” and cancelled the debate.

([http://www.amren.com/mtnews/archives/2011/02/free\\_speech\\_not\\_1.php](http://www.amren.com/mtnews/archives/2011/02/free_speech_not_1.php)).

### 3. Student Union principles and policies: F

The Dalhousie Student Union (DSU) *Society Policy* states:

- i. The Society must not have a purpose that conflicts with the DSU’s mission and vision statements.

This provision could effectively ban campus clubs that do not share common mission and vision statements with the Dalhousie Student Union.

Section 11 of the *Society Policy* of the DSU States:

- 11. The Society’s activities must not infringe on the rights or privileges of others, which include the rights to privacy and freedom of expression and association.

Section 8 of the Dalhousie Student Union *Society Policy* states:

- 8.4 The Union reserves the right to withhold the above privileges from a society as it deems necessary.
- 8.5 The Union reserves the right to grant additional privileges to a society when deemed appropriate.

These sections of the *Society Policy* provide no protection for campus free speech, and give virtually unlimited discretion to the DSU to censor content as they see fit.

In regards to Dalhousie’s on-campus radio station, the *Society Policy* states that CKDU is mandated to:

- Represent the views and interests of the members of the Metro community- in particular: underrepresented groups, visible minorities and the disenfranchised- promote socially positive and responsible attitudes in our Society;

This vague language opens the door to limitations on freedom of speech, at the discretion of a radio station administration that could become politicized.



Page 14 of DSU *Society Policy* reads:

The DSU reserves the right to charge ancillary fees to societies holding events, for services including but not limited to DSU security staff, DSU technical staff, technical and audio-visual equipment, cleaning fees, coat check, custodial staff, set-up fees, extra furniture, extended building hours, SOCAN, conference materials and bar services.

Section 8, 11A(a) of the *Dalhousie Student Union Constitution* states:

There shall be no more than one (1) registered campaign for each possible answer to a referendum or plebiscite question, excluding the ‘spoils’ option;

Section 8 therefore limits the free speech rights of students who may wish to form their own campaigns independent of the official “yes” and “no” campaigns when a referendum is held, in order to advance or promote their own particular reasons for voting “yes” or “no.” Official recognition from the Dalhousie Student Union is required for students to use Student Union space (which all students pay for through their mandatory dues) and election bulletin board space.

Section 8, 12(c)(ii) states:

(ii) Campaign displays and the distribution of literature on campus are subject to the approval of the Elections Committee. All candidates and campaigns shall inform and have the approval of the Chief Returning Officer for any such activity that they plan to undertake.

This confers broad powers on the Chief Returning Officer, which could be used for content-based censorship.

In addition, Section 8, 12 f (Campaign Materials) states:

- (i) purchased campaign materials, shall have a value of no greater than two hundred dollars (\$200).
- (ii) no candidate or campaign shall receive discounts not available to all students.

#### **4. Student Union actions and practices: D**

On March 31, 2012 the DSU Elections Committee disqualified two students, Jamie Arron and Aaron Beale, for content they wrote on Facebook while campaigning for DSU President and VP Student Life (respectively).

Jamie Arron, candidate for DSU president, posted the following message on his friends’ walls on Facebook after the campaigning period:



hey dude, did you vote in DSU elections yet? only takes 2min. Vote online @ dsuelections.ca. My dream team: Becky, Gavin, Aaron.

Arron was charged with posting the following message on his facebook wall after the campaign period had officially ended:

The DSU is at a crossroads. Will you vote for the same ol' insiders or for the new wave of engagement? Times are a' changing. Lets make it happen.

These comments were posted on Facebook after the "allowable campaign period" which ended the evening prior to voting.

Arron was also penalized for launching his campaign website ahead of the official campaign period which did not begin until 8:00AM on February 6. His website was found active at 7:00AM on February 6. The Committee therefore found Mr. Arron in violation of the rules.

The candidates appealed the Elections Committee decision to disqualify them from the executive positions they had won. The Committee stayed the charges, and Jamie Arron and Aaron Beale proceeded to become President and VP Student life to the DSU for the 2011-2012 year.

[http://www.dsuelections.ca/uploads/6/0/3/5/6035411/judicial\\_board\\_decision\\_-\\_arron\\_v\\_election\\_committee\\_-\\_beale\\_v\\_election\\_committee.pdf](http://www.dsuelections.ca/uploads/6/0/3/5/6035411/judicial_board_decision_-_arron_v_election_committee_-_beale_v_election_committee.pdf)



## 1. University's policies and principles: D

Lakehead University's *Code of Student Behaviour and Disciplinary Procedures* states:

The University encourages the free exchange of ideas and opinions, but insists that the free expression of views must be made with respect for the human dignity and freedom of others.

...

Students and their organizations shall conduct their activities in a manner compatible with the commitment of the University to maintain an intellectual and cultural environment conducive to personal development and critical awareness, and in compliance with the laws of Canada and Ontario, and University policies and regulations. Action taken under this Code does not preclude the University from notifying the appropriate authorities and initiating other actions in accordance with the laws of Ontario and/or Canada. This Code shall not be construed to prohibit peaceful assemblies, demonstrations, or free speech.

The *Code* continues to prohibit behaviour in the section on Non-Academic Misconduct and provides sanctions up to and including expulsion from the school. The requirement that speech respect "human dignity," while a seemingly harmless qualification, can very easily be construed so as to censor or restrict controversial or politically incorrect speech that some may find offensive.

Source: <http://policies.lakeheadu.ca/policy.php?pid=60>

Lakehead University's *Harassment and Discrimination Policy and Procedures (HDPP)* defines harassment as follows:

"Harassment" is defined by the Ontario Human Rights Code as a course of comments or conduct consisting of words or actions that disparage or humiliate a person in relation to a prohibited ground contained in the Code. Harassment occurs when the person alleged to have committed an infraction knows or ought reasonably to have known that such comments or conduct would be unwelcome. It can include comments or conduct that is intimidating, threatening or abusive and may be accompanied by direct or implied threats to the individual's grade(s), status or job. Harassment can occur between members of the University Community.

The *Policy* further lists types of behaviour which may constitute harassment, including "offensive materials". The inclusion of 'offensive materials' as harassment empowers the University to censor students and student groups trying to spread their message on campus; a student group that creates a display on a controversial topic may find their



presentation banned by University officials because someone finds the material “offensive”.

The *HDPP* also establish a Discrimination and Harassment Coordinator “who will coordinate educational initiatives and the complaint services related to this policy for the University community.” The procedures involve the Coordinator deciding whether a case warrants a formal complaint, but does not empower the Coordinator to conduct formal investigations nor to recommend sanctions. Therefore the Coordinator does not have powers that could be used to censor students as punishment for violating harassment policies.

Source: <http://policies.lakeheadu.ca/policy.php?pid=75>

## **2. University actions and practices: C**

The authors are not aware of cases of the University limiting or restricting campus free speech rights, or discriminating against students or clubs on the basis of their opinion.

## **3. Student Union policies and principles: F**

In 2008, the Lakehead University Student Union (LUSU) declared itself to be officially pro-choice, and further declared that those who think differently must keep their speech and actions in accordance with the student union’s stance on the subject, as per the following resolution:

Be it resolved that the Lakehead University Student Union declare itself to be a pro-choice organization, where pro-choice is the recognition that every woman has the right to security of their own person and self-determination in all realms of life, especially when addressing reproductive rights held by women.

The preceding statement shall not be construed to imply that LUSU is opposed to those who hold pro-life positions so long as these groups do not advocate, encourage, support, condone the denial of choice to any other women and also long as these groups do not in any way promote feelings of guilt, criminality, worthlessness, or shame.

Be it further resolved that the Lakehead University Student Union withhold any and all funds, space, resources and services within its control from any groups, either on or off campus, and regardless of membership composition (student or non- student) if that groups holds any aim, principle, belief, goal, etc. That is [anti-choice] in nature, explicit or implicit.

We were willing to grant the club status if the club agrees to acknowledge that pro-life is not the only choice, but a choice that a women can make, that abortion



is a legitimate legal alternative to adoption or keeping a child. All literature from the group must be in a positive nature vs. Anti-choice, and have a logo so that we can clearly identify their material.

Source: <https://www.facebook.com/topic.php?uid=10342488199&topic=4854>

Through the student union, only forms for rooms booked by clubs are found. The forms for booking a room and the agora, respectively, are found at:

[http://www.lusu.ca/images/FORMS/Room\\_Request\\_From.pdf](http://www.lusu.ca/images/FORMS/Room_Request_From.pdf)

[http://www.lusu.ca/images/FORMS/Agora\\_Request\\_From.pdf](http://www.lusu.ca/images/FORMS/Agora_Request_From.pdf) .

Both forms are very vague and standard. The forms make no mention that “controversial” events can be cancelled, or not permitted.

In 2008 then-LUSU President Richard Longtin issued a “presidential decree” which required clubs to ensure that their messages were ‘positive’ before being given club status. Mr. Longtin, also a member of the Campus Conservative club, was accused of trying to silence criticisms that the Conservative federal government was receiving on campus for choosing to prorogue Parliament in the winter of 2008. Any LUSU election campaigns were also regulated in the decree:

Campaigns must be positive in nature and cannot slander the opposing stance of the campaign.

All club publications shall not have content that may be deemed as offensive or in bad taste to any identifiable group.

Members of the club are not allowed to impose belief(s) or practice(s) of the club to anyone who does not give them consent to outside of the club’s meetings.

Source: <http://ryersonfreepress.ca/site/archives/380>

For some time thereafter, members of clubs with a “controversial topic” were told orally that no club member could approach any student with material, or the prospect of joining. Aside from this, it appears no efforts have been made to see to it that the decree is actually enforced.

LUSU Clubs must abide by the Clubs Handbook, which is different for the Thunder Bay and Orillia campuses. In Thunder Bay, clubs are required to abide by the University’s *Discrimination and Harassment Policy* which is discussed in Section 1 of this report. Orillia’s Clubs Handbook reminds students that all activity within LUSU is governed by *The Code of Student Behaviour and Disciplinary Procedures*, and the *HDPP*, also referenced in Section 1.

LUSU excludes all religious and political clubs from receiving funding, categorizing them as having “Official Club Status without Funding.” Non-partisan clubs with a political or public policy agenda do receive funding from student fees upon application. While the denial of funding to religious and political clubs does not constitute censorship,



it does amount to a form of discrimination when other clubs are provided with funding because their views are not categorized to be political or religious.

Source: <http://www.lusu.ca/thunderbay/wp-content/uploads/TBClubHandbook2012.pdf>

#### **4. Student union actions and practices: F**

LUSU has an extreme range of viewpoints on speech tolerance, depending on the composition of its elected Council during a given academic year. The problem of discrimination changes from year to year, based on the individual viewpoints of the elected members of the Student Union.

In 2008, LUSU told the campus pro-life club (Lakehead University Life Support) that it could only exist by refraining from advocating its stance on abortion, and by not approaching any students to share the club's viewpoint. This meant that no displays of any sort, even non-controversial and non-offensive posters, could be used to promote the club or its viewpoint. When Life Support refused these conditions as unreasonable, LUSU then stripped the club of its status. LUSU sent a letter to members of the Life Support Executive, including reasons for the type of restrictions that they would have to abide by in order to be ratified, given the "offensive nature" of their message:

<http://www.lifesitenews.com/news/archive/ldn/2008/jan/08011407>

In the past three years, the ban has been lifted and reinstated at various times. In January of 2011, Life Support was granted official club status, but was forced to register under "Official Club Status Without Funding" in spite of the fact that this club is not affiliated with, and does not endorse, any religion or political party. LUSU also ordered the club to forego placing posters around campus that have any images, but LUSU did not interfere with Life Support's booking of meeting space, event space, etc. The club did not seek ratification in the 2011-2012 year due to a lack of members.

#### Sources Cited

2010-2011 LUSU Club handbook.

<http://www.lusu.ca/images/FORMS/Orillia%20Package.pdf>

2009-2010 LUSU Constitution (the newest edition currently posted).

<http://www.lusu.ca/images/FORMS/Orillia%20Package.pdf>



## 1. University principles and policies: D

The administrative policies that govern free speech at McGill University can be found in the *Handbook on Students Rights*. In Chapter 1, Articles 25-26, the *Handbook* states:

25. Every student enjoys within the University the freedoms of opinion, of expression and of peaceful assembly.
26. Every group of students has a right to organize and to promote the interests of its members, provided that the purposes of such group are lawful. Every such group shall also have the right to publicize and hold meetings, to debate any matter and to engage in lawful demonstration.

In Chapter 6, Article 5 of the *Handbook on Students Rights*, there is a provision on “Disruption,” which could be cited in allegation of hate speech or harmful action disrupting University activity or encroaching on other students’ rights. However, the literature clearly stipulates in part “c” of Article 5, that the clause “may not be construed to prohibit peaceful assembly and demonstrations, lawful picketing, or to inhibit free speech.”

The Social Equity and Diversity Education Office (SEDE) has a *Policy on Harassment, Sexual Harassment and Discrimination Prohibited by Law*. The Policy defines Discrimination as “action, behaviour or decision...which results in the exclusion or preference of an individual or group within the University community” (2.6).

Harassment is defined as, “vexatious behaviour...in the form of repeated hostile conduct, verbal comments, actions, that affect the dignity, psychological or physical integrity of a Member of the University Community and result in a harmful environment for such an individual” (2.7).

The SEDE Office gave birth to one of McGill’s most ubiquitous social equity programs, “Safe Space.” The Safe Space Program was created by the Queer Equity subcommittee in 2004, and entails workshops for faculty, staff and students addressing racial and sexual discrimination. “Safe Space Allies at McGill” are offices, departments and residences that participate in Safe Space workshops and have Safe Space posters or plaques advertising their respective areas as “Safe Spaces.”

Despite the good intentions of workshops to help gay, transgender, racial, or other minorities feel comfortable on campus, workshops can become a slippery slope for restricting free speech, as a result of emphasis on appropriate verbal expression. The workshops “educate” participants on hurtful words, and challenge homophobic or racist comments and jokes. As a result, people in areas with Safe Space plaques will reprimand anyone making inappropriate comments, despite claims that Safe Space is purely



voluntary and educational only.

With respect to staging events at the University, the policies in place are content-neutral. For example, the University does not charge room rental to any University organization for normal extracurricular activities, unless the rooms are booked for revenue-generating events, in which case a flat fee is applied.

The University has a Deputy Provost of Student Life and Learning whose job is to ensure that the *Charter of Student Rights* is being followed and enforced.

In 2011-2012, the University was forced to deal with a number of issues surrounding both free speech and peaceful assembly. The most important document to have arisen out of these incidents is known as the Jutras Report. Dr. Jutras is the Dean of the McGill Faculty of Law and was asked by the Principal, Heather Munroe-Blum, to investigate the events of November 10, in which a few students decided to “occupy” the Principal’s office. As the report explains, after some altercations with campus security, the riot police of the city of Montreal were called in to deal with this issue. Among other issues, “the report advocates further efforts to clarify (i) the scope and meaning of free expression and peaceful assembly on campus”. To address this issue, the report suggests holding an open forum on free speech and peaceful assembly, which occurred in early May of 2012 and which the Justice Centre for Constitutional Freedoms was invited to participate. The videos of the speakers from this open forum are online.

The other significant University policy that was created within the past year was the *Provisional Protocol Regarding Demonstrations, Protests, and Occupations on McGill University Campuses*. This one-page document was written in order to curtail demonstrations on campus, and sets out a number of conditions in which a protest may be interrupted including if “the University’s ability to maintain a safe and secure environment for all members of the McGill community and for visitors to our campuses” is compromised. The report purposefully uses the slippery term “safe” which is a subjective concept.

Sources:

Handbook on Students Rights:

<http://www.mcgill.ca/files/secretariat/Handbook-on-Student-Rights-and-Responsibilities-2010.pdf>

Social Equity and Diversity Education Office: Policy on Harassment, Sexual Harassment, and Discrimination Prohibited by Law:

[http://www.mcgill.ca/files/equity\\_diversity/harassment-sexualharassment-discrimination.pdf](http://www.mcgill.ca/files/equity_diversity/harassment-sexualharassment-discrimination.pdf)

Society Equity and Diversity Education Office Website: “What is the Safe Space Program?” [http://www.mcgill.ca/equity\\_diversity/lgbtq/diversity\\_training/](http://www.mcgill.ca/equity_diversity/lgbtq/diversity_training/)

Events and Booking at McGill: Booking Guidelines

<http://www.mcgill.ca/eventsbookings/guidelines/>

Jutras Report: <http://www.mcgill.ca/dean-jutras-report/>



Provisional Protocol:

[http://www.mcgill.ca/files/\\_nea/214062\\_ProvisionalProtocolEnglish.pdf](http://www.mcgill.ca/files/_nea/214062_ProvisionalProtocolEnglish.pdf)

Forum on Free Expression: <http://bcooltv.mcgill.ca/ListRecordings.aspx?CourseID=6499>

## 2. University actions and practices: D

The University has demonstrated neutrality in terms of event content, rejecting calls to deny the use of University premises to host the controversial “Echoes of the Holocaust” event in 2009. However, the University administration failed to uphold free speech rights when this event was forcibly disrupted and shut down by protesters; this was disruption condoned by campus security, which took no action.

McGill condones the censorship conduct by its student union, using institutional autonomy of the Students’ Society of McGill University (SSMU) as an escape clause to avoid needing to speak out against SSMU’s various actions and policies that restrict speech rights on campus. The University administration has never actively intervened to rectify an infringement on free speech produced by SSMU policy. With regard to the most recent restrictions on the pro-life club (described below), the administration has even refused to comment, saying it is a “student matter.”

In March of 2012, one of McGill’s main newspapers, the *McGill Daily* ran a story on McGillLeaks, which was an external website that had published some confidential documents detailing McGill’s increased fundraising efforts towards corporate donors. The administration threatened the *Daily* with legal action claiming that the student newspaper was threatening “McGill’s rights” by stealing private information. This is a clear example of the administration using its considerable legal clout to bully a small student newspaper and to impede upon the right to free expression within the press. In a statement released by the Daily Publications Society (DPS), the entity that governs *The Daily*:

We find the actions and intimidation tactics of McGill University and its legal representatives to be suppressive of our and any organization’s rights to freedom of speech.

The DPS feels that McGill’s tactics are an infringement of their freedom of expression. Their lawyer, Michael Bergman, argues that the information is no longer confidential, having been put in the public domain by McGillLeaks. The DPS decided not to pursue the action in court due to resource constraints, but maintains that it did not steal the documents since they were already public.

Sources:

<http://ssmu.mcgill.ca/wp-content/uploads/2008/10/Policy-Manual-Updated-December-9-2010.pdf>

<http://network.nationalpost.com/np/blogs/fullcomment/archive/2009/11/20/barbara-kay-freedom-of-speech-has-been-aborted-by-mcgill-University-s-student-society.aspx>



<http://princearthurherald.com/archives/4062>  
<http://publications.mcgill.ca/reporter/2012/03/principal-updates-board-on-mcgillleaks-affair/>  
<http://www.cbc.ca/news/canada/montreal/story/2012/03/07/montreal-mcgill-leaks.html>  
<http://www.mcgilldaily.com/2012/03/mcgill-threatens-the-daily-with-legal-action/>  
<http://www.mcgilldaily.com/2012/04/this-year/>  
<http://www.ccla.org/rightswatch/2012/03/13/mcgill-University-uses-intimidating-tactics-against-mcgill-daily/>

### 3. Student Union principles and policies: F

The preamble of the *Constitution* of the Students' Society of McGill University (SSMU) emphasizes the Society's foremost commitment to "equity" and "progressive" policy, both highly ambiguous terms.

In 1994, SSMU created a Joint Senate Board Committee on Equity, which now has an umbrella structure, with five sub-committees. The *SSMU Policy Manual* (last updated December 9, 2010), institutionalizes the SSMU *Equity Policy* and provides an extensive background and breakdown of the policy. The literature cites SSMU as an "anti-oppressive" organization, using the Iris Young definition of oppression: "exploitation, marginalization, powerlessness, cultural imperialism, and violence, imposed by a dominant class of people onto a powerless class of people through systems and interpersonal interactions." The inclusion of "interpersonal interactions" in the definition of "oppression" gives greatest license to infringement of free speech, because any feelings of powerlessness evoked from a conversation would be in violation of SSMU's *Equity Policy*.

Section 3.2 of the *Equity Policy* endorses dialogue on controversial political issues, but only if such dialogue is on "legitimate" topics and "conducted in a respectful, non-coercive, collegial manner that conforms to the policy on discrimination and harassment." In a November 15, 2010 editorial, the student newspaper *McGill Tribune* pointed out that:

The legitimacy of a topic and the respectfulness and collegiality of debate are subjective and open to interpretation and discussion. That an appointed committee has the power to remove a club's funding if they deem it in contravention of one of these is antithetical to the stated purpose of encouraging open discussion.

The SSMU Equity Committee has the power to remove a club's funding if this Committee deems the club's action or discussion to be in violation of the Equity Policy. In 2012, these policies were used to justify the censorship of at least one student group on campus (See Section 4).

SSMU is also one of the strongest bastions of the Safe Space program at McGill, and its



Equity Policy professes its firm commitment to “the creation of safe(r) spaces for its membership,” such as the Queer, Gender Empowerment and Black Students clubs, among others. Safe Space plaques are posted all around the SSMU building, creating an environment where words such as “gay,” “retarded,” “fag,” etc, will not be tolerated.

Sources:

SSMU Constitution:

<http://ssmu.mcgill.ca/elections/docs/SSMU%20Constitution%20English.pdf>

SSMU Policy Manual: Equity Policy: <http://ssmu.mcgill.ca/wp-content/uploads/2008/10/Policy-Manual-Updated-December-9-2010.pdf>

The McGill Tribune: Editorial: “SSMU Should Reconsider New Equity Policy”  
<http://www.mcgilltribune.com/opinion/ssmu-should-reconsider-new-equity-policy-1.177760>

#### 4. Student Union actions and practices: F

In March 2012, a student group called McGill Friends of Israel (MFI) planned an event called “Israel A-Party,” designed to counter-message Israeli Apartheid Week (IAW) which is an annual, nation-wide event that labels Israel as an apartheid state. Before the event was scheduled to take place, SSMU executives told the group that they would have to change the name of the event because they considered it “a mockery and/or trivialization of various oppressions some people of the world are subject to on a day-to-day basis.” The group complied and changed the name to “A Party for Israel” so that they could still hold the event.

SSMU vice-president Carol Ellen Fraser told MFI president Eliana Schwartz in a pre-event e-mail exchange that while there is nothing wrong with Israel’s supporters expressing their opposition to Israel being characterized as an apartheid state, “this does not give them the right to mock and trivialize the term itself, and furthermore imply that Palestinian people are not suffering as a result of injustices in Israel...”

The SSMU decision was made after a complaint was received from a student who felt threatened and offended by the event’s name. The SSMU used the complaint to justify their decision:

We feel that the title ‘Israel A-Party’ makes too much light of the convictions and experiences of students such as the claimant of this complaint...It is our job to ensure a safer place on campus.

SSMU executives demonstrate in this case that it is within their power to censor and restrict free expression on campus in order to ensure their interpretation of “a safer place on campus.” This decision sets a dangerous precedent for student groups who, like MFI, want to maximize campus interest in their event using creative language.

Source: <http://barbarakay.ca/articles/view/571>



The largest issue facing student unions in Quebec in 2011-2012 has been the issue of the student strikes. All of the public debates in general assemblies on strikes have allowed speakers that are both for and against the strike to speak. While it is always certainly intimidating to speak at a General Assembly, no side has been threatened or coerced to remain silent.

There have been some issues in terms of space for the votes. One example is that of the Arts Undergraduate Society (AUS), which began its General Assembly three hours late because they failed to anticipate the number of students that turned out. The students who were watching the meeting from other rooms had to physically walk across campus if they wanted to speak in debate. This means that those with physical disabilities were presented with a barrier to their freedom of speech, and likely many students chose not to vote because the process was so time-consuming.

On October 6th, the pro-life club Choose Life hosted a controversial talk, entitled “Echoes of the Holocaust,” a speech drawing comparison between abortion and the atrocities of the Holocaust, presented by Jose Ruba of the Canadian Centre for Bioethical Reform. Prior to the event, SSMU passed a motion with a vote of 25-2-2 to “demand” that the administration intervene and cancel the event. SSMU additionally warned Choose Life that they were in violation of SSMU’s *Equity Policy*, and that if they chose to continue with the event, that their funding would be permanently revoked. This ultimatum was at odds with the SSMU’s “anti-oppression” practice, which guarantees that groups do not face a “lack of access and respect in Society.”

Acting on behalf of University administration, Deputy Provost (Student Life and Learning) Morton Mendelson refused to cancel the event, and asserted Choose Life’s right to debate the issue. The event took place, but the speaker was shouted down by protesters, including some SSMU administrators. These protests were explicitly inhibiting free speech, as evinced by the sentiment of some pro-choice attendees who approached the speaker and expressed their regret to not be able to hear his arguments.

The Choose Life controversy did not end, however, with a debate about event content and protests, as SSMU decided to follow through with the revocation of Choose Life’s official club status on November 12, 2009, in response to four complaints made to the Equity Commission. They justified their actions with the SSMU Equity Policy, citations of “hate speech,” the use of “questionable statistics from questionable sources” (SSMU disagreed with the assertion that there is a link between abortion and breast cancer), and the use of graphic imagery. Barbara Kay from the *National Post* covered the story, and points out that the issue was one of free speech, despite SSMU’s attempts to rebuff the argument, and more importantly, that SSMU’s actions were unmistakably based on political correctness. The revocation of Choose Life’s charter meant the group no longer received funding, and could not use any SSMU services or facilities, including the booking of rooms for meetings or events.

In April of 2010, the SSMU Council voted to reinstate Choose Life but subject to restrictions not imposed on any other campus club:



- to attach an appendix to its constitution to “comply” with the SSMU Equity Policy;
- to cease using graphic images;
- to cease affiliation with the National Campus Life Network (NCLN);

The club continues to be a registered student society but executives of the club have noted that its activities in 2011 and 2012 were minimal, perhaps due to the restrictions placed on them by SSMU.

### Sources:

Craine, Patrick B. LifeSiteNews: “McGill Pro-Life Presentation Shut Down by Protestors” <http://www.lifesitenews.com/news/archive/ldn/2009/oct/09100713>

Woman’s Global Network for Reproductive Rights: Canada: Confronting the Rise and Anti-Choice Activity on University Campuses <http://www.wgnrr.org/news/canada-confronting-anti-choice-activities-University-campuses>

Craine, Patrick B. LifeSiteNews: “McGill University Officials Speak Out Against Silencing of Pro-Life Presentation” <http://www.lifesitenews.com/news/archive/ldn/2009/oct/09101608>

McGill Tribune: Opinion: “Fighting the Anti-Free Speech Frenzy” <http://www.mcgilltribune.com/opinion/fighting-the-anti-free-speech-frenzy-1.1795554>

Kay, Barbara. National Post: “Freedom of Speech has been Aborted by SSMU” <http://network.nationalpost.com/np/blogs/fullcomment/archive/2009/11/20/barbara-kay-freedom-of-speech-has-been-aborted-by-mcgill-University-s-student-society.aspx>

LifeSiteNews: McGill Forces Pro-Life Club to Accept Special Restrictions <http://www.lifesitenews.com/news/archive/ldn/2010/apr/10040811>

Gil Troy: The Freedom To Speak <http://www.arts.mcgill.ca/history/faculty/troyweb/TheFreedomtoSpeak.htm>



## 1. University policies and principles: B

McMaster University states that its mission is “the discovery, communication, and preservation of knowledge.” With regard to academic freedom, the McMaster *Academic Freedom Statement* indicates that:

McMaster University is dedicated to the pursuit and dissemination of knowledge. Its members enjoy certain rights and privileges essential to these twin objectives. Central among these rights and privileges is the freedom, within the law, to pursue what seem to them fruitful avenues of inquiry; to teach and to learn unhindered by external or non-academic constraints; and to engage in full and unrestricted consideration of any opinion. This freedom extends not only to members of the university but to all who are invited to participate in its forum. All members of the University must recognize this fundamental principle and must share responsibility for supporting, safeguarding and preserving this central freedom. Behaviour which obstructs free and full discussion, not only of ideas which are safe and accepted but of those which may be unpopular or even abhorrent, vitally threatens the integrity of the University, and cannot be tolerated.

Suppression of academic freedom would prevent the University from carrying out its primary functions. In particular, as an autonomous institution McMaster University is protected from any efforts by the state or its agents to limit or suppress academic freedom. Likewise, neither officers of the University nor private individuals may limit or suppress academic freedom.

The common good of society depends upon the search for knowledge and its free exposition. Academic freedom does not require neutrality on the part of the individual; on the contrary, academic freedom makes commitment to a position or course of action possible. Academic freedom carries with it the duty to use that freedom in a manner consistent with the scholarly obligation to base research and teaching on an honest search for knowledge.

McMaster's *Anti-Discrimination Policy* states that “discrimination and harassment ... are prohibited at McMaster University and constitute punishable offenses under this policy,” where harassment is defined as, “engagement in a course of vexatious comments or conduct that is known or ought reasonably to be known, to be unwelcome.” Although such a policy may threaten a person's free speech, this document takes special care to outline that the *Anti-Discrimination Policy* “should be read in conjunction with McMaster University's Statement on Academic Freedom” and that:



McMaster University recognizes that as an academic and free community it must uphold its fundamental commitments to academic freedom and to freedom of expression and association. It will maintain an environment in which students and teaching and non teaching staff can engage in free enquiry and open discussion of all issues.

Source: <http://www.mcmaster.ca/policy/General/HR/Anti-Discrimination%20policy.pdf>

McMaster University has an Office of Human Rights & Equity Services:

Human Rights & Equity Services ensures that the Sexual Harassment Policy, Anti-Discrimination Policy and Accessibility Policy are administered effectively and fairly.

Both the *Anti-Discrimination* and *Sexual Harassment* policies take special care to outline that McMaster's *Academic Freedom Statement* should always be upheld. However, events occurring on campus in 2008 suggest that the Office does exercise censorship powers that discriminate against students based on the content of their message (see section 2 of this report).

Source: <http://www.mcmaster.ca/hres/index.html>

McMaster's *Student Code of Conduct* mentions that there are some offences that could lead to administrative prohibition of speech. For example, Appendix D(j) states that "engaging in verbal or non-verbal behaviour or communication toward an individual or group which is considered to be intimidating, harassing and/or discriminatory" is a major offence. However, the *Student Code of Conduct* does state in Section 14 that "sanctions in the other relevant policy or policies shall be incorporated in their entirety into the terms of this Code". Therefore, in a case like this, the "fundamental commitment" clause of the *Anti-Discrimination Policy* means that the *Academic Freedom Statement* must still be considered, which would deter infringements on speech.

Source: <http://www.mcmaster.ca/policy/Students-AcademicStudies/StudentCode.pdf>

## 2. University actions and practices: D

The authors are not aware of McMaster University denying equal access to university facilities, or to prominent, well-travelled, open spaces on campus, based on the content of a group's expression. The authors are not aware of the Office of Human Rights & Equity Services censoring speech on campus.

In 2008, during "Israeli Apartheid Week" which took place Feb. 4 – 8, the "Solidarity for Palestinian Human Rights" group and the "McMaster Muslims for Peace and Justice" group tried to print a poster. On it was the title of the guest speaker and information that he would be speaking on behalf of the "Coalition Against Israeli Apartheid".



The McMaster Student Union was not sure whether they were allowed to use the phrase “Israeli Apartheid”, so they turned the decision over to the McMaster Human Rights and Equity Services office, which decided it was not fit to be printed. The university had not banned the term “Israeli Apartheid”; students are allowed to say the term on campus, but since the ruling of Human Rights & Equity Services it cannot be used in the title of events run by McMaster Student Union clubs.

McMaster’s Provost and VP – Academic, Ilene Busch-Vishniac, issued a statement attempting to minimize the decision’s effect on the school’s reputation as a haven for free speech. She stated:

The University has not initiated a policy as you describe, as it would be counter to the fundamental tenants [sic] of freedom of speech and academic freedom. I believe this misinterpretation of events stems from a university decision to disallow a banner for Israeli Apartheid that a student group wished to display. It was determined that the placement of the banner would be inflammatory. Other activities organized by the student group were permitted. I hope this clarifies McMaster's position.

Sources: <http://www.macinsiders.com/showthread.php/israeli-apartheid-controversy-17887.html?s=44d3f931524b5722e728864ad169a498&>

[http://www.canpalnet-ottawa.org/McMaster\\_Letters.html](http://www.canpalnet-ottawa.org/McMaster_Letters.html)

### 3. Student Union policies and principles: C

The McMaster Student Union (MSU) *Constitution* states that the MSU seeks “to facilitate communication between the student body, the University, and other organizations and will organize and regulate student self-government”. MSU policies and principles regarding free speech, discrimination, harassment, etc. coincide with the university’s policies and principles.

Source:

<https://msumcmaster.ca/content/documents/Link/Constitution/MSU%20Constitution%20April%202011.pdf>

MSU policies do not expressly prohibit discrimination based on belief, opinion, or philosophy in regards to club certification and facilities use. The MSU’s *Student Group Recognition Document* states that any group can register to be a club, and any club can book rooms. Section 22 of this document states that:

the University will not attempt to monitor or review the activities of a student group recognized under this policy in the normal course of events. It will however investigate complaints or charges that as such a group has acted in a manner that is inconsistent with its constitution or with the requirements of this policy or with any other University policy.



This *Document* empowers MSU officials to investigate student groups that have been subject of a complaint or charge to have violated any University policy, such as the *Anti-Discrimination Policy*, due to something the group has expressed. Although it is not explicitly mentioned, the *Academic Freedom Statement* should protect a club against complaints about free speech, but is dependent on the opinion of MSU or University officials to decide whether violations of the *Anti-Discrimination Policy* trump their responsibilities to uphold the *Academic Freedom Statement*.

Source:

<http://www.mcmaster.ca/policy/StudentsAcademicStudies/StudentGroupRecognition.pdf>

Section 6.1 of the MSU *Operation Policy* 1.3.2 – “Promotions and Advertising” states that advertising must be in good taste: “Good taste advertising shall be defined as that which does not promote violence, substance abuse, or contravene the McMaster University Anti-Discrimination Policy.” If a poster is deemed controversial, then the Underground Media & Design staff must go through a checklist to determine whether or not the content is “acceptable”. The checklist is included in Section 9 of the *MSU Operation Policy* 1.3.2 – “Promotions and Advertising”. The checklist outlines that the poster will not be approved if messages/images are “purposely trying to annoy”, or if there are messages/ images involving “violence, racism, sexism, hate, harassment, or discriminatory opinion” or if the messages/images are “offensive/controversial”. These terms are not specifically defined, and therefore could be used to justify censorship based on the content of a club’s message, such as a certain political/religious views or any view that someone deems offensive. A club can appeal the Underground Media & Design staff’s decision, in which case the group will meet with the Human Rights & Equity Services lawyer, “who shall advise the committee on whether or not the poster is likely to contravene the University’s Anti-Discrimination Policy”. Students running for election must abide by the MSU Operation Policy 1.3.2 as well.

McMaster’s *Anti-Discrimination Policy* (above) states that the *Academic Freedom Statement* should always be considered. Therefore, if a group’s advertisement is denied, and they appeal the decision, it seems as though Human Rights & Equity Services would consider the *Academic Freedom Statement* and make sure that the group’s freedom of speech was not suppressed. However, the checklist given to the Underground Media & Design staff appears to be very subjective. Therefore, it seems as though the MSU does not place a high value on freedom of speech, and the group would have to jump through many bureaucratic hoops to try to ultimately get their sign approved.

#### 4. Student Union actions and practices: C

In past cases, when the McMaster Student Union is faced with a controversial decision on the subject of free speech, they turn to the McMaster Human Rights & Equity Services (see the “Israeli Apartheid” controversy, Section 2). It is difficult to assign direct blame to MSU for the controversy, since they chose to defer judgment to the Human Rights & Equity Services before it had rendered its decision. That said, the MSU fails to take advantage of an opportunity to make an unequivocal and clear stance in favor of free speech rights of students on campus.



## 1. University's policies and principles: C

The Preface to the *Memorial University Code of Student Conduct* includes the following statements:

The objectives of the University are the pursuit of learning through scholarship, teaching and research within a spirit of free enquiry and expression. The University recognizes academic freedom and the right to free speech, creative expression and peaceful protest, acknowledging that the common good of society depends upon the search for knowledge and its free expression.

.....

Peaceful assemblies, demonstrations, picketing or other activity outside a class or meeting that do not substantially interfere with the communication inside, or impede access to the meeting or class, is an acceptable expression of free speech or dissent. And silent or symbolic protest is not to be considered a disruption under this Code. But noise that obstructs the conduct of a meeting or class, or forcible blocking access to an activity, constitutes disruption under this Code.

Memorial University's *Code of Student Conduct* prohibits "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome and is directed at one or more specific individuals."

The potential for abusing this section to censor controversial speech is limited for two reasons. First, it only restricts speech "directed at one or more specific individuals" which brings this Code into line with the common law of defamation, which deliberately protects only the reputations of individuals, not of any group. Second, the prohibition is qualified to apply only to "vexatious" language that is outside the realm of academic discourse, such that the prohibition would not limit vigorous debate of social, political, moral, religious and philosophical questions.

In 2011-2012, the *Code* was updated to include further clarification on what could be defined within the parameters of 'vexatious comment':

Vexatious comment or conduct that is based on sex or sexual orientation is considered an offence under the University - Wide Procedures for Sexual Harassment Complaints. If the Sexual Harassment Advisor believes, after consultation with relevant parties, that a complaint based on sex or sexual orientation would be better handled under this Code, the Sexual Harassment Advisor may refer the matter to the appropriate Complaints Officer.



The University employs an “employment equity officer” to promote diversity goals in hiring staff, but this position does not come with the responsibility of monitoring or restricting speech on campus.

Source: <http://www.mun.ca/student/home/conduct.php>

## 2. University actions and practices: C

The authors are not aware of any cases of the University censoring speech, or discriminating as between students or student groups on the basis of the content of the group’s expression, or of cases of residence assistants censoring speech in residence.

## 3. Student Union policies and principles: D

The Memorial University of Newfoundland Students’ Union (MUNSU) *Constitution* bylaws states: “The MUNSU will not ratify any group that the council considers to be of a homophobic, racist, ageist, sexist or otherwise discriminatory nature.” This empowers student politicians to censor any speech they deem to be “discriminatory” by forcing restrictions on to a club, or denying ratification entirely. The term “discriminatory” is not only vague and subjective, but also very broad; this could prevent a religious club from asserting a belief that its particular faith or creed is the truth, or the only truth.

It should be noted that this particular provision was not used to enforce the ban of the pro-life club MUN for Life (see section 4 below); that particular ban was based on MUN’s association with the Canadian Federation of Students, which holds a pro-choice stance in its *Declaration of Student Rights* and does not allow member Student Unions to endorse opposite stances.

Memorial’s Graduate Students’ Union (GSU) maintains an *Election Policy* which restricts free speech rights on campus. The Elections Policy mandates that all campaign materials be approved by the Chief Returning Officer (CRO) without specifying criteria by which a campaign material could be approved or disapproved. It also limits spending during campaigns to \$75, which severely restricts the number of communication materials a candidate running for GSU office can use to spread their message, and also restricts students from using their own resources to support a candidate or message they believe in.

Source: <http://gsumun.ca/new/images/docs/constitution/2012/constitution-july2012.pdf>



#### 4. Student Union actions and practices: F

In 2007, the Memorial University of Newfoundland Students' Union (MUNSU) denied the ratification of a campus pro-life group, MUN for Life, because MUN for Life has a belief different from the official pro-choice position of MUNSU. Neither MUN for Life nor any of its members were ever accused of violating any rules, regulations or policies of the University or of MUNSU.

The decertification of the club was based purely on the club's opposition to abortion, and this ban remains in effect.

Source: "Pro-life group not ratified at Memorial U"

<<http://www.gazette.uwo.ca/article.cfm?section=FrontPage&articleID=1107>>

The MUNSU September 27, 2007 meeting minutes

<[munsu.ca/minutes/2007-2008/35-Minutes-2007\\_09\\_26.doc](http://munsu.ca/minutes/2007-2008/35-Minutes-2007_09_26.doc)>



## 1. University policies and principles: C

Mount Allison University's (Mount Allison or MtA) *Racism Policy* defines racism as:

Conduct that is unwelcome or ought reasonably to be known to be unwelcome towards an individual or individuals on the basis of race, colour, national origin, place of origin or ancestry. Religion may be the basis of racism. Racism may denote blind, unreasoning hatred, envy or prejudice. Racism will not be tolerated at Mount Allison University.

Examples of conduct that may amount to racism include, but are not limited to: remarks or gestures with racist connotations; racially offensive material (photographs, writing, graffiti, drawings, etc.); unwelcome questions or comments about a person's race; intimidation, physical violence, discrimination in hiring, discrimination in admission to events, clubs or societies, and unwelcome racial jokes or ethnic slurs.

Mount Allison's *Racism Policy* includes Racism as a part of the definition of harassment and discrimination. It states that:

[Racism] is a form of harassment and is subject to the University Student Governance document. Racism is a form of discrimination, and in some cases may be subject to a complaint under the Human Rights Code [sic]. It may, in some cases, be a criminal offence and the University will encourage any member of the community who alleges racial offences of a criminal nature to make a complaint to the police.

is a civil wrong, and the person who alleges racism may be entitled to recover damages or other remedies through the courts.

is a University offence, and Mount Allison may discipline a member of the community for racism whether the person affected makes a complaint or not.

Source: [http://www.mta.ca/student\\_life/policies/racism\\_policy.html](http://www.mta.ca/student_life/policies/racism_policy.html)

If a student were to claim that an event organized by a student society is a form of conduct that has made them feel unwelcome, it is not impossible that the policy would be used to justify prohibition of the event. The way in which "unwelcome" is defined is vague and therefore open to interpretation.

Mount Allison's *University Web Page Policy* strictly prohibits "hate speech" including speech that might run afoul of Provincial or Federal Human Rights legislation, on [www.mta.ca](http://www.mta.ca):



[web] Pages must not offend University policies or the law, or link to sites that do so. Examples of pages that would violate this policy would be pages that contain hate speech that violates the Criminal Code, speech that violates the Human Rights Code [sic] of Canada and the Human Rights Act of New Brunswick, defamatory speech, and content that violates computer network usage policies. ([http://www.mta.ca/administration/vp/policies/7005\\_revised.htm](http://www.mta.ca/administration/vp/policies/7005_revised.htm))

There are no “time, place and manner” policies or regulations that discriminate against certain speech based on the content of that speech.

Source: <http://www.mta.ca/administration/facilities/dept/booking.pdf>

## 2. University actions and practices: D

There have been no documented cases of certain groups being forced to cease protests, or to turn signs inward, depending on the topic of their protests.

There is no documentation of Mount Allison discriminating against certain clubs in terms of their free speech rights, however there is a documented case of a Coke employee tearing down “Coke Free MtA” posters in a University building. When this was reported to the University, administrators contacted the Coke-Cola Corporation to protest this violation of freedom of speech at its school. Thus this is one instance of the University supporting its students' right to free speech on campus.

Source: <http://argosy.mta.ca/index.php?q=article/campus-group-calls-coke-free-campus>

Mount Allison University forced a student club to change its name in order to receive club status, and denied the club meeting space on campus until the name change had occurred. “High Life Society”, which aims to “educate and create discussions about all aspects of cannabis culture, activism, legislation and contemporary marijuana issues,” was told by University administrators that they could not be approved for official club status. This was after having been approved by the Student Union (SAC) almost as soon as it was constituted in October 2011.

Gayle Churchill, administrator and Director of Student Life, banned High Life Society from holding their first meeting at the Student Union building on October 27 and 28, which the group attempted to appeal. The only further information found indicates that the group was allowed to continue, uncensored, after they *changed their group name* to “Hempology 101 MtA.” This, the group states, allows them access to better resources and advantages in their aim to maintain their free speech and right to be an approved club at Mount Allison.

Sources:

<http://www.hempology.ca/cbc/forums/viewtopic.php?t=4121>



<http://argosy.mta.ca/index.php?q=article/getting-taste-“high-life”-mount-allison>

### 3. Student Union policies and procedures: C

The Student Union at Mount Allison (SAC) follows the same policies and procedures as the institution itself. As per Mount Allison’s *Racism Policy*, examples of conduct that may amount to racism include, but are not limited to:

...remarks or gestures with racist connotations; racially offensive material (photographs, writing, graffiti, drawings, etc.); unwelcome questions or comments about a person's race; intimidation physical violence, discrimination in hiring, discrimination in admission to events, clubs or societies; unwelcome racial jokes or ethnic slurs.

Source: [http://www.mta.ca/student\\_life/policies/racism\\_policy.html](http://www.mta.ca/student_life/policies/racism_policy.html)

There are strict policies against physical, sexual, and emotional harassment in the University's policy, which the Student Union adheres to, but for the most part, the wording is not inclusive of speech that is merely expressive of controversial opinions or topics. The University does however include “mean jokes” as a form of harassment, but it is not entirely clear what constitutes a “mean joke”. The policy does not specifically prohibit the disruption of events, or interference with the rights of people to express their views.

Source: <http://www.mta.ca/sh/preview/harassment.htm>

The Student Union does not have anti-discrimination policies that are worded in such a way that they could be used for censorship.

There are no regulations giving Student Union officials the right to refuse booking, apart from the chapel's requirements that certain space within the chapel be reserved for activities not offensive to the church's beliefs. “Permission may occasionally be given by the Chaplain for temporal, non-religious use of the Sanctuary, under the assumption that such use would not be offensive or contrary to the essential nature and purpose of the Sanctuary.”

Source: <http://www.mta.ca/administration/vp/policies/7600.htm>

The chapel is a unit of the University—it is MtA's official chapel. The University was founded as a Methodist establishment although the Chaplain is available for full-time support for students and employees of “all and no religious backgrounds” in addition to his own primarily Baptist background.

Source: <http://www.mta.ca/chapel/chaplain.html>



#### 4. Student Union actions and practices: A

In the previously mentioned case of the High Life Society being denied meeting space by University administrators, the Student Union was always supportive of the Society's right to free expression on campus. SAC VP Finance and Operations, Patrick Losier stated in an Argosy article (the independent student-run newspaper) dated November 23 2011:

Clubs and societies are formed around areas of student interest, and the SAC does not judge whether these interests are valid, so long as they are safe, lawful, and open to all students. So long as the High Society is open to all students, does not promote any illegal activity, and promotes discussion on an area of student interest, it has every right to operate as a SAC society.

According to the *Clubs and Societies Funding Policy*, "All monies and services provided by the Students' Administrative Council should be available to *all* students, where possible."

Source: [http://sac.mta.ca/files/policies/clubs\\_soc\\_funding\\_policy.pdf](http://sac.mta.ca/files/policies/clubs_soc_funding_policy.pdf)



## 1. University policies and principles: C

The Queen's *Code of Conduct* says the following about free speech:

Adherence to the values expressed through academic integrity forms a foundation for the freedom of inquiry and exchange of ideas essential to the intellectual life of the University.

Although it is expected that students will engage in respectful dialogue with members of the University community, nothing in this Code shall prohibit freedom of conscience and religion, peaceful assemblies, lawful demonstrations and picketing, or inhibit free speech.

Student conduct shall respect the lawful rights of others to possess, use, or enjoy private or University property.

Students shall respect the freedom of individuals to study, teach, work, engage in research and socialize. Students shall refrain from conduct that attempts to limit these freedoms or any other freedoms guaranteed by law. The following conduct is unacceptable and constitutes an offence within the University community: acts of discrimination or harassment based upon, but not limited to, race, religion, gender, ability, ethnicity, national origin or sexual orientation.

A "freedom to read" statement was approved by the University Senate in 1979:

This University believes that the freedom to read is as essential to the democratic way of life as are freedom of speech and freedom of the press, and will resist by moral suasion and if necessary by due process of law all attempts to suppress or restrict the availability of particular books or periodicals on this campus because of a viewpoint they present.

Source:

[http://www.queensu.ca/secretariat/policies/senateandtrustees/Code\\_of\\_Conduct\\_final\\_2008.pdf](http://www.queensu.ca/secretariat/policies/senateandtrustees/Code_of_Conduct_final_2008.pdf)

The University venue rental policies for student groups, external groups, academic organizations, and all other groups is as follows:

In assessing the appropriateness of booking classroom and lecture theatre space the following standards are used: - the event will not bring discredit upon the University; - the use of the space and any materials displayed or distributed comply with the Queen's University Code of Conduct and not contravene Senate, Board of Trustees or administrative policies, and federal, provincial or municipal laws,



bylaws and regulations; the event will not infringe on human rights legislation or be obscene or beyond the bounds of common decency under applicable laws in Ontario.

The University reserves the right to deny access to any group for which there is good reason to believe one of the above conditions will be contravened. In addition, access may be denied to individuals or groups which have, in the past, misused or abused a room or its contents or for which there are unpaid rental charges.

Source: <http://eventservices.queensu.ca/resources/file/QU-RoomResSchedulesIandII.pdf>

There is no clarity as to what would bring “discredit” upon the University, leaving it open to Event Services’ discretion to censor expression on the basis of its contents.

The *Harassment/Discrimination Complaint Policies and Procedures* constitutes a *de facto* speech code by banning “racism,” “heterosexism,” “transphobia” and sexual harassment. The definitions of each are rather broad and specifically include discrimination that is unintentional, as well as intentional. Anyone can file a complaint to the Human Rights Office within six months of an incident occurring, and these policies can easily be used to restrict or censor free speech. Nothing prevents the filing of a complaint about the content or opinion expressed in posters of other promotional materials.

Source: <http://www.queensu.ca/secretariat/senate/policies/harass/index.html>

When one starts a club or tries to host some sort of event, there is a tick box asking whether the group or event furthers “equity” on campus. The implications of checking “yes” or “no” to this question are unknown.

## **2. University actions and practices: D**

In the fall of 2008, University administrators hired six “student facilitators” to intervene anywhere on campus if they overheard “homophobic,” sexist, racist, or any “discriminatory” language. According to the University, “they were tasked with spotting ‘spontaneous teaching moments’ concerning issues of race, religion, gender, sexual orientation, ability and social class, and to respond – either actively by posing questions to spur discussion, or more passively through activities like poster campaigns or movies.”

Concerned students created a Facebook group entitled “Queen’s University Students and Alumni for Free Speech,” which had upwards of 600 members. Angela Hickman, then an editor of the campus newspaper, the *Journal* said of the program, “Having a program like this in place could stifle public discussion if people are worried their private conversations are being monitored...For a lot of people, their opinions get formed in conversations and so stifling that is dangerous”. The University administration responded that the program had been mischaracterized by the media, but nevertheless dropped the program in February of the following year.



Source: <http://www.facebook.com/group.php?gid=35159911589>

The fact that the idea of hiring “student facilitators” to monitor speech on campus even made it past the “drawing board” stage says a lot about the mindset of Queen’s University administrators.

Source: <http://oncampus.macleans.ca/education/2008/11/20/queens-diversity-program-mischaracterized-administration/>

### **3. Student Union policies and principles: D**

The Queen’s Alma Mater Society (AMS) has the power to deny access to any group that, in the view of the AMS, fails to promote “equity.”

The Arts and Science Undergraduate Society (ASUS) has an Equity Officer which holds “anti- oppression” training for all council members, deputies, committee and Departmental Student Council chairs.

Source: <http://queensasus.com/equity-office/>

The only policies that exist concerning space booking and events are in regards to advertising and the booking of the free Student Life Center space for events organized or sponsored by AMS-ratified clubs or Queen’s academic departments/faculties. External groups are allowed space but not advertising (posters), and are subject to a fee as non-student groups. There is some discretion given to the Student Life Center office in processing bookings to deem what is an appropriate use of certain spaces.

The AMS does have policies that restrict free speech by candidates, third party student groups and students during student elections. There is a prohibition on “Vote No” campaigns run against a particular candidate. Free speech is also restricted by a prohibition, when a referendum is held, on running one’s own “no” or “yes” campaign that is separate and apart from the officially mandated “Vote No Campaign” and “Vote Yes Campaign.” All campaign media is subject to monitoring and one can be disqualified if the content is “discriminatory” or “inequitable.”

Source: [http://myams.org/media/4244/AMS\\_Policy\\_Manual-Part1-Procedures.pdf](http://myams.org/media/4244/AMS_Policy_Manual-Part1-Procedures.pdf)

### **4. Student Union actions and practices: B**

In February of 2012, a referendum was held contesting the continuation of an opt-out fee (a fee charged to all students that students can claim back during a designated “opt-out period”) for the Ontario Public Interest Research Group (OPIRG) at Queen’s. During the referendum, participants in the “Yes” and “No” campaigns reported being orally slandered, and participants in the “No” campaign reported being physically intimidated during campaigning. One of the “No” campaign organizers commented that “At the [cafeterias] we’ve had certain OPIRG sympathizers surround and yell at our volunteers.”



In response to reports of physical intimidation by OPIRG campaign volunteers, AMS issued the following statement:

Any incidents of intimidation and violations of elections policy are subject to sanctions through the Non-Academic Discipline system. [...] Elections and referenda are intended to encourage respectful debate and discussion on campus [...] The AMS encourages any student who feels unsafe on campus to contact Campus Security at (number redacted).

Source: <http://myams.org/news/statement-on-harassment-during-ams-campaigns.aspx>

The AMS made no attempt to censor anyone surrounding the referendum. The AMS also offered security protection (officers assigned to protect members during group rallies/campaigns at no cost to both campaigns). In this light, it appears commendable that the AMS avoided using censorship and upheld the right to free—and safe—expression.

Source: <http://queensjournal.ca/story/2012-01-31/news/nopirg-plans-stop-student-fee/>

In the late 1990s, the AMS debated for over three hours on whether or not to approve the campus Star Trek club, because its constitution has a “no Klingons allowed” clause, thereby failing to promote “equity.” While it appears that this power has not been used in the past decade, it could easily be used against a club with which the AMS disagrees.



## 1. University actions and practices: D

The core administrative policy affecting freedom of speech at Ryerson is Policy 61, the *Student Code of Non-Academic Conduct* (from which appeals may be brought only to the Vice Provost, Students, or to the Senate Appeals Committee, but not to the Board of Governors).

Policy 61 declares:

Nothing in this Code shall be construed to prohibit peaceful assemblies and demonstrations, lawful picketing, or to inhibit freedom of expression.

...

The offences described in this Code **are not intended to be exhaustive** [emphasis added by the authors]

One of the enumerated offences in Policy 61 (Section C.3) is to “not endanger, threaten, harm, or encourage others to endanger, threaten or harm, or act in ways which would reasonably be perceived to endanger, threaten or harm the physical and mental well-being of community members.”

Another offence is:

Students shall not engage in conduct which, although not based on the grounds specified by the Discrimination and Harassment Prevention Policy, is abusive, demeaning, threatening, or intimidating, or involves the misuse of authority or power.

Policy 61, Section C.11(b)

<http://www.ryerson.ca/content/dam/senate/policies/pol61.pdf>

In the September 15, 2008 edition of *The Varsity* (the “University of Toronto’s Student Newspaper Since 1880”), it is reported that,

Policy 61 survived an opposition campaign led by the Ryerson Students’ Union including posters, leaflets, and petitions, but student leaders still have concerns. RSU VP Education Rebecca Rose told *The Varsity* that she worries the new regulations could be used to silence student voices on campus.

<http://thevarsity.ca/2008/09/15/ryersons-non-academic-code-of-conduct-takes-a-page-from-u-of-t/>



In addition to Policy 61, there are also some “statements” issued by the University. The *Statement on Freedom of Speech*, issued by the University’s Senate, contains freedom of speech declarations qualified by notions of “respect” and “limits to the right of free speech that are recognized in the Charter of Rights and Freedoms”.

<http://www.ryerson.ca/content/dam/senate/freedomofspeech.pdf>

The *Statement of Student Rights and Responsibilities*, also issued by the University’s Senate, declares that:

As a student at Ryerson University, you have the responsibility... to refrain from unwelcome or persistent behaviour (e.g. personal harassment) that you know, or ought reasonably to know, would cause another person to feel humiliated, demeaned or intimidated or which may obstruct the teaching, learning and/or work process of another person...

...using the university’s computing, telephone, mail and/or other university communication systems to convey nuisance or other objectionable messages which may endanger the personal well-being of another person or which may obstruct the teaching, learning and/or work process of another

<http://www.ryerson.ca/senate/documents/studentrights.pdf>

On February 8, 2010, Ryerson University released an extensive investigative report on racism and related issues on campus. The report made several recommendations to quell what it reported to be a “chilly climate” for racial minorities at the school. Among its recommendations were included the following change to the school’s anti-discrimination policy:

While ideas will be debated vigorously, no one should be made to feel disrespected because of their race, language, religion, gender, sexual difference or ability.

The report also recommended new restrictions on academic freedom:

Issues of academic freedom are contested since there is a fine line between free speech and hatemongering. A person has crossed the line when their protest/speech diminishes another person’s self-respect and identity.

Ryerson Task-Force on Anti-Racism report:

[http://www.ryerson.ca/antiracismtaskforce/docs/RU\\_Taskforce\\_report.pdf](http://www.ryerson.ca/antiracismtaskforce/docs/RU_Taskforce_report.pdf)

The report led to the establishment of a revised *Discrimination and Harassment Prevention Policy*, passed by the Board of Governors in November 2011.

Section 4 of the “Guiding Principles” of this *Policy* makes a deliberate attempt to enforce restrictions on free expression as it applies to the *Policy*:



Freedom of expression is the cornerstone of education at Ryerson University, but like other Charter rights, it is not an absolute right. The Canadian Charter of Rights and Freedoms guarantees "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication." The rights and freedoms guaranteed in the Charter are "... subject only to reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." Human rights, for example, may place limits on these freedoms.

The *Policy* includes a rather contradictory statement in support of academic freedom:

Ryerson University's Discrimination and Harassment Prevention Policy is not intended to inhibit academic freedom. It reminds all members of the Ryerson University Community that, in exercising our freedoms, we all have a responsibility to respect the rights and freedoms of others, including the right to study and work in an environment which is free of discrimination and harassment. Please refer to note 8 in the "Definitions and Notes" section at the end of this Policy.

The referenced definitions include "a 'non-discrimination' clause, referencing the prohibited grounds of discrimination as contained in the *Ontario Human Rights Code* and refer to more general "obligations" of faculty members and instructors."

The *Policy* also refers to a "Poisoned Environment" and includes speech and other expressive behaviors as a source of creating said environment, but goes on to qualify that the *Policy* cannot sanction or impose penalties even if it is found that speech caused a poisoned atmosphere on campus.

The Discrimination and Harassment Prevention Officer is empowered to enforce the *Policy*. The Officer has specific duties including:

Investigation of all formal complaints concluding with a written fact finding report to the decision makers.

Conciliation of informal and formal complaints where the parties involved agree that an informal resolution is possible and preferable to a formal investigation.

Crisis intervention and referral in situations involving criminal harassment ("stalking"), assault, sexual assault, and violence in relationships.

The Officer is therefore not empowered herself to censor speech but may make recommendations to senior administration on sanctions to violators of the *Policy*.

Source:

[http://www.ryerson.ca/content/dam/equity/publishedfiles/Discrimination\\_Harassment\\_Prevention\\_Policy2012.pdf](http://www.ryerson.ca/content/dam/equity/publishedfiles/Discrimination_Harassment_Prevention_Policy2012.pdf)



## 2. University actions and practices: C

On May 15, 2007 Malik Zulu Shabazz, a Washington, D.C.-based lawyer and the leader of the New Black Panther Party, was scheduled to speak at an event at Ryerson. He had been invited by a registered student group, United Black Students at Ryerson, which is a chapter of the Toronto-based Black Youth Taking Action (BYTA). He was detained at the airport and refused entry to the country. He ultimately did not make it to the speaking engagement. His views were the subject of serious controversy by certain groups. A CBC News article explains the decision by federal agents to detain Shabazz:

Canadian authorities bar Shabazz from the country owing to his criminal record: a five-year-old misdemeanour, according to a BYTA spokesperson. Toronto Jewish groups had lobbied for Shabazz, an admitted anti-Zionist, to be denied entry and the case prompts criticism of Jewish groups for what critics say is an attempt to suppress free speech.

Despite this, the Ryerson administration did not cancel the event. In fact, Janet Mowat, a University spokesperson stated, “The Ryerson administration attempts to maintain a forum for free thought and free expression”.

Maclean’s article covering incident:

[http://www.macleans.ca/article.jsp?content=20070515\\_225827\\_7360&source=srch](http://www.macleans.ca/article.jsp?content=20070515_225827_7360&source=srch)

B’nai Brith statement: <http://www.bnaibrith.ca/prdisplay.php?id=1206>

CBC News profile: <http://www.cbc.ca/news/interactives/who-visas/>

Earlier in 2007, in February, another group calling themselves “Equal Rights for Whites” was “sparking concern among students and Ryerson’s administration” in respect of their Facebook page. Although Detective Jim Hogan of the Toronto police’s Hate Crime Unit suggested that the group’s comments were not hate crimes, the Ryerson administration expressed concern such that its President, Sheldon Levy, came out to say, “We are looking into it and we are trying to determine to what extent the university’s policy can properly extend to something like [F]acebook.” It is unclear, however, whether the University ultimately took any action.

Source: Matthews, S., & Uppal, P. (2007, February). Ryerson investigating 'white culture' groups. National Post, p. A12.

<http://www.nationalpost.com/news/toronto/story.html?id=0a454990-4df4-4bcb-86c7-8be90c69e6cb>

However, not long after this, and in time for the start of the 2008 fall semester, the University had enacted major changes to its policy book with the passing of its new *Student Code of Non-Academic Conduct*.



### 3. Student Union principles and policies: D

The Ryerson Students' Union (RSU) directly adopts the policies of the University itself in a number of forms. In the *RSU By-laws*, we find two references (Elections: section 6.59; Graduate Students' Associations: section 7.2) in respect of adherence to those policies.

<http://filesadmin.cfsadmin.org/file/rsu/8f93fe5eb2336b96f43a583c229681415c6998c7.pdf>

To start a group, students must go through certain steps. The RSU's *Course Union Policy* states, "course union's actions must not be contrary to the Ontario Human Rights Code, RSU Policies, or the Policies of the University."

RSU Course Union Policies:

<http://filesadmin.cfsadmin.org/file/rsu/1e081f37d1f0a0cc17cf7d824688c3374670c247.pdf>

An individual students' clubs "ratification would be at the discretion of the Student Group Committee and the Board of Directors regardless of whether they meet the requirements in the policy", *The Eyeopener* reports:

Aside from listing proposed executive members, creating a valid constitution and listing potential events, prospective groups must also provide a list of at least 20 current full-time undergraduate students that support the funding of the group. This last factor can prove troublesome for students looking to share what are currently unpopular ideas.

<http://theeyeopener.com/2011/04/auto-tuning-student-voices/>

### 4. Student Union actions and practices: D

In one past, relatively recent publicized incident there were overt statements made by the RSU in respect of event postering. RSU policy dictates that a poster has to be approved before posting. RSU then-president Toby Whittfield commented on the incident by explaining that all posters have to "support RSU's mandate of respect and inclusiveness". He added, "If it turns out that [the poster] is not part of the mandate, then they shouldn't be on a board."

The Student Union demonstrated its qualified or perhaps selective respect for free speech in this case, suggesting that in some cases they will not support a student's free speech rights if the message/event is considered distasteful. This could serve to deter students from speaking out on matters they are passionate about for fear of reprisal by the Union.

Source: <http://theeyeopener.com/2010/11/soviet-union-themed-party-posters-stir-controversy/>



### 1. University's policies and principles: C

In SMU's *Academic Plan*, the university supports the notion of academic freedom and free expression:

We recognize that the common good of society depends on knowledge and its free exposition. As the foundation of our mission, Saint Mary's University, through our teaching and scholarship, values discovery and dissemination of knowledge in all its forms.

and

Recognizing knowledge as provisional and subject to reinterpretation, we base our scholarly enquiry on principles of academic integrity and academic freedom, the freedom of students and faculty to explore and assess different approaches and contributions to human knowledge. Academic freedom is the foundation of the intellectual community, which fosters independent critical thinking, informed judgment and expression, and open debate.

Source: <http://www.smu.ca/academic/vp/documents/EngagingtheVisionAcademicPlan2008-2011Dec5.pdf>

Saint Mary's University's *Policy on the Prevention and Resolution of Harassment and Discrimination* has three objectives:

1. To prevent discrimination and harassment, including sexual harassment, on grounds protected by the Nova Scotia Human Rights Act
2. To provide procedures for handling complaints, remedying situations, and imposing discipline when such discrimination and harassment do occur
3. To use best practices in Conflict Resolution or Appropriate Dispute Resolution (ADR)

This *Policy* continues:

This policy applies to all members of the University community, including students, administrators, faculty and staff as well as permanent sub-contractors, consultants, volunteers and others who are acting in a recognized or sanctioned capacity. It applies to incidents that occur in the course of work or study or participation in University sponsored events held on campus, at a satellite campus or learning center, or off-campus. Examples of off-campus settings include, but are not limited to field trips, athletic team road trips, conferences or training events, and university- sponsored social functions.



The *Policy* is intended to allow professors and students to learn about controversial ideas so long as discussion is within a “mutually respectful” and “non-coercive” manner. Interpretation of those terms could lead to vastly different applications of the *Policy*, with some interpretations leading to the censorship of speech.

The final paragraph states “This policy also recognizes the right to teach according to one’s best judgment, within the bounds of the course calendar description and requirements of competency.”

(<http://www.smu.ca/webfiles/6-2013Harrassment.pdf>)

The lack of detail about freedom of speech leaves a lot of room for interpretation and arbitrary enforcement by the university, which as has been seen at other campuses, can be detrimental to the protection of free speech.

SMU has a diverse group of student societies including an active pro-life society, LGBTQ society, women’s centre, and several religious and political societies.

The *Campus Aesthetics Policy* potentially gives censorship powers to Facilities Management administrators to restrict messages based on a variety of factors, simply because the policy does not specifically define what censorship powers these administrators may exercise. Item 3 of this *Policy* reads:

Facilities Management shall approve the placement of all banners, bulletin boards, posters, signage and other general advertisement type items on the campus. Facilities Management shall approve the distribution of magazines, papers and flyers on campus.

<http://www.smu.ca/policy/documents/3-5002CampusAesthetics.pdf>

The *Poster Policy*, which is administered jointly by Facilities Management and the Saint Mary’s University’s Student Association (SMUSA), restricts posters from being placed on campus “which could damage the reputation of the university”. This clause could easily be used to justify the censorship of a group’s message on campus that is deemed to be “offensive” or “hurtful” or “controversial” by SMUSA or by Facilities Management.

<http://www.smu.ca/policy/documents/3-1033Posters.pdf>

Saint Mary’s *Student Code of Conduct* prohibits “the use of abusive or offensive language or gestures at University sponsored functions” but does not define “offensive language”. <http://www.smu.ca/webfiles/UGcalendar2012-13primo.pdf>



## 2. University actions and practices: F

The university has not censored debate and discussion of the Israel-Palestine conflict, and “Israeli Apartheid Week” is an annual event, most recently in 2012. There are several different Christian groups on campus that hold discussion nights called “Christianity on Trial” that examine the Bible and Jesus.

In February of 2006 a now retired SMU philosophy professor, Peter March, posted the well-known “Danish cartoon” about the prophet Mohammed to his office door. He was ordered to take down the cartoon by the academic president and vice president, to which he complied. Another philosophy professor, Dr. Mark Mercer (a longtime outspoken supporter of free speech on campus), defended his fellow professor but was unable to change the minds of the SMU administration.

On February 5, 2009 Jose Ruba of the Canadian Centre for Bio-Ethical Reform gave a pro-life speech at SMU. Protesters from the pro-choice side filled the auditorium on campus and yelled loudly enough that Ruba was forced to write his messages on the computer and use a projector screen so the audience could understand what he was saying. SMU Security did nothing to restrain or silence the disruptive protesters, except to notify police of what was happening. When three police officers arrived, they were able to settle the crowd down but after the police had left the protestors became disruptive once again. Protestors refused to leave the auditorium, and Ruba ended up leaving the building, finishing his speech in the church on the edge of campus (which is not part of SMU property). A detailed recount of the event can be found here <http://unews.ca/story/item/protesters-disrupt-smu-lecture-by-abortion-opponent/>.

The university issued a press release on February 9 describing the need to move the event to the nearby church “regrettable,” but SMU President Colin Dodds expressly refused to invite Jose Ruba back to campus to provide him with a fair opportunity to present his views without disruption. The release also stated the university was reviewing the incident, although findings from this review have never been made public. <http://www.smu.ca/newsreleases/2009/02-09-2009.html>

## 3. Student Union policies and principles: C

The SMU Students’ Association (SMUSA) has a comprehensive *Charter of Rights and Responsibilities*, which makes no express reference to free speech. SMUSA’s mission is “To maximize the positive university experience for its students and provide assistance in overcoming the challenges they may face.”

2 a. Every community member has the right to be treated equally by the University (refers to Saint Mary’s University as an administrative, teaching, research, and business unit) and shall not be discriminated against based on race, colour, ethnic, national or aboriginal origin, civil status, religion, creed, political convictions, language, sex, sexual orientation, social condition, age, physical or mental disability, or the use of any means to palliate such a disability.



<http://www.smusa.ca/about/charter-rights-and-responsibilities>

SMU does not charge a rate for booking rooms for events and does not have a formal stance on controversial issues however Article XII: “Policies, Resolutions and Statements” does make the claim that “The Board of Directors [of SMUSA] is hereby empowered to make additional policies, resolutions and statements not inconsistent with the *Act of Incorporation* or these bylaws, to govern the affairs of the Association.” The detailed SMUSA constitution can be read in full here:

<http://www.smusa.ca/about/constitution#Article%20XII>.

#### **4. Student Union actions and practices: D**

To date, SMUSA has not denied recognition to any campus club on the basis of its beliefs, opinions or philosophy. The SMU pro-life society, Students for Life was ratified in 2009, and there is a newly ratified LGBTQ group on campus. The SMU Women’s Centre released an official statement opposing the pro-life society’s right to exist, but SMUSA has not acquiesced to this demand.

<http://www.smuwomenscentre.com/oppose-smusas-decision-to-ratify-students-for-life/>.

In February 2009, Students for Life held a display as part of the Society Fair which happens at the beginning of each semester to showcase SMU’s student groups. The booth was manned by one student and included information about the club and brochures on the issue of abortion. The student who was working the booth had stepped fifteen feet away at one point during the Fair, and when he returned to the booth he found that the materials on his table had been removed. Witnesses reported seeing a man at the table removing the materials but didn’t think he was stealing and so did not act to stop him. Campus Security reported the incident to police but informed the student that since they did not have security cameras in the room that the Fair was being held, there was little they could do to find the thief. The person responsible for stealing the materials has yet to be identified.

<http://www.lifesitenews.com/news/archive//ldn/2009/sep/09091801>

In November 2010 SMUSA President Matt Anderson ordered a pro-life club’s authorized display be removed from campus. Anderson ordered a sign that read “Women Do Regret Abortion” to be removed because of complaints from students that they had been offended by the message. In a letter to the campus paper, the *Journal*, Anderson stated that the sign violated SMUSA’s mission statement, “To maximize the positive university experience for its students and provide assistance in overcoming the challenges they may face.” He further stated that the sign had to be removed because of the “absolutist nature” of the message, eluding that if the sign had read “Some Women Regret Abortion” instead it wouldn’t have been removed. The students complied with the actions of SMUSA but did so under protest. <http://www.lifesitenews.com/news/pro-abort-prof-says-ban-on-pro-life-signs-at-st-marys-u-was-wrong/>



## 1. University policies and principles: B

On its website, SFU has a *Statement on Respectful Debate* by SFU President Andrew Petter:

Public universities play a unique role in Canadian society: they are places in which people should feel free to exchange ideas, beliefs and opinions.

Controversy, conflict, and criticism are inherent to this role. Yet universities also aspire to foster an environment that promotes civility and respects human dignity.

...Universities operate on the principle that freedom of speech is a core component of intellectual enquiry and is central to the pursuit of knowledge. The value universities place on free expression does not imply their endorsement of views that are expressed....

... when disputes arise in our university around major social and political issues, we should err on the side of tolerating free speech. Provided such speech does not overstep legal boundaries, it should not be censored even though it may be provocative or offensive...

...I therefore urge all members of the university community to redouble their efforts to create a culture that celebrates robust and vigorous debate within an academic milieu characterized by reason, tolerance, and mutual respect. Freedom of speech is a precious right and, as such, we have a duty to do all we can to ensure that is exercised responsibly and with civility.

Source: <http://www.sfu.ca/pres/petterspeeches/2011/201103.html>

In 2012, Simon Fraser University launched a new strategic visioning project called “enVISION>SFU”. The *Strategic Vision* document includes the following under “Underlying Principles”:

Academic and Intellectual Freedom: SFU will be an open and inclusive university whose foundation is intellectual and academic freedom.

Source: [http://envision.sfu.ca/wp-content/uploads/2011/12/Strategic\\_Vision1.pdf](http://envision.sfu.ca/wp-content/uploads/2011/12/Strategic_Vision1.pdf)

SFU's *Code of Academic Integrity and Good Conduct* states in its preamble that “Simon Fraser University is committed to creating a scholarly community characterized by honesty, civility, diversity, free inquiry, mutual respect, individual safety and freedom from harassment and discrimination” (Section 1.1).



SFU states that its *Human Rights Policy* “responds to the University's responsibility under the Human Rights Code of British Columbia.”

The *Policy* defines discrimination and harassment:

**Discrimination**– The University expressly adopts the definition of discrimination articulated by the Supreme Court of Canada, i.e. intentional or unintentional differential treatment for which there is no bona fide and reasonable justification. Such discrimination imposes burdens, obligations, or disadvantages on specific individuals or groups as defined by the Human Rights Code. Currently, “the grounds of discrimination” prohibited by the Human Rights Code are age, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, and, in the case of employment, unrelated criminal convictions.

**Harassment**– Any behaviour that satisfies one or more of the following definitions of harassment:

(a) Harassment based on a prohibited ground of discrimination. Behaviour directed towards another person or persons that:

1. is abusive or demeaning; and
2. includes a direct or indirect reference to a prohibited ground of discrimination under British Columbia's Human Rights Code; and
3. would be viewed by a reasonable person experiencing the behaviour as an interference with her/his participation in a University-related activity.

(c) Personal harassment. Behaviour directed towards a specific person or persons that:

1. serves no legitimate purpose; and
2. would be considered by a reasonable person to create an intimidating, humiliating, or hostile work or learning environment.

Source: <http://www.sfu.ca/policies/gazette/general/gp18.html>

The above definitions of discrimination and harassment could be used to justify restricting or censoring politically incorrect speech on the basis of its content. However, SFU states that these policies cannot interfere with the freedom of expression guaranteed in a university environment. Section 2.2 of the *Human Rights Policy* reaffirms the University’s commitment to academic freedom:

**2.2** This Policy will not be interpreted, administered, or applied to infringe the academic freedom of any member of the University community. Academic freedom is the freedom to examine, question, teach, and learn and it involves the right to investigate, speculate, and comment without reference to prescribed



doctrine as well as the right to criticize the University and society at large. The frank discussion of controversial ideas, the pursuit and publication of controversial research, and the study and teaching of material with controversial content do not constitute discrimination.

SFU recognizes the value of free speech in one of its research awards. The Sterling Prize aims to “recognize work which provokes, and/or contributes to the understanding of controversy.”

The Sterling Prize was set up through an endowment by Nora and Ted Sterling. “This is an unusual venture in a world in which controversy is discouraged rather than encouraged,” they said. “We hope, that by providing a substantial reward for creative, unconventional effort, it will contribute to works of this nature gaining both a forum and a degree of respectability.”

The Sterling prize may be awarded for work in any field, including - but not limited to - the fine arts, humanities, social sciences, natural sciences and education. The selection of the annual prize winner is the responsibility of the Sterling prize committee.

Source: <http://www.sfu.ca/sterlingprize/about.html>

The University does not have a security fee policy for events or speeches that results in charging disproportionate or varying rates based on the event’s message and content. However, Campus Security may require a minimum security presence if an event is deemed to have a higher-than-normal security risk, and the costs of the extra security must be borne by the student or faculty group hosting the event.

The University has a policy, *Display of Notices, Posters, Advertisements, etc. on Campus* requiring approval by way of a stamp. It is not clear whether this stamp is provided automatically to all who request it, or whether criteria must be met.

## 2. University actions and practices: F

On November 7, 2011, a pro-life club set up a display on SFU’s Burnaby campus. The display, known as the Genocide Awareness Project (GAP), included pictures comparing abortion to historical genocides, including the Holocaust. The club followed the university’s rules and procedures in anticipation of the event; submitting a plan to set up their display at a high-traffic location at Convocation Mall, with enough space to walk in front of, but also behind, the pictures, enabling passers-by to avoid the graphic images if they didn’t want to view them. After giving initial approval for the event, the university then demanded that the display’s signs be set up in a circle facing inwards, such that no passers-by would see the signs.

The president of SFU Lifeline wrote to the student newspaper in order to defend her right



to display materials without obstructions. She accused the university of content-based discrimination for prohibiting the club's campus display:

We submitted a set-up plan (which we followed) to the administration, which allowed a path through Convocation Mall behind the signs so that people could avoid them. This plan was rejected by the administration on the grounds that students could come upon the display inadvertently. They requested that we obscure the signs in some way, much like saying we could have our freedom of speech on the condition that we whispered. We declined to submit another plan because to comply with demands to obstruct our display would be to accept an infringement on our right to free speech.

When the pro-life club refused to compromise its display, opponents blocked the signs and campus security asked the pro-life students to turn the signs inward. Security did not try to stop the opponents from blocking the club's display.

Source: <http://www.the-peak.ca/2012/01/gap-display-breached-no-agreement-with-sfu/>

On May 20, 2010, Simon Fraser University's Skeptics club hosted "Everybody Draw Mohammed Day", an event that aimed to respond to international threats on artists who portrayed the prophet Mohammed and to raise awareness for freedom of speech. A number of students were offended and confronted the club. The university did not intervene in the case, and the controversy appeared to subside on its own.

Source: <http://www.the-peak.ca/2010/05/controversy-plagues-everybody-draw-mohammed-day/>

### **3. Student union policies and principles: B**

The Simon Fraser Student Society (SFSS) does not have any policies or statements regarding campus free speech.

SFSS does not have an anti-disruption policy or any written restrictions on harassment, bullying or intimidation.

The *SFSS Policy Manual*, section AP-5, outlines the Society's commitment to "anti-racism". The policy does not oppose any behaviour such as speech or expression, but instead supports:

an environment that protects and promotes the dignity, worth, and human rights of every person and encourages mutual respect and cooperation among individuals.

Since the policy has never been interpreted to justify the censorship of free speech rights within the SFSS, it appears this policy is not detrimental to the expressive rights of students on campus.

Source: [http://www.sfss.ca/sites/default/files/documents/SFSS\\_Policy\\_to\\_04-30-11.pdf](http://www.sfss.ca/sites/default/files/documents/SFSS_Policy_to_04-30-11.pdf)



#### 4. Student union actions and practices: B

The authors are not aware of cases of the Simon Fraser Student Society (SFSS) censoring speech, or discriminating against any student or club on the basis of its expression, opinion, or philosophy.

In January of 2009, SFSS External Relations Officer Natalie Bocking removed a sign that was part of a display called “Cemetery of the Innocent.” The display featured 274 wooden crosses arranged on the slopes of the AQ pyramid on campus, and the sign read “274 Canadian aborted daily; it’s been 20 years.” The display had been approved for the student group SFU Lifeline. Ms. Bocking removed the sign because she felt it was offensive, but later returned it. Ms. Bocking later recommended to the SFSS that it should remove funding from SFU Students for Life, but the SFSS did not implement her recommendation. Her actions were not authorized by, or taken on behalf of, the SFSS. Subsequently, Ms. Bocking was not re-elected in her second run for a student executive position.

Source: <http://www.the-peak.ca/2009/01/ero-bocking-questions-pro-life-clubs-right-to-funding/>



## 1. University policies and procedures: C

The primary document pertaining to conduct (both academic and non-academic) is the *Community Code*. The *Code* lays out general rules of behavior as well as the rights and responsibilities of students. Students are expected to uphold “the responsibility not to indulge in behavior that has serious ramifications for the safety, welfare and academic well-being of yourself and others.” None of these terms are defined.

Section 14.f) of the *Code* includes as a major offense:

Using abusive, sexist, racist, homophobic, or otherwise derogatory language in either verbal or written form, or gesture in the course of his or her interactions with another Student, Guest, or University Official

The Student Conduct Coordinator enforces the *Community Code*. The Officer is empowered to facilitate “informal resolution” processes only, so is not empowered to censor students. Informal resolution processes refer to “off the record” mediation, counseling, educational workshops, discussions, and the like. The Coordinator is therefore not empowered to impose sanctions on students such as censorship or punishment for speaking on a controversial topic.

Formal resolution is carried out by a separate body, the Discipline Committee. Section 11 of the *University By-Laws* describes the composition and duties of the Committee. The committee is composed of seven students and two faculty members. The student members are appointed by Student Council (of the Students Union). Article II(d) explains the duties of the Committee “to hear and decide cases involving breaches of discipline by students and to impose sanctions therefore.”

The *By-Laws* do not elaborate on what sanctions the Committee may enforce, leaving one to assume that there are no restrictions on reprimands or punishment for student behavior that violates the *Code*. It is possible, then, that the Committee could enact censorship of a student/student group as punishment for violating the *Community Code*.

Community Code:

[http://www.stfx.ca/sites/default/files/pages/flipbook/print\\_docs/StudentLife\\_Community\\_Code\\_2012.pdf](http://www.stfx.ca/sites/default/files/pages/flipbook/print_docs/StudentLife_Community_Code_2012.pdf)

University By-Laws:

[http://sites.stfx.ca/financial\\_services/sites/sites.stfx.ca/financial\\_services/files/University\\_By-laws\\_Amended\\_to\\_September\\_2009.pdf](http://sites.stfx.ca/financial_services/sites/sites.stfx.ca/financial_services/files/University_By-laws_Amended_to_September_2009.pdf)

St.FX’s *Discrimination and Harassment Policy* is somewhat contradictory in its applications to free expression on campus. Section 1.2 of the *Policy* protects political and



religious groups on campus by defining discrimination to include “political belief, affiliation or identity” as prohibited grounds for discrimination.

Section 9 states that the *Policy* should not interfere with free speech and academic freedom:

This Policy shall not be applied in such a way as to detract from the right to engage in the frank discussion of potentially controversial matters, including, but not limited to age, race, politics, religion, sex and sexual orientation. These are legitimate topics within the University setting, and this Policy shall not be applied so as to have the effect of limiting appropriate discussion of them or of prohibiting bona fide instructional techniques, such as the use of irony, the use of conjecture and refutation, or the assignment of readings that advocate controversial positions, provided that such discussion and instruction are conducted in a mutually respectful and non-coercive manner.

Nevertheless, the *Policy* does not guarantee that free speech rights will be upheld in all cases. The reference in Section 9, “provided that such discussion and instruction are conducted in a mutually respectful and non-coercive manner,” allows administrators to justify the restriction of free speech rights on the condition that they can claim the content of a message to not be “mutually respectful”.

The *Policy*’s definition of Harassment also empowers administrators who interpret the Code to enforce sanctions on students for what they say.

The definition of harassment in sections 1.3, 1.4 and 1.5 of the *Policy* defines harassment to include being made to feel “offended or unwelcome” which could be interpreted to be speech that a student finds offensive. Section 1.4 goes on to say that harassment may be carried verbally, and can be deliberate or unintentional.

Section 1.6 is perhaps the most troublesome because it gives specific examples of what is not considered harassment by the University. A section for this purpose should include a statement on free speech, but they don’t mention speech or expression in the list at all. This makes one wonder whether Section 1.2 and Section 9 are enough to mitigate the potentially harmful effects of sections on harassing behavior.

STFX Discrimination and Harassment Policy:

[http://sites.stfx.ca/equity/sites/sites.stfx.ca/equity/files/StFX\\_Discrimination\\_and\\_Harassment\\_Policy.pdf](http://sites.stfx.ca/equity/sites/sites.stfx.ca/equity/files/StFX_Discrimination_and_Harassment_Policy.pdf)

The *Risk Assessment Policy* outlines procedures and regulations that students and student groups must comply with in order to access space for an event on campus. Applicants must submit a detailed overview of their event including the intent and composition of the event, as well as advertising and other promotional materials. Applicants must include an assessment of the level of risk associated with their event. According to the *Policy*, risk can include an assessment of “emotional harm” to an attendee.



The Risk Management Committee enforces the *Risk Assessment Policy*. It decides if an event gets approved after the student group has informed the Committee whether they think the event carries a high, medium or low risk level. If the Committee decides that an event is too risky because of its content/message, this is equivalent to content-based censorship.

Risk Assessment Policy:

[http://sites.stfx.ca/student\\_life/sites/sites.stfx.ca.student\\_life/files/RiskAssessmentPolicyAugust27%20final2.pdf](http://sites.stfx.ca/student_life/sites/sites.stfx.ca.student_life/files/RiskAssessmentPolicyAugust27%20final2.pdf)

## **2. University actions and practices: B**

On February 10, 2009, the student group “Students for Life,” invited pro-life author and lecturer Jose Ruba to speak at St. FX. Society president Lara Lavelle commended the University administration for ensuring that the event was able to take place. Ruba’s presentation at neighboring Saint Mary’s University in Halifax a week earlier had to be cancelled at its original location due to protesters making Ruba’s talk impossible to hear, and controversy at that University continues to surround the administration for not making a more concerted effort to ensure that Ruba and his audience were able to participate in the scheduled event.

In light of the controversy at St. Mary’s University, St.FX University administration made apparent efforts to ensure that Ruba’s presentation on February 10 would not be stopped by similar protests. Campus security personnel were ordered to monitor the event so that the presentation could run without interruption. By making the choice to ensure that Ruba’s and the Students for Life group’s free speech rights were protected, St.FX demonstrated its commitment to the free and open exchange of ideas.

Source: <http://www.thecasket.ca/archives/573>

On December 11, 2006, tenured St. FX professor Shiraz Dossa attended a conference sponsored by the Iranian Ministry of Foreign Affairs, titled “International Conference to Review the Global Vision of the Holocaust,” in Tehran. More than 1200 attended, and the event included 44 speakers and 33 papers on the subject of the Holocaust.

On December 13, 2006, St. FX University President Sean Riley released the following statement on Dossa’s attendance:

I express my shock and regret that the name of St. Francis Xavier University has been associated with the recent “conference” in Tehran due to the presence of a member of University faculty.

The gathering, in its origins and focus, contained elements that are deeply abhorrent to the St. Francis Xavier University community and the traditions of our



153 years of history. Given previous statements and actions from key personalities in Iranian authority, and given the focus on the subject of the Holocaust and the well-known positions of many participants, it is no surprise that the conference revealed unmistakable and deplorable anti-Semitism.

The Holocaust stands as one of the darkest moments in the world history of human rights. The horror is not a matter of importance to select groups but rather to all humankind.

Members of University faculty, in Canada at least, have the freedom of inquiry and speech which is part of our democracy. They do not, however, speak for the University.

The faculty member concerned has commented to the media on his presence at the conference. He may choose to elaborate further.

This conference has rightly been condemned in no uncertain terms by our Prime Minister on behalf of all Canadians. The StFX community and I join in this condemnation.

While the statement supports faculty members' right to free inquiry and speech, the actions by the President may set a precedent against future faculty and students engaging in study and speech that may be considered "deeply abhorrent to the St. Francis Xavier University community."

St.Francis Xavier University statement: <http://www.joeycoleman.ca/2006/12/canadian-professor-attended-irans-holocaust-denial-conference/>

Shiraz Dossa essay: <http://reviewcanada.ca/essays/2007/06/01/the-explanation-we-never-heard/>

### **3. Students Union policies and procedures: D**

The St.FX Student Union *Advertising Policy* states that "The Union will not accept any advertising that is racist, sexist, homophobic, or discriminatory in anyway. Businesses that foster discrimination will be banned from Union publications." The *Policy* empowers the Union to disapprove advertising based on the content of its message, and with no specific definition of what could be considered "sexist, homophobic, or discriminatory" the Union has significant discretion to ban content they disapprove. A group advertising a debate about gay marriage, for example, may be banned from advertising on campus because the Union considered the event homophobic.

The *Elections Policy* empowers the Chief Returning Officer (CRO) to establish the rules and procedures governing Student Union elections:



The Returning Officers under the supervision of the Chair of Council have complete authority over elections held by the Union. Any concerns or appeals brought through other channels in the Union shall be considered completely invalid.

By empowering the CRO and Council to establish rules governing elections, the Student Union risks enabling such officials to censor candidates' posters, speeches and events based on its content. Without clear, neutral rules that protect free speech rights, there is no protection for students against over-reaching elections policies that have been enacted at many campuses across Canada.

The Union's *Gender Issues Policy* allows for censorship of materials judged to be sexist by Union officials (there is no official definition of sexism that the Union employs):

The Union condemns sexism, is opposed to the distribution of any sexist material, and pledges to document incidences of sexism on our campus.

The Union's *Poster Policy* also uses ambiguous language to empower Union officers to censor any materials they consider offensive. Moreover, the Union also bans poster in several high-traffic areas of campus, but it is applied to all students equally:

Any publicity in the form of banners, poster, etc. is permitted only on bulletin boards in academic buildings, and in residence unless otherwise specified. Bulletin boards are available on a first-come first serve basis. Removal or the covering up of any poster already placed on a bulletin board is prohibited. Such material will be removed.

Any publicity that is to be posted must be approved by the appropriate Union Executive.

No material that is slanderous, offensive, harassing, discriminatory, etc. will be permitted.

Failure to comply with this policy will result in the removal of the poster as well as possible disciplinary action by means of the Community Code.

In its treatment of student groups, the Union makes clear that it will suppress free speech rights in the name of combating discrimination on the basis of sex, religion, race, colour, national or ethnic origin, age, disability, or sexual orientation and thus will not recognize any society who does. While seemingly harmless and well-minded, the statement runs the risk of empowering the Union to ban any club based on its own subjective interpretation of what qualifies as 'discrimination'.

The *Society Policy* also prohibits the Union from funding "partisan political groups". The Policy therefore discriminates against students who wish to seek resources from the Union to spread their message to fellow students because of the content of their mission. The Union therefore discriminates in its treatment of student groups based on party affiliation. Also, it is not impossible that the policy could be interpreted to include non-political party groups as "partisan" depending on the Union's subjective definition.



Finally, the *Society Policy* promises to ban communications material that the Union deems offensive, and empowers the VP Student Relations to make decisions about which messages are considered appropriate:

It is the society leader's responsibility to ensure that all publicity material is approved by the VP Student Relations before being posted. All material must bear the society name. Material that is offensive, harassing, discriminatory, etc. will not be approved and is at the discretion of the VP Student Relations. Placement of publicity items must only be on bulletin boards in academic buildings unless otherwise specified. Failure to comply to the Union Poster Policy will result in the removal of the poster.

St.FX Students Union Policy Manual: [http://www.theu.ca/?q=policies/Student\\_manual](http://www.theu.ca/?q=policies/Student_manual)

#### **4. Students Union actions and practices: C**

The authors are not aware of cases of the Students' Union denying equal access to University facilities, and are not aware of any evidence that the Union is not "content neutral" with the way it treats clubs, speakers, and listeners in practice. During student elections, any candidate can run for office. Though, as indicated above, the Union does have policies which effectively favour the expression of certain viewpoints over others, and grants discretionary powers to the VP Student Relations and the Chief Returning Officer that could result in speech discrimination.



## 1. University policies and procedures: B

In the mission statement of STU there is a reference "... to preserve the tradition of academic freedom. We seek to provide learning and working atmosphere that is free of discrimination, injustice, and violence, and that is responsive, understanding, open and fair."

Source: <http://w3.stu.ca/stu/about/mission/default.aspx>

The *Student Code of Conduct* established by STU administration has no bearing on freedom of speech issues. The *Code* exclusively focuses on student relations with the faculty, staff and provides safety rules that students are expected to follow.

Source:

<http://w3.stu.ca/stu/currentstudents/policies/documents/StudentCodeofConductDecember2011.pdf>

STU has a *Harassment & Discrimination Policy* for Faculty and Staff, and a separate one for students. Both policies are effectively the same when it comes to defining discrimination and harassment. In both cases, the documents have been approved by the Board of Governors and implemented through the Human Resource department. If one has a complaint, one can report a complaint to a "Complaint officer." Depending on who is making the complaint, staff can report to human resources or a fellow staff member and students to student life and human resources.

The relevant sections of the *Policy* as they pertain to free speech are found below:

### Section 4.1.3

The University is committed to academic freedom and to freedom of expression and association. Neither this Policy in general, nor its definitions in particular, is to be applied in such a way as to detract from the right of students to engage in free inquiry and open discussion of potentially controversial matters."

The following section states the policy does not measure intent of an action:

### Section 4.1.4

Lack of intent is no defense to a complaint of harassment and/or discrimination. It is the effect and characteristics of the behaviour that determine whether the behaviour constitutes harassment or discrimination";

STU includes a definition of discrimination in the *Policy*:



## 5.1.1

Discrimination is defined as the act of treating a person or group unequally by imposing unequal burdens, obligations, disadvantages, or preferences on the basis of the person's race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, sex, gender identity, social condition, political belief or activity, or any other grounds covered by the New Brunswick Human Rights Act.

## 5.2.1

Harassment, for the purposes of this Policy, means engaging in a course of comment or conduct that is known or ought reasonably to be known to be unwelcome. This includes any unwelcome comments, conduct or gestures that provoke, irritate, threaten, annoy, insult or demean, or result in some other form of discomfort, or words or actions that demean or cause humiliation, offense or embarrassment to another person and/or which adversely affects the employment or academic status of the individual.

Taken all together STU's *Discrimination & Harassment Policy* does not seem sufficient or able to effectively censor the speech of others. Section 4.1.4 ensures that a Respondent is not being judged upon his or her intent but by the effects of his or her actions. This ensures all complaints are about the consequences and effects of a particular action and not the substance of what was being discussed. That said, what is considered to be "unwelcome" comment or conduct is not further defined in the policy. As has been in the case at other universities, these terms could be defined in vague terms to justify the censorship of certain controversial topics that are deemed "offensive" by a member of the University community.

Also of note as a safeguard there is punishment for frivolous and "bad faith" complaints as outlined by the following section:

## 9.2.1

...Any individual or group that makes a frivolous, vexatious, false or bad faith complaint pursuant to this Policy breaches the Policy and may be disciplined.

*STU Harassment & Discrimination Policy* (Staff & Faculty):

<http://w3.stu.ca/stu/administrative/hr/policies/documents/HarassmentandDiscriminationPolicyFacultyStaffMarch2012.pdf>

*STU Harassment & Discrimination Policy* (Student):

<http://w3.stu.ca/stu/administrative/hr/policies/documents/HarassmentandDiscriminationPolicyStudentsMarch2012.pdf>

Complaint officer:

[http://w3.stu.ca/stu/administrative/hr/policies/complaint\\_officers.aspx](http://w3.stu.ca/stu/administrative/hr/policies/complaint_officers.aspx)



It appears that these rules and policies are appropriately and equally applied to all members of the STU community. Language used in the institution’s definition of harassment is potentially dangerous because of ambiguity enough could justify censorship based on “offensive” speech. That said, the same *Discrimination & Harassment Policy* places the appropriate check on “bad faith” accusations of harassment and offence—which may explain why the University has a clean reputation in practice.

## 2. University Actions and Practices: A

In March 2009, a former Israeli political advisor named Dr. Josef Olmert came to STU to give a speech and take questions. Olmert was invited by the STU Political Science Society. The Vice-President Academic of STU gave a warning prior to the event that there could and would be disciplinary actions to those who would interrupt and obstruct the speaker in an inappropriate manner. STU’s pre-emptive action to ensure Olmert’s lecture could proceed without incident is testament to the school’s commitment to free speech.

Some in attendance did insult and interrupt the speaker in an unacceptable fashion; some of those people were ejected from the auditorium by security, but many reports of the event communicated that the protestors had been so unruly as to ruin the effectiveness of the event, as well as the ability of the audience to hear the presentation they had come to witness. In retrospect, STU security personnel should have anticipated a higher volume of disruptive behaviour and had prepared accordingly, but overall STU made the appropriate moves to ensure the event could proceed without incident.

Source: <http://www.theaq.net/2009/protests-for-palestine-olmert-visit-sparks-fervent-furry/-170>

## 3: Student Union Policies and Procedures: B

The STUSU *Human Resources Policy* is the only document that makes reference to anything that can be considered related to the subject matter of this report. The human resource policy sets out the anti-discrimination stand of the STUSU. Section 8. (A) states:

[STUSU will] work to develop a high sensitivity and awareness of social issues on campus regarding human rights, sexuality, sexual violence, sexual diversity, poverty, and racial discrimination, and shall advocate for these issues and ensure they are not silenced;

Source: <http://stusu.ca/wp-content/uploads/2011/10/Human-Resources-Policy.pdf>

The STUSU receives high marks due to the fact none of its ordinances are sufficient to be used to censor a student or an organization. It however does not receive perfect marks due to omission of respect for and the protection of freedom of speech.



#### **4: Student Union actions and practices: B**

The authors did not find incidents of STUSU censoring free speech or imposing unfair restrictions on students and student groups in its clubs and elections procedures.



### **Politiques et principes de l'université: C**

L'Université de Montréal s'est donnée pour mandat, dans sa Charte ainsi que dans ses règlements fondateurs, de favoriser la libre expression de tout membre de la communauté universitaire, qu'il soit un étudiant ou un membre du corps professoral. En effet, le règlement 20.9 instituant les *Politiques sur les droits des étudiants et étudiantes de l'Université de Montréal* établit dès son premier article que les étudiants jouissent de tous les droits garantis par la *Charte des Droits et Libertés de la Personne* (Canada), en particulier le droit à la libre expression de ses opinions qui est considéré comme « primordial ».

Ariane, est-ce qu'on peut ajouter ici une citation directe qui dit ce qu'on a écrit en format sommaire ci-dessus?

Il y a cependant deux politiques de l'Université qui pourraient réduire la libre expression méritant d'être soulignées. La première étant celle sur la réservation de locaux par des groupes étudiants. Les groupes réservant ses locaux doivent être reconnus par au moins une association facultaire étudiante et approuvés par la direction de l'Université. Ce type de règlement, même s'il ne vise aucun groupe ou type de groupe en particulier et ne restreint pas directement la liberté d'expression, donne un pouvoir arbitraire à certains individus de la restreindre.

La deuxième politique pouvant restreindre la liberté d'expression des étudiants est le règlement 20.13, *Politique sur les regroupements étudiants*. Tout comme la politique mentionnée au paragraphe précédent, il n'y a rien limitant clairement la liberté d'expression ou interdisant l'existence de certains types de regroupement, mais plutôt un pouvoir arbitraire accordé pouvant éventuellement créer des problèmes. Ainsi, il est de la responsabilité de la direction de l'Université de s'assurer que les idées promues par lesdits groupes ainsi que les actions entreprises par ceux-ci ne soient pas offensantes envers la communauté universitaire. En cas de non-respect de cette politique, la direction se réserve le droit de retirer l'accréditation à tout regroupement.

L'article 5 du même règlement stipule que :

« Le groupe formé d'étudiants désirant obtenir la reconnaissance officielle de l'Université à titre de regroupement étudiant fournit les informations suivantes à la Direction des Services aux étudiants :

- les documents constitutifs et les règlements;
- les buts et les objectifs;
- les informations au sujet de la cotisation des membres, le cas échéant;
- ses principales activités;
- une copie du procès-verbal de la réunion constitutive;
- la liste des membres et leurs numéros de matricule;



- la liste des membres de l'exécutif avec leurs coordonnées (numéro de matricule, numéro de téléphone, adresse électronique). »

Source: [http://www.direction.umontreal.ca/secgen/recueil/documents/regl20\\_13.pdf](http://www.direction.umontreal.ca/secgen/recueil/documents/regl20_13.pdf)

Il est très possible de voir dans cet article une violation de la vie privée. De plus, nous estimons qu'il restreint la liberté d'expression et d'association dans la mesure où une telle obligation pourrait décourager des étudiants de se joindre à un regroupement de peur d'être publiquement associé aux idées ou valeurs représentées et véhiculées par celui-ci.

Il y a cependant une politique mise en place par l'Université faisant en sorte qu'elle mérite moyen malgré les deux règlements énoncés plus haut. Il s'agit de la possibilité offerte à tout étudiant se sentant lésé dans ses droits garantis par la Charte de l'université de faire un recours devant les instances de celle-ci. Nous pouvons considérer que le pouvoir arbitraire trop grand laissé dans certains cas est limité par cette possibilité de recours en donnant la chance à un étudiant de prouver que le refus de l'Université de reconnaître son regroupement ou de lui prêter un local était basé sur des motifs discriminatoires. Dans un tel cas, la décision pourrait être renversée.

Source: <http://www.direction.umontreal.ca/secgen/pdf/charte.pdf>

### **Pratiques de l'université: C**

En pratique, l'Université respecte ses engagements écrits et, jusqu'à présent, a permis à tout type de conférencier ou événement d'avoir lieu, sans forme de discrimination. Tant et aussi longtemps que le groupe d'étudiants remplit les exigences énoncées dans ses règlements, les actes de l'Université ne sont pas relatives au sujet de la conférence ou de l'événement.

### **Politiques et principes de l'association étudiante: D**

L'association étudiante de l'Université est la Fédération des Associations Étudiantes du Campus de l'Université de Montréal (FAECUM). Cette association a plusieurs règlements, institués par elle-même ou dont elle profite, qui font en sorte qu'elle réduit sérieusement la liberté d'expression de ses membres.

Le premier règlement en question est la *Loi sur l'accréditation et le financement d'association d'élèves ou d'étudiants*. Cette loi dit à son article 26 :

« Dans un établissement d'enseignement, tout élève ou étudiant représenté par une association d'élèves ou d'étudiants accréditée ou toute association d'élèves ou d'étudiants représentée par un regroupement d'associations d'élèves ou d'étudiants accrédité, est réputé membre ».

Source:

[http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/A\\_3\\_01/A3\\_01.html](http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/A_3_01/A3_01.html)



Ces dits étudiants sont aussi obligés de payer une cotisation. Le montant de la cotisation est fixé par l'association étudiante. La partie de la *Loi* pouvant entraîner des restrictions à la liberté d'expression est qu'elle autorise les associations étudiantes à prendre position et financer des campagnes sur des enjeux publiques. Il y a donc une forte possibilité que des étudiants ayant des opinions politiques diamétralement opposées à celle de la FAECUM se retrouvent forcés de financer, via leurs cotisations obligatoires, des campagnes soutenant des valeurs auxquelles ils ne s'associent pas.

Source:

[http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/A\\_3\\_01/A3\\_01.html](http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/A_3_01/A3_01.html)

Les règlements de la FAECUM donnent aussi le pouvoir à l'exécutif de celle-ci de prendre position sur des dossiers politiques et d'engager des fonds pour les défendre sans consulter ses membres. Cela vient du fait que la FAECUM est, par définition, une fédération d'associations étudiantes et donc ne peut pas consulter directement ses membres sans passer par ses associations facultaires. De plus, les positions prises par la FAECUM doivent, en théorie, obligatoirement être appuyées par les étudiants lors des assemblées générales. Il y a donc une claire violation de la liberté d'expression. La direction de la FAECUM se réserve aussi le pouvoir exclusif d'accréditer ou non des regroupements d'étudiants et donc de leur consacrer un budget. Il n'existe aucun article dans le règlement disant que le fait d'accréditer ou non un regroupement ne doit pas être basé sur des motifs discriminatoires particulièrement quant aux idées et valeurs véhiculées par le regroupement.

De plus, contrairement à l'Université qui, tel qu'expliqué à la partie 1, donne la possibilité à un étudiant se croyant lésé dans ses droits de contester une décision, il n'existe aucune procédure semblable au niveau de la FAECUM. C'est particulièrement ce facteur qui nous conduit à accorder la note de « Médiocre » à la FAECUM.

### **Pratiques de l'association étudiante: D**

Il n'y a pas de preuve que la FAECUM n'a pas toléré des pratiques allant complètement à l'encontre de la liberté d'expression. Lors des assemblées générales pour voter sur les enjeux relatifs à la grève (hausse des frais de scolarité), les votes se déroulaient à mains levées, rendant les pratiques d'intimidations fréquentes. Plusieurs étudiants contre la grève avaient de la difficulté à transmettre leur message puisque les Présidents d'assemblées ne leur donnaient pas la parole. Ceci est notamment arrivé dans la faculté de sciences politiques. La FAECUM (ni l'Université) n'est pas intervenue pour garantir un débat sain ou pour implanter le vote secret.



## 1. University policies and Principles : C

University of Montreal Regulation 20.9 states that students enjoy all rights guaranteed by the *Canadian Charter of Rights and Freedoms*, particularly freedom of expression. Policies governing allocation of spaces on campus require clubs to be recognized by at least one student association, and to be approved by the university.

Regulation 20.13, *Politique sur les regroupements étudiants* (Policy governing student associations) requires clubs to provide the university with a list of their student members (along with student identification numbers) which violates privacy and could serve to discourage students from joining a club.

Source: [http://www.direction.umontreal.ca/secgen/recueil/documents/regl20\\_13.pdf](http://www.direction.umontreal.ca/secgen/recueil/documents/regl20_13.pdf)

An appeals process is available for unfavourable decisions.

Source: <http://www.direction.umontreal.ca/secgen/pdf/charte.pdf>

## 2. University actions and practices: C

The authors are not aware of cases where the University has censored speech or has discriminated against students or clubs on the basis of their opinions, beliefs or philosophy.

## 3. Student Union policies and principles: D

The Federation of Student Associations of the Campus of the University of Montreal (FAECUM : la Fédération des Associations Étudiantes du Campus de l'Université de Montréal) requires all students to pay membership dues to their student associations. Student associations – along with FAECUM itself – take political positions on various issues. As students do not always have the same views on public policy matters, this requirement has the effect of forcing students to pay for political expression with which they disagree.

[http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/A\\_3\\_01/A3\\_01.html](http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/A_3_01/A3_01.html)

The FAECUM executive has exclusive power to certify campus clubs and grant them funding. Nothing in the FAECUM constitution or policies prohibits discrimination on the basis of a club's beliefs, opinions or philosophy, and FAECUM has no formal procedures for appealing an unfavourable decision.

## 4. Student Union actions and practices: D

When voting took place during the 2011-12 school year in regards to the student strike against the Quebec government's proposed tuition increases, voting was conducted by show of hands rather than by secret ballot. This opened the door to intimidation tactics. Further, students who were against the strike were frequently denied the right to speak at these assemblies.



## 1. Principes et politiques universitaires : C

Les politiques administratives qui dictent la liberté d'expression de l'UQAM peuvent être trouvées dans la « Charte des droits et des responsabilités des étudiantes et des étudiants ». Le préambule mentionne explicitement que

*« Les étudiantes et étudiants jouissent à l'Université des libertés fondamentales reconnues par la Charte des droits et libertés de la personne telles la liberté d'opinion, la liberté d'expression, la liberté de réunion pacifique et la liberté d'association. Les étudiantes et étudiants ont droit à la reconnaissance et à l'exercice en pleine égalité, des droits et libertés de la personne, sans distinction, exclusion ou préférence fondée... »*

Source : <http://www.vie-etudiante.uqam.ca/info/Pages/chartedesdroitsetresponsabilites.aspx>

De plus, l'UQAM possède une politique sur les relations interethniques (politique no.28). Basée juridiquement sur la Charte canadienne des droits et libertés ainsi que sur la Charte québécoise des droits et libertés de la personne, l'UQAM souhaite, par cette politique, « s'assurer des relations harmonieuses dans la communauté universitaire entre les personnes sans égard à leurs origines... ». Sont inclus dans cette politique des mesures visant à ne pas permettre de discrimination ou de harcèlement. Cependant, il apparaît facile de pouvoir utiliser cette politique pour limiter la liberté d'expression (par exemple, interdire à un groupe athée de critiquer un groupe religieux).

Les étudiants de l'UQAM ont la possibilité de s'associer en associations ou autre regroupement étudiant. Ces groupes ont la possibilité d'être reconnus par l'université, ce qui leur donne accès à plus de ressources (locaux, financement...). Cependant, comme condition pour cette reconnaissance, les regroupements étudiants doivent maintenir « des rapports harmonieux » avec le reste de la communauté (politique no.32). La définition de « rapports harmonieux » n'étant pas décrite, cela laisse place à une interprétation arbitraire par la direction, qui peut ainsi décider si un regroupement étudiant bénéficiera de la reconnaissance universitaire (et des ressources associées). Cependant, il n'y a aucune provision empêchant un regroupement d'exister sans être reconnu.

S'il y a un thème récurrent dans les politiques et règlements de l'UQAM, c'est la notion de « rapports harmonieux ». Bien que les intentions soient nobles, soit de s'assurer ... des rapports harmonieux..., il y a de grands risques pour la liberté d'expression. Une personne voulant s'exprimer publiquement sur un sujet chaud risquerait de se faire rappeler à l'ordre par la direction, sous le prétexte que certaines personnes n'aimeraient pas entendre cette personne.



Pour ce qui est de l'organisation d'activités, l'université n'impose pas de contraintes supplémentaires à ceux qui désirent s'impliquer ou participer à la vie universitaire. La seule restriction vient qu'il faut respecter les politiques et règlements de l'UQAM en vigueur.

## **2. Actions universitaires de la dernière année : D**

Lors de la dernière année universitaire, le gouvernement du Québec a décrété une hausse des frais de scolarité pour les cinq prochaines années. En réponse à cela de nombreuses associations étudiantes ont commencé un mouvement de boycott de cours, dès février 2012. Des assemblées générales ont eu lieu, avec des taux de participation (selon l'assemblée et la faculté) variant autour de 10 à 20% où les étudiants se sont, en majorité, exprimés pour le boycott de cours (seule la faculté de gestion ayant accepté une seule journée de boycott symbolique). L'université, malgré que les associations étudiantes dépendent de nombreuses ressources universitaires (locaux d'association, location de salles pour assemblées générales...) a laissé les étudiants décider eux-mêmes du boycott ou non des cours. On peut voir cela d'un point de vue favorable à la liberté d'expression, l'université étant clairement en défaveur d'un tel boycott, et s'exprimant à l'occasion pour convaincre les étudiants d'abandonner le boycott).

Là où le bât blesse par contre est que de nombreux étudiants n'ayant pu voter / ne voulant pas voter pour de multiples raisons (ou ayant perdu le vote) s'objectaient à ce que d'autres étudiants aient un pouvoir de décision sur leur volonté personnelle d'étudier ou pas. Pour faire « respecter » ces votes de boycott, des étudiants en boycott se sont mis à piquer les entrées de classe des facultés en boycott, et en allant perturber les cours d'autres étudiants n'étant pas en boycott. L'UQAM a abandonné ses responsabilités envers les étudiants subissant un boycott en n'intervenant pas pour que ces étudiants aient accès à leurs salles de classe (en violation avec l'article 2.1 du règlement 10). Cependant, elle a aussi assumé ces mêmes responsabilités pour les étudiants n'ayant pas voté en faveur du boycott, en engageant du personnel de sécurité supplémentaire pour que cesse les actions de perturbation à l'égard de la faculté de gestion.

Il est à noter que ce mouvement de boycott n'était pas exclusif à l'UQAM, bien qu'elle en fût l'épicentre, à cause de sa proximité avec le centre-ville et des services de transport en commun. Notamment, l'UQAM est située à quelques mètres à peine du Parc Émilie-Gamelin, lieu de départ de la quasi-totalité des manifestations étudiantes du printemps et de l'été. On peut donc comprendre la direction de vouloir limiter les interventions politiques (comme permettre aux étudiants en boycott de suivre leurs cours malgré tout) pour éviter de plus grands problèmes. Cependant, on ne peut excuser que l'UQAM ait choisi d'appliquer ces propres règlements, censés garantir la liberté de circulation, que lorsqu'elle le voulait.

Le conflit étudiant a généré beaucoup de bruit et les sessions d'hiver et d'été ne sont donc pas des sessions typiques, ce qui est peu favorable pour évaluer les actions de l'université en ce qui a trait à la liberté d'expression. Néanmoins, lorsqu'il s'agit de respecter les droits des étudiants de suivre leurs cours, l'UQAM s'en est remis à une



démocratie étudiante douteuse plutôt que d'assumer entièrement ses responsabilités pour permettre à tous les étudiants (pas simplement ceux étudiant en gestion) d'aller à leurs cours s'ils le souhaitent.

Article du situation boycott : <http://www.lapresse.ca/actualites/quebec-canada/education/201203/02/01-4501749-la-fecq-appelle-ses-membres-a-debrayer.php>

### 3. Les politiques et procédures des associations étudiantes : D

À l'UQAM, il n'y a pas d'association centrale en tant que tel. L'UQAM a 7 facultés ayant chacune leur propre association étudiante. Certaines sont immenses (l'association de Gestion regroupe 12 000 membres environ, sur 48 000 étudiants) d'autres sont petites (l'association de sciences humaines regroupe environ 2 000 membres, je crois).

Environ la moitié des associations étudiantes ne mentionnent à aucun endroit leur position par rapport à la liberté d'expression, d'association et autres droits individuels. L'autre moitié cependant (notamment, l'AFELC, l'ADEESE et l'AFÉA (langues/communications, éducation et arts) font explicitement mention de la protection et la promotion de la liberté d'expression et d'association, sans restriction apparente. Voici le préambule de la *Charte de l'AFELC (langues/communications)* :

« Considérant les droits et libertés intrinsèques et inaliénables que possède toute personne de s'associer librement et pacifiquement comme prévu dans les différentes Chartes des droits de la personne dans le but de promouvoir leurs intérêts, de défendre leurs droits et d'améliorer leur sort;

Considérant que ces droits et libertés sont reconnus comme tel par l'Université et les différentes Chartes des droits et libertés comme les libertés d'opinion et d'expression, de réunion pacifique et d'association; ... »

Aucune association étudiante ne possède de politiques ou procédures qui restreignent directement ces droits. Cependant, dans toutes les associations étudiantes, il y a un principe général voulant que les assemblées générales étudiantes soient souveraines et la plupart peuvent donc, en théorie, voter des résolutions permettant de restreindre les droits d'association ou d'expression de groupe qui seraient contraire aux valeurs désirées par les étudiants votant (l'AFESPED (politique/droit) mentionne notamment dans ses Statuts et règlements généraux la promotion « de valeurs démocratiques, de solidarité et de justice sociale »). Cependant, toutes les associations étudiantes reconnaissent le pouvoir à leurs membres de s'exprimer en assemblée générale.

Les comités exécutifs des associations facultaires ont parfois des pouvoirs discrétionnaires en ce qui a trait aux affaires de l'association étudiante (l'AESG (gestion) mentionne cependant que les membres du comité exécutif « exercent ce pouvoir comme ils l'entendent et doivent agir avec prudence, diligence, honnêteté et loyauté dans le meilleur intérêt de l'association »). Ainsi, en théorie, certains comités exécutifs peuvent



donc restreindre ces droits, mais cela semble peu probable qu'ils agissent ainsi, hormis sous mandat d'une résolution d'assemblée générale.

Les diverses associations étudiantes n'ont aucune politique spécifique en ce qui concerne le harcèlement, l'intimidation ou autres politiques anti-discrimination.

Chartre : <http://www.er.uqam.ca/nobel/afesh/spip.php?article128>

Régie : <http://www.er.uqam.ca/nobel/afesh/spip.php?article129>

#### **4. Actions des associations étudiantes de la dernière année : D**

Au cours de la dernière année, les associations étudiantes ont pris un rôle de premier plan dans le mouvement de contestation de la hausse des frais de scolarité, décrétée par le gouvernement du Québec. Ces événements auront été les seuls dignes de mention, faisant de la dernière année une année atypique, ne serait-ce qu'à cause de la polarisation autour du débat sur les frais de scolarité.

Les associations étudiantes, par le biais d'assemblées générales, ont voté des résolutions appelant les étudiants à boycotter leurs cours. Ces assemblées générales auront souvent été houleuses car les étudiants participants tenaient ce sujet à cœur. Cependant, plusieurs participants s'exprimant dans ces assemblées, qu'ils soient en faveur du boycott (en gestion) ou en défaveur du boycott (autres facultés) ont été conspués lorsqu'ils exprimaient leur opinion, contraire au climat général de leur assemblées respectives. Dans certains cas, les officiers d'assemblée permettaient la suspension de certaines règles de procédures pour favoriser une des opinions (pro/anti boycott) au détriment de l'autre. De plus, les votes sur les résolutions se tenaient à main levée (compréhensible pour accélérer les processus, mais déplorable car propice à l'intimidation).

Ces résolutions d'assemblée auraient été anodines si ce n'était que les associations étudiantes ont décidé de forcer ces résolutions en organisant des lignes de piquetage (empêchant les étudiants le souhaitant d'assister à leurs cours) et en conspuant/intimidant les étudiants souhaitant étudier malgré tout. De plus, certaines associations (notamment celle de politique) ont essayé (et parfois réussi) à perturber les cours d'étudiants de la faculté de gestion, qui s'étaient exprimée contre un boycott des cours.

Les associations étudiantes devraient être neutres, sans égard, force nous est d'admettre qu'elles ont abandonné cette neutralité au profit de l'option pro-boycott. Aucune association n'a donné la peine de dénoncer les actions de perturbation, d'obstruction et de lignes de piquetage.

Hormis pour ces actions qui auront eu lieu durant dans le contexte du débat sur les frais de scolarité, les associations étudiantes n'ont pas, à notre connaissance, usés de leurs pouvoirs pour empêcher qui que ce soit de s'exprimer publiquement ou de mener des actions politiques. Il faut noter que les cours étant boycottés (et le boycott imposé par certains), peu d'étudiants étaient présents à l'université, ce qui n'est pas très favorable à l'organisation d'activités porteuses de messages.



## 1. University policies and principles: C

UQAM states in its *Charter of Student Rights and Responsibilities* that students enjoy fundamental freedoms such as freedom of opinion, freedom of expression, peaceful assembly, and freedom of association, to be exercised by all equally.

Source : <http://www.vie-etudiante.uqam.ca/info/Pages/chartedesdroitsetresponsabilites.aspx>

UQAM policy No. 28 on inter-ethnic relations, based on the Canadian and Quebec Charters, prohibits discrimination and harassment and could be used to censor political speech that was critical of an identifiable group.

UQAM policy No. 28 requires campus clubs to maintain «harmonious relations» which term is not defined, potentially allowing UQAM to deny official recognition (and the funding and resources which come with it) to a group whose expression others find offensive or objectionable. This notion of « harmonious relations » is a recurring theme in UQAM policies, and could be used as a tool to censor expression.

## 2. University actions and practices: D

During the 2011-12 school year, the Quebec government announced tuition fee increases would take place over the next five years. Starting in February of 2012, numerous student associations started boycotting courses. General assemblies, with only 10% to 20% of students attending, passed resolutions in support of the student strike. UQAM allowed students to use university facilities for these meetings in spite of the university being opposed to the student strike. However, many students could not vote, or did not wish to vote, at these meetings, and objected to the power of other students to suppress their right to continue studying.

To ensure « respect » for these votes in favour of the student strike, strike supporters picketed the entrances to classes, and disrupted classes in faculties which had voted against the strike. UQAM took no action to stop the picketing or disruption of classes, in violation of article 2.1 of regulation 10.

Article du situation boycott : <http://www.lapresse.ca/actualites/quebec-canada/education/201203/02/01-4501749-la-fecq-appelle-ses-membres-a-debrayer.php>

## 3. Students' Union policies and principles: D

UQAM does not have a single, central « students' union » as such. There are seven faculties, each with its own student association, with membership ranging from 2,000 to 12,000 per faculty.



Half of the student associations have no policies concerning campus free speech. The other half have express provisions in support of free expression. There are no direct restrictions on campus free speech set out in any policies. However, the general assemblies of student associations are sovereign, and students are bound by any political or policy position adopted by the general assembly. Student associations do not have policies in regards to harrassment and discrimination.

Chartre : <http://www.er.uqam.ca/nobel/afesh/spip.php?article128>

Régie : <http://www.er.uqam.ca/nobel/afesh/spip.php?article129>

#### **4. Students' Union actions and practices : D**

During the 2011-12 school year, student associations played a significant role in opposing the tuition increases proposed by the Quebec government. General assemblies were dominated by students opposed to the tuition increases, and those expressing minority opinions were heckled or bood. Voting took place by show of hands rather than secret ballot, making intimidation possible. Resolutions in favour of the strike were enforced by picket lines, preventing all students from attending classes. Some students went so far as to disrupt classes in the Faculty of Management, which opposed the student strike. There was no censorship of the speech of those opposing the strike, but with classes not taking place there were few students on campus.



## 1. University policies and principles: C

The University of Alberta's *Code of Student Behaviour* states in its Introduction:

The University is defined by tradition as a community of people dedicated to the pursuit of truth and advancement of knowledge, and as a place where there is freedom to teach, freedom to engage in research, freedom to create, freedom to learn, freedom to study, freedom to speak, freedom to associate, freedom to write and to publish. There is a concomitant obligation upon all members of the University community to respect these freedoms when they are exercised by others. For these freedoms to exist, it is essential to maintain an atmosphere in which the safety, the security, and the inherent dignity of each member of the community are recognized.

The Introduction also states that “[n]othing in this Code shall be construed to prohibit peaceful assemblies and demonstrations, or lawful picketing, or to inhibit free speech.”

The degree to which free speech is defended via the *Code* depends on how the University chooses to define “the inherent dignity of each member of the community.” It is unclear whether the free speech protection clause could stand against a complaint that the expression of an opinion violates someone’s “inherent dignity.”

Section 30.9.5 of the *Code* governs the ability of students, student groups, members of the faculty, etc. to express their viewpoints on campus. This section of the Code establishes “Activity Zones” in and around the campus:

University individuals, groups and organizations may advance a cause and distribute or sell related literature or other similar material:

**30.9.5(a)** in designated Activity Zones, provided that the use of the Zones has been reserved in advance with the Office of the Registrar (Examinations and Timetabling) and provided that permission has been obtained from the Office of the Vice-President (Finance and Administration). Appeals shall lie with the Provost and Vice-President (Academic).

**30.9.5(b)** in areas other than Activity Zones with the prior approval of the Dean or other administrative officer or committee in charge of the area. Appeals shall lie with the Office of the Provost and Vice-President (Academic). See GFC Policy Manual 108.

*Source:*

<http://www.governance.ualberta.ca/CodesofConductandResidenceCommunityStandards/CodeofStudentBehaviour/309Appendix2RegulationsPertain/3095.aspx>



Section 30.9.8 of the *Code* governs the ability of students and faculty to display posters on campus:

Members of the University community may put up posters and notices on "open" notice boards **as long as the posters and notices do not create a nuisance**. Notices may not be posted on restricted notice boards without the authorization of the administrative unit in control of that particular notice board. The libraries, food service areas, the Administration Building, and University Hall are to be kept free of any but official notices. Notices may not be affixed to trees or shrubs. Student Groups that are suspended or are not registered are not entitled to put up notices on any notice boards on campus.

(Emphasis added by the authors) Source:

<http://www.governance.ualberta.ca/CodesofConductandResidenceCommunityStandards/CodeofStudentBehaviour/309Appendix2RegulationsPertain/3098.aspx>

While the term “nuisance” is likely directed at the size and quantity of posters, it could be applied by the University as a tool to censor controversial topics such as the Israel-Palestine conflict.

The University of Alberta *Residence Community Standards Policy* affirms the freedoms recognized in the *Code of Student Behaviour* (“the freedom to create, learn, study, associate, speak and write, and the associated obligations to respect these freedoms exercised by others”) and also states that “Every individual is equal in worth and dignity and possesses the same rights and opportunities, free from discrimination and harassment.”

This empowers Residence Assistants to restrict speech if it is deemed that the “worth and dignity” of a person is compromised.

The *Code of Student Behaviour* also includes a section dealing with the registration of student groups. Section 30.8.2 reads:

- 30.8.2(1)** To be eligible for registration a group must be able to provide, upon request, satisfactory evidence of the following:
- 30.8.2(1) a** That the group's stated purposes, goals or activities are consistent with the philosophy of the University as stated in 30.1.

Section 30.3.4 of the University of Alberta *Code of Student Behaviour* prohibits speech that might promote “Inappropriate Behaviour”:

- 30.3.4(1) c** No Student shall use words that incite others to behaviour that is inappropriate to members of the University Community, whether or not in connection with a demonstration, rally or picketing.



Source:

<http://www.governance.ualberta.ca/CodesofConductandResidenceCommunityStandards/CodeofStudentBehaviour/303OffencesUndertheCode/3034InappropriateBehaviourtowa.aspx>

## 2. University actions and practice: D

The authors are not aware of cases of the U of A censoring speech on campus, or discriminating against students or groups on the basis of the content of their expression.

However, the U of A has chosen to intervene against free expression in the case *Pridgen v. University of Calgary*, described in detail under Section 2 (University actions and practices) of the report on the University of Calgary. The U of A intervened both in the Court of Queen’s Bench and again in the Alberta Court of Appeal, in support of the University of Calgary’s unsuccessful attempt to censor criticism of a professor on a Facebook page. It appears that the U of A believes, like the U of C, that “institutional autonomy” and “academic freedom” should serve as a license for universities to repudiate their own mission statement (and the condition on which they receive government funding) by censoring the peaceful expression of students on campus.

Source:

<http://www.calgaryherald.com/news/calgary/infringed+freedom+speech+disciplining+Facebook+commenters+rules+court/6592844/story.html>

## 3. Student Union policies and principles: D

Section 2.0.5 of the Students’ Union *Operating Policies* requires that posters from students or student groups cannot be approved if they contain material that is “sexist, racist, homophobic, or otherwise defamatory,” as well as “any poster that contains offensive pictures or language” and “any poster that is not written in English or French”

Section 2.0.7(B) governs the ability of students and student groups to distribute publications:

- b) All publications must be in good taste, and relevant to the needs of the student population. Publications that are sexist, racist, homophobic or otherwise defamatory shall not be permitted.

Uses of the terms “otherwise defamatory,” “in good taste” and “relevant to the needs of the student population” are very subjective qualifications. How does one determine what is relevant to the needs of the student population, and who does the determining? What is deemed to be in good taste? The “good taste” of whom? Such vague terms give a great deal of discretion to the Executive Committee to determine which messages may be distributed through publications and which do not.



Source: <http://www.su.ualberta.ca/media/uploads/586/operatingpolicymanual.pdf>

The Students' Union maintains a policy document called *Students' Union Political Policies*. The introduction of the document explains its purpose:

Political policy is a directive from Students' Council to the Executive Committee that sets the direction of the Student's Union's advocacy efforts.

Members of the Executive Committee are responsible for creating and following implementation plans for political policies and must report their progress to the Policy Committee.

Source: <http://www.su.ualberta.ca/media/uploads/585/politicalpolicymanual.pdf>

The Students' Union takes positions on numerous topics, including stances on affordable housing, international students' tuition, public transit, government student loans, and environmental issues. While these positions do not, in and of themselves, restrict or censor students' speech on campus, there is ample evidence that students' unions across Canada have used their "official position" on an issue as grounds for censoring the speech of students and student clubs that runs counter to the "official position" taken by the students' union. Further, students who do not agree with the "official" positions taken by the Students' Union are still required to pay for this expression by way of mandatory dues.

Section 40(1) of Bylaw 2000, *A Bylaw Respecting Elections, Plebiscites and Referenda of the Students' Union*, requires all candidates in student union election campaigns to have all campaign material, including materials expressive of their beliefs and viewpoints, "approved in form, **content**, and cost by the Chief Returning Officer (C.R.O.) before they may be used in campaign activities." **[emphasis added by authors]** Section 40(2) further reads:

- (2) Candidates and sides wishing to have campaign materials approved shall provide the C.R.O. with:
- a. a written estimate of the cost of the proposed campaign material, including the source of that cost; and
  - b. the complete contents of the proposed campaign material, including text, images and layout.

The *Bylaw* does not elaborate on what the C.R.O. would deem appropriate or inappropriate in the contents of campaign material, but nevertheless empowers the C.R.O. to censor election campaign materials on the basis of its content. In effect the C.R.O. has unlimited discretion to determine what content is permissible and what content is not permissible.



Section 41(2) of the same *Bylaw* empowers the Chief Returning Officer (a student appointed by the Executive Committee of the Student Union), with the following mandate:

(2) Where a candidate or side contravenes Section 40(1), the offending campaign materials shall be destroyed and the C.R.O. may assess an additional penalty to that candidate or side, as set out in Section 69.

The additional penalties a student might incur if he/she violates this policy are not specified in the policy, but since this policy makes up one component of the *Bylaws*, and since any violation of the *Bylaws* could result in a student being deemed not in good standing with the union (and therefore unable to participate in official events, vote in future union elections, etc.) then this could be a punishment incurred on a student for violating the elections *Bylaws*.

Source:

<http://www.su.ualberta.ca/media/uploads/assets/Bylaws/Bylaw%202000%20Elections,%20Plebiscites%20and%20Referenda%201.pdf>

Section 9 of Bylaw 5600, *A Bylaw Respecting Student Groups*, states that “The Students’ Union may terminate a student group’s registration or suspend a student group’s activities.” This section does not elaborate on what grounds, if any, the Students’ Union may proceed to terminate a group’s registration. This has the effect of giving the Students’ Union unlimited discretion in determining what sort of behaviour can warrant use of this policy, including speech deemed to be offensive or controversial.

Source: <http://www.su.ualberta.ca/media/uploads/assets/Bylaws/bylaw5600.pdf>

#### **4. Student Union actions and practices: C**

The authors are not aware of any reports of the Students’ Union censoring speech on campus during the 2011-12 school year, or discriminating against students or student clubs on the basis of belief, opinion, philosophy or expression.



## 1. University policies and principles: C

UBC President Dr. Stephen Toope has lamented that “in Canada we have seen many examples of students trying to shut down speakers with whom they disagree.” In an interview with the *Globe and Mail*, Dr. Toope has asserted that “the role of the University is to encourage tough questioning, and clear expressions of disagreement, but not the “silencing” of alternative views. Universities are sites for the contestation of values, not places where everyone has to agree. That means that speakers we don’t like, or even respect, should be allowed to put forward their views... [which can] then be challenged and argued over.”

In regards to academic freedom, UBC’s *Calendar* states:

The members of the University enjoy certain rights and privileges essential to the fulfilment of its primary functions: instruction and the pursuit of knowledge. Central among these rights is the freedom, within the law, to pursue what seems to them as fruitful avenues of inquiry, to teach and to learn unhindered by external or non-academic constraints, and to engage in full and unrestricted consideration of any opinion. This freedom extends not only to the regular members of the University, but to all who are invited to participate in its forum. Suppression of this freedom, whether by institutions of the state, the officers of the University, or the actions of private individuals, would prevent the University from carrying out its primary functions. All members of the University must recognize this fundamental principle and must share responsibility for supporting, safeguarding and preserving this central freedom. Behaviour that obstructs free and full discussion, not only of ideas that are safe and accepted, but of those which may be unpopular or even abhorrent, vitally threatens the integrity of the University’s forum. Such behaviour cannot be tolerated.

Source: <http://www.calendar.ubc.ca/vancouver/index.cfm?tree=3,33,86,0>

UBC’s *Student Non-Academic Misconduct Policy* contains a section forbidding disruption of the right of other members of the community to free speech:

4.2.3 Disruption: No student shall, by action, threat, or otherwise, disrupt any activity organized by the University or by any of its faculties, schools, or departments, or the right of other persons to carry on their legitimate activities, to speak or to associate with others.

Violations of this section are adjudicated by the Student Conduct Manager.

Source: <http://www.calendar.ubc.ca/vancouver/index.cfm?tree=3,54,750,0>



It appears that UBC does not have security fee policies that provide for variation depending on the event's message or content, and every club faces the same bureaucracy when it comes to bookings and organization.

UBC adopted a revised *Discrimination and Harassment Policy* in September, 2011. This new *Policy* reverses the wording of the previous version concerning its relationship to the University statement on academic freedom. The previous *Policy* stated that the *Discrimination and Harassment Policy* should **not** be interpreted in a way that contradicts the *Academic Freedom Statement*. The new *Policy* states that academic freedom shall be interpreted in a way that is consistent with the *Discrimination and Harassment Policy*, reversing the direction of interpretation. The new *Policy* reads:

Academic Freedom and freedom of thought, belief, opinion and expression carries with it the expectation that all Members of the University Community will conduct themselves in a responsible manner so as not to cause, condone or participate in the Discrimination or Harassment of another person or group of persons.

The new *Policy* goes on to define 'harassment' as follows:

3.4 Harassment is comment or conduct that one knows or ought reasonably to know is unwelcome, that creates a negative impact for the recipient, and that is related to one or more of the prohibited grounds of discrimination as set out in the B.C. Human Rights Code.

The apparent reversal in the order of priority between UBC's statement of academic freedom and its *Discrimination and Harassment Policy*, combined with the fact that the latter appears to define 'harassment' broadly to include 'comments' that 'create a negative impact' for the recipient, is a troubling step away from free speech.

The new *Policy* is explicit in claiming that it only covers those grounds for complaint that are found in the BC Human Rights Code:

The fundamental objectives of this Policy are to prevent Discrimination and Harassment on grounds protected by the B.C. Human Rights Code, and to provide procedures for handling complaints, remedying situations, and imposing discipline when such Discrimination or Harassment does occur. Concerns regarding discrimination or harassment that do not involve any of the grounds prohibited by the B.C. Human Rights Code are not covered by this Policy.

The new *Policy* expressly endorses the restriction on speech contained in Section 7(1) of the BC Human Rights Code:

A person must not publish, issue or display, or cause to be published, issued or displayed, any statement, publication, notice, sign, symbol, emblem or other representation that (a) indicates discrimination or an intention to discriminate



against a person or a group or class of persons, or (b) is likely to expose a person or a group or class of persons to hatred or contempt because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or that group or class of persons.

Complaints made on the basis of the *Discrimination and Harassment Policy* are referred to and handled by the UBC Equity Office. The equity officers are empowered to render judgments on these cases and to impose disciplinary measures -- measures which are left undefined and up to the discretion of the equity officers. (See sections 5.1 and 5.1.4. of the *Discrimination and Harassment Policy*).

Source: <http://Universitycounsel.ubc.ca/files/2011/09/policy3.pdf>

The University poster and bulletin policy requires that any postings (inside buildings) for events or groups be approved first by the department in the building in which it is to be posted. No guidelines are given instructing departmental officials to adopt posting criteria that are non-discriminatory with respect to the content of the message advertised.

Source: <http://www.Universitycounsel.ubc.ca/files/2010/08/policy120.pdf>

UBC has an Equity Office which is empowered to handle complaints made under the *Discrimination and Harassment Policy* (as noted above). The official powers of the equity officers to monitor speech appear to be limited the powers given to them by the *Policy*.

It is worth noting that the Equity Office website appears to define “harassment” much more broadly than does the *Discrimination and Harassment Policy*. It states:

Harassment, a form of discrimination, is a comment, conduct or behaviour that humiliates, intimidates, excludes and isolates an individual or group based on the BC Human Rights Code’s thirteen grounds of prohibited discrimination.

Harassment is unwanted and unwelcome attention from a person who knows, or ought to know, that the behaviour is unwelcome. Harassment can range from written or spoken comments to unwanted jokes, gifts, and physical assault, and may be accompanied by threats or promises regarding work or study opportunities and conditions. Harassment can be either a single incident or a series of related incidents.

It is not clear what force this definition has, or whether the Equity Office in fact uses this definition to adjudicate harassment complaints. Whatever its use, this definition counts as harassment any “comment (written or spoken), conduct or behaviour” that “humiliates, intimidates, excludes and isolates an individual or group” based on their race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age.



Given the broadness of this definition of ‘harassment’ and given how open to interpretation terms like “humiliates, intimidates, excludes and isolates” seem to be, there appears to be potential for censorship of speech here.

Source: <http://equity.ubc.ca/discrimination/#discrimination>

## 2. University actions and practices: D

In March of 2012, UBC student Justine Davidson removed all her clothes and sat in a chair in front of the controversial Genocide Awareness Project (GAP) display, holding a small sign that read “Autonomy is beautiful.” Her actions were peaceful, and did not block the visibility of the GAP display, though some would argue they obstructed the pro-life students right to be able to express their views freely and without interference.

The campus security officers asked Davidson to put her clothes on, with which she partly complied. She was eventually escorted away by RCMP officers.

Pursuant to the anti-disruption provision in the *Student Non-Academic Misconduct Policy* (section 4.2.3: see link above), Davidson was asked to meet with Chad Hyson, UBC’s Associate Director for Student Development. However, after examining the details of the case, Hyson deemed that the infraction was too minor to warrant any disciplinary measures.

This judgment may have been viewed by various people as either a vindication or a defeat for free speech on campus. The campus newspaper, the *Ubysey*, published an editorial strongly condemning the actions of campus security in interfering with Davidson’s protest, and mistakenly reported that Davidson had been disciplined by the University.

Source: <http://ubyssey.ca/opinion/editorial-ubcs-response-to-nude-protest432/>

In a correction article, the *Ubysey* editors apologized for their factual error, but argued that campus security was still culpable for interfering with Davidson’s right to protest.

Source: <http://ubyssey.ca/opinion/correction-davidson-was-not-disciplined-for-her-nude-protest/>

Others, though, may see Davidson’s actions as constituting a disruption of the right to free speech of pro-life students -- particularly, considering instances of obvious and at times destructive interferences by anti-GAP protestors in years past. Hyson clearly did think Davidson’s actions were disruptive, though he considered it of a minor nature. However, some might view the fact that Davidson did not receive even a minor disciplinary measure as a tactic that condoned interference with the pro-life students’ right to express their controversial views.

Controversies surrounding the GAP date back to 1999, when UBC demanded security fees in the amount of up to \$60,000 were demanded from a campus pro-life group (“Lifeline”) intending to set up this display. Similar fees had not been assessed to other



groups putting on events with equally controversial messages, or groups displaying disturbing or graphic images in public.

Source: Ubysey, UBC student newspaper, Sept 17, 1999, page 5

While abandoning its initial demand for \$60,000 in security fees, UBC did place numerous restrictions on Lifeline from 1999 to 2010, insisting that the campus club limit the number, size, location, and direction of its signs, the number of times the group could express its views on campus, and the length of time the group could set up its display. These kinds of restrictions were not imposed on any other campus club. During this time, UBC also repeatedly condoned the physical blocking, interruption and obstruction of Lifeline's displays by opponents who were recruited by Students for Reproductive Choice. As recently as 2010, the University failed to provide adequate security to enforce an agreement by protesting opponents of the pro-life display to stay 30 feet away from the display. The opponents rendered the pro-life display practically invisible by holding large yellow banners with slogans like "Unwanted Pregnancy is NOT a choice" and "Full Access to Free Abortion." The University did not make any effort to remove the protesters, or even to insist that they stand a reasonable distance away (as per an alleged "agreement"), thereby allowing the de facto censorship of pro-life speech on campus.

In March of 2011, UBC lifted these restrictions and insisted that pro-choice counter-protesters refrain from obstructing and blocking Lifeline's expression. Lifeline's event went ahead without restrictions, and with campus security upholding the rule of law on campus.

Lifesitenews (pro-life) website:

<http://www.lifesitenews.com/news/archive/ldn/2010/mar/10031510>

Ubysey, March 13, 2011

<http://ubyssey.ca/news/abortion-debate-on-campus-stirred-by-graphic-display/>

Youtube video of events:

<http://www.youtube.com/watch?v=kAvvEqpBKXk>

In March 2011, a Bosnian-Muslim group calling itself the Institute for Research of Genocide of Canada tried to prevent Dr. Srdja Trifkovic from speaking at UBC. The Institute argued that "A historical revisionist like Trifkovic should not be allowed to lecture in an academic context."

Source: <http://www.nsnews.com/news/sign+locks+free+speech/2895805/story.html>.

UBC approved of Dr. Trifkovic speaking, with president Stephen Toope stating: "for a University, anything that detracts from the free expression of ideas is just not acceptable."

Source: <http://learningcommons.ubc.ca/2011/03/is-the-government-not-allowing-a-recent-guest-lecturer-into-canada-justified/>.



The event was later cancelled after Dr. Trifkovic was stopped at the Vancouver International Airport and sent back to the US. “The ensuing campaign soon escalated into demands to keep me out of Canada altogether” (Trifkovic).

Source: <http://ubyssey.ca/news/srdja-trifkovic-barred-from-entry-into-canada/>

In 1997, UBC hosted the Asia Pacific Economic Cooperation (APEC) forum. During the time of the event, protests were not permitted on campus. While there may have been legitimate security concerns, it is doubtful that they justified the actions taken against one student, Craig Jones (now a lawyer working for the Attorney-General of B.C.), who was arrested for displaying signs reading “Free Speech,” “Democracy,” and “Human Rights” on the front lawn of his residence.

Ubysey, UBC student newspaper, November 28, 1997, page 3

[http://www.library.ubc.ca/archives/pdfs/ubyssey/UBYSSEY\\_1997\\_11\\_28.pdf](http://www.library.ubc.ca/archives/pdfs/ubyssey/UBYSSEY_1997_11_28.pdf)

Commission for Public Complaints Against the RCMP website, Report on APEC:

<http://www.cpc-cpp.gc.ca/prr/rep/phr/apec/fr-rf-eng.aspx>

British Columbia Civil Liberties Association (BCCLA) press release:

<http://www.bccla.org/pressreleases/97jonessues.html>

In the lead up to hosting Olympic 2010 events at Thunderbird Stadium, UBC agreed to insert a clause in the student residency contract prohibiting students living within eyesight of the sports centre from displaying offensive "signage" in their windows while the games are being held. Stephen Owen, chief spokesman for UBC, said the policy was meant to shield the Olympics from "guerilla advertising"; however, it was left to Owen to decide personally, in consultation with the UBC legal department, which signs were acceptable and which ones needed to be removed. During the Olympics, residents were not allowed to display "false or unauthorized commercial association with the Olympics" that would be visible from the Thunderbird Winter Sports Centre, an Olympic venue. “UBC spokesperson Stephen Owen said the University is not trying to suppress anyone's right to political protest. He said the clause in question is written strictly to protect the commercial interests of Games organizers.”

CBC News report, July 4, 2009:

<http://www.cbc.ca/news/canada/british-columbia/story/2009/07/04/bc-civil-liberties-olympics-free-speech.html>

National Union of Public and General Employees website:

<http://www.nupge.ca/node/2428>

BCCLA press release:

[http://www.bccla.org/pressreleases/09Olympics\\_free\\_speech\\_english.pdf](http://www.bccla.org/pressreleases/09Olympics_free_speech_english.pdf)



### 3. Student Union policies and principles: D

The UBC student's union, the Alma Mater Society (AMS), has no specific policies in respect of campus free speech. The student union does have the ability to refuse to grant club status based on belief and philosophy, as each application is individually reviewed by the Student Administrative Council (SAC) VP chair.

The AMS subsidizes campus clubs, and does not show any obvious discrimination based on content. Any person can register a club with the AMS assuming that they provide the correct documentation.

The AMS *Discrimination and Harassment Policy* applies to all AMS student government office-holders, staff members, volunteers, and members of AMS student groups.

The *Policy* could be used to censor speech as it defines "harassment" as follows:

'any physical, visual or **verbal conduct**, whether intended or unintended, that is either unsolicited or ought reasonably to be known to be unwelcome, which **denies individual dignity and/or respect based upon...**' '...race, colour, ancestry, place of origin, ethnic origin, citizenship, creed, gender, gender identity, sex, sexual orientation, marital status, family status, physical or mental disability, religion, union membership, union activities, political activities, age, conviction of a criminal or summary conviction offence that is unrelated to the employment or the intended employment of that person.'

'It is any behaviour by any person in the workplace that is directed at, or **is offensive to**, an employee...'

'Harassment may also include comments or conduct which create a hostile, intimidating or offensive environment...'

'Examples of harassment include... written or verbal communication, or gestures of a derogatory nature (e.g. name-calling, slurs, taunting pictures or posters, graffiti) that relate to any of the prohibited grounds enumerated in this policy; **application of stereotypes or generalization based on any of the prohibited grounds enumerated in this policy.**'

Source: <http://www.ams.ubc.ca/wp-content/uploads/2012/01/internal-policies-2011.pdf>  
<http://ubyssey.ca/news/council-cuts-equity-program/>

AMS' *Student Resource Group Policy* gives discretionary power to its officials and decision-making bodies to restrict the distribution of publications, the posting of signage in the Student Union Buildings, and the hosting of events in AMS facilities. The *Policy* empowers AMS officials to give speech privileges to clubs, if recommended by the Student Administrative Council. There are no stated criteria for SAC to recommend a



club, except that it be a fully constituted student association that has been in existence for at least two years. Special privileges include:

1. The AMS Administration Office shall provide Resource Groups with complete banking services, billing services, and back-up bookkeeping free of charge.
2. Resource Groups shall have photocopying privileges at AMS Copyright (billed directly to their account) with a minimum order of \$5.00.
3. Resource Groups shall be entitled to mailbox service in the SUB.
4. Resource Groups shall have the privilege of booking SUB bookable space at no charge as per the SUB Bookings Policy.
5. SAC shall ensure that Resource Groups be given priorities over Clubs and Associations with regard to booking space in the SUB.
6. Resource Groups may book other facilities on campus under AMS sponsorship.
7. Resource Groups shall be allocated space and lockers by SAC.
8. Resource Groups must maintain their space in a state that does not contravene health and safety regulations as determined by SAC. If they fail to maintain their space in such a manner, SAC may charge for clean-up.

These powers can be used to discriminate between groups that are “recommended” by SAC and those that are not, and bestows special AMS resources upon the former group. The *Policy* in effect promotes the speech of clubs whose message the SAC agrees with (or considers more important), while putting other clubs at a disadvantage for high-traffic space and AMS resources.

Currently the groups that are classified as Resource Groups are the following: Pride UBC, The Social Justice Centre, The Student Environment Centre, The Women’s Centre, Colour Connected Against Racism, Allies.

Source: *Student Resource Group Policy* in AMS SAC Policy Handbook.  
[http://www.ams.ubc.ca/wp-content/uploads/2010/08/SAC\\_Policy\\_Handbook\\_-\\_June\\_2010.pdf](http://www.ams.ubc.ca/wp-content/uploads/2010/08/SAC_Policy_Handbook_-_June_2010.pdf)

According to the UBC AMS *Student Administrative Commission (SAC) Policy Handbook* all properly constituted clubs are eligible to book rooms, post notices on Student Union Building (SUB) notice boards, and receive other benefits. No problematic restrictions are placed on gaining club status in virtue of the content of the views expressed by the club. However, according to the *SUB Bookings Policy*, room bookings that may be “controversial” need to be brought to the SAC for approval. This discretionary power has potential for withholding booking facilities to groups putting on events with unpopular messages. Similarly, the *Bookable Bulletin Boards Policy* forbids the posting of materials deemed “inappropriate” by the SAC, though there is no evidence of abuse of this discretionary power.

Source: *SUB Bookings Policy* in AMS SAC Policy Handbook.  
[http://www.ams.ubc.ca/wp-content/uploads/2010/08/SAC\\_Policy\\_Handbook\\_-\\_June\\_2010.pdf](http://www.ams.ubc.ca/wp-content/uploads/2010/08/SAC_Policy_Handbook_-_June_2010.pdf)



The *SUB Distributions and Publications Policy* requires that any publications distributed in the SUB be UBC student-produced (or else approved by the SAC on grounds that it contains student-focused content) and not contain “offensive” material. No definitions are offered for what constitutes “offensive” material, which is disconcerting.

The AMS elections rules require that campaign materials be approved by an elections administrator, who has discretionary power to disallow materials she/he deems offensive. Section 7 of the AMS code of procedures for elections states that:

“(h) All campaign material must be approved by the Elections Administrator before it is used.

(i) The Elections Administrator shall not approve campaign material which he or she deems to be offensive.

(j) A decision of the Elections Administrator to approve or not approve campaign material may be appealed to the Elections Committee, in accordance with the appeal procedures in Article 8(2) below.”

There are no corresponding criteria to govern the discretion of the Elections Administrator.

#### **4. Student Union actions and practices: C**

The authors are not aware of any cases of the AMS denying equal access to University facilities, or otherwise discriminating against any individuals or groups on the basis of their beliefs, opinions, or philosophy.



## 1. University policies and principles: C

The University of Calgary states that its mission is “to seek truth and disseminate knowledge.” Its website also indicates that:

The University must be a place where ideas can flourish. The University is a body dedicated to the pursuit and development of knowledge. ... By virtue of this stimulating environment, Members of the University community engage in discovery and discourse. Academic freedom assures both the openness and responsibility of comment and criticism on all intellectual matters.

and

The University of Calgary comprises a community of Students, faculty and staff who are dedicated to furthering learning, intellectual inquiry and personal and professional development. The University's resources are made available to every Member of its community in order to encourage the development of ideas.

Section 4.9 b) of the *Non-Academic Misconduct Policy* restricts “engaging in communication toward an individual or group which may be considered harassing or offensive (including online communication).” Section 4.9(b) was not used to prosecute Campus Pro-Life students for expressing their opinions on campus. Instead, section 4.10 of the *Non-Academic Misconduct Policy* (“failing to comply with the direction of a Campus Security Officer or University official in the legitimate pursuit of his/her duties”) was used to prosecute the students when they resisted the University’s censorship demand to set up their display in a manner such that no passers-by could see the display.

Source: <http://www.ucalgary.ca/registrar/files/registrar/Non-Academic%20Misconduct%20Policy%20-%20approved%20by%20GFC%202011-10-20.pdf>

The University of Calgary has “time, place, and manner” restrictions requiring student groups to book certain green spaces on campus in order to set up a display or hold a demonstration. These do not discriminate on the basis of the group’s beliefs, opinions, philosophy or expression. However, “Spontaneous demonstrations” are allowed without prior booking, but these may be shut down by the University *at its discretion*, even if the students engaging in a “spontaneous demonstration” are not breaking any rules.

Source:

[http://www.ucalgary.ca/policies/search/implementation?page=1&filter0=&filter1\[0\]=52](http://www.ucalgary.ca/policies/search/implementation?page=1&filter0=&filter1[0]=52)



In March of 2010, University of Calgary Provost Alan Harrison publicly defended the right of controversial American speaker and author Ann Coulter to speak at the University of Calgary, stating in a media interview:

... the purpose of a University is to encourage and promote the free exchange of ideas. To do anything other than that is to go against everything that the University stands for. We have laws in this country that ensure that people cannot promote hatred. If she is deemed to be promoting hatred, those who feel that she's doing so can seek redress through the law. It's up to them to do so. It's not our job to determine in advance what she might or might not say and whether that is the promotion of hatred.

If we try to suppress people's views simply because we don't agree with them we are doing two things. We are acting contrary to what a University stands for and also frankly, we are providing increased publicity for the person who is spreading those views. That's not our purpose. Our purpose is to give her the same respect as everybody else deserves.

As I've said we're about the free exchange of ideas and we're not about anything else. We're not about trying to restrict what people's rights to either state their opinions or demonstrate against those stating their opinion, as long as those demonstrations are peaceful.

Source: <http://christiangovernance.ca/news/University-of-calgary-pro-life-students-defy-censorship-again>

## 2. University's actions and practices: F

In January of 2011, the Board of Governors (the University's highest authority) upheld a decision that eight students were guilty of "non-academic misconduct" for having defied the University of Calgary's demand that they set up their pro-life display with signs facing inwards such that no passers-by would be able to see the signs. The students have commenced an action in the Alberta Court of Queen's Bench to overturn this Board of Governors decision (*Wilson et al. v. University of Calgary*) and this litigation is ongoing.

Pro-life students have set up a controversial display on campus 13 times since 2006, for two consecutive days each time.

In the fall of 2007, campus security stood by and watched while some people blocked and disrupted the display, preventing the pro-life students from carrying on dialogue with other students. Campus security did not ask the obstructionists to cease their conduct. Instead, after this incident, the University started demanding that the pro-life students turn their signs inwards. When the students refused to comply with this demand, the University found them guilty of "non-academic misconduct."



Section 430 of the *Criminal Code* makes it an offence to obstruct, interrupt or interfere with any person in the lawful use, enjoyment or operation of property. The students' signs are "property" which they used as their means of communicating their message. In the fall of 2007, people obstructed and interfered with the students' use of their property, and this was condoned by Campus Security.

In 2009, the pro-life students were charged with "trespassing" on their own campus, after they refused to comply with the University's demand to turn their signs inwards to prevent people from seeing the signs; no other campus groups has been asked to do this with their displays. A trial date was set for November of 2009, but the Crown Prosecutors stayed the charges when the U of C could not point to any rule, policy, bylaw, or regulation that the students were violating.

In the fall of 2010, after Campus Pro-Life had set up its display on campus on nine occasions (each time for two consecutive days), the U of C started demanding a \$500 "security fee" that is not demanded of any other campus club wishing to set up a stationary display. In the spring of 2011, the U of C demanded a \$1,000 "security fee" from Campus Pro-Life but later accepted \$500. In the fall of 2011, the University again demanded \$500.

In 2011, Campus Pro-Life set up a GAP display for two consecutive days in both winter and fall semesters. The University once again demanded a security fee, which the group paid under protest. The University did not ask the club to turn its signs inwards—a departure from previous events.

While there are no written policies which discriminate against certain groups or campus clubs, only Campus Pro-Life is expected to turn its signs inwards and only Campus Pro-Life is expected to pay "security fees" in order to set up a stationary display on campus. The University has not objected to other disturbing visual images on campus, such as photos of members of the Falun Gong religious sect who were tortured by the Chinese Communist government. The U of C has also condoned a poster campaign to promote the wearing of seatbelts in cars, featuring gory graphic photos showing a person's face after having gone through a windshield.

It appears that the University of Calgary controls, or at least influences, the booking of space that is nominally the responsibility of the Student Union. In November of 2010, then-President of the Students' Union Lauren Webber stated that the Student Union was denying Campus Pro-Life equal access to space in MacEwan Hall in order to comply with the University of Calgary's *Use of University Facilities for Non-Academic Purposes* policy.

Source: <http://www.lifesitenews.com/news/archive/ldn/2008/nov/08112707>

Source: <http://www2.canada.com/calgaryherald/news/city/story.html?id=2083340e-12b3-46e7-a58b-8317b9f1a247>



In 2008, the University of Calgary prosecuted and convicted ten students of "non-academic misconduct" for creating the Facebook page, "I no longer fear hell, I took a course with Aruna Mitra."

In the fall of 2007, students wrote on Facebook that Mitra lacked knowledge of the subject matter, that she frequently said "don't quote me on that," and often answered students' questions with "what do you think?" Students described the professor as inept, awful, and "illogically abrasive," and claimed that she said "um" over 260 times during a single class. In a course on Law and Society, Ms. Mitra asserted that the Magna Carta was about Native North American human rights protection. When students compared the marks they received on an assignment one of the students, Steven Pridgen, wrote "somehow I think she just got lazy and gave everybody a 65 . . . that's what I got. Does anyone know how to apply to have it remarked?" Many students in the class appealed their grades and all succeeded in getting a higher grade.

Eight months after the course was concluded, Keith Pridgen wrote on Facebook that Mitra was no longer teaching at the University of Calgary: "Remember when she told us she was a long-term prof? Well actually she was only sessional and picked up our class at the last moment because another prof wasn't able to do it; Lucky us."

The students were threatened with expulsion unless they wrote an abject letter of apology.

Two of the 10 students, brothers Keith and Steven Pridgen, after failing to have the finding of non-academic misconduct overturned by the University's General Faculties Council or the Board of Governors, took the matter to court.

The students were successful, with the Alberta Court of Queen's Bench overturning the University's finding of guilt, and further declaring that "the University is not a *Charter*-free zone." The University appealed the ruling in *Pridgen v. University of Calgary* to the Alberta Court of Appeal. In May 2012 the appellate court agreed with the Court of Queen's Bench and affirmed that the *Canadian Charter of Rights and Freedoms* protects the free speech rights of University students on campus.

### 3. Student union policies and principles: D

In February of 2011, the University of Calgary Students' Union adopted an *Acceptable Display Procedure* which empowers the Students' Union Operations and Finance Committee to restrict or prohibit demonstrations, displays and expression which the Committee deems to be "offensive" or "inappropriate." The policy defines "inappropriate" as "discriminatory in nature" and goes on to say that "discrimination" is not necessarily limited to race, ethnicity, colour, religion, sex, sexual orientation and age.



The definition of “inappropriate” also includes any behaviour that is deemed “[u]nlawful, fraudulent, harmful, abusive, threatening, defamatory, vulgar, obscene, hateful, offensive, a violation of human rights, an invasion of privacy or otherwise objectionable in nature.”

Source: [http://www.su.ucalgary.ca/system/files/content/quality-studentlife/docs/acceptable\\_display\\_procedure-2012.pdf](http://www.su.ucalgary.ca/system/files/content/quality-studentlife/docs/acceptable_display_procedure-2012.pdf)

The Students’ Unions election policies and guidelines limit free speech by requiring that “all campaigning must be positive in nature” and by banning “negative campaigning” under Sections 19 and 57(e) of the *Election Operations Procedure* (revised April 2011). In practice, this means that if an auditor found that student politicians had spent Students’ Union funds illegally or inappropriately, and if those same student politicians sought re-election for another year, then sections 19 and 57(e) of the *Elections Operations Procedure* would preclude opposition candidates from raising financial mismanagement as an election issue, as this would constitute “negative campaigning.”

Source: <http://www.su.ucalgary.ca/page/affordability-accessibility/elections/policies-procedures>

#### 4. Student union actions and practices: D

During the 2010-11 academic year, the Students’ Union denied use of the South Courtyard Stage (a prominent, high-traffic area) to Campus Pro-Life for the “Echoes of the Holocaust” event, on the grounds that the visual imagery used in this event is graphic and shocking. But other groups and individuals on campus that use graphic and shocking imagery are not subjected to any content-based limitations or restrictions of their expression.

During the 2010-11 academic year, Campus Pro-Life also encountered difficulties in booking space for “Silent No More,” which involves women speaking publicly about their own experience with abortion. The club was promised the South Courtyard Stage for March 16, 2011, and out-of-province speakers booked their flights for that date. The Students’ Union then declared the South Courtyard Stage would not be available on March 16 after all, and allocated this space to another group on that date. The out-of-province speakers had speaking engagements at other Alberta universities in addition to the University of Calgary and could not re-arrange their schedule, so they lost their only opportunity to use a prominent, high-visibility forum on campus.

At various times, the Students’ Union has placed a sign in front of Campus Pro-Life displays stating “the views expressed are not those of the Students’ Union,” but this is not done in respect of the expression of other student clubs.

In February of 2009, the Students’ Union stripped Campus Pro-Life of its official club status even while admitting that the club had not violated any rule, policy, bylaw or regulation of the Students’ Union or of the University of Calgary. The reason provided



by the Students' Union was the refusal of club members to comply with the University's demand that they turn their signs inwards so that nobody can see them. The Campus Pro-Life club appealed this decision, such that the decertification did not go into effect while under appeal, and the club continued to operate on campus. The club was eventually reinstated in June of 2010, when new student politicians were elected to the Students' Union positions.

In 1998, the campus Reform Party Club had its club status removed for having left a window open at a club event, a minor violation. The club was reinstated only after threatening a court action against the Students' Union.

Source: <http://thegauntlet.ca/story/3341>



## 1. University policies and principles: C

The University of Guelph *Mission Statement* begins by saying “The University of Guelph is a research-intensive, learner-centred university. Its core value is the pursuit of truth.” It goes on to say of the school:

It is animated by a spirit of free and open inquiry, collaboration, and mutual respect. It asserts the fundamental equality of all human beings and is committed to creating for all members of its community, an environment that is hospitable, safe, supportive, equitable, pleasurable, and above all, intellectually challenging.  
<http://www.uoguelph.ca/secretariat/senate/handbook/MissionStatement.pdf>

The document, *Human Rights at the University of Guelph*, states:

The University of Guelph is committed to a campus free of discrimination and harassment and is dedicated to the highest standards of human equality and academic freedom. The University actively endorses these standards at every level of the institution and in all aspects of student, faculty and staff life while individuals or groups are acting in a capacity defined by their relationship with the University.  
<http://www.uoguelph.ca/hre/hr/docs/hrpolicies.pdf>

The document goes on to discuss academic freedom, stating:

Academic freedom — the right to examine, to question, to teach and to learn freely — is a basic tenet of university life... The University believes that the ability to investigate, to speculate, to comment and to criticize without deference to prescribed doctrine or authority is a precious freedom that must be protected and nurtured at all times. For the University to maintain its place as a centre of excellence and to nurture its environment of creative and original research, it is crucial that academic and intellectual independence be strong and secure.

The University acknowledges that situations arise in which there is a perceived conflict between academic freedom and human rights. A violation of either freedom is of grave concern to the University. With respect to the interplay of human rights protection and the practice of academic freedom, it is the position of the University that discussion of controversial issues in or out of the classroom is not a violation of this Policy.

*Human Rights at the University of Guelph* does, however, place restrictions on free expression that is considered to be “discriminatory” and “harassing”:



Academic freedom entails the right of all University community members to make statements that challenge and may even offend the sensibilities, ideas and beliefs of others. On the other hand, academic freedom does not entail a right to discriminate against or harass individuals on grounds protected by the Code and this Policy.

The University outlines its definition of discrimination and harassment, as well as how to address these issues in the document *Discrimination Awareness: creating a university free from discrimination and harassment*:

Discriminatory comments or conduct can lead to a poisoned environment. A series of discriminatory statements or incidents or an extreme single statement or incident can create a poisoned environment for individuals. Such conduct can affect everyone's environment. A poisoned environment is characterized by condonation [sic] of, or participation in, such matters as: pinups, language or graffiti that demeans groups on the basis of prohibited grounds identified either by the Ontario Human Rights Code or by the University's policy; failure to implement special programs; and the failure to review and change policies, practices and procedures that discriminate on any ground prohibited by the University's policy.

*Discrimination Awareness: creating a university free from discrimination and harassment* also outlines that "Harassment is determined by the impact of the behaviour on the person being harassed, rather than the intent of the harasser and by whether a reasonable person could conclude that the behaviour is harassment." One of the ways the university encourages students to oppose harassment is to "refuse to go along with harassment masked as humour/academic debate."

<http://www.uoguelph.ca/hre/hr/docs/DiscriminationAwareness.pdf>

*Discrimination Awareness: creating a university free from discrimination and harassment* was prepared by the Human Rights and Equity Office (HREO), whose duties are outlined: "The University established the HREO in 1996 to coordinate its initiatives in the areas of discrimination, harassment and employment equity. The Office also supports the Office of the Provost in the area of educational equity."

The Office is described as being able to "listen, help you assess your situation and explore options to remedy the situation," but does not itself officially reprimand discrimination or harassment. According to *Human Rights at the University of Guelph*, the role of the Office includes "bringing to the attention of persons with supervisory responsibilities any University policy, procedure or practice that appears to discriminate against an individual or a group based on prohibited grounds;" as well as contributing to a "fact-finding team" comprised of both staff and students to help address the situation. The document suggests that the University prefers conflict resolution involving arbitration and mediation to settle problems of discrimination. While the consequences and penalties that can come from such arbitration are unknown, it appears that the



University has designed its policies in an effort to avoid empowering administrators with censorship powers.

## 2. University actions and practices: C

In a 2012 issue of the school's newspaper, *The Ontarian*, a number of faculty and lecturers submitted a letter regarding Israeli Apartheid Week (IAW). The letter stated:

We are ... deeply troubled to learn that one person connected to IAW organizing claims that, because of their involvement, they have been subject to intimidation from University of Guelph personnel. Such behavior is a violation of basic democratic rights including the rights to academic freedom, free speech, free association, and free assembly. Any university official engaging these or similar acts has abdicated his or her responsibilities to students and to intellectual inquiry, has abused their power, and has contravened the university's mission.

<http://www.theontarian.com/2012/03/a-letter-on-israeli-apartheid-week/>

The University has not issued an official response to the letter.

The University protected free speech for one student group, Campus Crusade for Christ, during a January 2004 event where a Guelph Student, Graydon Baker, spoke to students about his religious beliefs as part of an educational campaign sponsored by Campus Crusade for Christ, a registered student group. Citing vocal opposition to the planned presentation, the University ordered campus security personnel and Ontario Provincial Police to ensure safety at the event, which was carried out without incident (but with many protestors attending).

## 3. Student Union policies and procedures: C

The Guelph campus has two student unions. The Central Student Association (CSA) governs the undergraduate student body.

The *Policy Manual* contains most of the CSA's procedure and ideology relating to human rights and free speech. In discussing respect in the workplace (Appendix D, Section 24) the document states:

The C.S.A. is committed to maintaining an open and fair working anti-oppressive environment for each individual involved in the CSA consistent with the exercise of free speech and with enjoyment of social relationships which are a normal part of life. Central to this commitment is the belief that it is the right of each C.S.A. staff member or volunteer to work in an environment free from harassment and discrimination and where each individual is treated with respect.

and:

The CSA believes that a quality education flourishes only in an intellectually free climate. We oppose, therefore, any and all attempts to impose political or other selection criteria, in short, any non-academic criteria, upon the academic and research work of post-secondary education. Academic freedom and a quality education are



indivisible. We recognize that academic and research work must be undertaken with a spirit of responsibility to society, as befits its intellectual leaders.

Also included in the *Policy Manual* is a declaration of student rights. (Appendix F, Section 4.1) It begins by stating:

We declare that a full policy of non-discrimination against students must be enforced at all educational institutions within Canadian society. Further, every person has the right to equal treatment without being discriminated against because of race, national or ethnic origin, religion, sex, gender orientation, ability, family status, sexual orientation, political belief or socio-economic background.

Included in the rights of students are “The right of all students to organize and participate in democratic, autonomous student organizations which represent students on their respective campuses” (Art. 15), “The right of student organizations to publicize their activities in reasonable places” (Art. 22), and also “The right to organize and participate in mass demonstrations without harm, prejudice or intimidation” (Art. 46).

The *Policy Manual* also defines harassment. It states that:

Harassment is defined as any direct or indirect attention or conduct (oral, written, graphic or physical) by an individual or group who knows, or ought reasonably to know, that such attention or conduct is unwelcome/unwanted, offensive or intimidating.” (Appendix D, Section 13)

The *Policy Manual* also outlines parameters set by the CSA under which clubs can operate. Clubs must agree to a number of CSA policies, and it is noted that, “The CSA Clubs Conduct Tribunal, and ultimately the CSA Board of Directors, reserves the right to revoke or deny ASO status, funding, office space, and other privileges to any club that fails to meet or acts contrary to SOP policy. Clubs which have had privileges revoked or withheld will be known as limited accreditation clubs” (Appendix G Section 4.5).

<http://www.csaonline.ca/files/2012/05/F12-CSA-Policy-Manual.pdf>

#### **4. Student Union actions and practices: F**

In response to an event called a “Life Fair” hosted by the University’s club “Life Choice” in September 2008, the CSA issued a public apology to the students on campus for exposing them to the images and information of the fair, which displayed information and photos about abortion. CSA also revoked the club status of “Life Choice” without undergoing the CSA’s implemented procedure of informing the group that their status was under review on October 1, 2008.

(<http://oncampus.macleans.ca/education/2008/11/11/why-do-pro-choice-student-unions-try-to-censor-debate/>)



The apology asserted that the CSA was correct in banning the group as it constituted a violation of women's rights to an educational environment "free of advertisement, entertainment, programming and/or materials which promote violence against women, sexual stereotyping and discrimination." The apology was issued with listings of information on pro-choice movements and abortion resources.  
[http://thecannon.ca/news/story/csa\\_apologizes\\_for\\_life\\_fair\\_held\\_by\\_former\\_csaaccedited\\_antichoice\\_club](http://thecannon.ca/news/story/csa_apologizes_for_life_fair_held_by_former_csaaccedited_antichoice_club)

The apology failed to mention that as a Canadian Federation of Students (CFS) chapter, CSA was obligated to support a new (in 2008) CFS-approved ban of pro-life student groups. In February 2009, after CSA set up Tribunal of students to decide whether the student group's ban should continue, the club's status was reinstated.  
[\(http://www.theontarion.com/2010/11/loose-cannon-there%E2%80%99s-no-choice-but-pro-choice-on-some-campuses/\)](http://www.theontarion.com/2010/11/loose-cannon-there%E2%80%99s-no-choice-but-pro-choice-on-some-campuses/).  
<http://www.christianweek.org/stories.php?id=358>

During an event hosted in March 2011 by Life Choice, an executive member of the CSA hosted a booth offering pro-choice material and abortion information. While Life Choice is allowed to maintain its status, the message of the student association is clear that they are a partisan party in controversial debates and that they do not support the club's views.  
<http://www.scribd.com/Ontarion/d/52082361-March-31st-2011>

In October 2004 the national umbrella organization of a campus group, Campus Crusade for Christ (presently known as Power to Change), launched an advertising campaign across multiple campuses in which posters, and other forms of advertising that stated "I agree with \_\_\_\_\_," would give students a link to a religious testimony from a student on their campus. The Guelph campus was linked to a website by the slogan "I agree with Graydon." The student representing the campaign, Graydon Baker, shared his personal stories about his spirituality with students in open forums on campus. Guelph CSA received a number of complaints from students who were unhappy about CSA condoning (by allowing the student group to hold their event) the campaign and who suggested the CSA not allow the club to have the same rights to express their views as other student groups. The CSA responded by suspending the club status of Campus Crusade for Christ. Reports of the incident suggest that the CSA had no policy-backed grounds to decertify the club, so they enforced a fine which Campus Crusade for Christ paid, and then reinstated the club within days. The final event for the campaign, a presentation by Baker on his religious views, was carried out successfully on campus.

<http://www.graydonbaker.com/wp-content/uploads/2012/01/article-1.pdf>



## 1. University actions and practices: B

The University of King's College (King's, UKC) guiding documents rarely discuss freedom of speech or freedom of expression. In the University's *Code of Conduct*, freedom of speech is referenced in the preamble, where it is specified that no part of the document (including harassment policies) should be interpreted in such a way that would infringe upon the rights to freedom of speech and assembly for students or staff.

Nothing in this Code shall be construed to prohibit peaceful assemblies and demonstrations, or lawful picketing, or to inhibit freedom of speech (UKC Board of Governors, 1999: [http://ukings.ca/ukings/files/u15/yellow\\_book.pdf](http://ukings.ca/ukings/files/u15/yellow_book.pdf))

In addition, the regulations laid out by the University of King's College Board of Governors are limited by the recognition that responsibility of the institution to govern the behaviour of students or employees extends only so far as to preserve a safe and functional campus environment. Any activity carried out by staff or students that does not affect safety or the ability of other members of the community to enjoy the facilities or complete their respective responsibilities is not subject to any regulation, save minimal limitations according to law and as noted below, in Section 2 of the *Code's* Commentary:

In the exercise of its disciplinary authority and responsibility, the University treats students and employees free to organize their own personal lives, behaviour and associations, subject only to the law and to University regulations that are necessary to protect the integrity of University activities, the peaceful and safe enjoyment of University facilities by other members of the University and public, the freedom of members of the University to participate reasonably in the programmes of the University and in activities in or on the University's premises, or the property of the University or its members. Strict regulation of such activities by the University of King's College is otherwise neither necessary nor appropriate.

The University of King's College also protects academic freedom, though this is described in vague terms and the *Code of Conduct* is incomplete in protecting free speech within academic study:

The University of King's College is a place of academic work. As such, none of the definitions in this Code shall be construed in such a way as to limit or hinder normal and accepted academic practice.

If a student, professor or researcher were challenged on the discussion or pursuit of controversial subjects, they may find it difficult to protect their academic freedom if it is not judged to be "normal and accepted academic practice".



The University lists specific policies concerning issues of sexual harassment and racial equity. They are very clear that these policies, designed to protect staff and students, are not meant to restrict free speech on campus. This sentiment is, however, diluted by conditional phrasing. Within the *Policy and Procedures on Sexual Harassment*, for example, the text expresses that anti-harassment policies are not meant to limit frank discussion, debate, reading or teaching on controversial subjects, “provided that discussion and instruction are conducted in a mutually respectful and non-coercive manner”. This condition limits the rights of staff and students to the subjective view of the Sexual Harassment Committee to dictate what qualifies as “mutually respectful.”

The University of King's College promotes teaching, scholarship, research and the free and critical discussion of ideas. This policy is not to be applied in such a way as to detract from the right of faculty, staff and students to engage in the frank discussion of potentially controversial matters. This policy is not intended to limit or prohibit debate, instructional techniques, or the assignment of readings that advocate controversial positions, provided that discussion and instruction are conducted in a mutually respectful and non-coercive manner.

[http://ukings.ca/ukings/files/u15/yellow\\_book.pdf](http://ukings.ca/ukings/files/u15/yellow_book.pdf)

The Committee of Racial Discrimination and Harassment was created, along with an Equity Liaison Officer, to promote a healthy atmosphere for students of all races, cultures and backgrounds. The Equity Liaison Officer maintains campus contact with the Dalhousie Black Student Advisor (a position which serves both Dalhousie University and King's College, as per the institutions' close administrative and legal relationship\*), the Black Student Advising Centre, the Native Education Counselling Unit and other resources. Significantly, the main role of the Equity Liaison Officer is to receive complaints, in writing, to address complaints of racial discrimination and harassment and to facilitate reconciliation either through mediation between the parties involved or via a hearing before the Committee of Racial Discrimination and Harassment. While this role places the Equity Liaison Officer in a disciplinary role in regard to complaints on campus, the position is not meant to facilitate the monitoring and censorship of speech or activities on campus. While it has not happened, it is possible for this position to be abused and the Officer to inappropriately exercise power to limit free speech. The Equity Liaison Officer is only involved if a member of the UKC Community makes a specific complaint.

*Equity Policy*, [http://ukings.ca/ukings/files/u15/yellow\\_book.pdf](http://ukings.ca/ukings/files/u15/yellow_book.pdf)

\* More on the institutional relationship between Dalhousie and King's here:

<http://www.ukings.ca/kings-dalhousie>

The use of University facilities is not restricted on the basis of the subject matter of the event. Room bookings and access to other campus facilities (dishes from meal hall for serving coffee at an event, for example) are free –with a conditional \$100 damage deposit for rooms and a damage deposit of \$20 for dishes– for all students with regardless of the subject of the event. Booking facilities is done through the administration's front desk or Sodexo, depending on the space in question. Community groups are also able to rent



space from the University; however the policy and procedure for this type of event is less clear. These bookings are handled case by case through the President's Office. The policies for space rental are not readily available – while discussions with King's staff indicate that there is no discrimination based on belief or opinion of the group, this is not specifically listed within the *Code of Conduct* or governing regulations.

In general, the University of King's College is careful to preserve free speech rights of students and staff within their policies and principles, however many policies are incomplete. Without specific language to note that opinion and belief does not affect access to campus resources, or specific recognition that members of the King's community, like the Equity Liaison Officer, are not empowered to censor campus discussions, the rights of Kings students are weakened and become subject to personal opinions of member of administration to determine what is "reasonable" or "respectful."

## 2. University actions and practices: B

In 2008, the University of King's College School of Journalism and Calgary's Sheldon Chumir Foundation for Ethics in Leadership hosted the sixth Joseph Howe Symposium, entitled *The Media's Right to Offend: Exploring Legal and Ethical Limits on Free Speech*. In the same year, Kings made news when the School of Journalism lobbied publicly to defend freedom of speech and save the life of Sayed Parwez Kaambakhsh, a 23-year-old journalism student and reporter who received a death threat for bringing an article about a Muslim woman's right to multiple marriages into a class discussion. Since then, King's has had a very active chapter of Journalists for Human Rights, a group who frequently bring free speech to the forefront of the campus consciousness, with educational events and actions.

The conference included high profile and controversial guests including Ezra Levant, Michael deAdder and Peggy Wente. On his blog, Levant spoke of the conference:

For 125 people to show up on a gorgeous Saturday morning for such a conference was a very encouraging sign that freedom of speech is deeply cherished in the great city of Halifax.

Source: <http://ezrlevant.com/2008/11/halifax-conference-on-the-medi.html>

## 3. Student Union policies and procedures: C

Within the King's Student Union (KSU) *Constitution*, the following rights (among others) are affirmed as fundamental to the democratic body of the student union:

- iv. the right to freedom of conscience, religion, thought, belief and opinion
- v. the right to freedom of expression, precluding reasonable restrictions on incitement towards violence and advocacy of hatred
- vi. the right to form a society or political organization on campus and apply for funding and ratification for said body as per the criteria set out by the union

...



- x. the right to not to be discriminated against in the delivery of University or Union services based on the following grounds: race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, gender identity, disability, religion, conscience, belief, culture, language and birth (KSU, 2001a).

The *Constitution* seeks to defend free speech, while protecting students from hate. This noble goal can be seen as a potential limit to freedom of speech or expression on campus, if the content of a student or student group's message is deemed hateful by the complainant. The policy allows University administrators to decide what constitutes hatred, which is dangerous.

The *KSU Procedural Handbook* lists an Equity Affairs Committee, mandated to sit three times per term, although the Committee has not sat in recent years. According to the *Handbook*, the Equity Affairs Committee "shall have a mandate to formulate and draft Union policy on issues of equity relating to race, gender, religion, physical and mental disability and sexual orientation". It is also stated that the Equity Affairs Committee is not a disciplinary body, and members are chosen by nomination and majority vote at the Spring General Meeting.

<http://ksu.ca/section/100>

There are no restrictions on campaigning listed in the *KSU Procedural Handbook* beyond the safety precaution that prohibits posters from being the same colour as security bulletins and a limit of 75 posters per candidate. The latter regulation is troubling because, whereas posters are one of the primary and most effective means of communicating a candidate's message, limiting posters to 75 during a campaign may place an unfair restriction on candidates' ability to share their viewpoint with electors. Similarly, funding from the KSU is also free of restrictions based on opinion or belief; the only limits listed in the *Procedural Handbook* are related to the purchase of alcohol for minors.

The KSU has clearly made an effort to preserve free speech and freedom of expression as a fundamental right of all students. That said, there are some regulations, specifically regulations governing KSU elections, that are troubling in regards to free speech.

#### **4. Student Union actions and practices: B**

Student societies are recognized by majority vote at Council meetings. Any student group, regardless of their goal or opinions, may apply for KSU ratification (which allows them free photocopying for posters/memos and the opportunity to apply for Council funding), provided the society ratification forms are correctly filled out and submitted (KSU, 2011b). The KSU mandates that all societies are open to all, so any society that makes an effort to exclude any group or individual may face de-ratification. Funding for societies is also approved by majority vote (KSU, 2011b). Based on Council minutes, ratification and funding requests are rarely rejected, and generally rejections are due to incomplete paperwork or excessive financial requests. There are no incidents on record where a society has been treated differently based on their opinions; the policies are very clear and equally applied to all groups. Over the past five years, hundreds of student



societies have been ratified and granted funding, with mandates ranging from religious groups to social justice and hula-hooping.

The King's Student Union has a long history of encouraging creative protests and non-violent direct action in regard to student issues, however there is no official policy that promotes or prohibits any type of direct action or disruption regardless of opinion or political agenda.

### Works Cited

King's Student Union. (2011a). Constitution. Retrieved from <http://ksu.ca/section/100>

Kings Student Union. (2011b). Procedural Handbook. Retrieved from <http://ksu.ca/section/100>

King's Student Union. (2011c). Society Guidelines. Retrieved from <http://ksu.ca/section/64>

University of King's College Board of Governors. (1997). Equity Policy. Retrieved from [http://ukings.ca/ukings/files/u15/yellow\\_book.pdf](http://ukings.ca/ukings/files/u15/yellow_book.pdf)

University of King's College Board of Governors. (1999). Code of Conduct. Retrieved from

[http://ukings.ca/ukings/files/u15/yellow\\_book.pdf](http://ukings.ca/ukings/files/u15/yellow_book.pdf)

University of King's College Board of Governors. (2000). Policy and Procedure on Sexual Harrassment.

Retrieved from [http://ukings.ca/ukings/files/u15/yellow\\_book.pdf](http://ukings.ca/ukings/files/u15/yellow_book.pdf).

University of King's College Board of Governors. (2006). Regulations Concerning Appointments, Promotion and Tenure. Retrieved from <http://ukings.ca/files/u22/Pink%20Book%202011.pdf>.



## 1. University policies and principles: C

The University of Manitoba's policy, *Academic Freedom and Responsibilities*, says the following about academic freedom:

### 1.1 Academic Freedom:

The common good of society depends upon the search for truth and its free exposition. Academic freedom in the University in teaching, research and dissemination of knowledge is essential to these purposes. Persons engaged in teaching, research and dissemination of knowledge are, therefore, entitled to freedom in carrying out teaching and in discussing their subjects, and freedom from institutional censorship. Academic freedom carries with it the responsibility to use that freedom in a manner consistent with the scholarly obligation to base research, teaching and the dissemination of knowledge in a search for truth.

Source:

[http://umanitoba.ca/admin/governance/governing\\_documents/community/239.html](http://umanitoba.ca/admin/governance/governing_documents/community/239.html)

The *Respectful Work and Learning Environment Policy* (RWLE) prohibits speech deemed to be “discriminatory” or “harassing.” Section 2.4 of the RWLE policy states that “The University of Manitoba is committed to an inclusive and respectful work and learning environment free from human rights discrimination or harassment, sexual harassment and personal harassment.” The RWLE *Procedure* prohibits written or spoken insults such as name calling, slurs, graffiti, pictures, remarks or jokes that are considered discriminatory or harassing.

Equity Services is an office created to administer the RWLE, and is often described by senior administration as having the ability to “monitor” and “oversee” events and issues campus. Such was the case in 2010 when the President's report cited the role Equity Services plays in monitoring controversial events such as Israel Apartheid Week.

Source:

[http://www.umanitoba.ca/admin/governance/governing\\_documents/community/230.html](http://www.umanitoba.ca/admin/governance/governing_documents/community/230.html)

The University of Manitoba's bylaw on *Student Discipline* and policy on *Inappropriate or Disruptive Student Behavior* [sic] do not include speech or expressive behaviours as grounds for violation of the rules contained in each document.

*Policy on Inappropriate or Disruptive Student Behaviour:*

[http://www.umanitoba.ca/admin/governance/governing\\_documents/students/279.html](http://www.umanitoba.ca/admin/governance/governing_documents/students/279.html)



Bylaw 2, Student Discipline:

[http://www.umanitoba.ca/admin/governance/governing\\_documents/students/868.html](http://www.umanitoba.ca/admin/governance/governing_documents/students/868.html)

## 2. University actions and practices: D

The engineering students' magazine, *The Red Lion*, published a satirical Valentine's Day issue in February 2010 which was criticized as sexist. Equity Services reviewed the magazine to see if it violated the *RWLE Policy*, and requested a meeting with the magazine's editorial staff. According to John Danakas, director of public affairs, the purpose of the meeting was to discuss "the content of the publication in light of the University's *Respectful Work and Learning Environment Policy* [and] to have a discussion about what materials might be offensive and the impact that offensive materials can have on people and groups of people." It is unclear whether this meeting ended up taking place, but *The Red Lion* did not suffer any content-based restrictions following.

Source: <http://www.themanitoban.com/2010/03/u-of-m-engineering-student-publication-causes-stir-with-valentines-day-issue/997/>

For several years, pressure from Jewish groups including B'nai Brith has been put on the University to ban a controversial anti-Israel event known as "Israeli Apartheid Week" (IAW), but the University has refused demands to cancel or censor this annual event.

In January 2009, the Muslim Students' Association student group (MSA) set up a display in the University Centre. The display featured several images. One of the images depicted an Israeli fighter plane targeting a baby stroller. Another featured a caricature of a hooked-nosed Hasidic Jew with a star of David, pointing a bazooka at the nose of an Arab carrying a slingshot; a third one showed an Israeli helicopter with a swastika on top, dropping a bomb on a baby bottle. On the same day, University staff were notified by students that some found the images offensive and that the images violated the University's *Respectful Work and Learning Environment Policy*. Staff then informed MSA volunteers that complaints had been received.

According to John Danakas, Director of Marketing and Communications at the University of Manitoba, the MSA chose to voluntarily remove the images after they heard that they offended some students. An article appearing in the *National Post* on March 2, 2009, however, indicates that the University "forced" the removal of the images. The authors have been unable to reach members of the MSA to verify if the removal of images was in fact "voluntary".

Source: <http://www.nationalpost.com/news/story.html?id=1343206>

During various Israel Apartheid Week events, the University's President has stated that the University provides security at all IAW events to ensure they run without incident. In a 2011 op-ed in the *Winnipeg Free Press*, University President David Barnard explained



his position that the University will not ban IAW from taking place but noted that “University policies” such as RWLE are justifiable reasons to interfere with free expression.

Source: [http://www.winnipegfreepress.com/opinion/letters\\_to\\_the\\_editor/well-not-censor-what-hasnt-been-said-117787708.html](http://www.winnipegfreepress.com/opinion/letters_to_the_editor/well-not-censor-what-hasnt-been-said-117787708.html)

In 1999, University of Manitoba professor Hymie Rubenstein distributed to Winnipeg School Board members a flyer that read “18 Myths spread by Gay and Lesbian activists.” Representatives of the student union took offense and asked the University administration to determine whether Rubenstein had violated the Manitoba Human Rights Code. The University President’s office responded by stating that Professor Rubenstein’s actions did not fall under U of M regulations because he was not conducting University business at the time. Later, the University’s Vice-President (Academic) took a stand upholding the rights to express one’s views and that “This is a principle on which the University must not compromise”, and that “It is my responsibility as an officer of the University of Manitoba to ensure that this forum of free expression remains a hallmark of our society and University community.”

Minutes of Senate meeting:

<http://umanitoba.ca/admin/governance/media/senminutesmay99.pdf>

### 3. Student Union policies and principles: D

The University of Manitoba Students Union (UMSU) student elections bylaw manual states that “All campaign materials must be approved in form, content, and cost by the Chief Returning Officer (CRO) before they may be used in a campaign” (Bylaw #1030) [emphasis added]. In addition, “The CRO shall not approve campaign materials which: a. contain libel or slander (based on consultation with legal counsel if necessary); ... or d. are sexist, racist, homophobic or prejudicial.” (Bylaw #1030) This empowers the CRO to disallow any campaign materials that she or he disapproves of.

In addition, UMSU prohibits posters on public bulletin boards that are “discriminatory” or “harassing”. According to *Policy #2016*, UMSU does not approve posters that are “discriminatory or derogatory towards any person based on the characteristics listed in section 9(2) of the Manitoba Human Rights Code” or that violate University policies (e.g., the RWLE prohibition on discrimination and harassment). “Discrimination” and “harassment” have the same definition in this document as given in the RWLE Procedure document (see Section 1). In addition, rejected posters can be appealed to the UMSU Executive Committee, meaning that UMSU decides what counts as discriminatory or harassing.

UMSU has the same position on speech restrictions as the University:



UMSU is committed to an inclusive and respectful work and learning environment, free from discrimination or harassment as prohibited in the Manitoba Human Rights Code, sexual harassment, and personal harassment.

Policy #2009: <http://www.umsu.ca/images/stories/PDFs/umsu-policy-2011.pdf>

The UMSU's *Policy Manual* protects students from "harassing" and "offensive" speech on three grounds: violations of the *Human Rights Code*, sexual harassment and, like the University, "physical harassment."

*Policy #2005* states:

UMSU shall attempt to work with event organizers of 'high-risk' UMSU-supported events ... to improve patron, staff and public safety, but reserves the right to refuse to work on any event or with any event organizer that is taking unnecessary risks

This discretion could constitute a *de facto* security fee, imposed only on groups with a message deemed to be controversial or offensive, but there are no reported cases of it being used as such.

#### 4. Student union actions and practices: C

During the 2010 Israeli Apartheid Week (IAW) controversy (in which many students and external pressure groups were demanding the University ban IAW), UMSU passed a resolution on April 22, 2010 opposing any motions and actions aimed at restricting or banning IAW. Here UMSU supported the right of student free speech on campus.

Source: <http://www.cjpme.org/DisplayDocument.aspx?DocumentID=762&SaveMode=0>

Conversely, in the case of Hymie Rubenstein (see Section 2), representatives of the student union asked the University administration to determine whether Rubenstein had violated the Manitoba *Human Rights Code*. In an interview, Rubenstein said "This is what political correctness is all about -- trying to censor people. This is the sort of fascism you get in universities today."

Source: [http://www.tysknews.com/Depts/Free\\_Speech/civil\\_rights\\_trump.htm](http://www.tysknews.com/Depts/Free_Speech/civil_rights_trump.htm)

Source: <http://www.lifesitenews.com/news/archive/ldn/1999/apr/990426>



## 1. University's principles and policies: C

Section 4.5 of the University of New Brunswick (UNB) *Student Disciplinary Code* states that students who “act or speak in a disorderly, disruptive, indecent or offensive manner” will be subject to sanctions, but does not list what such sanctions could include.

Source: [http://www.unb.ca/current/disciplinary\\_code/](http://www.unb.ca/current/disciplinary_code/)

UNB has a Human Rights officer tasked with enforcing the *Declaration of Rights and Responsibilities*, which prohibits any “comment or conduct that ought reasonably to be known to have the effect of creating an intimidating, humiliating, hostile or offensive working or learning environment.” These prohibitions on “offensive” speech are needlessly subjective, and open to abuse.

The UNB Research Ethics Board describes its purpose as follows: “to ensure that such compliance protects the principles of academic freedom and high scholarship”

Source: [http://www.unb.ca/research/ors/ethics\\_safety.php](http://www.unb.ca/research/ors/ethics_safety.php)

While there are several “time, place and manner” restrictions on speech (noise, disruption, etc.) in the *University of New Brunswick Declaration of Rights and Responsibilities* they appear to be content-neutral.

## 2. University actions and practices: C

A wide variety of speakers are often invited to discuss a plethora of different topics. Events and meetings do have to be approved by the university. Theoretically, this prevents someone from giving a speech that promotes hatred as defined in the criminal code, or something of that nature, if the University interprets its policies to justify the censorship of certain events because of an offensive theme. This could be seen as limiting freedom of speech.

The authors are not aware of any incidents in which the university censored speech or discriminated against the expression of any particular opinion.



### 3. Student Union principles and policies: C

The mission statement of the UNB Student Union (UNBSU) states:

Whereas we are the elected body of the full-time undergraduate students of the University of New Brunswick - Fredericton, we shall provide unified representation on matters relating to the diverse interests of our members and strive to be proactive in facilitating their personal and professional growth while protecting and promoting student rights.

This statement implies that UNBSU can take political stances on behalf of its members in an effort to represent the student body on matters of interest. While not censorship of free speech rights on campus, it does mean that UNBSU can speak on behalf of the student body even when individual students disagree with their position.

*By-law No. 2* governs elections for UNBSU positions. The *By-Law* establishes the Chief Returning Officer (CRO) who is empowered to enact special rules that could enforce censorship on candidates and students:

5. The CRO may, from time to time, create temporary regulations to govern the conduct of an Election, provided that such regulations are created prior to the beginning of the campaign, published in such manner as deemed appropriate by the CRO which shall include at least the posting of a notice in the Student Union Building, and circulated to all candidates and all members of the Appeals Board, such regulations to expire at the end of that Election or upon a resolution of the Council effecting the same.

6. In any situation arising where these Bylaws do not provide for a course of action, the CRO may make a ruling to provide for a course of action that is not inconsistent with the intent of these Bylaws and the Incorporating Act, which ruling may include any remedy up to and including the cancellation of the Election.

There are several clauses contained in *By-law No. 2* that restrict speech for candidates during elections, and that discriminate between candidates in imposing speech restrictions:

(c) no campaign for any Campus Wide Candidate shall use more than two hundred (200) Posters and five hundred (500) Mass Publicity Items during the campaign period;

(d) no campaign for any Faculty Representative Candidate shall use more than one hundred (100) Posters and two hundred (200) Mass Publicity Items during the campaign period;

(e) where a candidate seeks election for more than one position in an election, whether the election is an election conducted for the Union or on behalf of another entity, the candidate, during the course of the operation of each of



his or her campaigns, shall not allow the total campaign materials for all of his or her campaigns to exceed the highest restriction that would apply if the individual was running for only one position in an election conducted for the Union.;

Source: <http://www.unbsu.ca/content/239093>

The Student Union's *Clubs and Societies Policy* denies funding to religious clubs and to clubs affiliated with a political party. Non-partisan clubs with a political or public policy agenda do receive funding. While the denial of funding does not constitute censorship, it does amount to a form of discrimination when other clubs are provided with funding.

Source: <http://www.unbsu.ca/content/239793>

The Student Union can withhold ratified status from any club or society because of "unsuitability," which leaves the door open to censorship and discrimination against clubs on the basis of the content of their expression. Only ratified clubs may access Student Union grants and promotional support (Part V of the *Clubs Policy*).

Source: <http://www.unbsu.ca/content/239793>

#### **4. Student Union actions and practices: C**

The authors are not aware of any cases of the Student Union having restricted or censored speech on campus, or having discriminated against particular students or clubs on the basis of the content of their expression.



## 1. University's principles and policies: C

The University of Ottawa does not express support for freedom of expression in its mission, vision or other policy documents.

The University of Ottawa amended its *Policy on Sexual Harassment* in February 2012 to include all forms of discrimination and harassment. Students are referred to the Office for the Prevention of Discrimination and Harassment, run by the Student Academic Success Service (SASS) of the University. The U of O defines “non-sexual harassment” as follows:

Harassment is engaging in a course of vexatious comment or conduct which is known or ought reasonably to be known to be unwelcome. Individuals, who engage in harassment use comments or actions in an attempt to intimidate, humiliate, belittle, embarrass, demean, undermine and dominate their targets. In general, harassment constitutes a repeated action, but if serious enough, one unwelcome incident can be considered as harassment. Examples of harassment include, but are not limited to:

- The use of abusive and/or threatening language
- Repeated offensive remarks
- Continued contact with an individual despite their remarks or obvious demeanour indicating that your presence is unwelcome
- Unwelcome phone calls
- Unwelcome messages (text, facebook, twitter, e-mail, etc.)

The Office for the Prevention of Discrimination and Harassment also provides a definition of discrimination. The definition applies to conduct of students, faculty, and employees, since the Office is empowered to “provide a respectful workplace and learning environment free from discrimination and harassment.” The definition states:

Discrimination means that a distinction has been made based on an individual's personal characteristics. This distinction can be intentional or unintentional, direct or indirect. Personal characteristics include but are not limited to, a person's race, ancestry, ethnic origin, creed, place of origin, colour of skin, citizenship, sex (including pregnancy), sexual orientation, sexual identity, age, marital status, family status, record of offences, political allegiance or disability.

Discrimination results in erecting barriers or creating obligations, disadvantages or situations of unequal treatment that withhold or limit access to privileges, advantages or political, social or economic rights available to other members of society. [...] Discrimination can be direct or indirect and results in negative



differential treatment of an individual or group based on one or more of the prohibited grounds.

Prohibited grounds include race, ancestry, creed, sex, sexual identity, age, etc. delete prior sentence, it repeats what is already stated above.

The Office's definition also includes examples of discriminatory acts, one of which is "offensive remarks."

The University's security fee policies give the U of O the ability to charge disproportionate rates based on an event's message, or a speaker's message. Policy 28 governs the use of University facilities and security requirements. This Policy divides security fees into 3 categories: sponsored groups of the University, external groups and institutional groups/internal activities. Section 17 states that the University "reserves the right to determine the number of security guards required [for an event], with costs to be covered by the user." This section empowers the University to determine the number of security guards at its own discretion, without any clear or defined guidelines. A divisive event, featuring a controversial speaker or controversial expressive content, may lead to an extremely high (and involuntary) invoice for security personnel, which may be prohibitive to student-run groups, thereby stifling freedom of expression on campus.

The University does not ban speech on any topic, nor does it have an equity officer, or a similar officer who is empowered to monitor or censor speech. The Faculty of Medicine does have an Office of Equity, Diversity and Gender Issues, which appoints a Director who is permitted to censor speech that violates its Sexual Harrassment Policy.

## 2. University's actions and practices: F

In 2010, the International Free Press Society sponsored a tour for controversial, ultra-conservative, "Islamophobic" (as some argue) Republican pundit and author Ann Coulter to speak at several University campuses across Canada. Prior to Ms. Coulter's arrival, a letter signed by University of Ottawa academic vice-president François Houle offered Coulter a bleak warning:

*I understand that you have been invited by University of Ottawa Campus Conservatives to speak at the University of Ottawa this coming Tuesday. We are, of course, always delighted to welcome speakers on our campus and hope that they will contribute positively to the meaningful exchange of ideas that is the hallmark of a great University campus. We have a great respect for freedom of expression in Canada, as well as on our campus, and view it as a fundamental freedom, as recognized by our Canadian Charter of Rights and Freedoms. I would, however, like to inform you, or perhaps remind you, that our domestic laws, both provincial and federal, delineate freedom of expression (or "free speech") in a manner that is somewhat different than the approach taken in the United States. I therefore encourage you to educate yourself, if need be, as to*



*what is acceptable in Canada and to do so before your planned visit here. You will realize that Canadian law puts reasonable limits on the freedom of expression. For example, promoting hatred against any identifiable group would not only be considered inappropriate, but could in fact lead to criminal charges. Outside of the criminal realm, Canadian defamation laws also limit freedom of expression and may differ somewhat from those to which you are accustomed. I therefore ask you, while you are a guest on our campus, to weigh your words with respect and civility in mind. There is a strong tradition in Canada, including at this University, of restraint, respect and consideration in expressing even provocative and controversial opinions and urge you to respect that Canadian tradition while on our campus. Hopefully, you will understand and agree that what may, at first glance, seem like unnecessary restrictions to freedom of expression do, in fact, lead not only to a more civilized discussion, but to a more meaningful, reasoned and intelligent one as well.*

Source: <http://www.theglobeandmail.com/news/politics/ottawa-notebook/ann-coulter-prepares-human-rights-complaint/article1510468/>

The University of Ottawa speech, to be held in the school's largest auditorium seating nearly 500, was cancelled due to massive protests and what was deemed to be too high a risk for physical violence against Ms. Coulter. Ezra Levant, one of the event's organizers, stated: "The police and the security have advised that it would be physically dangerous for Ann Coulter to proceed with this event and for others to come in." It is still disputed who was ultimately responsible for cancelling the event. Coulter stated that the Ottawa Police "had been warning my bodyguard all day that they were putting up [messages] on Facebook: 'Bring rocks, bring sticks, you gotta hurt Ann Coulter tonight, don't let her speak.' And the cops eventually said, we've got a bad feeling, this isn't gonna happen. And they shut it down." The Police have stated that they did not shut down the event, but that they did inform Coulter's security of significant dangers on the day of the event and into the evening as the start time approached. The Police argue that it was Coulter's security who ultimately decided to cancel. Either way, the University failed to provide or arrange for sufficient security for the event, thereby endorsing mob rule rather than the rule of law. As previously discussed, the University of Ottawa maintains the right to require extra security for an event, with costs to be covered by the host. By failing to provide adequate security for the Coulter lecture, the University denied both the speakers and listeners an opportunity to engage in the free exchange of ideas.

Coulter responded to this incident by saying to the Ottawa Citizen:

["Now that the provost has instructed me on the criminal speech laws he apparently believes I have a proclivity (to break), despite knowing nothing about my speech, I see that he is guilty of promoting hatred against an identifiable group: conservatives," Coulter wrote in an e-mail to the Ottawa Citizen Monday.



The Citizen had requested a telephone interview with Coulter, but instead received the e-mail from the author.

She questioned whether every speaker booked at the University receives a similar warning, or just the conservative ones.

"The provost simply believes and is publicizing his belief that conservatives are more likely to commit hate crimes in their speeches. Not only does this promote hatred against conservatives, but it promotes violence against conservatives," Coulter wrote.]

Source:

<http://www2.canada.com/news/right+wing+firebrand+coulter+will+file+grievance+with+rights+panel/2713903/story.html?id=2712341>

Houle's letter, in conjunction with the failure to provide adequate security against bullies and thugs, suggest that the University of Ottawa's administration was acting to suppress, if not stop, Coulter's message to students and faculty that evening. By threatening Coulter with civil and criminal consequences prior to her arrival, the University failed to uphold or support her right to free speech and the rights of those who were preparing to hear her lecture.

After negative media publicity, the University released a statement declaring:

The University of Ottawa has always promoted and defended freedom of expression...For that reason, we did not at any time oppose Ann Coulter's appearance. Whether it is Ann Coulter or any other speaker, diverse views have always been and continue to be welcome on our campus.

U of O President Allan Rock stated that the University is a "safe and democratic environment for the expression of views, and we will keep it that way." Mr. Rock stated:

As we look forward, one such alternative is for us to engage our University community in an open discussion of these matters to work toward a consensus of our shared expectations when it comes to freedom of expression, and how to communicate those expectations to people visiting our University ... If we can agree that there is a collective view at the University of Ottawa about the principles and responsibilities that underlie free speech, we can, for example, explore the creation of a statement of principles that we can all adopt by consensus, and that might reflect what we believe.

Source: <http://www.cbc.ca/news/canada/ottawa/story/2010/03/24/ottawa-ann-coulter-University.html>  
<http://uofowatch.blogspot.com/search/label/Ann%20Coulter>



The fact that Ms. Coulter was given this treatment by the University administration reveals a double-standard. Other, equally controversial speakers - such as anti-Israel activists George Galloway and Norman Finkelstein – received no “warning letter” from the U of O prior to coming to speak on campus.

On February 20, 2009, the University of Ottawa banned posters associated with the national campus event, Israeli Apartheid Week. The Communications Office at the University sent the following statement to the student group organizing the event, Solidarity for Palestinian Human Rights:

A poster from the campus group Solidarity for Palestinian Human Rights has recently come to the attention of the Communications Office. All posters approved by the Communications Office must promote a campus culture where all members of the community can play a part in a declaration of human rights recognizing the inherent dignity and equal rights of all students. Consequently, we will not place this particular poster on our campus billboards.

Events scheduled during the week were able to proceed as planned. In 2010, 2011 and 2012 Israeli Apartheid Week was able to take place without interference by the University, and the administration has not banned posters promoting the event since 2009.

Source: [http://mostlywater.org/University\\_ottawa\\_bans\\_israeli\\_apartheid\\_week\\_poster](http://mostlywater.org/University_ottawa_bans_israeli_apartheid_week_poster)

In the summer of 2008, the University of Ottawa informed a professor, Denis Rancourt, that his weekly film and discussion series on social justice issues, “Cinema Politica,” would not be permitted to continue in the 2008-2009 academic year. The series had been running (under varying names) since September 2005, involving a film on any number of issues followed by discussion. The University had always provided the venue and equipment for the event upon application by Rancourt, free of charge. Rancourt considered the event part of his “community service” as an employee of the University, and included accounts of the event’s activities in his yearly reports.

In a July 14, 2008 letter to Rancourt, the University justified its decision:

As previously communicated to you, you are not entitled to request your academic unit to reserve a meeting room on behalf of Cinema Politica as its activities are unrelated to your workload. Even if such request is made directly through Housing and Convention Services, the University of Ottawa is unable to grant such a request since, by failing to provide interpretative services at its events as required by the Ontario Human Rights Code, Cinema Politica did not respect all applicable statutes, regulations and University of Ottawa policies in its use of the University's facilities in 2007-2008.

The incident involving interpretive services occurred in the fall semester of 2007, when a deaf student, Genevieve Deguire, made a request to Access Services at the University of



Ottawa to provide interpretive service at Cinema Politica so that she could attend. The University denied the application on the grounds that the Dean of Science refused to approve a statement showing that Cinema Politica was part of Rancourt's workload.

The event was able to continue despite University opposition, with another professor booking space on behalf of the group. The University fired Rancourt in December 2008 for assigning A+ grades to all students in his fourth-year physics course, and for allowing "unauthorized individuals" into his physics lab. In January 2009, Rancourt was arrested for trespassing at a scheduled screening of the renamed Cinema Academica on campus. The Prosecution dropped the charges in July 2009.

University decision to suspend Cinema Politica, Rancourt's response:

<http://ia700306.us.archive.org/26/items/UOfOPresidentAllanRocksDecisionOnOttawaCinemaPolitica-Summer2008/AdminAndAllanRockOnOcpsummer2008complete.pdf>

More info on the incident: <http://uofowatch.blogspot.ca/search?q=trespassing>

The University of Ottawa has also actively worked to stop events that the administration deemed counter to their own "interests." For example, in 2007 Student Federation of the University of Ottawa (SFUO) was to host Burmese activist Ka Hsaw Wa on Ottawa campus. While the event itself ultimately went ahead on the date scheduled with no reported interference, documents obtained by the Canadian Friends of Burma show that members of the University administration had been communicating to try and stop the event. A media report on the matter is summarized to include the relevant points below:

[Hours after it had been announced that Wa, the Earth Rights Co-founder and human rights activist, would be speaking in a campus building named after the family patriarch, Paul Desmarais, senior staff from at the University of Ottawa were emailing each other about the event and devising ways to prevent it from taking it place

The flurry of exchanges began on Friday, Nov. 30, 2007 at 7: 49 AM when Vice President for External Relations Bruce Feldthusen forwarded the Canadian Friends of Burma announcement to his colleagues, adding the following comments as a preface:

I assume you received this? Nice of us to let them use the Desmarais building.

The email announcement read:

BURMA Blood Profits: Was Ottawa U's new Desmarais building paid for with cash tainted by the blood of innocent Burmese citizens?]

[Upon reading this notice, University of President Giles Patry replied minutes later:

Can't believe this. Might be a bit too llate [sic] to do anything about it. We should monitor to see if they are exposing themselves with libellous comments.



About 30 minutes later, Victor Simon, University of Ottawa vice president for resources emailed both Patry and Feldthusen to suggest that the University could block the event from taking place by claiming it was "libellous":

*Gilles, Bruce, I can't stop thinking that we should prohibit the use of our facilities for this event, on the grounds that the program material includes allegations and accusations that may be libellous... I know that this kind of action thinking flies in the face of many principles we hold dear in the University world, but I think we have others interests at stake here."*

Feldthusen then emailed both Patry and Simon that he was concerned that the event posed unspecified "security issues." Furthermore, Feldthusen then contacted Claude J. Giroux the head of the University's Protection Services, to pass on his concerns and make security aware that he wanted to know if any students were involved. In another email, Feldthusen sent to Simon and Patry later that day he reiterated his concerns about the event stating "So I do see some risk of trouble here."]

Source: <http://rabble.ca/news/2010/05/University-ottawa-spied-leading-burmese-activist>

### **3. Student Union policies and principles: D**

The SFUO's "About Us" section of their website reads: "The Student Federation of the University of Ottawa (SFUO) is the student union and the instrument of political action for undergraduate students of the University of Ottawa."

Source: <http://sfuo.ca/en/section/1>

The Student Federation of the University of Ottawa (SFUO) operates a Centre for Equity and Human Rights, which processes and investigates discrimination complaints from students in accordance with the Ontario Human Rights Code. In addition, the Centre pays senior undergraduate students to facilitate workshops (\$20 per workshop) for first year students living in residence, educating them about their rights, and methods for launching complaints for rights violations on campus - including systemic or institutional racism, as well as external issues such as tenants' rights. The SFUO also runs a Student Appeal Centre allowing students to appeal administrative decisions, such as accusation of academic fraud and withdrawal from a faculty or program, as well as problems negotiating with professors.

Sources:

<http://www.sfuoc.ca/services/advocate/>

<http://www.sfuoc.ca/services/appeals/en/index.html>

The aforementioned SFUO-owned Centre for Equity and Human Rights.



is attentive to ensure that differences among students are not treated in ways that produce direct or indirect forms of discrimination. Our work predominantly entails matters related to the Ontario Human Rights Code (“the Code”) and Law 168 (OHSA, with respect to violence and harassment in the workplace). Our Commitment to students requires that CEHR works in full compliance with the spirit and intent of the Ontario Human Rights Commission and provisions of the Ontario Human Rights Code.

The Centre has limited power to monitor or censor speech, insofar as it has intervened in cases in which Professors or University staff make comments in class (oral or written) which a student finds offensive. They can intervene in cases of prejudice, harassment, and discrimination. The Center for Equity and Human Rights can easily become a vehicle to curtail “hate speech” and other forms of discrimination as defined by the Code.

In the SFUO’s constitution, Article 9.3.10 details the criteria for a club to be recognized by the SFUO, and therefore receive SFUO Clubs services, such as room and table bookings. Part k) of that article requires that “the Club applicant’s constitution does not contain any discriminatory clauses and has no clauses that are contrary to any existing Canadian law.” Part l) requires that “the Club applicant’s constitution does not contain any provision for its present or future affiliation with any organization that has discriminatory policies or practices.”

Sources:

<http://www.sfu.ca/services/advocate/en/whoweare.htm>

<http://www.sfu.ca/pdf/constitution/constitution.pdf>

For club events, the SFUO *Club Manual* “Event Planning” section stipulates that “All promotional materials utilized and displayed by Clubs must be approved by Protection Services; Protection Services must approve all video and audio materials before it is displayed; Any and all posters for the purpose of advertising a Club’s activities must be approved by the appropriate department, as indicated in the Posting Procedures section of the *Clubs Policy Manual*; All Club banners and pamphlets must be written in both official languages of the University.”

Source: <http://www.sfu.ca/clubs/en/registration/manual.html#11>

The section on advertising for an event has the stipulation: “When posting, Clubs should be sure to have their posters approved by the appropriate department.”

Source: <http://www.sfu.ca/clubs/en/registration/manual.html#11>

The SFUO *Club Manual* explains the process for getting table materials approved: “Before materials, visuals, etc. can be displayed at a table in the University Centre by a Club, they must be approved by Protection Services (following Policy 28 of UCU); Nathalie Jacob [of Protection Services] must review all material before it is displayed. She can be reached via email [nathalie.jacob@uottawa.ca](mailto:nathalie.jacob@uottawa.ca).”



Source: <http://www.sfu.ca/clubs/en/registration/manual.html>

In Article 8 of the *Policy Manual* (Gender Parity and Inclusive Language), SFUO recognizes favourably and supports the use of “gender inclusive” and “non-discriminatory” language.

The SFUO Equity Audit Committee was formed in November 2001 with the following mandate: “Consulting with various clubs, services, organizations, and students at large to hear directly how the SFUO can better address racism, sexism, homophobia, transphobia, ageism, linguistic discrimination, xenophobia, ableism, and other forms of discrimination and oppression on our campus.”

Source: <http://thefulcrum.ca/2012/03/sfu-committee-holds-consultations-to-address-equity-issues-on-campus/>

SFUO meetings employ the use of “gender parity speaking privileges” which entails giving half of the available speaking opportunities to members of each gender, regardless of the male-female ratio of the audience present for a particular meeting.

Security is handled by Protection Services, and while price information is not available online, students report the cost of security to be exorbitant.

The SFUO maintains a *Poster Policy* that can be used to restrict the ability of student groups to express certain viewpoints that are deemed to violate any of the following principles:

Content restrictions:

Posters must comply with:

The Human Rights Code of Ontario

The Liquor License of Ontario and the Advertising Guidelines of the LCBO

The Travel Industry Act of Ontario

Posters must not contain hate/fear mongering or vulgar language

Commercial advertising is not permitted

Source: <http://www.sfu.ca/clubs/en/registration/manual.html#11>

“Fear mongering” is the most ambiguous term on this list. For example, when an Israeli speaker was invited to lecture on Palestinian terrorist attacks against Israeli cities, one could have accused the event organizers of “fear mongering.”

Another policy relevant to a discussion of free speech is “Approving Materials for Tables in the University Centre.” Before materials, visuals, etc. can be displayed at a table in the University Centre by a Club, they must be approved by Protection Services (following Policy 28 of UCU).

Clubs must conform to the constitution of the SFUO and cannot therefore discriminate or violate the Ontario Human Rights Code. However, decisions about granting club status



are made by a few people (namely, the Clubs Coordinator) without any democratic process. There is also an absence of checks and balances to ensure all applicants for club status are judged by the same criteria.

While the SFUO does not ban speech on a particular topic, it does take a stance on particular issues, purporting to speak on behalf of all students:

Recognizing our role as agents of social progress, assisting students in understanding and acting against oppression and injustice and emphasizing the rights and responsibilities of the student. To further this end, we will act against the oppression of women, lesbians, gays, bisexuals, transgendered, the disabled, native people, ethnic, religious and linguistics and other disadvantaged groups and causes including our environment on the University of Ottawa campus.” -  
Statement of Principles

#### 4. Student Union actions and practices: D

In June of 2010, SFUO used student funds to send students to protest the G20 at the Toronto G20 summit. According to the University of Ottawa’s student newspaper *The Fulcrum*, “[a]t least four SFUO services—the Student Appeal Centre, the Women’s Resource Centre, the Pride Centre, and Foot Patrol—combined finances from their budgets to rent a bus which took students to Toronto.” These actions are funded through mandatory student fees paid to the SFUO. On March 22, 2012, The SFUO sent a bus with forty-five student protesters to join in the Montreal student protest against tuition hikes. Source: <http://thefulcrum.ca/2012/03/u-of-o-students-show-solidarity-with-quebec/>

During the March 2010 SFUO elections, Tristan Dénomée was elected VP Finance with a majority of the votes over opponent and incumbent Sarah Jayne King (He won by 114 votes, which given the extremely low voter turnout, is a very wide margin). However, he was disqualified by the Board of Administrators (BOA) “based on accusations of publishing false statements in relation to the personal character or conduct of a candidate; posting in unauthorized locations; and failure to comply [sic] with minor and major penalties.” After an extremely long meeting in which Tristan’s appeals were denied, the President of the SFUO, Tyler Steeves, declared: “[I am] disappointed with the decision of the BOA tonight. I was hoping for some sort of acknowledgement that elected candidates are elected and it’s not fair to unelect them,” he said. After intensive protests organized by Tristan’s friends, Tristan was suspended for two weeks from his job as an employee at the SFUO-owned Pivik grocery store. In the words of the blog, *Campus Accountability*, “...regarding the actions taken by the SFUO to silence dissent...These activities are completely unacceptable, and continue to undermine the democratic rights of the students of the University of Ottawa.”  
<http://thefulcrum.ca/articles/43806http://campusaccountability.org/2011/03/09/sfuo-suspends-tristan-denommee/>



## 1. University policies and procedures: C

Section 1.1 of UPEI's current *Students' Rights and Responsibilities Code* states that the school is:

...committed to creating a scholarly community characterized by honesty, civility, diversity, free inquiry, freedom from harassment, mutual respect and individual safety.

Section 1.3 states:

This Code shall not be construed to unreasonably restrict peaceful assemblies, demonstrations or free speech.

The *Code* states the following to be subject to discipline:

Disruptive or dangerous behaviors that infringe on the rights of others to participate in University activities by word or actions; or creation of a situation which endangers or threatens the health, safety or well-being of another individual, or the harm, injury or threatening of any person. This includes disruptions in the classroom.

Source:

[http://www.upei.ca/policy/files/policy/Students'%20Rights%20&%20Responsibilities%20Code%20\(admss\\_gnl0001\)%20.pdf](http://www.upei.ca/policy/files/policy/Students'%20Rights%20&%20Responsibilities%20Code%20(admss_gnl0001)%20.pdf)

UPEI's *Residence Handbook's Commitment to Diversity* states:

Bigotry has no place within our community, nor does the right to disrespect or degrade another human being on the basis of age, national origin, physical challenge, race, gender, sexual orientation, or religious affiliation.

The *Handbook* also states that the university will not tolerate:

...verbal or written abuse, threats, intimidation, violence, or other forms of harassment against any member of its community. Harassment is defined as any attention or conduct (oral, written, graphic, or physical) by an individual or group who knows, or ought reasonably to know, that such attention or conduct is unwelcome/unwanted, offensive, or intimidating.

Source: <http://residence.upei.ca/files/residence/upeiresidencehandbook.pdf>



UPEI enacted a policy regarding sexual harassment, the *Fair Treatment Policy*. The *Policy* was created to replace UPEI's previous *Sexual Harassment Policy*. The reason given for replacing the policy was to include "other definitions of sexual harassment" as well as "to enable full investigations within the University."

The *Fair Treatment Policy* states the University's definition of harassment:

The University defines "harassment" within any University-related context as an incident or series of vexatious or disrespectful comments, displays or behaviors that demean, belittle, humiliate, embarrass, degrade or attempt to exclude; that is known or ought reasonably to be known to be unwelcome and/or offensive; and which adversely affects the employment or academic status of the individual.

Section 5.1.3 of the *Policy* attempts to restrict its usage from interfering with academic freedom and other "principles of fairness," mitigating its potential negative effect on free speech:

The University community is committed to academic freedom and to freedom of expression and association. There should be an environment in which students and teaching and non-teaching staff can engage in free enquiry and open discussion of all issues. Neither this policy in general, nor its definitions in particular, is to be applied in such a way as to detract from the right of employees and students to engage in the frank discussion of potentially controversial matters, such as age, race, politics, religion, sex and sexual orientation. The Fair Treatment Advocate is obliged to uphold academic freedom, and freedom of expression and association. An academic and free community must also include freedom of movement and freedom of access to facilities and resources without fear of harassment, discrimination or violence.

Section 6.5 further defines the sub-category, "personal harassment":

...behavior, whether deliberate or negligent, which denies individuals their dignity and respect, is offensive, embarrassing or humiliating to the individual, isolates an individual or group and adversely affects the working or learning environment. In most cases this behavior will have manifested itself through a number of incidents. This does not preclude consideration of a single incident as constituting harassment.

More specifically, the *Policy* lists behaviors that may constitute personal harassment as "statements damaging to a person's reputation". This reference in particular is troubling because the criteria for which a student could claim their reputation has been damaged could include many forms of speech including a newspaper article, a speech given during a voting campaign, or any other form of expression that a person feels has damaged their reputation. The ambiguity gives some reason for concern about the effects this policy could carry pertaining to free speech rights on campus.

The *Policy* also defines discrimination, in Section 6.6, to mimic the Supreme Court of Canada definition of the term, unintentional or intentional differential treatment which is



unjustifiable, and includes grounds for discrimination as those listed in the PEI Human Rights Act, as well as “transphobia and heterosexism”. As these latter two terms are not included in the afore-mentioned legislation, the chances of these terms being defined subjectively are significant and could pose a challenge to a student’s free speech rights.

To enforce the *Fair Treatment Policy*, the University installed a Fair Treatment Advocate. Section 8.10 empowers the Officer to “investigate and attempt to resolve cases of harassment.” Section 10 empowers the Officer to bypass the informal processes of resolving cases (i.e. mediation, informal resolution counseling) and enact a formal investigation. The Officer is not empowered to enforce sanctions or remedial action, but is expected to recommend as much to the President in a formal investigative report. Means of discipline/remediation are not listed in the *Policy*, except to say that it will be “appropriate to the offense and relevant circumstances of the case.”

Source:

[http://www.upei.ca/policy/files/policy/Fair%20Treatment%20Policy%20\(govbrdgnl0009\).pdf](http://www.upei.ca/policy/files/policy/Fair%20Treatment%20Policy%20(govbrdgnl0009).pdf)

UPEI’s *Advertising Policy* states that:

Temporary advertising associated with individual events and their sponsors is permitted as long as such advertising meets the University’s concerns regarding taste of presentation and suitability of subject.

Though the *Policy* does not state what the University deems to be “suitable”, in Section 1.4, it does state that, “among those subjects which would be considered unsuitable for advertising, at this time the University names cigarettes and other products (or services) judged harmful to health or the environment.” This seems like a reasonable restriction, however, Section 1.4 also states that, “the general principle that will be followed in judging the suitability of advertising is whether or not it is consonant with the image of the University that the Board of Governors and the Senate wish to portray.”

The *Space Planning and Administration Policy* states, in Section 5.4.2.:

All classrooms, conference rooms, teaching labs, public computer labs, and public study spaces may be booked by any user group conducting University business. Under some circumstances, the availability may be limited by Facilities Management control (i.e. construction schedules, security requirements or staffing capabilities), or University prioritization (i.e. Teaching).

Of concern is that by not defining “security requirements”, the *Policy* gives Facilities Management the ability to deny access to groups that may be judged as controversial.



## 2. University actions and practices: F

There has been controversy surrounding the University's decision to censor one issue of *The Cadre*, which is UPEI's student-run newspaper that is now only available online. In 2006, *The Cadre*'s February 8 issue was removed from distribution stands on UPEI campus, on orders from the UPEI administration. This decision to remove the paper was later endorsed by the Student Union (more on the Student Union's actions can be found in section 4 below). The administration was concerned about cartoons contained in the issue of the prophet Muhammed. President Wade MacLaughlan ordered security personnel to collect any copies of *The Cadre* and remove from campus. According to MacLaughlan, "fewer than 100 copies were gathered up." The remaining copies were confiscated by the Student Union and some remained with *The Cadre*.

UPEI's president, Wade MacLaughlan, commented on the topic, saying that publishing cartoons is "an invitation to trouble", and that, "we're not in the business of deliberately inviting people to be insulted to the point of causing an outrage."

Clive Seligman, President of the Society for Academic Freedom and Scholarship, condemned the University's actions, saying:

UPEI has given the impression that vigorous debate is to be avoided whenever offence may be taken, or at the very least that such debate is to occur only on terms decided by the university administration. Surely, this is not the image of UPEI that you want to promote.

It appears that the university assumed the issue would be found offensive by the student body. But UPEI Muslim Association head, Mian Ali, said he is "not particularly upset and would not have asked to have the paper removed from campus." He also said, "To me it's just a cartoon. People are free to express their opinions. I can't control what people print, but freedom comes with a responsibility. If people want to abuse that responsibility and freedom it's up to them."

Sources: <http://www.canada.com/nationalpost/news/issuesideas/story.html?id=0f4a202a-339c-43ec-a95e-b68da67acfb2>

President MacLaughlan's report: <http://remember.upei.ca/newsletter/2006/02/cartoon-controversy-and-learning-environment>

<http://www.cbc.ca/news/canada/prince-edward-island/story/2012/05/03/pei-cadre-student-newspaper-online-584.html>



### 3. Students Union policies and procedures: D

The University of Prince Edward Island Student Union (UPEISU) states in its *Policy Manual* the following pertaining to the University's student-run newspaper, *The Cadre*:

The chair of the Board of Directors is the Vice President Finance. The Board of Directors will meet prior to each issue going to print. At that time they will approve the content of the upcoming issue.

Concerning video screens on campus (a major advertising medium on campus), the *Policy Manual* states that:

UPEI Integrated Promotions is the official owner of Campus Screens. As such, it will maintain ultimate control over content including, but not limited to, the authority to remove content it deems inappropriate.

As well, the *Policy Manual* gives UPEI Integrated Promotions the “right to refuse or impose time limits on event postings for reasons including, but not limited to, the nature of the event and the number of ads currently running.”

It also states that:

All information posted from the UPEI SU Campus Screens account will be reviewed by the Administrative Assistant to ensure it is appropriate for University-wide distribution. In the event that content is questionable, it will either be rejected or the Manager of Integrated Promotions will be contacted for approval.”

Not defined are the terms “appropriate”, “questionable”, or, “in good taste”, which is a restriction used for advertisements in the campus bar:

Advertisements for The Wave will be permitted, provided they are in good taste and follow the regulations set out by the PEILCC and the University Liquor Control Policy.

On posters, the *Policy* states,

Any outside groups, corporations, or organizations of any kind may have their posters removed unless they are sponsored by either the UPEI or UPEISU and comply with the two guidelines listed above. The onus is on all outside organizations to seek sponsorship in regards to their posters.

This ultimately gives the UPEI Student Union power to have post only information that they approve and support, as they are obviously not going to sponsor outside groups with views conflicting with their own.

Source: <http://upeisu.ca/files/upeisu/UPEI%20SU%20POLICY%20MANUAL%20-%202011-2012%20revision%204.pdf#overlay-context=policies-and-laws>



#### 4. Students Union actions and practices: D

The UPEISU supported the confiscation and censorship of one issue of UPEI's student-run newspaper, *The Cadre*. The February 8, 2006 issue of the paper, which contained cartoons of the prophet Mohammed, was banned from campus by the University. In the days following, the Student Union ordered that all remaining issues be returned to the Union, with the following justification:

While the Student Union supports the freedom of the press, there is also a sense that with that freedom comes the responsibility to balance freedom and responsibility effectively, a consideration that we feel was not accommodated in this case. While these cartoons were reproduced in *The Cadre* to inform students of the issues at hand and were in no way meant to inflict any further injury, it is now apparent that we must take into account the overwhelming reaction that these cartoons have caused worldwide and therefore we must react accordingly. It is also to be noted that there is a great deal of sensitivity involved with this contentious issue, a fact personified by the recent outrage and riots that were sparked in direct result of the publication of these cartoons. In consideration of this, in respect to those significantly affected, and for the overall well being of the UPEI community, it is felt that this action was essential. We reaffirm that despite this action, no further insult was ever intended by the publication of these cartoons in *The Cadre*.

According to CBC News, the UPEISU had initially taken a stance in favor of *The Cadre's* editorial autonomy. However, UPEISU President Ryan Gallant stated that "as the day went on" the Union changed its mind on the matter. Gallant reported that he had met with President MacLaughlan four times on February 8.

Source: <http://www.cbc.ca/news/canada/prince-edward-island/story/2006/02/09/pe-cadre-cartoons20060209.html>



## 1. University policies and principles: C

The stated mission of the University of Saskatchewan is “to achieve excellence in the scholarly activities of teaching, discovering, preserving and applying knowledge.”

Source: [http://www.usask.ca/university\\_secretary/policies/contents/uofs\\_missionstat.php](http://www.usask.ca/university_secretary/policies/contents/uofs_missionstat.php)

The University also states that it “value[s] the freedom and independence to engage in the open pursuit of knowledge.”

The University lists “freedom of expression” as one of its six Guiding Principles in the *Standard of Student Conduct in Non-Academic Matters*, a document governing discipline of student behaviour, as well as “mutual respect and diversity” which includes protection from harassment, discrimination, gender identification, religion, nationality or disability. Violations of this standard are listed but do not make mention of speech, save speech that is a threat to harm an individual:

The following behaviours are prohibited:

1. Threats of harm or actual harm by any means (including electronic means) such as

- a) assault
- b) verbal and non-verbal aggression
- c) physical abuse; verbal abuse; intimidation
- d) harassment or sexual harassment

...

Source: [http://www.usask.ca/university\\_secretary/honesty/StudentNon-AcademicMisconduct2012.pdf](http://www.usask.ca/university_secretary/honesty/StudentNon-AcademicMisconduct2012.pdf)

The University of Saskatchewan has a policy requiring that “all official documents, publications and presentations are written in gender neutral and/or gender inclusive language.” This policy applies to “all University constituencies” including faculty and staff, but there is no specific reference to students. The University’s *Gender Neutral Language* policy is vague as to what, exactly, constitutes “gender neutral or gender inclusive language.” The Arts and Science Faculty, however, prohibits using the word “he” to refer to a person of either sex, requiring “he or she” instead. Similarly, words like “police man” must be replaced by “police officer”.

Source: [http://www.usask.ca/university\\_secretary/policies/equity/2\\_03.php](http://www.usask.ca/university_secretary/policies/equity/2_03.php)

The University of Saskatchewan has a Discrimination and Harassment Prevention Services Coordinator that acts as a middle point for University officials, senior administrators, Student and Enrolment Services Division (SESD), and Human Resources



(HR) by offering advice to those deliberating on matters involving employees or students of the University. The unit has as its purpose:

“To provide students and employees with a positive environment for working and learning that is free of discrimination and harassment.”

Source: [http://www.usask.ca/university\\_secretary/policies/health/3\\_14.php](http://www.usask.ca/university_secretary/policies/health/3_14.php)

## 2. University actions and practices: C

The authors are unaware of the U of S censoring speech, or discriminating against students or student clubs on the basis of the content of their expression.

## 3. Student Union policies and principles: F

The University of Saskatchewan Students' Union (USSU) Table Space Rental Policy states that “The USSU reserves the right to decide any point not covered in the above rules and further reserves the right to decide any point not covered in the above rules and further reserves the right to refuse any booking.” The Policy also requires that “offensive materials” will not be allowed on group table displays but does not qualify what is considered “offensive.” It further states “respect for divergent points of view is expected at all times.”

Source: [http://www.ussu.ca/bylaws/pdfs/Table\\_Space\\_Rental\\_Policy.pdf](http://www.ussu.ca/bylaws/pdfs/Table_Space_Rental_Policy.pdf)

The USSU *Campus Group Policy* (page 12) states:

In the event that a campus group engages in behaviour that is considered to be in violation of federal or provincial human rights laws, university policy, or is otherwise deemed to be unfit for an inclusive, welcoming, and open learning environment, the Union reserves the right to de-ratify said campus group.

The USSU does not qualify what constitutes “an inclusive, welcoming and open learning environment,” thereby empowering itself with unfettered discretion to de-ratify a campus club based on the club’s beliefs, opinions, philosophy or expression.

Source: [http://www.ussu.ca/bylaws/pdfs/Campus\\_Groups\\_Policy.pdf](http://www.ussu.ca/bylaws/pdfs/Campus_Groups_Policy.pdf)



#### 4. Student Union actions and practices: F

The University of Saskatchewan Students for Life (USSL) was temporarily denied club status by the USSU in the fall of 2009, and reinstated only subject to conditions and restrictions not imposed on any other campus group. An article written on the incident discusses “mediation” meetings that the club executive had to attend with the Union before their club would be ratified:

The trio discussed complaints that had been lodged against the USSL during the 2008-2009 academic year. One complainant alleged that a USSL club member manning an information table “applauded” a woman who walked by with a child; another complainant alleged that the USSL (and other groups on campus) approached people who did not wish to be approached. Another complaint (brought forward by the Women’s Centre on behalf of an individual female) accused the pro-life group of making women feel “unsafe” by displaying “disturbing” graphic images without giving any prior warning to students. (The images were photographs of healthy, living babies, 'in utero' and up to two years old.)

Source: <http://www.theinterim.com/resources/pro-life-groups/u-sask-ratifies-campus-pro-lifeclub-after-delay/>

The USSU allowed the USSL club to retain its official status on the condition that it inform the campus Women’s Centre of every public event it intended to put on, and refrain from using “offensive” or “graphic” pictures – a condition not imposed on any other campus club. Further, the club’s expression is required not to “incite anger” or “provoke” anyone. In April, 2011, USSL was able to host a lecture successfully, with Dr. Clement Persaud presenting to students on the subject of embryonic stem cells.

Source: [http://www.prairiemessenger.ca/04\\_06\\_2011/stem\\_04\\_06\\_11.html](http://www.prairiemessenger.ca/04_06_2011/stem_04_06_11.html)



## 1. University principles and policies: A

In its statement of institutional purpose, under the heading “Purpose of the University,” the University of Toronto sets out its commitment to free speech:

The University of Toronto is dedicated to fostering an academic community in which the learning and scholarship of every member may flourish, with vigilant protection for individual human rights, and a resolute commitment to the principles of equal opportunity, equity and justice.

Within the unique University context, the most crucial of all human rights are the rights of freedom of speech, academic freedom, and freedom of research. And we affirm that these rights are meaningless unless they entail the right to raise deeply disturbing questions and provocative challenges to the cherished beliefs of society at large and of the University itself.

It is this human right to radical, critical teaching and research with which the University has a duty above all to be concerned; for there is no one else, no other institution and no other office, in our modern liberal democracy, which is the custodian of this most precious and vulnerable right of the liberated human spirit.

Source: (<http://www.governingcouncil.utoronto.ca/policies/mission.htm>)

The Office of the Governing Council of the U of T has an official *Statement on Freedom of Speech*:

In policies approved by the Governing Council, the University community has held that the essential purpose of the University is to engage in the pursuit of truth, the advancement of learning and the dissemination of knowledge. To achieve this purpose, all members of the University must have as a prerequisite freedom of speech and expression, which means the right to examine, question, investigate, speculate, and comment on any issue without reference to prescribed doctrine, as well as the right to criticize the University and society at large. The purpose of the University also depends upon an environment of tolerance and mutual respect. Every member should be able to work, live, teach and learn in a University free from discrimination and harassment.

The existence of an institution where unorthodox ideas, alternative modes of thinking and living, and radical prescriptions for social ills can be debated



contributes immensely to social and political change and the advancement of human rights both inside and outside the University. Often this debate may generate controversy and disputes among members of the University and of the wider community. In such cases, the University's primary obligation is to protect the free speech of all involved. The University must allow the fullest range of debate. It should not limit that debate by preordaining conclusions, or punishing or inhibiting the reasonable exercise of free speech.

Of necessity, there are limits to the right of free speech, for example, when members of the University use speech as a direct attack that has the effect of preventing the lawful exercise of speech by members or invited guests, or interfering with the conduct of authorized University business, the University may intervene. Similarly, although no member of the University should use language or indulge in behaviour intended to demean others on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, handicap, age, marital status, family status, the receipt of public assistance or record of offence, the values of mutual respect and civility may, on occasion, be superseded by the need to protect lawful freedom of speech. However, members should not weigh lightly the shock, hurt, anger or even the silencing effect that may be caused by use of such speech.

The right to free speech is complemented by the right of freedom of association. The right to free speech extends to individuals cooperating in groups. All members have the freedom to communicate in any reasonable way, to hold and advertise meetings, to debate and to engage in peaceful assemblies and demonstrations, to organize groups for any lawful activities and to make reasonable use of University facilities, in accordance with its policies as they are defined from time to time and subject to the University's rights and responsibilities.

Source: <http://www.governingcouncil.utoronto.ca/policies/frspeech.htm>

In 2006, then-President David Naylor stated:

Rhetoric is part of debate. We accept highly evocative modes of speech that aim to raise awareness. On occasion such words may be hurtful to some. However, in keeping with the laws of Canada, the University is not prepared to tolerate maliciously provocative speech that aims to incite hatred against identifiable groups.

While the University allows expressions of views that some may consider extreme, our provision of a forum for such self-expression in no way constitutes an institutional endorsement. We shall not censor or suppress debate, but we do ask that those with strong views recognize the power of their rhetoric to alienate or wound members of our community.



In sum, only by the responsible use of the University's wide freedoms of expression can we create the maximum opportunities for reasoned, civil and respectful exchanges of views among all members of our community. As we use those opportunities responsibly, we are respecting and upholding the tradition of universities as the social institutions best qualified to accommodate all manner of discourse. Free discourse on campuses in many instances has helped to foster the eventual emergence of understanding, common ground or constructive solutions to important challenges facing society. The University of Toronto is heir to this tradition, and as such, it will continue to defend those principles that sustain its position in the vanguard of intellectual and social debate.

<http://www.president.utoronto.ca/speeches/freedomofexpression.htm>

A 2006 memo from the Provost to student groups affirms that the University's first priority is to protect freedom of speech for all parties, including preventing groups or individuals from disrupting meetings and events. Controversial points of view are welcome and described as part of the important contribution of the University:

With respect to the events being planned by various campus organizations, the University has no reason to believe that these activities will exceed the boundaries for free speech as articulated in the Statement on Freedom of Speech. The University of Toronto upholds the fundamental principles of open dialogue and tolerance within its community. The ability to question, examine and comment on issues of the day, even when such commentary may be repugnant to some, is central to the mission of the University. Having said that, all University activity is subject to the laws of Canada, and behaviour or speech that constitutes hatred or incitement to hatred against any group will be dealt with quickly and appropriately.

(<http://www.provost.utoronto.ca/public/pdadc/0506/79.htm>)

The *Code of Student Conduct* states:

No person shall... whether on the premises of the University or away from the premises of the University, cause another person or persons to fear for their safety or the safety of another person known to them while on the premises of the University of Toronto or in the course of activities sponsored by the University of Toronto or by any of its divisions, or cause another person or persons to be impeded in exercising the freedom to participate reasonably in the programs of the University and in activities in or on the University's premises, knowing that their conduct will cause such fear, or recklessly as to whether their conduct causes such fear.

Section 2 of the *Code* protects campus free speech from physical blocking and other forms of disruption:



No person shall cause by action, threat or otherwise, a disturbance that the member knows obstructs any activity organized by the University of Toronto or by any of its divisions, or the right of another member or members to carry on their legitimate activities, to speak or to associate with others.

For example, peaceful picketing or other activity outside a class or meeting that does not substantially interfere with the communication inside, or impede access to the meeting, is an acceptable expression of dissent. And silent or symbolic protest is not to be considered disruption under this Code. But noise that obstructs the conduct of a meeting or forcible blocking of access to an activity constitutes disruption.

Source: <http://www.governingcouncil.utoronto.ca/policies/studentc.htm>

The *Policy on the Recognition of Campus Groups* demonstrates an attitude of neutrality towards the content of the expression and beliefs of various groups:

The objectives and activities of groups seeking recognition should be seen as attempting to contribute to the educational, recreational, social or cultural values of the University. These values are intended to be interpreted in the broadest sense. However, the essential "value" of the University must remain that of preservation of freedom of enquiry and association.

It is not clear which person(s) or institution(s) are referred to by a policy requiring that campus club objectives be "seen" as attempting to contribute to the values of the University community. Do the objectives need to be "seen" as such by the University, or the students' union, or by the club itself, or some other authority? Nor is it clear what such values are.

Source: <http://www.governingcouncil.utoronto.ca/policies/camgroup.htm>

In 2008, the University's Office of Space Management (OSM) passed a new *Policy for the Allocation of Rooms*. Students were concerned about how this policy, while intended to be content-neutral, could be used to discriminate against a group on the basis of that group's beliefs or opinions, by imposing security fees on "controversial" expression while exempting those with "non-offensive" views: <http://thevarsity.ca/articles/43554> OSM claims that it will absorb the cost of extra security for student groups, should it be required, and that there have been no student groups charged with security fees, or even outside groups, in the last two years. OSM states that security fees are only charged to registered student groups if the meeting time is outside the open hours for a building, and then only for one security person to be present to lock the building after the meeting or event is over.

From the *Policy for the Allocation of Rooms*:

9. The University at its discretion may insist that buildings which are normally closed be open only when qualified security is available. The University at its



discretion may require that the user of the room which necessitated the opening of the building pay the costs of the security arrangements.

10. The University at its discretion may insist that the Campus Police be present at any event. An organization paying class external rates will be charged for these services. Recognized Campus Groups will not be charged except as in 9 above. (<http://www.osm.utoronto.ca/osm/xtra.html>)

The U of T has a formal policy to prevent the disruption of events, for the express purpose of protecting free speech. The policy against the disruption of meetings states the following:

If there is reason to believe that a meeting sponsored by the University or one of its divisions or departments, a student society or a recognized group at the University of Toronto will be disrupted, the University will take reasonable steps to avert disruption.

Source: <http://www.governingcouncil.utoronto.ca/policies/disrupt.htm>

## 2. University actions and practices: F

In November 2011, an Islamic Scholar at the University of Toronto who was known for making divisive remarks was invited to lecture an 18-week seminar series sponsored by the Muslim Student Association. Despite demands to cancel the lecture series by many Jewish groups, the University of Toronto chose to uphold academic freedom:

The University of Toronto on occasion receives requests to bar individuals from speaking on campus. While, on some of these occasions, the administration is as offended as are those who would wish the speaker to be denied a voice... we will continue to encourage progress through open discussion and an exchange of views, no matter how difficult that may be in certain situations.

This might serve as a useful comparison point to the future treatment of anti-Muslim speakers.

Source: <http://oncampus.macleans.ca/education/2011/11/01/jewish-groups-call-for-cancellation-of-muslim-seminars-at-u-of-t/> and <http://www.cjnews.com/node/88682>

The University of Toronto Students for Life (UTSFL) conducted a pro-life campaign for several years going back to the 1980s, using graphic images set up in a “horse shoe” shape on the Sidney Smith patio, with signs facing outwards to enable passers-by to see the signs, as would be expected of any display or exhibit on campus. In 1983, the display was shut down by Metro police, although the group had written authorization and support of the display from University administration.

In the spring of 2008, Jim Delaney (Director, Office of the Vice Provost, Students) told the pro-life students that the graphic images disturb too many students, and that therefore



UTSFL should instead set up their display inside a classroom in the Sidney Smith building, so that few people would see it. Alternatively, the University demanded that the “horse shoe” was to face the wall, rather than the walkway, with the same objective: to reduce visibility of the students’ expression. The University rejected UTSFL’s points that they were tuition-paying students entitled to express their opinions on campus, on par with all other students, without discrimination based on the content of their opinion, expression or viewpoint. The U of T has no qualms about issuing a censorship demand against one campus group that is not issued against any other group or club on campus. The UTSFL were not prepared to comply and since that time have conducted their campaign on the streets of Toronto next to the University, rather than on University property.

In 2007, the Ontario Public Interest Research Group (OPIRG) hosted an event connected to Israeli Apartheid Week, for which the Office of Space Management charged a security fee of over \$400. Groups with “non-controversial” or “non-offensive” expression are not charged security fees. If expressing one’s beliefs in a peaceful manner is a legitimate and lawful activity on campus, then all students should benefit equally from security sources, which all students pay towards through their tuition fees. This security fee distinction is based on a “blame-the-victim” mentality which presupposes that those who perpetrate violence against opponents (or engage in the obstruction or disruption of others’ expression) are not fully responsible for their actions because they are involuntarily “provoked” into such conduct by the content of the expression they dislike, so therefore the victims of the violence or obstruction ought to pay additional security costs.

Source: <http://www.opirgtoronto.org/history>

### 3. Student union principles and policies: D

The University of Toronto has several student unions, the largest of which is UTSU (University of Toronto Student Union) which comprises full-time undergraduate students, as well as some graduate students. As the largest student union, UTSU grants or withholds official club status, makes club funding decisions, and monitors and manages club activities.

The UTSU’s *Clubs Policy* includes the following:

Recognition of campus groups shall be assessed annually to the following constitutional criteria:

1. The objectives and activities of groups seeking recognition should be seen as attempting to contribute to the educational, recreational, social or cultural values of the University of Toronto community.
2. Recognized clubs must uphold the Canadian *Human Rights Code*. This includes policies that uphold discrimination for race, national or ethnic origin, colour, status, creed religion, sex, sexuality, gender identity, age, class, mental or physical ability or political orientation.



It is (again) not clear what a contribution to the values of the University community is, or what such values are. The (needless) reiteration of the *Human Rights Code* immediately following that unclear term does give one ideas, however. (Of note, the terms of Article 2 have been poorly worded, and suggest discrimination is required.)

UTSU's *Operational Policy* requires that "the objectives and activities of groups seeking recognition should be seen as attempting to contribute to the educational, recreational, social or cultural values of the University of Toronto community." Unlike the *Code of Student Conduct*, the *Operational Policy* does not indicate what those values consist of, and does not indicate that the primary value of the University of Toronto community is freedom of expression. UTSU also states that, to be recognized, clubs "must uphold the Canadian Human Rights Code. This includes policies that uphold prohibit discrimination for race, national or ethnic origin, colour, status, creed religion, sex, sexuality, gender identity, age, class, mental or physical ability or political orientation." The *Operational Policy* states that if a group's purpose or objective is deemed to oppose any of these characteristics, UTSU reserves the authority to enact particular procedures in the case of an infringed breach of human rights. As stated in their *Operation Policy*, "All administrative decisions to grant, deny, or withdraw recognition will be reported regularly to the Union's Board of Directors for ratification." UTSU later goes on to reserve the right to review the status of a club and its objectives on an annual basis. Source: [www.utsu.ca/club/clubapp\\_form.php](http://www.utsu.ca/club/clubapp_form.php)

UTSU maintains an "Equity Commission" which calls for "social justice, diversity, and anti-oppression" and is headed by one of UTSU's Vice-Presidents. The Equity Commission "advocates on issues of ableism, ageism, racism, sexism, queerphobia, transphobia, islamophobia, classism, and eurocentrism; advocates for the rights of marginalized members of our community; and ensures the University addresses discrimination and oppression in their overt, subvert, systemic and individual forms." The Commission supports causes such as Community Outreach; World University Service of Canada (WUSC), Student Refugee Program; Accessibility; Anti-Oppression; Religious Respect; Women's Issues; LGBTQ; Academic Diversity; Childcare; Food For All Equity Garden; International Students; Food Services; Peace Issues; Eliminating barriers to higher education. These groups receive funding and office space from UTSU, which in turn is supported by mandatory dues from students. In contrast to other campus clubs, which must apply for club status and for limited office space, these Commission-supported groups are directly and officially embedded in UTSU. While the Equity Commission does not restrict or censor speech, its elevated status means that Equity Commission views and perspectives are favoured above other views and perspectives that are not in line with the Equity Commission's ideology. Further, the Equity Commission can make recommendations to the Board of Directors (composed of student representatives from the various colleges and faculties in the University) which holds the voting authority to decertify groups and clubs.

#### **4. Student union actions and practices: C**

The authors are unaware of reported cases of UTSU censoring speech or discriminating against students or groups on the basis of the content of their expression.



## 1. University's policies and principles: C

The University of Victoria's (UVic) *Strategic Plan* has three Fundamental Values: "intellectual and ethical integrity, freedom of speech and freedom of inquiry, and equal rights and dignity of all persons." These are meant to "inform all [the University's] actions and are "a prerequisite to fulfilling the purpose of the University."

The Framework Agreement between the UVic Faculty Association and UVic further acknowledges the importance of academic freedom, and states that it is "a fundamental value that is essential to the common good. The search for knowledge and the free expression of it are inherent rights that both Parties will protect vigilantly."

Source: <http://www.uvic.ca/strategicplan/assets/docs/strategicplan.pdf>

The University of Victoria *Discrimination and Harassment Policy* has as its stated purpose "to prevent Discrimination and Harassment from taking place, and to act upon complaints of such behaviour promptly, fairly, judiciously and with due regard to confidentiality for all parties concerned."

Source: [http://www.uvic.ca/Universitysecretary/assets/docs/policies/GV0205\\_1150\\_.pdf](http://www.uvic.ca/Universitysecretary/assets/docs/policies/GV0205_1150_.pdf)

Discrimination is defined as "adverse differential treatment of a person or group of persons on the basis of a Prohibited Ground of Discrimination, as set out in the British Columbia Human Rights Code, that has the effect or purpose of unreasonably interfering with that person's or group's employment or educational status or performance or of creating a hostile or intimidating work or educational environment. Discrimination includes adverse effect or systemic discrimination which consists of entrenched and institutionalized practices, systems, and structures that operate to limit a group's or an individual's rights to opportunities or to exclude a group or an individual from participation on the basis of any Prohibited Ground of Discrimination." This includes "race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex (including gender identity), sexual orientation, age or conviction for a criminal offence that is unrelated to the employment or intended employment."

Harassment is defined as:

behaviour directed towards another person that is abusive or demeaning; and includes a direct or indirect reference to a Prohibited Ground of Discrimination; and would be viewed by a reasonable person experiencing the behaviour as an interference with that person's participation in a University-Related Activity or creating an intimidating, humiliating, or hostile environment.



This *Policy* creates opportunities (which have been seized, as discussed below) for University members to interpret “harassment” or “discrimination” to suit their own political agendas, by describing the expression of opinions they disagree with as constituting “intimidating” or “humiliating” or “hostile” behaviour. UVic’s Equity and Human Rights office processes complaints, and works with students and staff, and their responsibilities include offering Confidential Consultations, providing all parties in the complaint with guidance and advice, and processing complaints fairly.

In May 2011 the University passed a *Student Non-Academic Misconduct Policy*. (<http://www.uvic.ca/Universitysecretary/assets/docs/policies/AC1300.pdf>)

Misconduct is defined as “including but not limited to”:

- theft, damage or destruction of property;
- unauthorized entry or presence on University property;
- fraud or impersonation;
- disruptive or dangerous behaviours;
- unlawful possession or use of alcohol;
- use or possession of illicit drugs; or
- other activities that result in a criminal conviction or court judgment.

Under “Implementation” the *Policy* says the following about freedom of expression:

This policy and its associated procedures shall not be interpreted in a manner that:

- limits the President’s authority to deal summarily with any matter of Student discipline in accordance with the University Act;
- unreasonably limits demonstrations or assemblies that are safe, non-violent and non- destructive;
- unreasonably limits the free expression of ideas; or
- prevents any member of the University Community or member of the public from proceeding with criminal or civil actions independent of any action(s) taken by the University.

On their face, UVic policies do not appear to target specific groups or events. Guidelines for hosting events are minimal, and the only restriction on content that could be found was regarding materials used at club information tables. These are not permitted to include “posters/table banners of events involving downtown bars or alcohol.” Requests for tables and space are approved based on whether or not the group is a UVSS-approved club, or a UVic department. Clubs at UVic are dealt with by the UVSS, and even though UVic does approve booking requests submitted by clubs, these are done based on the status of the club, not on the content of the club’s expression.

No specific policies could be found regarding fees charged by UVic Campus Security for events. Students at UVic report that if security is requested to be present at an event, an officer will be sent and a fee charged <http://studentaffairs.uvic.ca/space.php#section0-0>



## 2. University actions and practices: C

In March, 2010, the University undermined respect for the rule of law by condoning property damage by a group called the “Food Not Lawns Collective.” These students gathered in front of the UVic library without having booked space, and dug up a section of lawn where they started planting a garden. Campus Security approached the group of over 100 students, and police arrived as well. However, the gardeners continued digging. Police and campus security did not arrest anyone, or lay any charges against those damaging University property. Despite damaging University property, not booking space, and not listening to security warnings to stop, none of these “gardeners” were penalized by UVic. The conduct of the “gardeners” goes far beyond, and outside of, a reasonable understanding of the right to express one’s opinions in a peaceful and non-physical manner. Free expression is not a license to damage property, disregard reasonable “time, place and manner” rules (like needing to book space), and (through obstruction) prevent public property from being used by others. Tolerance for this sort of activity, along with its chaos and anarchy, actually undermines the free speech rights of students. The University’s failure to uphold the rule of law could inadvertently serve to encourage those who would use obstruction and interference to silence the speech of those they disagree with.

The UVic administration does not deal with events hosted by UVSS clubs. In the fall of 2010, the pro-life club Youth Protecting Youth hosted a controversial presentation entitled “Echoes of the Holocaust.” The UVic administration rejected calls to cancel the event. Again, in November 2011, the University allowed the pro-life club Youth Protecting Youth to book space in the Quad for their “Choice Chain” demonstration, although the UVSS wrote a letter to the University asking them to deny the booking.

Source: <http://martlet.ca/martlet/article/anti-abortion-and-pro-choice-students-demonstrate/>

In February, 2010, the University’s Senate Committee on Awards rejected YPY’s attempt to establish a bursary for single mothers (funded by YPY, not by UVic) due to the “controversial” nature of the club. The University Secretary informed a student member of this Committee to refrain from speaking to media about anything which happens in University committees.

Source: <http://canadianchristianity.com/bc/bccn/0210/i03uvic.html>

After YPY sued the University of Victoria Students Society (UVSS) and had their club status and funding reinstated (summer 2010) they resubmitted their bursary application to the University, and the application was approved.

Source:

[http://www.uvic.ca/Universitysecretary/assets/docs/sminutes/approved\\_November\\_2010\\_minutes.pdf](http://www.uvic.ca/Universitysecretary/assets/docs/sminutes/approved_November_2010_minutes.pdf)



### 3. Student Union policies and principles: F

After Youth Protecting Youth (YPY) sued the UVSS in 2010 and was reinstated as an official club (see more on this in Section 4), the UVSS continued to receive complaints from pro-choice students about YPY's posters (which did not include graphic content) and the "Choice Chain" demonstration held in November, 2011.

In response to complaints about the posters, the UVSS passed the following poster policy on February 20, 2012:

#### PART 4: POSTERING AND ADVERTISING

All postering in the SUB and on UVSS poster boards located in the University must be in compliance with University Policy BP3105 Building Usage.

Posters which have the effect or purpose of unreasonably creating a hostile, intimidating, threatening, or humiliating environment will not be approved for posting. In the instance that UVSS Info Booth staff are uncertain whether a poster meets this criteria, they shall consult with the Executive Committee for clarification.

Posters where the content discriminates against a person or group of persons on the basis of race, colour, ancestry, place of origin, nationality, religion, family or marital status, physical or mental disability, pregnancy, age, sex, sexuality, gender, gender identity, appearance or conviction for a criminal charge will not be approved for posting. In the instance that UVSS Info Booth staff are uncertain whether a poster meets this criteria, they shall consult with the Executive Committee for clarification.

In instances where posters that violate the terms of this policy are stamped for approval, they may be removed at the discretion of the Executive Committee. If a poster is removed, the Executive Committee must inform the Board of Directors and the group or individual who put the poster up. The decision of the Executive Committee may be appealed to the Board of Directors.

<http://uvss.uvic.ca/upload/docs/meetings,%20agendas,%20minutes/minutes%20BoD%202012-02-20.pdf>

This broadly worded policy could easily be used to censor the expression of every group on campus, by any number of justified grounds.

The University of Victoria Students' Society (UVSS) has a *Clubs Policy*, the purpose of which includes supporting "ideological diversity" and promoting "an environment within which all members of the University Community can fully participate in respectful debate and the sharing of ideas."

However, the UVSS *Clubs Policy* defines Harassment as "the abusive, unfair, or demeaning treatment of a person or group of persons that has the effect or purpose of



unreasonably creating a hostile, intimidating, threatening, or humiliating environment. It is not necessary for the club or club representative to intend for the conduct to produce feelings of fear or intimidation, only that the club or club representative reasonably ought to have known that the conduct would cause such feelings.”

Source: <http://www.uvss.uvic.ca/clubs-course-unions/uvss-clubs/>

The UVSS *Issues Policy* sets out positions that the UVSS takes on public policy issues. For example, the UVSS opposes “the implementation of any new abortion law,” supports Canada’s withdrawal from the North Atlantic Treaty Organization and the Northern Radar Air Defence,” and opposes “the militarization of Canadian Society”. While these positions do not directly limit the free speech of students or campus clubs, the UVSS is funded by mandatory fees imposed on all students. Students who disagree with political positions taken by the UVSS are forced to pay for that expression. Further, as discussed below, these UVSS positions on public policy issues are used to censor certain groups.

Source: <http://www.uvss.uvic.ca/about-us/policy-bylaws/>

The University’s *Operational Policy* outlines the requirements for groups wishing to book space within the Student Union Building (SUB). None of these policies deny access to groups based on the content of the group’s expression. The UVSS does not have any security fees of its own that it imposes for events booked through them; if a UVSS club, course union, or a Board event requires security, the group contacts security directly.

Source: <http://www.uvss.uvic.ca/about-us/policy-bylaws/>

When the UVSS grants official status to a new campus club, the purpose and beliefs of the new club are only taken into consideration if there is already a club with a similar purpose in existence. Otherwise, to be ratified, a club must only meet the requirements of having a constitution, completing the club verification forms, submitting a report of their activities of each active term, and meeting the requirements for membership (<http://www.uvss.uvic.ca/clubs-course-unions/uvss-clubs/>).

#### **4. Student Union actions and practices: F**

In October, 2011, the UVSS Board of Directors voted to prevent Greek Letter Organizations (GLOs, referring to fraternities and sororities) from booking tables in the Student Union Building by refusing to designate club status to GLOs. The UVSS had previously voted to not recognize GLOs at an Annual General Meeting in October 2010 (<http://www.martlet.ca/martlet/article/agm-shuts-down-greek-letter-organizations/>)

Since the DKE fraternity was not recognized as a student group, they tried to book a table as a vendor paying the market-rate booking fee (UVSS clubs book for free.) But the UVSS Board did not even want to allow that. A letter written by UVic Pride, one of the UVSS advocacy groups, that was circulated at the Board meeting, stated that simply seeing Greek letters displayed made some Pride members feel unsafe.



The motion passed on October 24, 2011 read:

Motion 2011/10/24: 14 – Orser/Hamdon

Whereas a directive was passed at the October 2010 Annual General Meeting during which 64.5 percent of students voted against the recognition of sororities and fraternities; and

Whereas fraternities and sororities are exclusive organizations that are not inclusive of all students; therefore

BIRT the UVSS not enter into any contractual agreements with Greek Letter Organizations including, but not limited to, table bookings, room bookings, and advertising on UVSS premises;

This attitude against “exclusive organizations that are not inclusive of all students,” if applied to other clubs, would mean that the NDP campus club could not exclude Conservatives, the Moslem campus club could not exclude atheists, and UVic Pride could not exclude a religious person who believes that God can change a person’s sexual orientation.

At its May 16, 2011 meeting, the UVic Students’ Society Board of Directors passed a motion asking the University to include a declaration of students’ rights in its new *Non-Academic Misconduct Policy*. (<http://eyeontheuvss.blogspot.com/2011/05/uvss-urges-second-thoughts-on.html>)

The UVSS wrote the following letter to the University:

We are writing to you on behalf of the *University of Victoria Students' Society* in regards to the proposed Non-Academic Misconduct Policy. While we acknowledge the usefulness of NAMPs on *University* campuses, the UVSS would like to express its desire to include a comprehensive Students' Bill of Rights to accompany this policy.

Included in the Students' Bill of Rights we would like to see specific clauses that outline the following:

*Every student has the right to a University experience free from assault, harassment, intimidation, threats, bullying, hazing and coercion*

*Every student has the right to freedom from discrimination and harassment on the basis of the following grounds: race, ancestry, place of origin, colour, ethnicity, citizenship, indigeneity, language, creed, clerical or lay status, sex, pregnancy, sexual orientation, gender identity, age, marital status, family status, number of dependents, ability, socioeconomic status, political or religious affiliation or belief, membership in legal association or place of residence*

*Every student has the right to due process and natural justice*



*Every student has the right to protection of privacy*

*Every student enjoys within the University the freedoms of opinion, expression, belief and political association*

*Every student has the right to belong to any association of their choice and shall not be subjected to any prejudicial action by any member of the University community for so belonging*

*Every student has the right to assemble and participate in demonstrations*

*Every student has the right to enter or to refuse entering into an area that is undergoing a picket at the University directly or indirectly.*

*We believe that student consultation is integral to the democratic process within University governance. We would request that the University of Victoria Board of Governors delay the passing of the proposed NAMP until an accompanying comprehensive Students' Bill of Rights has been drafted. We would be pleased to arrange a meeting to further discuss the issues raised.*

The UVSS proposal in this letter does not clarify whether a student's right to "freedom from discrimination and harassment" includes a "right" not to see or hear the expression of opinion that a student may disagree with.

In the fall of 2007, the UVSS banned the Canadian Forces from the UVic Career Fair. Many students were outraged, and this issue was therefore brought to a vote at an Annual General Meeting, where 95% of the students present voted against the ban.

Source:

<http://www.uvss.uvic.ca/upload/docs/meetings,%20agendas,%20minutes/minutes%202007-09-10.pdf>

In November of 2010, the UVSS banned the sale of *Macleans Magazine* within the Student Union Building when the magazine refused to apologize for an article entitled "Too Asian."

(<http://www.uvss.uvic.ca/upload/docs/meetings,%20agendas,%20minutes/Minutes%202011-02-07.pdf>).

In September, 2008 the UVSS voted to deny funding to the already-existing pro-life club, Youth Protecting Youth (YPY) because it was alleged that the group had contravened the UVSS *Issues Policy* on Gender, and some students claimed their activism constituted harassment. Funding was denied again in both winter and fall semesters of 2009. Funding was denied in the fall of 2009 because YPY had hosted a debate on abortion, another event that was alleged to "harass" students.

Source:

<http://www.uvss.uvic.ca/upload/docs/meetings,%20agendas,%20minutes/minutes%202008-11-03.pdf>

<http://www.uvss.uvic.ca/upload/docs/meetings,%20agendas,%20minutes/minutes%202009-10-05.pdf>



<http://www.uvss.uvic.ca/upload/docs/meetings,%20agendas,%20minutes/minutes%202010-02-22.pdf>

With the help of *pro bono* legal representation from Joseph Arvay, Q.C. and the B.C. Civil Liberties Association, the club commenced a court action against the UVSS in May 2010. The UVSS settled out of court in July, agreeing to return official club status to YPY, along with retroactive club funding, and the removal of policies within the *Clubs Policy* that specifically limited the speech of pro-life groups. The out-of-court settlement contains a clause that the court action against the UVSS will recommence if the UVSS removes club status or funding from YPY.

Source: <http://www.bccla.org/pressreleases/10Petition.pdf>

In the fall of 2010, responding to yet another complaint of “harassment” filed against YPY for having held a pro-life event on campus, the UVSS voted to “censure” YPY but this resolution carries no legal weight or practical consequences. It appears that the “censure” motion is the only action that UVSS can take against YPY without violating the out-of-court settlement that UVSS agreed to. The process which YPY endured in defending itself against a harassment complaint (based solely on the club’s expression of its opinion at an event which no person was compelled to attend) consumed a great deal of YPY’s time and energy.

When Youth Protecting Youth (YPY) held the “Choice Chain” demonstration in November 2011, the pro-choice club Students for Reproductive Justice set up a counter-protest, as well as a table with cupcakes and complaint forms which they encouraged students to fill out. Over 100 complaints were received.

In February, 2012 the UVSS Board received a recommendation from the Complaints Committee, made up of three Board members, to pass a motion of censure against YPY, remove their booking privileges for public spaces (the club is still able to book rooms in the SUB) and remove their ability to put up posters until the Board had passed a new policy on the content of posters (which the UVSS did not have at the time).

*Martlet* coverage of the Board meeting: (<http://www.martlet.ca/martlet/article/ypy-loses-booking-privileges-after-graphic-display/>)

YPY’s postering privileges were reinstated when the Board passed their new policy restricting the content of posters (see above) which all clubs must now comply with.



## 1. University policies and principles: C

In Policy 33 of its *Ethical Behaviour* policy, the University of Waterloo (UW) states that “the right of individuals to advance their views openly must be upheld throughout the University”. Policy 33 also states that the University community is to be “based on equality and respect for individual differences”. It is easy to imagine a situation in which the opinions and philosophy of one group are in direct opposition with those of another group (for instance, pro-choice and pro-life groups), and so each group could justly claim that the other group is lacking in its commitment to “equality” or “respect.”

<http://www.adm.uwaterloo.ca/infosec/Policies/policy33.htm>

Policy 33 states that “free debate may from time to time include the presentation or discussion of unpopular opinions or controversial material”, however this must be done as “openly, respectfully and sensitively as possible”. This opens up the door to censorship based on a lack of “respect” or a lack of “sensitivity”—rather subjective terms.

Policy 33 defines discrimination as any violation of the *Ontario Human Rights Code* and harassment as “engaging in a course of vexatious comment or conduct that is known, or ought reasonably to be known, to be unwelcome”. The term “known” refers to a general common wealth of knowledge, but clearly such a notion varies between different cultures and groups. Further, Policy 33 is violated by creating a “poisoned environment,” defined as one that is “intimidating, hostile or offensive,” allowing anyone who feels that her or his environment is “poisoned” to complain.

Section 5 of Policy 34: *Health, Safety and Environment*, states that anyone engaging in “behavior found to be of a violent or threatening nature” will be “disciplined and potentially banned from the University”.

<http://www.adm.uwaterloo.ca/infosec/Policies/policy34.htm>

## 2. University actions and practices: D

On International Women’s Day on March 8, 2012, author Inga Muscio was invited to speak by the Waterloo Public Interest Research Group (WPIRG), a student-run organization paid for by all students through an opt-out fee attached to tuition (more information on this can be found at <http://wpirg.org/about/>). Several days before March 8th, WPIRG had reserved a for a workshop. Upon arrival of the speaker and guests, the room was discovered to be locked. A UW staff member explained that another group had reserved the room, although the room was empty and a booking by WPIRG had been made in advance. The same staff member stated that the speaker “should be ‘embarrassed’ by her book”, entitled *Cunt: A Declaration of Independence*. Moreover,



promotional posters were removed beforehand by UW staff because of the use of the word “cunt”. This action is related to the UW student union’s policy on posters, discussed in detail below. The students involved found another, albeit much less public, room in which to hold their workshop.

<http://www.thecord.ca/?p=4507>

Students are not only victims, but also sometimes the perpetrators of infringements on free speech. On November 12, 2010, author and (then) *Globe and Mail* columnist Christie Blatchford was to speak at a UW public lecture hall about her book, “Helpless,” regarding a Six Nations reserve in Caledonia, Ontario, its occupation of a construction site, and the government’s inaction. Students picketed at the lecture hall prior to Blatchford’s arrival, and then several protesters occupied the stage to prevent Ms. Blatchford from speaking, resulting in cancellation of the talk that night. Campus Security stood by and watched the disruption and forced cancellation of a University event, failing to remove the protesters.

A rescheduled event a month later went on unhindered and drew ten times the original crowd of listeners.

<http://oncampus.macleans.ca/education/2010/11/14/shouting-racist-in-a-crowded-University/>

<http://oncampus.macleans.ca/education/2012/03/16/waterloo-adds-reinforcements-ahead-of-speech/>

Not all public figures visiting UW to speak about controversial topics are treated this way. On March 20, 2012, Charles Rice, known for his stance against homosexuality, spoke in a public hall whilst students peacefully protested outside. The actions of UW administrators, in spite of numerous protests by students, faculty and members of the campus community, to allow Rice to deliver the annual Pascal lecture are commendable and demonstrative of the University’s potential to uphold free speech.

<http://www.therecord.com/news/local/article/687981--choice-of-speaker-at-uw-sparks-protest>

### **3. Student union policies and principles: D**

The University of Waterloo’s student union, the Federation of Students (or “FedS”), is not completely independent, as there is a University-salaried position, the Clubs and Services Director, which supervises club practices and “ensure[s] that all clubs and services are aware of and follow Federation and University policies”.

<http://www.hr.uwaterloo.ca/.jd/00005101.html>

The FedS affirms one of its core values to be “an environment conducive to student discussion on all issues”. The same list of values also states that the FedS works at “promoting diversity and equality in all aspects of campus life,” but does not delineate how the “promotion” will work.

<http://feds.ca/about/>



With respect to student-run clubs, the FedS has a *Poster Policy* which states that “[a]ll advertising materials must be brought for approval to the Clubs and Services Director prior to posting.

<http://feds.ca/clubs-services-and-societies/clubs-procedures-policies/>

#### 4. Student union actions and practices: D

As discussed in Section 2 of this report, in the case of women’s rights speaker Inga Muscio, the FedS *Poster Policy* affected the ability of organizers to promote the event. Specifically, under the policy all posters must adhere to UW and FedS policies and regulations, which is vague enough to empower University administrators to remove posters simply because complaints are received, as was the case with the promotional posters for Muscio’s talk. Here we saw that the actions of the FedS and UW together resulted in less people learning about the workshop and the student group meeting less often.

[1] University of Waterloo Secretariat, *Policies, Guidelines, & Procedures: Policy 34*, <http://www.adm.uwaterloo.ca/infosec/Policies/policy34.htm>

[2] University of Waterloo Secretariat, *Policies, Guidelines, & Procedures: Policy 33*, <http://www.adm.uwaterloo.ca/infosec/Policies/policy33.htm>

[3] University of Waterloo Human Resources, *Clubs and Services Director position description*, <http://www.hr.uwaterloo.ca/.jd/00005101.html>

[4] The Record, *Choice of Speaker at UW Sparks Protest* <http://www.therecord.com/news/local/article/687981--choice-of-speaker-at-uw-sparks-protest>

[5] University of Waterloo newspaper “Imprint,” *Under pressure, Feds board releases heavily redacted meeting minutes*, <http://theimprint.ca/archives/2024>

[6] Waterloo Public Interest Research Group, *About*, <http://wpirg.org/about/>

[7] Federation of Students, *Introduction*, <http://feds.ca/about>

[8] Federation of Students, *Procedures & Policies*, <http://feds.ca/clubs-services-and-societies/clubs-procedures-policies>

[9] Wilfrid Laurier University newspaper “The Cord,” *Women’s day gets heated*, <http://thecord.ca/articles/52145>

[10] Maclean’s online edition, *Protest shuts down Blatchford speech at UWaterloo*, <http://oncampus.macleans.ca/education/2010/11/14/shouting-racist-in-a-crowded-University/>

[11] Maclean’s online edition, *Protesters expected*, <http://oncampus.macleans.ca/education/2012/03/16/waterloo-adds-reinforcements-ahead-of-speech/>



## 1. University policies and principles: B

University of Western Ontario's (UWO) policy *Rights and Responsibilities of Academic Freedoms* states:

Academics frequently express ideas that are at odds with other views within the University, and sometimes with the views of society or government. Academic freedom ensures that such ideas can be expressed without fear of interference or repression from University administrators, politicians, or others."

and

The University must remain the centre of such free intellectual inquiry and interchange.

Source: <http://www.uwo.ca/univsec/mapp/section1/mapp138.pdf>

The *Student Code of Conduct* at UWO states that "nothing in the Code shall be construed to prohibit peaceful assemblies and demonstrations, lawful picketing, or to inhibit free speech as guaranteed by law."<sup>1</sup> Misconduct is defined as a disruption of an activity, and any activities that contravene the UWO Non-discrimination/Harassment act, which defines harassment as "vexation comment or conduct related to one or more prohibited grounds of discrimination."<sup>1</sup>

UWO's policy, *Picketing, distribution of literature and related activities*, states that the University will permit expressions of viewpoints on campus provided the following qualifications:

such actions: (a) cause no interference with the orderly functioning of the University nor infringement on the rights or privileges of others, which rights include the right to peaceful pursuit of campus activities and to enjoy the rule of law; and (b) do not contravene existing Senate or Board of Governors policies.

## 2. University actions and practices: F

The event 'Israel Day' was organized by the student group Israel on Campus and held on February 1, 2012. The event included a display promoting awareness of the state of Israel from a positive point of view, including pamphlets discussing Israel's record on upholding human rights for its citizens, gender equality, and acceptance of homosexual lifestyles. The event was held at the University Community Centre's (UCC) "concrete beach," a large flat area outside the UCC.

News of Israel Day attracted the attention of participants in the Occupy London



movement and the UWO student group “Solidarity for Palestinian Human Rights” who organized a counter-protest involving the formation of a “human chain” blocking the Israel on Campus display with signs that were held by the protestors. Solidarity for Palestinian Human Rights did not register notice of the event with the University Students Council (USC) making it an informal, spontaneous protest. The formation of the chain prevented access to the pro-Israel display for many students coming from one direction of the UCC. Volunteers coordinating the display also reported that they ceased promoting their activities once the chain was formed, out of confusion and worry about what the protestors were going to do next. The protestors’ actions amounted to physical blocking of the Israel on Campus display.

Campus Community Police to was called to monitor the event but did not stop the physical obstruction of the display. Campus Security is an administrative unit of the University and not the student union, such that UWO is responsible for Campus Security’s failure.

The actions of the University Student Council pertaining to this event are described in section 4 of this report.

In October of 2011, a pro-life student group called Western Lifeline organized a chalking event where members would draw about 200 hearts on concrete (on-campus), with each heart including text that read, “this heart represents a baby who died from abortion.” The club was told by University administrators (Department of Student Life) that the event would not be approved:

Unfortunately [UWO] are not willing to allow you to do this chalking this year because it is unclear who is responsible for the message being presented and they are concerned people would feel it is the USC presenting the message.

The University expressed concern that students would associate the event with UWO, and used this rationale to justify the relocation. The club negotiated with the University by promising to write the club’s name around the display so that students would not be confused about which organization was sponsoring the event. The University delayed officially approving the event until after the first snowfall of the academic year, which could be seen as de facto cancellation of this outdoor chalking event.

Also in the fall of 2011, Western Lifeline was denied equal access to prominent space on campus, The Atrium, when it sought to organize an event called “Silent No More” which features women who speak about their own experiences with abortion. UWO’s role in the incident is limited, since space bookings are administered by the University Students Council (USC). However, one UWO staff member who is assigned to work with the USC, Mark Wellington, claimed that this expression by Western Lifeline violates the USC *Community Standards Policy* but provided no explanation as to how or why it would have violated the *Policy*. The University should have publicly denounced the censorship of this student group. To date, aside from a vague reference to “community standards”, the UWO and USC have not provided Western Lifeline with any reason or rationale for the denial of space.



In March of 2010, when some students wanted to prevent controversial American author and pundit Ann Coulter from speaking at the UWO, University President Amit Chamka stated "I support free speech and tolerance in our community. These are the cornerstones of our democratic process. But more importantly, they are fundamental to our teaching and research mission. It's our role to provide a venue for people to express their views." Ann Coulter's speech went ahead as planned.

### 3. Student Union policies and principles: D

The *Community Standards Policy* bans "acts of expression" (words, graphics, demonstrations, displays) that are deemed "objectionable" or "cause a disruption."

The *Community Standards Policy* is open to very broad interpretation, and has been used to silence certain campus groups and stifle freedoms of speech and expression.

*Community Standards Policy:*

<http://www.usc.uwo.ca/studentlife/documents/USC%20Community%20Standards%20Policy.pdf>

The UWO University Student Council (hereinafter referred to as the USC) has a *Poster Policy* which prohibits "potentially libelous language or statements" or "statements made to damage a person's or group's reputation."

The Student Life office on the University Students' Council enforces the *Poster Policy* which prohibits posters that violate the *Community Standards Policy* and that "demean others on the basis of their race, ancestry, place of origin, colour, ethnic origin, religion, disability, citizenship, creed..." etc.

*Poster Policy:*

[http://www.usc.uwo.ca/government/documents/policies\\_procedures/Poster\\_Policy.pdf](http://www.usc.uwo.ca/government/documents/policies_procedures/Poster_Policy.pdf)

The Clubs Policy Committee reports to the USC, and is made up of a small number of students appointed by the USC and a permanent, full-time "Student Life Manager" who liaises between the University and the USC. The Clubs Policy Committee interprets and enforces the policies passed by the USC Executive, but does not independently draft policy itself.

The facilities which are owned or managed by the USC can only be used for events by clubs that are ratified by the USC. The University Community Centre (UCC) and "concrete beach," a large flat area outside the UCC, comma added are perfect for large protests, and for messages of all types to be heard and seen because there is constant pedestrian traffic. The space is large enough to accommodate large groups of people without disrupting the flow of traffic. However, only clubs that are ratified by USC, and have obtained advance permission for a particular protest or event, are allowed to conduct any rallies, events or protests at UCC.



If the USC or the Clubs Policy Committee finds a club to have violated the speech code, it can place sanctions on the club, which give the USC carte blanche to apply an arbitrary punishment in the form of “Restricting or banning access to use UCC space for acts of expression for a period of time to be determined by the Board” or “Imposing conditions to access UCC community space, such as requiring consultation with the Board prior to usage of such space for acts of expression, or public or private apologies.” There is no appeals process in respect of a Board decision.

Legal Affairs Officers bring complaints before the Clubs Policy Committee, and the Club Committee conducts hearings to arrive at decisions on whether to discipline a group based on the content of its speech.

#### **4. Student Union actions and practices: F**

The student group Israel on Campus organized an event called “Israel Day” to take place on February 1, 2012, including a display promoting awareness of the state of Israel from a positive point of view (more on the display in Section 2).

News of the event attracted the attention of participants in the Occupy London movement and the UWO student group “Solidarity for Palestinian Human Rights” which organized a counter-protest involving the formation of a human chain blocking the Israel on Campus display. Members of the chain had their mouths duct-taped shut. Solidarity for Palestinian Human Rights did not inform USC of their plans to block the display. Members of Solidarity for Palestinian Human Rights stated in reports of the incident that their actions were peaceful and silent, and denied that they physically blocked the display. Israel Day coordinators, however, insisted in the same report that the chain and signs held in the chain resulted in the blocking of their display and essentially locked the display into a corner of the UCC.

As a result of holding an un-registered protest, the USC warned Solidarity for Palestinian Human Rights that if it repeated the act of holding events and protests without going through the appropriate USC event channels, it would face penalties “ranging from probation to deregistration. According to Campus Community Police, policies and procedures require a minimum of 10 business days notice for any event deemed “controversial” to be held, so that the USC and the University can make the appropriate preparations such as ensuring a security presence.

Source: [http://communications.uwo.ca/westernnews/downloads/wnews-pdf/2012/WN\\_May24.pdf](http://communications.uwo.ca/westernnews/downloads/wnews-pdf/2012/WN_May24.pdf)

Western's University Student Council denied equal access to prominent space on campus, the University atrium, to Western Lifeline in 2011 when it sought to organize an event called “Silent No More,” which features women who speak about their personal experiences with abortion.

The atrium is a high-traffic area in which a high volume of students pass through during the day. Events, demonstrations, and displays are often and routinely planned there, some of which are considered to be “controversial” by some students and faculty at the



University, such as displays during "Israeli Apartied Week."

However, the pro-life club--which had initially been given permission to hold their event in the atrium in years previous--was told by USC executives that they would not be permitted to hold their event in the space, but would have to relocate to more secluded, enclosed and non-traffic area, the Mustang Lounge. There was no graphic imagery associated with this event. Incidentally, the exact same event had been held in the atrium before without incident. No explanation has been provided as to how the students' expression would violate the *Community Standards Policy*, which is claimed as the basis for the denial.

When the first stop of Ann Coulter's Canadian tour in March 2010 was being planned for the University of Western Ontario, organizers were faced with continually growing "security" concerns, with various demands issued on short notice. The USC ordered the Campus Coalition for Democracy (the official host club of the Ann Coulter event) to purchase security through the University's pre-selected vendor, along with two off-duty police officers. The Campus Coalition for Democracy executive was told that the security requirements were non-negotiable, and that the event would not proceed if the demand were not followed. The total cost was approximately \$800.

In November 2004, the USC sanctioned the club Solidarity for Palestinian Human Rights after it created a mock wall in the USC premises as a representation of the wall dividing Israel from the Palestinian territories. Included in the display was a map of historical Palestine with the word Palestine in Arabic. The symbol was deemed offensive to Jewish and Israeli students and was considered speech that harassed and targeted students by USC officials. The club was subsequently banned from all student council facilities for two years. It now operates as a fully registered club, although it received a warning in February of 2012 that its club status could be jeopardized.



## 1. University policies and principles: D

Wilfrid Laurier University (WLU) states on its “Values, Vision, Mission and Guiding Principles” webpage that it is committed to the teaching and learning of “scholarly exploration and the application of new ideas”. WLU’s mission statement reads:

Wilfrid Laurier University is devoted to excellence in learning, research, scholarship and creativity. It challenges people to become engaged and aware citizens of an increasingly complex world. It fulfills its mission by advancing knowledge, supporting and enhancing high-quality undergraduate, graduate and professional education, and emphasizing co-curricular development of the whole student.

Laurier’s *Guiding Principles* also focus on building community citizenship, “learning and advancing knowledge across boundaries”, and an “openness to change”.

The preamble of the *WLU Student Code of Conduct and Discipline* (Section 12.2.I) states that students are allowed to pursue their learning through “free enquiry and free expression” and any intellectual and personal interests without interference. The University “recognizes academic freedom...acknowledging that the common good of society depends upon the search for knowledge.”

The *Code*’s Introduction lays the groundwork for how the administration at WLU views freedom on campus, and describes it as being free from interference, providing one’s actions do not limit the rights of others:

Members of the Laurier community enjoy the freedom to pursue their intellectual and personal interests without interference, provided that their actions do not limit the rights of other members of the University or the community in which it is situated. The objects of the University are the pursuit of learning through scholarship, teaching, and research within a spirit of free enquiry and expression. The University recognizes academic freedom and the right to peaceful protest, acknowledging that the common good of society depends upon the search for knowledge, and its free expression.

Source: [http://www.wlu.ca/page.php?grp\\_id=2505&p=11452](http://www.wlu.ca/page.php?grp_id=2505&p=11452)

The Introduction is unclear when it states that students have the “freedom to pursue their intellectual and personal interests without interference, providing that their actions do not limit the rights of other members of the University or community”. The *Code* goes on to describe this in considerable detail in Section 6.1 (last updated in February 2011):

Wilfrid Laurier University is devoted to learning, research, scholarship, creativity, professional expertise, and personal development in a student-centred



environment. The University is committed to providing an environment for study, teaching, research work and recreation for all members of the University community that is supportive of professional and personal development and free from all forms of harassment and/or discrimination as outlined in the Occupational Health and Safety Act and the Ontario Human Rights Code.

Section 6.1 of the *Student Code of Conduct and Discipline* seeks to eradicate “negative environment” in addition to discrimination and harassment:

#### A. Harassment

One of a series of vexatious comments or conduct related to one or more of the prohibited grounds (Human Rights Code sections 5.1, 5.2, 7.2, 7.3.a and 7.3.b) that is known or might reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile or inappropriate. Examples include but are not limited to gestures, remarks, jokes, taunting, innuendo, display of offensive materials, offensive graffiti, threats, verbal or physical assault, imposition of academic penalties, hazing, stalking, shunning or exclusion related to the prohibited ground

#### C. Discrimination

Action(s) or behaviour(s) that result in the unfavourable or adverse treatment or preferential treatment related to the prohibited grounds. Examples include any differential treatment. Common examples include but are not limited to refusal to provide goods, services or facilities, exclusion from employment or employment benefits, refusal to work with or teach someone, failure to provide physical access.

#### D. Negative Environment

One or a series of comments or conduct that creates a negative environment for individuals or groups and are related to the prohibited grounds. The comments or conduct must be of a significant nature or degree and have the effect of "poisoning" the work or study environment. A complainant does not have to be a direct target to be adversely affected by a negative environment. It includes conduct or comments that create and maintain an offensive, hostile, or intimidating climate for study or work. Examples include but are not limited to exposure to graffiti, signs, cartoons, remarks, exclusion, or adverse treatment related to one or more of the prohibited grounds.

Source:

[http://www.wlu.ca/page.php?grp\\_id=2295&p=13531](http://www.wlu.ca/page.php?grp_id=2295&p=13531)

[http://www.wlu.ca/page.php?grp\\_id=2505&p=11452](http://www.wlu.ca/page.php?grp_id=2505&p=11452)

[http://www.wlu.ca/documents/46309/6.1\\_Harassment\\_Discrimination.pdf](http://www.wlu.ca/documents/46309/6.1_Harassment_Discrimination.pdf)

Section A.1 of Section 4.10 in the *WLU Student Code of Conduct* states:

“1. Academic and General University Users



There will be no charges to University departments and student organizations for the use of space. There will be charges, however, for deploying of staff for duties outside of normal responsibilities; services such as food, refreshments, and equipment rental; and for special set-up and unusual maintenance costs.”

## 2. University actions and practices: F

On March 21, 2012, University administration forced a student group, Laurier Students’ Public Interest Group (LSPiRG) working group to take down posters regarding “Israel Apartheid Week”. The campus enforced its decision by sending a Special Constable Supervisor to ask the working group Laurier 4 Palestine to take down three posters deemed “offensive” and justified their request on the grounds that the posters “incited hate”. The posters in question had been displayed as part of a gallery event hosted by Laurier 4 Palestine in the Solarium. This is especially troubling because the Solarium is an area on campus that is usually open to students to use as they please, and can be booked by student groups for various functions.

Source: *The Cord*, March 21, 2012

“Laurier’s 100 Words Drabble Contest” was launched in February of 2011, one of several events held in conjunction with WLU’s 100<sup>th</sup> anniversary. This contest provided the following caveat when explaining the rules for acceptable content:

Laurier values free speech and freedom of expression and will accept entries containing a wide variety of content. However, entries will be deemed ineligible if they contain content that is threatening, abusive, contains commercial solicitations, is erroneous/libelous, sexist, racist, homophobic or is for any reason deemed inappropriate, as bound by Wilfrid Laurier University privacy policies and the Wilfrid Laurier University *Discrimination and Harassment Policy*, Section 6.1. We reserve the right to remove ineligible entries from the contest without notice.

This contest is a good example of how WLU uses its policies, as defined in its *Code of Conduct*, to defend what it terms to be discriminatory conduct, to ensure that the campus is free of content the administration does not agree with or finds controversial in nature.

Source: <http://www.laurier100.ca/drabble/rules/>

In the fall, 2009, Dr. Tom Flanagan spoke to the WLU Political Science Association (PSA). The organizers raised significant concerns about protesters trying to prevent him from speaking. The administration made the effort to ensure Dr. Flanagan could give his lecture, and was willing to provide security free of charge if any incidents arose. PSA Treasurer Rico Vipari contacted campus security and made the arrangements with them,



but “It ended up that they were not needed and protesters allowed the event to proceed without incident”.<sup>9</sup>

Although residence dons and counsellors are trained to promote “inclusive language,” the authors are unaware of residence dons or counsellors having suppressed free speech in a residence environment.

### 3. Student Union policies and principles: D

2011-2012 Wilfrid Laurier University Student Union (WLUSU) President Nick Gibson stated that free speech is a crucial element on campus and not something that WLUSU takes lightly; “I think we must remain vigilant to ensure that institutions of higher learning like Laurier remain the centres of intellectual debate and discussion, and in order for that to happen, free speech must be a central tenet of the University’s mandate.”

WLUSU has a “Diversity and Equity Office” (DEO) to foster inclusiveness and promote equality on campus through many avenues, including seminars on topics including LGBT (Lesbian-Gay-Bisexual-Transgendered) and inclusive language issues. The front page of the DEO’s website provides its mission statement and purpose:

We promote empowerment and education as means of creating an open and accepting quality of life for all students, staff, faculty, and community members. We believe in eradicating the barriers that inhibit access to equal opportunities, and we advocate for the inclusion and equal treatment of everyone, regardless of gender, race, ethnicity, culture, sexuality, religion, age, ability, or socio-economic background.

It is unclear what powers the DEO can exercise in order to promote “empowerment and education” but it appears that the door is open to using these goals as justification for censoring controversial or politically incorrect speech.

Source: <http://waterloo.mylaurier.ca/diversity/info/home.htm>

In conjunction with this, WLUSU also promotes “inclusive language” on campus and throughout its subsidiaries and services, defined as:

...language that does not exclude, insult, trivialize or stereotype on the basis of gender, disability, and race. It means avoiding any language that could offend, demean, or promote stereotypes about a particular group. It is not ‘political correctness’ but merely choosing language that is welcoming and acceptable to people of all genders, races, and disabilities.  
<http://waterloo.mylaurier.ca/content/documents/fileItemController/Inclusive%20Language%20Bulletin%20Board2.pdf>

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<sup>9</sup> Interview with Rico Vipari, July 26, 2012



While there is no “ban” on a particular topic, there is an expectation that everyone will adhere to the “inclusive language” concept. This means refraining from using phrases that *could* be misconstrued as racist, “homophobic,” or discriminatory. Commonly used “un-inclusive” words or phrases, according to WLUSU, include...

- “That’s so gay”
- “That’s what she said”
- “You’re so retarded”
- “That test raped me”
- “Gypped” or “Jewed”
- Boyfriend or Girlfriend (use “partner” instead)

Source:

<http://waterloo.mylaurier.ca/content/documents/fileItemController/Inclusive%20Language%20Bulletin%20Board2.pdf>

The Students’ Union does not administer any type of security that is not outlined within the previous section referring to the University’s administration of this matter. If there is a required fee for “outside normal circumstances”, it is applied to all groups that require this service.

#### **4. Student union actions and practices: F**

During the 2011-2012 school year, WLUSU President Gibson commented on the role of WLUSU during the incident that resulted in the administration asking for posters to be removed during Israel Apartheid Week (see Section 2), “...administration and the Student Union kept an eye on it to ensure there were no incidents of people inciting violence, etc.” Gibson’s remarks demonstrate that WLUSU was aware of the actions taken by the administration, but that WLUSU itself was not involved in the decision to remove posters. This indicates that although WLUSU was consulted by WLU on how they handled Israel Apartheid Week, it was WLU that made the decisions to violate students’ freedom of expression by taking down their posters in the on campus Solarium. This said WLUSU missed the opportunity to stand up for the free speech rights of its student groups by publicly opposing the WLU decision.

In 2008, a group called “Laurier Free-thought Alliance” (LFA) was registered as a student club. The vision of the club was “to promote a fulfilling life without religion and superstition”. This club was denied its ability to create a club under the WLUSU banner (also meaning that it received no funding) “due to the need to respect and tolerate the views of others”. However, after many protests and angry letters/emails to the administration, Campus Clubs (the subsidiary of WLUSU that approves campus clubs and their funding) eventually allowed the LFA to be approved for club status provided they change the wording in their vision statement. A compromise was reached on this matter and the LFA was ultimately approved by Campus Clubs.

**Source:** <http://theframeproblem.wordpress.com/2008/02/01/waterloo-ontarios-Wilfrid-laurier-University-denies-recognition-to-campus-freethought-group/>



## 1. University policies and principles: D

York University's *Academic Plan 2010-2015* highlights the University's "unswerving commitment to academic freedom and collegial self-governance." The institution also values "a commitment to critical and free inquiry which requires the willingness to challenge but also to tolerate and respect ideas that may differ from our own."

Source: <http://www.yorku.ca/secretariat/senate/committees/apprc/documents/UAP2010-2015.pdf>

York's *Code of Student Rights and Responsibilities* lists the rights possessed by students on campus, including "[t]he right to freedom of inquiry, expression and assembly on campus." Additionally, students have the right "to engage and participate in dialogue and to examine diverse views and ideas."

In the "Responsibilities" section of the *Code*, students are expected to adhere to "the responsibility to uphold an atmosphere of civility, honesty, equity and respect for others which values the inherent diversity in our community," among other things.

There is a danger present to free speech at York because of the contradictory nature of some of the listed "rights" and "responsibilities". If a student group prepares a display on campus promoting an issue or cause that is believed to have damaged "an atmosphere of civility, honesty, equity and respect for others" will the institution protect the student group's right to free speech or will the administration choose to restrict free speech rights as punishment for contributing to a less civil/honest/equitable/respectful atmosphere? It is not made clear to what extent a student does have the right to free expression in the *Code of Student Rights and Responsibilities*.

York University responds to this contradiction in the document preamble:

The identified rights and responsibilities listed are interdependent and interconnected. For example, "The right to freedom of inquiry, expression and assembly on campus" and "The right to engage and participate in dialogue and to examine diverse views and ideas" are not separate from "The right to respect for one's person and property" and "The responsibility to behave in a way that does not harm or threaten to harm another person's physical or mental wellbeing." Where there is a tension between rights and responsibilities that are linked, those involved must recognize the need to achieve an appropriate balance.

This statement is very telling of York University's commitment (or lack thereof) to the preservation of free speech on campus. Instead of enforcing a strict and clear commitment to students' constitutionally-protected right to free speech, the institution in



this document clearly believes that free speech could and should be constrained as necessary to achieve the administration's interpretation of "an appropriate balance".

Section 14 of the *Code of Student Rights and Responsibilities* lists possible sanctions that may be brought upon students who have, in the eyes of the administration, breached the *Code*. Those sanctions that could justify the restriction of speech on campus include "reprimand" and "restrictions on behaviour"

Source: <http://www.yorku.ca/oscr/pdfs/CodeofRightsandResponsibilities.pdf>

Since 1995 York University has maintained a document, the *Policy Concerning Racism*, which states:

4. Anyone in the York community who infringes a right protected by the Ontario Human Rights Code shall be subject to complaint procedures, remedies and sanctions in the University's policies, codes, regulations and collective agreements as they exist from time to time, and to such discipline (including rustication or discharge) as may be appropriate in the circumstances.

The *Policy's* effect on free speech on campus is minimal; while many provincial Human Rights Codes have been interpreted to justify severe restrictions on free speech, Ontario's *Human Rights Code* does not carry the same effect.

The *Guideline on Acceptance and Display of Commemorative Art Work* policy outlines the procedures by which the institution may accept pieces of art that commemorate a historical figure or event. In determining whether to accept a piece of work, the policy states that administrators must consider "[w]hether the work or the individual or event it commemorates is so controversial as to engender activity which would compromise the work, the facilities or the activities of the University."

The lack of definition on what constitutes "art work" versus what is considered a communication/marketing prop for spreading a message is troubling for free speech preservation on campus. In the event that a student group wanted to display a figurine that carried a message in support of their cause, but that was considered controversial by administrators, this *Guideline* could easily justify banning the figurine from display on campus.

Source: <http://www.yorku.ca/secretariat/policies/document.php?document=136>

York's *Temporary Use of University Space* policy applies to student groups hosting an event on campus "with a high profile or controversial external speaker or group." The policy also outlines procedures for booking space for routine meetings, conferences, and promotional events. Section 2.2.2 of the *Procedures and Regulations regarding Temporary Use of University Space* states:

The organizer of an Event involving a High Profile or Controversial



External Speaker shall notify the Office of Temporary Use of University Space (TUUS) as early as possible. TUUS will arrange a consultation meeting with the organizer, Security Services and any other relevant service areas.

Section 5.2 of the related *Procedures and Regulations* document gives the University administration discretion to decide whether an event being organized on campus mandates a security presence:

The University may assess the potential risks associated with the temporary use of its space by an Eligible User on the basis of safety of participants and other individuals on campus, protection of property, and continuity of academic programs, services, scheduled activities/events, and other University operations. The University may stipulate that certain physical, security, and/or other requirements, including insurance, be put in place in order for the event to proceed and may also require a security and/or damage deposit.

Section 5.3 of the same document burdens student groups (the Eligible User) hosting an event with the cost of providing security as deemed necessary by the University under section 5.2:

The Eligible User is responsible for the costs associated with these requirements as well as municipal fines for false alarms or misuse of fire equipment arising out of its use of the premises.

Section 5.2 and 5.3 of the *Procedures and Regulations* discriminates against student groups advocating messages considered controversial or offensive by some members of the campus community. These groups could be effectively silenced by having to pay significant costs to provide security that the administration has mandated in order to host the event. For most student groups, such costs are unaffordable and may mean the difference between having their message heard or not. Security fee policies at York have the effect of discriminating between student groups with controversial or unpopular messages and groups with non-controversial or unpopular messages, the latter group being less likely to be mandated with security services in order to host an event.

Effective since 2005, York University has a policy governing the approval and placement of posters on campus. The *Posting Guideline* includes restrictions that restrict or have the potential to restrict free speech on campus. Section 7.1.4 of the document warns against placing posters considered to “disseminate hate propaganda, discriminates or appears to differentiate on the basis of any of the grounds of the Ontario Human Rights Code or York’s human rights policies.” The *Guideline* does not necessarily justify administrators removing a poster they consider to be in violation of this section.

Source: <http://www.yorku.ca/secretariat/policies/document.php?document=120>



York University established a new office, the Centre for Human Rights, in July 2008. The Centre exists to “assist individuals and groups to address and resolve allegations of discrimination and harassment as defined by the Code and University policy.” There is no accompanying, specific policy pertaining to Human Rights, and the Centre does not appear to be empowered to censor speech nor to enforce penalties and punishments on students who have had complaints made against them. Rather, the Centre focuses on educational workshops and promotes dialogue and appeasement between complainants and defendants.

Source: <http://www.yorku.ca/rights/>

York’s policy, *Hate Propoganda Guidelines*, defines hate propoganda as follows:

Hate propoganda is the public promotion or incitement of hatred against an identifiable group. Hate propoganda targets persons and/or property, based on such factors as colour, race, religion, or ethnic origin (Section 318 (4) of the *Criminal Code* of Canada). York University identifies sex, sexual orientation and gender identification as additional factors.

This policy does not itself create sanctions for those who breach the Guidelines. Rather, the document refers to other policies including the *Student Code of Conduct* and the *Policy Concerning Racism* for sanctions and warns that penalties include suspension and expulsion.

Source: <http://www.yorku.ca/secretariat/policies/document.php?document=19>

The University Senate also maintains a policy on *Gender Free Language* which states:

It is the policy of Senate to refrain from the use of gendered language in its official documents. Gendered language shall be removed from documents as they are updated from time to time.

Source: <http://www.yorku.ca/secretariat/policies/document.php?document=84>

## 2. University actions and practices: F

In January 2003, academic and Middle East affairs commentator Daniel Pipes was invited by York’s Centre for International and Security Studies to give a lecture at York University. Facing complaints from the Middle East Students Association and the York University Faculty Association, the Centre cancelled his talk. Then-president Lorna Marsden re-invited Pipes after she was informed of the controversy, and his lecture was held at a different venue on campus. Pipes commented on the event in his blog, saying:

President Lorna Marsden did the right thing and resolved that a minority view -- mine -- had the right to be heard and would be heard.



Pipes also commented in the same blog post that upon arriving to give his lecture, he was escorted by campus security to a secure area where he was then briefed on Canada's Human Rights Laws, and the penalties he could be subject to if he said anything in violation of those laws. Such behaviour has the effect of influencing a person to "bite their tongue".

Source: <http://www.danielpipes.org/1013/the-rot-in-our-canadian-universities>

In February 2010, a student group at York invited Pipes to give another lecture on campus. During their application for venue space, the University mandated that the group cover the costs of security at the event given their view that Pipes would incite anger and controversy on campus. The student group was forced to cancel the event because they couldn't cover the security costs.

Source: <http://fullcomment.nationalpost.com/2010/11/20/david-frum-york-University-where-the-rules-change-based-on-whos-speaking/>

In June 2009, faculty members at York University organized a conference, "Israel/Palestine: Mapping Models of Statehood and Paths to Peace" which was held in various venues at the University. The organizers of the conference accused University administration of violating the principle of academic freedom by putting "undue pressure" on them to change the content of the conference. Specifically, organizers accused then Dean of the Osgoode Hall Law School and the Associate Vice President of Research and Innovation of attempting to cancel controversial topics for discussion and un-inviting some of the academics slated to speak.

Through the Freedom of Information and Privacy Protection Act, records of email exchanges that occurred during the months leading up to the conference were obtained and showed that numerous members of the University leadership had discussed methods of avoiding negative press about the University. One article on the documents states:

Those e-mails, obtained by The Globe and Mail, discuss how the University might avoid "a disaster," by paying for the event to be moved off campus, putting forward speakers to balance the program and planting participants in the audience to moderate debate. The aim was to avoid the type of controversy experienced at Montreal's Concordia University, where clashes between Muslim and Jewish students in 2002 badly damaged its reputation and led to the cancellation of a speech by former Israeli prime minister Benjamin Netanyahu.

Source: <http://www.theglobeandmail.com/news/toronto/controversy-brews-over-yorks-handling-of-conference-on-mideast/article1531004/>

In response to allegations of suppressing academic freedom, York University asked Supreme Court Justice Iacobucci to review the issue. The Review concluded that there was no need for further investigation of the conference and that the University did not act



in opposition to academic freedom. The report has been criticized by many faculty members at York, including the Osgoode Hall Faculty Association.

Source: Iacobucci Report, [http://www.yorku.ca/acreview/iacobucci\\_report.pdf](http://www.yorku.ca/acreview/iacobucci_report.pdf)

It is difficult to say to what extent York University damaged the free speech atmosphere in this case. On the one hand, there is indeed a very clear disinterest in supporting free speech rights over possible risks to the University's reputation on behalf of key leadership, as evidenced by emails obtained. At the same time, the conference was held successfully with all intended speakers and discussion topics, and the event was not moved off campus as some of the emails suggested.

York University stood up for the free speech rights of students after the York Federation of Students (YFS), York's student union, cancelled a scheduled debate on abortion in February 2008. The event, which was hosted and moderated by two student societies at York, was cancelled by YFS executives because they felt abortion was not a topic for debate. York University intervened by offering the student group an alternative space at Curtis Lecture Hall on York's Keele campus. Commenting on the University's decision, spokesperson Richard Fisher stated:

Any debate that is legal and protected by free speech needs to occur. If it can't happen at a...liberal arts University, where can it happen?

(more information on the above incident available in Section 4 of this report)

On February 11, 2009, approximately 100 pro-Palestinian students reportedly initiated a near-riot against a group of Jewish students during a news conference where speakers called for the impeachment of the York Federation of Students (YFS) executive. According to witnesses, the demonstrators, which reportedly consisted of members of the YFS and Students Against Israeli Apartheid (SAIA), shouted "Zionism equals racism!" and "Racists off campus!" One witness stated that "a riot broke out. They [YFS supporters] started banging the door and windows, intimidating Jewish students and screaming antisemitic slurs."

The students barricaded themselves inside the Hillel offices, where protesters reportedly banged on the windows and attempted to force their way in. Eventually police were called to escort Jewish students through the protesters.

In May 2009, York adjudicator Janet Mosher, who is an associate dean at York's Osgoode Hall Law School, ruled that two York students, Krisna Saravanamuttu and Jesse Zimmerman, had violated the Student Code of Conduct due to their behaviour at the protest, which she described as "exclusionary and offensive" and which promoted an atmosphere of "hostility, incivility and intimidation." Mosher noted that both students participated in the protest which pursued a group of Jewish students to Hillel's lounge in York's Student Centre, and swarmed outside shouting taunts. On a video of the incident, Saravanamuttu was shown clapping and apparently leading a chant of "Whose campus?"



Our campus!” as well as participating in a chant of “Racists off campus.” Saravanamuttu was fined \$150 and both he and Zimmerman were given an official reprimand and human rights training.

When YFS Executives voted in 2008 to restrict union resources to pro-life clubs on campus, York University pledged to provide those clubs with replacement resources in compensation for the YFS decision.

Source: <http://oncampus.macleans.ca/education/2008/05/30/oh-york-federation-of-students/>

### 3. Students Union policies and principles: F

Article 2, Section 4 of the York Federation of Students (YFS) *Constitution* enables the Union to take stances on political/policy issues on behalf of its members:

To bring together undergraduate students from across the campus to discuss and take common, democratic positions on questions affecting students;

Article 4, Section 1 of the *Constitution* commits YFS documents to using only “gender neutral” language:

Unless the context requires otherwise, all pronouns and possessive adjectives used in this Constitution, its By-Laws, or any other official documents of the Federation, shall refer to persons of either gender, and all singular or plural meanings.

Source:

<http://fileserv.cfsadmin.org/file/yfs/6a3a30834a1ecdd101874825a118da013a217715.pdf>

Section 5.6.e of the YFS *Bylaws* outlines the duties of the Vice President, Equity (an elected YFS executive position). One of the duties listed appears to empower the officer to take stances for or against issues related to “discrimination” and “equity”:

[Vice President, Equity] shall represent the Federation when issues regarding discrimination and equity are raised in the York University community and need to be addressed;

<http://fileserv.cfsadmin.org/file/yfs/d9297825c1afb319d90193681eed68fa15d62375.pdf>

Section 10.3 of the *Bylaws* outlines the responsibilities of the Chief Returning Officer (CRO), who is responsible for the overall administration of YFS elections. Subsection h of the bylaw empowers the CRO to determine which campaign materials (posters, communiqués, pamphlets, etc.) are acceptable. Sections “d” through “h” of Section 10.13



(Campaigning) give some indication of the criteria established for approval of campaign materials:

e. All campaign material and/or advertisement need approval by the CRO in advance of posting or distribution. All submissions made to the CRO shall be returned with or without approval within two (2) business days. Though not an exhaustive list, campaign material can include: posters, leaflets, banners, websites, new media (i.e. Facebook, Twitter, and MySpace), clothing, buttons, stickers, logos, audio & video recordings, etc. Publications like opinion pieces and advertisements created and/or provided by a candidate or campaign volunteer. Tactics for the distribution of campaign materials, such as but not limited to, the distribution of student newspapers, are not subject to approval and are permitted.

Section 10.13.f of the *Bylaws* requires all campaign materials to include the phrase “please recycle after the election.” It’s assumed therefore that any student who wishes not to include the slogan (for any number of reasons including space available for text, political/policy views on recycling, etc.) would not have their campaign materials approved unless they can prove that including the slogan would not be “feasible”.

The CRO is also empowered to restrict the quantity of messages during an election. Sections 10.13.g and 10.13.h of the *Bylaws* restrict the quantity of messages a candidate can communicate to voters during the election. By limiting the quantity of posters a candidate can use during the election period, the YFS Bylaws run the risk of severely limiting free speech rights during a crucial time—the democratic process for selecting leadership. A candidate may feel that in order to effectively share her message with students, she would need to post 500+ posters to cover the various campuses, schools and departments at York. In this case, the Bylaws effectively restrict her right to convey her message to students.

Section 10.13.k restricts the location of campaign messages on campus:

- k. Restrictions regulating campaigning, that are unique to the following, shall be followed. It is the responsibility of the candidates to familiarize themselves with the different rules that govern each of the aforementioned entities such as:
- I. No campaigning of any form is permitted in the Union offices, or any area that can be perceived to be under the jurisdiction of the Union unless otherwise stated by the CRO.
  - II. Campaigning within a classroom is forbidden without the expressed permission of its presiding faculty member(s). To campaign in a classroom, a candidate must obtain consent from the professor/lecturer before the start of class.
  - III. Campaigning is not allowed within Student Residence.
  - IV. Campaigning is not allowed within the Library.
  - III. Campaigning is not allowed within a computer labs.



A student may feel that the most effective means to spreading his message is via Student Residences since students spend most of their non-class time in their dormitories. This policy effectively restricts his right to speak. Subection I is particularly harmful since it empowers the CRO to determine any number of Union-operated spaces out of bounds for campaigning, even if those areas are the most high-traffic areas of the campus.

Section 10.13.c of the *Bylaws* gives significant discretion to the CRO and YFS officials to censor speech during elections because of vague language contained in the text:

c. Candidates shall campaign in accordance with the rules of fair play. Breaking the rules of fair play include, but are not limited to, breaching generally accepted community standards, libel, slander, general sabotage of the campaigns of other candidates, malicious and/or intentional breach of elections policy, any attempt to undermine the electoral process and misrepresentation of fact.

What is considered a “generally accepted community standard” by the CRO may not be considered same by candidates during an election. This policy runs the risk of giving the CRO significant discretion to censor speech that they consider “offensive,” “oppressive,” or anything that could be interpreted to be a “community standard.”

Furthermore, Section 10.15 gives the CRO power to set rules and enforce penalties not covered in the *Bylaws*:

The CRO reserves the right to make rulings on issues and events no otherwise covered in this code, or to add in such rulings to supplement existing sections.

The CRO therefore has unlimited discretionary powers that he/she can employ according to self-created criteria, including powers to censor speech that is considered by the CRO to be “offensive,” “hurtful,” or “out of bounds”. Section 10.15 further outlines the penalties that the CRO may employ against violators of its rulings, which includes ruling an election or candidate void in the election process.

By-law 11 governs the procedures related to referenda during YFS elections. Section 11.4 of the By-law severely restricts the ability of students to participate in a referendum campaign as they themselves see fit by allowing only one “advocating committee” to officially represent and campaign on behalf of each of the “yes” and “no” options:

No one other than a registered advocating committee shall advertise in any medium, or post or distribute any material, for the purpose of supporting or opposing a referendum question.

Section 11.4 gives YFS officials the ability to silence students who wish to express their own reasons for voting “yes” or “no” in a referendum, or who wish to express opinions that do not directly advocate for a “yes” or “no” position. This gives the official “yes” and “no” committees a monopoly on debate, because they can disallow the expression of a multitude of different reasons for voting “yes” or “no.” The *Bylaw* assumes that there



could only be one reason to vote “no” on a referendum and only one reason to vote “yes”, when in reality there could be a plethora of perspectives and opinions that carry varying weight with the student body. Students with opinions on why the Referendum should be passed/rejected that differ from the official Advocating Committee’s opinion face being censored by YFS officials.

Bylaws 10 and 11 limit free speech as well through the governing of campaign finance and resource access. Spending limits are set by the CRO and the Referendum Committee for candidates and referendum advocating committees and candidates/advocates are not allowed to raise funds on their own above and beyond the expenditure limits. The Bylaws therefore place monetary obstacles on students wishing to exercise their right to free speech.

The York Federation of Students maintains a *Club Ratification Policy* which limits student groups’ ability to be officially recognized and to have access to the same resources and spaces as other YFS student groups. Specifically, the Club Ratification Policy prohibits ratification of groups not meeting content-based criteria:

1.6 The YFS does not support, promote or fund activities that are discriminatory as defined by the Ontario Human Rights Code and YFS policies.

1.7 The YFS will not ratify any groups that practice any form of coercive (persistent mental, social and emotional pressure to join the group) techniques of their membership or potential membership, nor any student groups who are found to be associated with an outside body who practices coercion, or knowingly violates any of the procedures listed above.

1.8 The YFS will not ratify any clubs who threaten, are rude or antagonizing to YFS Staff, Board or Executive Members.

While threatening another person is illegal as contrary to the *Criminal Code*, what a person may consider “rude” or “antagonizing” is extremely subjective. Denying clubs access to YFS resources on the grounds that they have been rude to YFS staff, board or executive members gives the latter a dangerously broad discretion to refuse ratification to any club that the YFS staff, board or executive members dislikes or disagrees with.

The ratification process for clubs is explained on the YFS website, [www.yfs.ca](http://www.yfs.ca). Clubs seeking ratification must adhere to the above-mentioned conditions but also must outline in detail their planned events and activities for the coming year. YFS justifies the requirement by saying that it is intended to give a better idea of “how active” clubs will be. That said, such a requirement means that clubs may be denied ratification based on the composition and content of events they are planning to hold even before they’ve applied for space.

Section 1.5 of the Club Funding Operations Policy allows the YFS to deny funding to clubs based on the content of their messages and activities:



1.5 The YFS does not support, promote, or fund activities that are discriminatory as defined by the Ontario Human Rights Code and YFS policies.

There is no official YFS definition of discrimination.

The YFS takes many stances on political/public policy issues. In June 2008, the York Federation of Students (YFS) passed a motion to ban pro-life groups from access to YFS resources, recognition and campus space. YFS delegates first introduced the motion at an annual meeting of the Canadian Federation of Students in January 2008; the motion (which passed successfully) requires all member unions to ban pro-life clubs from access to union recognition and resources.

Source: <http://oncampus.macleans.ca/education/2008/05/30/oh-york-federation-of-students/>

#### 4. Students Union actions and practices: D

Article 2, Section 4 of the York Federation of Students (YFS) *Constitution* enables the Union to take stances on political/policy issues on behalf of its members (see Section 3). This policy has been used to justify numerous political stances and allocations of resources to political campaigns on behalf of YFS. For example, YFS co-sponsored an event in opposition to the 2010 G20 meetings which occurred in Toronto. An article in “Maclean’s on campus” describes the incident:

York student Gregory Kay was also irked by his student union’s support for G20 protests. The YFS and the student union at the University of Toronto co-sponsored “Toronto vs. the G20: a teach-in.” Class included Black Bloc tactics, which ended up seeing storefronts and public property smashed during the summit in downtown Toronto. “That’s something most students don’t believe in at all,” says Kay, who is the business representative for the YFS board of directors. “Most students aren’t anti-capitalist. They’re not interested in civil disobedience.

Source:

<http://www.google.ca/search?q=g20+meeting+toronto&sugexp=chrome,mod=8&sourceid=chrome&ie=UTF-8>

YFS also endorsed striking faculty members at York during contract disputes that occurred in 2008. YFS closed its offices in solidarity with the protestors, denying access to YFS services in doing so. Additional controversy erupted when it was discovered that YFS executives used the opportunity to work for the CFS, the national student umbrella group which YFS belongs, in Ottawa. The decision prompted a signature campaign to impeach the YFS Executive which collected more than 5,000 signatures.

Source: <http://oncampus.macleans.ca/education/2008/11/19/york-student-president-doing-everything-he-can-from-ottawa/>



On February 29, 2008, the York University Society for Bio-Ethical Awareness planned to host an event titled “Abortion: A woman’s right or moral wrong?” The event was to feature Jose Ruba of the Canadian Centre for Bio-Ethical Awareness debating Michael Payton, member of the student group FreeSAY. It was to take place in the Student Centre, a hall operated by the YFS. The event was cancelled by the York Federation of Students, hours before it was set to begin. YFS Executives justified the action, saying “abortion is not an issue to debate” and that the debate was comparable to “debating whether a man can beat his wife.” The event was rescheduled to take place at Curtis Lecture Hall on York’s Keele campus; the space is operated by York University rather than the YFS. The debate took place successfully on March 18.

Source: <http://oncampus.macleans.ca/education/2008/03/04/you-cant-say-that/>

In February 2008, the York Federation of Students led a delegation of students to McMaster University to protest the University’s decision to censor a controversial promotional poster for the campus’s annual Israeli Apartheid Week event. The decision to send students to protest at McMaster indicates apparent inconsistencies in YFS’ position on free speech; such inconsistencies create a foggy atmosphere for students who may be concerned whether practicing their right to free speech will result in retaliatory action by YFS. As one article wrote:

The YFS joined other Toronto students unions in condemning McMaster University and the McMaster Students Union for censoring a poster featuring the controversial phrase “Israeli Apartheid” and a graphic, violent image. At the rally, the Toronto unions accused the University and students union of shutting down free speech at McMaster. They called on McMaster University and students union to allow for absolute free political speech on the campus.

[YFS VP for Equity] Massa doesn’t see the connection between the two incidents. She said that the censorship at McMaster was about a political issue while the York [abortion] debate would have amounted to “hate speech.”

Nevertheless, YFS should be commended for standing up for free speech rights—even if only for one of these cases.

Source: <http://oncampus.macleans.ca/education/2008/03/04/you-cant-say-that/>

