



Justice Centre

for Constitutional Freedoms

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The state of campus free speech in 2011

A report on 18 Canadian universities

By John Carpay and Michael M. Kennedy

Justice Centre for Constitutional Freedoms
#253, 7620 Elbow Drive SW
Calgary, Alberta, T2V 1K2
Phone: 403-475-3622
www.jccf.ca

About the Justice Centre for Constitutional Freedoms

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 received official charitable status in 2010 (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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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.



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Acknowledgements

The Justice Centre for Constitutional Freedoms (JCCF) acknowledges with gratitude the generous support of the Aurea Foundation, as well as the generosity of hundreds of Canadians from coast to coast who support the JCCF's research and litigation work in support of the constitutional freedoms of Canadians.

The authors acknowledge with gratitude the research and editing contributions made with respect to *The 2011 Campus Freedom Index* and *The state of campus free speech in 2011* (companion document) by numerous individuals, including Adelle Archer, Paige MacPherson, Jamie Hellewell, Adam Giancola, and Janet Keeping.

About the authors

John Carpay is President of the Justice Centre for Constitutional Freedoms. He earned his B.A. in Political Science at Laval University, and his LL.B. from the University of Calgary. John has defended constitutional rights and freedoms in the Alberta Court of Queen's Bench (*Boissoin v. Lund*), Saskatchewan Court of Appeal (*Whatcott v. Saskatchewan Human Rights Commission*), Federal Court of Appeal (*Benoit v. Canada*), and Supreme Court of Canada (*R. v. Kapp*). He currently acts for seven students who are suing the University of Calgary in the Alberta Court of Queen's Bench (*Wilson v. University of Calgary*) in defence of their campus free speech rights. In 2010, Preston Manning presented John Carpay with the *Pyramid Award for Ideas and Public Policy*, in recognition of John's work in constitutional advocacy and in building non-profit legal foundations. John has also served as the Alberta Director of the Canadian Taxpayers Federation (2001-2005), advocating for lower taxes, less waste, and accountable government. John, his wife Barbra, and their four children reside in Calgary.

Michael Kennedy graduated from Dalhousie University with a B.A. in political science and economics. Michael was the co-founder and Executive Director of the Dalhousie Liberty Society, a campus group dedicated to educating students about the philosophy of social, political and economic freedom. He is a Millennium Excellence Award laureate and has served in leadership roles for a variety of civic and community groups, including his local Kiwanis Club. Michael has worked in a number of policy roles, as a municipal policy assistant and as a research assistant with the Canadian Taxpayers Federation. A proud native of Cape Breton, Nova Scotia, he currently lives in Washington, DC, working for the American Council of Trustees and Alumni, an organization dedicated to promoting academic freedom, excellence and accountability at colleges and universities.



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The 2011 Campus Freedom Index University of Victoria

1. University's policies and principles – Ranking: Mediocre

Within the UVic Strategic Plan (2007) three Fundamental Values are included which are meant to “inform all [the university’s] actions and are a prerequisite to fulfilling the purpose of the university.” These values are “intellectual and ethical integrity, freedom of speech and freedom of inquiry, and equal rights and dignity of all persons.” 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.” (<http://web.uvic.ca/strategicplan/pdf/strategicplan.pdf>)

The University of Victoria Discrimination and Harassment Policy (http://web.uvic.ca/vpac/framework-2008/FA2008_June2011Revised.pdf) 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.”

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 needs, especially regarding behaviour towards them which they perceive as “intimidating” or “humiliating” or “hostile.” 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.

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 – Ranking: Poor

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.

3. Student Union policies and principles – Ranking: Mediocre

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 Harassment Policy can easily be interpreted in a manner that runs counter to ideological diversity. 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.” (<http://www.uvss.uvic.ca/clubs-course-unions/uvss-clubs/>)

When a complaint is brought against a club for contravening the harassment policy, the UVSS creates an *ad hoc* Complaints Committee which analyzes the complaint, investigates the allegations, and interviews both the complainant and defendant. The Complaints Committee findings are then brought before the UVSS Board of Directors, which makes the final decision as to whether “harassment” occurred.

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” (<http://www.uvss.uvic.ca/about-us/policy-bylaws/>). Theoretically, these positions should not limit the activities or speech of clubs, or of any student who through mandatory dues is a part of the UVSS membership. But as discussed below, these positions on public policy issues are used to censor certain groups.

The UVic Operational Policy outlines the requirements for groups wishing to book space within the Student Union Building (SUB; <http://www.uvss.uvic.ca/about-us/policy-bylaws/>). 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.

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 – Ranking: Poor

In the fall of 2007, the UVSS banned the Canadian Forces from the UVic Career Fair (<http://www.uvss.uvic.ca/upload/docs/meetings,%20agendas,%20minutes/minutes%202007-09-10.pdf>). 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. Another act



of censorship by the UVSS Board of Directors is their banning the sales of Macleans Magazine within the SUB. In November 2010 the Board voted to ban sales of the magazine if they did not apologize for their article, “Too Asian.” Members of the Board believed that the article “[perpetuated] stereotypes.” No apology was made that the UVSS approved of, so they boycotted the magazine

(<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

(<http://www.uvss.uvic.ca/upload/docs/meetings,%20agendas,%20minutes/minutes%202008-11-03.pdf>). The funding was also denied in the following semester. Funding was denied again in the fall of 2009, this time because YPY had hosted a debate on abortion, another event that was alleged to “harass” students

(<http://www.uvss.uvic.ca/upload/docs/meetings,%20agendas,%20minutes/minutes%202009-10-05.pdf>). In February 2010 the UVSS Board further censored this group of students and denied them club status altogether

(<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

(<http://www.bccla.org/pressreleases/10Petition.pdf>) 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 Harassment Policy which 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.

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.



The 2011 Campus Freedom Index University of British Columbia

1. University policies and principles – Ranking: Good

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.¹

UBC has an on-campus equity office that “works to prevent discrimination and harassment on campus, to provide procedures for handling complaints and to coordinate UBC's employment and educational equity program” (<http://equity.ubc.ca>). Prohibited discrimination includes:

- Racist, sexist or homophobic graffiti, cartoons, posters or screen-savers displayed in a common work or study area
- Discussing the culture of other classmates, co-workers, or colleagues in a disrespectful or ridiculing manner
- Disparaging comments about mature students' place in higher education
- Repeated derogatory comments or jokes based on one of the prohibited grounds.

Here is a document that directly specifies the policies of the equity office:

<http://www.universitycounsel.ubc.ca/files/2010/09/policy3.pdf>



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.

One UBC policy worth flagging as a potential source of restriction of speech and expression is the UBC Harassment Policy.ⁱⁱ It defines “harassment” as follows: ‘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.’ (Age, Ancestry, Colour, Family Status, Marital Status, Physical and Mental Disability, Place of Origin, Political Belief, Race, Religion, Sex/gender, Sexual orientation, Unrelated criminal conviction.) Depending on what counts as an “exclusionary” or “isolating” comment or practice, this policy has the potential to limit free speech and expression. However, in the prelude to the policy, it also states that: ‘This policy is to be interpreted in a way that is consistent with the UBC Calendar statement on academic freedom. Neither this policy in general, nor its definitions in particular, are 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, such as age, race, politics, religion, sex and sexual orientation.’ The potential for conflict between academic freedom on the one hand, and non-harassment and non-discrimination on the other, will play itself out in future at UBC.

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.ⁱⁱⁱ No guidelines are given instructing departmental officials to adopt posting criteria that are non-discriminatory with respect to the content of the message advertised.

2. University actions and practices – Ranking: Good

It should be noted at the outset that UBC’s ranking of “Good” in this category is based on its actions and practices in 2011. Its actions and practices in the prior decade would receive a ranking of “Poor.”

In September 1999, security fees in the amount of up to \$60,000 were demanded from a campus pro-life group (“Lifeline”) planning to present a display with graphic images of aborted fetuses over the course of four days.^{iv} Similar fees have not been assessed to other groups putting on events with equally controversial messages, or groups displaying disturbing or graphic images in public.

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.”^v 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.

However, 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.

In March of 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.” <http://www.nsnews.com/news/sign+locks+free+speech/2895805/story.html>. UBC president Stephen Toope responded: “for a university, anything that detracts from the free expression of ideas is just not acceptable.” <http://learningcommons.ubc.ca/2011/03/is-the-government-not-allowing-a-recent-guest-lecturer-into-canada-justified/>. UBC approved of Dr. Trifkovic speaking. 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). <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.^{vi}

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.^{vii} Stephen Owen, chief spokesman for UBC, said the policy was meant to shield the Olympics from "guerrilla 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.” (<http://www.cbc.ca/news/canada/british-columbia/story/2009/07/04/bc-civil-liberties-olympics-free-speech.html>).

Similarly, the university sometimes charges extra fees to groups putting on events on campus to cover the costs of security for those events. While this discretionary power is primarily used to cover the costs of extra security for events involving alcohol consumption, it has been used at least once in the past to charge extra fees to a group putting on an event on the basis of the



content of the group’s message. There is no policy on security fees, so it is difficult to ascertain the extent of the University’s discretionary power in this regard.

3. Student Union policies and principles: Ranking: Mediocre

The UBC student’s union, the Alma Mater Society (AMS), has no official speech code that limits their members from expressing views based on the content of those views. The student union does not have discriminatory security fee policies, and does not deny equal access to facilities. 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 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.

AMS policy does give 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. These powers can be used to discriminate based on content of event or group messaging. The AMS also grants special priority and privileges to some student groups, which it calls ‘Student Resource Groups,’ based on the content of their goals.^{viii}

According to the *UBC AMS Student Administrative Commission (SAC) Policy Handbook* all properly constituted clubs^{ix} 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.^x 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,^{xi} though there is no evidence of abuse of this discretionary power.

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 grants special privileges to groups that it gives the status on “Student Resource Group.”^{xii} 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. These groups receive extra funding, priority in room bookings, use of bulletin boards, and other privileges not had by regular student clubs. Though these groups are required to maintain democratic governance procedures and be open to all students, there is clearly a favouring of the expression on viewpoints not shared by all students.



4. Student Union actions and practices – Ranking: Good

There have not been any reported cases of the AMS denying equal access to university facilities, and there appears to be no evidence suggesting that the AMS is not “content neutral” with the way it treats clubs, speakers, and listeners. During student elections, any candidate can run for office, and advertising campaigns are funded by the AMS. Though, as indicated above, the AMS does have policies which effectively favour the expression of certain viewpoints over others, and grants discretionary powers to the SAC that could result in speech discrimination, the authors found no evidence of serious incidents of free speech violations.



**The 2011 Campus Freedom Index
Simon Fraser University**

1. University policies and principles – Ranking: Good

On his website, SFU President Andrew Petter has a “Statement on Respectful Debate”:

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.

So what position should a university take when one person’s speech offends another person’s sense of human dignity? Should the university seek to curtail such speech? As tempting as it might be to do so, I believe such action would be misguided in principle and counterproductive in practice.

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.

On the contrary, it is understood that all ideas, beliefs and opinions are subject to analysis and criticism that may result in their modification or rejection. Critics may themselves face criticism. The expression of provocative, uninformed or distasteful views must be tolerated so their inadequacies can be debated and exposed.

In practical terms, efforts to curtail offensive speech often result in such speech being given greater attention and its purveyors gaining greater prominence than would otherwise be the case. Thus attempts to reduce the influence of offensive speech through regulation are liable to produce the opposite effect.

For these reasons, 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.

This does not relieve us of our responsibility to try to foster an environment of civility and mutual respect. On the contrary, the broad rights of free expression we enjoy oblige all of us to work harder to promote such an environment. Nor does it permit us to disregard the chilling effects that provocative and offensive speech can have on members of our community. These effects are real and we need to show understanding and support to those who suffer them.

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/president/petterspeeches/201103.html>

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 Canada¹, 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>

As with other Canadian universities, 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 makes it clear 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.

This section, in conjunction with the President's Statement (above) suggests that SFU has a strong commitment to the protection of free speech that is not rivalled by many post-secondary institutions in Canada.

SFU also recognizes the value of free speech even in its research award. One such award, 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 policies that discriminate (based on the content of the message) between various student groups, faculty/academic groups and alumni groups, and various events.

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 on the "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. The SFU policies and principles described above suggest that the stamp is not used as a tool for censoring speech on the basis of its content.



2. University actions and practices – Ranking: Poor

Until very recently, SFU had a solid track record of providing all students and clubs with equal access to university facilities, without discrimination based on the content of a group's expression.

In spite of SFU President Andrew Petter's principled and well-articulated support for free expression on campus (see above), SFU recently refused its approval to a controversial pro-life display ("Genocide Awareness Project") which compares abortion to historical genocides. SFU initially approved the display to be set up on campus, but then demanded that the signs be set up in such a way that passers-by could not see the signs, much like the University of Calgary's demand in regards to the expression of its pro-life club. SFU's demand for limitations and restrictions on one particular group broke with a long tradition of treating all students, groups, opinions, and viewpoints equally, and respecting the free speech rights of everyone on campus. SFU Lifeline rejected this as content-based discrimination, and proceeded to set up its display as per the date, time and location initially agreed to by SFU.

When the pro-life students set up their display on the SFU campus in November of 2011, opponents of the display brought rolling boards, approximately six feet high, *which they either rented or borrowed from the university*, and set them up to surround the display, leaving limited space between the display and the rolling boards.

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. The opponents obstructed and interfered with the students' use of their property. The opponents did so using university resources, with the overt or tacit approval of the university.

Initially, campus security upheld the rule of law by moving the rolling boards (which were university property) away from the display. But shortly thereafter, campus security allowed the opponents to recommence their interference and obstruction and roll the signs back, where they blocked the pro-life display for the remainder of the day.

The pro-life students informed campus security that they were content with the opponents expressing their contrary opinions, but that blocking the pro-life display from view was unfair. Pro-life students also informed campus security that having their display enclosed by large rolling boards was a security concern, but this, too, fell on deaf ears. Campus security cited the students' non-compliance with SFU's censorship demands as grounds for condoning the blocking and obstruction.

3. Student union policies and principles – Ranking: Good

The Simon Fraser Student Society (SFSS) does not have any policies which censor, or discriminate against, any students or student groups on the basis of the content of expression, or on the basis of a group's opinion, belief, or philosophy.



4. Student union actions and practices – Ranking: Good

There are no 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/>



The 2011 Campus Freedom Index University of Calgary

1. University policies and principles – Ranking: Mediocre

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).” This section has not been used to censor the free speech rights of any student or student group. There are no speech codes, no prohibitions on topics of speech, and no “equity officers” or any similar position which would empower an official of the University to restrict speech on campus.

The University of Calgary has a “time, place, and manner” restrictions, requiring student groups to book certain green spaces on campus in order to set up a display or have 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. Hence the ranking of “Mediocre” rather than “Good” in this category.

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."

2. University's actions and practices – Ranking: Poor

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, 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."

In response to a complaint about the Facebook page, the dean of the faculty and four other professors launched an investigation. One of these four professors was Mitra's spouse. In the fall of 2008, the 10 students were told to appear before the five-person investigating panel. At the beginning of the meeting, the students were told that they were guilty of non-academic misconduct, and ordered to write an unqualified letter of apology, with threats of penalties including expulsion for failing to write and sign such letter. The panel accused the students of defaming Mitra, but refused to hear any evidence from the students about the professor. This ignores the law of defamation, which allows people to say negative things about others when those negative things are true. Professor Mitra did not sue any of the students who described her as incompetent.



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 has appealed the ruling in *Pridgen v. University of Calgary* to the Alberta Court of Appeal, which heard oral argument in November of 2011, and will issue its ruling in the months ahead.

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. A decision in *Wilson et al. v. University of Calgary* is expected in 2012.

Pro-life students have set up a controversial display on campus 12 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.



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.

As at Carleton University, students at the University of Calgary have also faced harassment and intimidation when using hand-held signs on campus, notwithstanding the absence of any policy prohibiting them from doing so.

3. Student union policies and principles – Ranking: Poor

In February of 2011, the 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.” This enables the Students’ Union’s elected officials or staff to censor any speech which they dislike or disagree with.

The Students’ Unions election policies and guidelines also 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 (last updated in February of 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 mis-management as an election issue, as this would constitute “negative campaigning.”

4. Student union actions and practices – Ranking: Poor

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 of a clubs rule or policy. The club was reinstated only after threatening a court action against the Students’ Union.

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 a new group of student politicians were elected to the Students' Union positions.

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 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.

Sources:

[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)
the University's policy on space usage and booking space. It also covers security fees, or other fees which the university sees fit to put on a demonstration. It states that the university may restrict use of space at its "discretion".

<http://www.lifesitenews.com/news/archive/ldn/2008/nov/08112707> This is a news article which refers to the instance in which the protestors of the treatment of Falun Gong practitioners by the Chinese government were not asked to turn their signs inwards, even though they were less than twenty feet away from the GAP exhibit.

<http://www2.canada.com/calgaryherald/news/city/story.html?id=2083340e-12b3-46e7-a58b-8317b9f1a247> This article talks about the unfair nature of the hearing which removed club status from CPL

<http://thegauntlet.ca/story/3341>

This article discusses the old Reform party's campus club losing club status.

<http://www.su.ucalgary.ca/page/affordability-accessibility/elections/policies-procedures>



The 2011 Campus Freedom Index University of Alberta

1. University policies and principles – Rank: Mediocre

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

This policy is somewhat ambiguous. The protection for free speech 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 in the face of a complaint that the expression of an opinion violates someone's “inherent dignity.”

Section 30.9.5 of the University of Alberta's Code of Student Behaviour 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 this 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 “Israeli Apartheid.”

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.*

The University does not appear to have a policy governing the use of security fees for student or non-student events on campus. No policies were found that deny equal access to university facilities, or open spaces on campus, based on the content of a group’s expression.

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 practices – Ranking: Mediocre

There are no reported 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 of *Pridgen v. University of Calgary*, described in detail under Section 2 (university actions and practices) of the report on the University of Calgary. It appears that the U of A believes, like the U of C, that “institutional autonomy” should be able to serve as a license for universities to repudiate their own mission statement, not to mention their condition for receiving government funding, by censoring the peaceful expression of students.

3. Student Union policies and principles – Ranking: Poor

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? 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/49/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/49/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.

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 policy 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 policy.

Source:

http://www.su.ualberta.ca/media/uploads/assets/Bylaws/Bylaw%202000%20Elections,%20Plebiscites%20and%20Referenda%20_1.pdf



The Student Union does not have a security office; security is carried out by the University of Alberta.

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 – Ranking: Good

The authors are not aware of any reports of the Students’ Union censoring speech on campus, or discriminating against students or student clubs on the basis of belief, opinion, philosophy or expression.



The 2011 Campus Freedom Index University of Saskatchewan

1. University policies and principles – Ranking: Mediocre

The University of Saskatchewan lists freedom of expression as one of its six Guiding Principles in the Student Standard of Non-Academic Misconduct, 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.

Source: http://www.usask.ca/university_secretary/honesty/StudentNon-AcademicMisconduct.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.

Source: http://www.usask.ca/university_secretary/policies/equity/2_03.php

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, does elaborate on language that is acceptable and unacceptable in regards to this policy. The word “he” is not allowed to be used to refer to a person of either sex and must be replaced with “he or she”. Similarly, words like “police man” are unacceptable and must be replaced by “police officer”. This is not so much a ban on a particular topic but a ban on language and definitions.

Source: http://www.usask.ca/university_secretary/policies/equity/2_03.php

The College of Medicine has an Equity, Diversity and Gender Group which seeks:

1. To advocate, support and promote equity and diversity within the College of Medicine.
2. To support and encourage students and faculty awareness of equity, diversity and gender in their education, research and service undertakings.
3. To be a resource and assist in dealing with questions and concerns of faculty, students and staff at the College of Medicine in matters of gender, equity and diversity.

Records of whether this group has tried to monitor or censor speech could not be found.

Source: <http://www.medicine.usask.ca/leadership/social-accountability/initiatives/equity-diversity-and-gender1/index.html>

There do not appear to be any “time, place and manner” regulations that have the effect of discriminating against certain speech based on its content.

The University does not have policies that discriminate between various student groups, or between faculty, academic and alumni groups, based on the content of the message. The University does not have security fee policies that charge disproportionate or varying rates based on the event's message and content. There are no policies which deny equal access to university facilities, or open spaces on campus, based on the content of a group's expression.



2. University actions and practices – Ranking: Good

There are no reported incidents 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 – Ranking: Poor

The University of Saskatchewan Students' Union (USSU) Table Space Rental Policy empowers the USSU to refuse a table for any student group not specifically outlined in the general guidelines section of the policy. The policy states that "The USSU reserves the right to decide any point not covered in the above rules and further reserves the right to refuse any booking." Source: http://www.ussu.ca/bylaws/pdfs/Table_Space_Rental_Policy.pdf

The Table Space Rental Policy also rules that "offensive materials" will not be allowed on group table displays but does not qualify what is considered "offensive." Oddly, the policy also states that "Respect for divergent points of view is expected at all times." This policy empowers USSU elected officials or staff to censor speech which they dislike or disagree with.

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 could be considered "unfit for an inclusive, welcoming and open learning environment," thereby empowering itself with broad, unfettered power to de-ratify a campus club based on its views, opinions, philosophy and expression. Source: http://www.ussu.ca/bylaws/pdfs/Campus_Groups_Policy.pdf

4. Student Union actions and practices – Ranking: Poor

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-life-club-after-delay/>

The Student Union allowed the USSL club to retain its official status on 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 cannot "incite anger" or "provoke" anyone.



The 2011 Campus Freedom Index University of Manitoba

1. University policies and principles – Ranking: Mediocre

The relevant university policy on free speech at the University of Manitoba is the Respectful Work and Learning Environment (RWLE) Policy, which prohibits any form of discrimination or harassment, including 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.

It appears that the university does not ban speech on any particular topics, and there are no reported cases of residence assistants who censor speech, or any “time, place, and manner” regulations which discriminate based on the content of the speech.

It does not appear that the U of M has policies which discriminate between student, academic, or alumni groups on the basis of content of speech. The University’s “Security and Surveillance” Policy does not mention fees for university events and speeches.

Source:

http://www.umanitoba.ca/admin/governance/governing_documents/community/246.html

Source: http://www.umanitoba.ca/admin/governance/governing_documents/community/230.html

There do not appear to be “time, place and manner” regulations that have the effect of discriminating against certain speech based on its content. No policies were found that deny equal access to university facilities, or open spaces on campus, based on the content of a group’s expression.

2. University actions and practices – Ranking: Good

The engineering students’ magazine publishing a satirical Valentine’s Day issue which was criticized as sexist (see [here](#)). According to the news report, Equity Services was reviewing the magazine to see if it violated 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 it seems the magazine did not suffer any content-based restrictions after the event.



There was considerable pressure from groups such as B'nai Brith to have the University ban a controversial anti-Israel event known as "Israeli Apartheid Week." On April 22, 2010 the Students' Union Executive voted unanimously to endorse a motion declaring their opposition to banning the event.

The university also declared its opposition to banning the event:

"The president will be issuing another statement this year again explaining why the university cannot prevent the events from taking place here," he explained. President of the University of Manitoba Students' Union (UMSU), Heather Laube, said that UMSU's position on IAW has also not changed since last year, which is to support the right of students to speak out and organize against racism, discrimination and oppression. UMSU's stance was decided democratically at UMSU council this year and last. "We feel last year's support for the right of the IAW student organizers to speak about this important global issue was justified by the fact that nothing more than vigorous debate and public education occurred," she said. "Freedom of expression does not exist in a vacuum, and maintaining a respectful campus environment doesn't mean censorship." Source: <http://www.themanitoban.com/articles/43590>

There are no reported cases of the University discriminating in its enforcement of free speech rights, by, for example, failing to provide adequate security and accommodations, or failing to ensure that speakers and listeners are awarded the same opportunities for free speech during events.

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 – Ranking: Mediocre

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.” (see [here](#), Policy #2009) 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.

UMSU does not have any policies discriminating in granting official club status. According to the [application form](#), groups must simply comply with student union bylaws, policies, and procedures.

4. Student union actions and practices – Ranking: Mediocre

In the Israeli Apartheid Week (IAW) controversy, UMSU passed a resolution opposing any motions and actions aimed at restricting or banning IAW. Here UMSU supported the right of student free speech on campus.

Conversely, in the case of Hymie Rubenstein (see above), 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

Source: <http://www.lifesitenews.com/news/archive/ldn/1999/apr/990426>



The 2011 Campus Freedom Index Lakehead University

1. University's policies and principles – Ranking: Mediocre

The 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 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. It is unclear as to whether this concern about “dignity” would give way, or not, to the provision that the Code be construed so as to permit free speech.

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

There are no “time, place and manner” regulations, or security fee policies, which have the effect of censoring speech or discriminating against students or student groups on the basis of viewpoint or philosophy. The university does not deny equal access to university facilities and open spaces on campus. Requests for space are filed through the student union. There are no “equity officers” or similar positions with authority to restrict or censor speech. It appears that events and their content are largely unregulated by the University, as per the information available at: <http://policies.lakeheadu.ca/>

2. University actions and practices – Ranking: Good

There are no examples 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 – Ranking: Poor

The Lakehead University Student Union (LUSU) declared itself to be officially pro-choice in 2008, 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 antic 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/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. It appears that the same standards exist for all clubs when booking space at the university. The LUSU constitution has the same policy on free speech that is found in the university policies and procedures.

The student union also funds various centers on campus such as the gender issues center, pride central, multicultural center, aboriginal awareness center, sustainability, etc. Although it is never explicitly stated that the student union discriminates based on the content of speech, these centers freely express controversial views on campus whereas views which are less popular, or less politically correct, must apply for club status and undergo the club approval process.



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 excludes all religious and political clubs from receiving official club status and funding.

4. Student union actions and practices – Ranking: Poor

LUSU can have an extreme range of viewpoints on speech tolerance depending on the composition of its elected Council at a given time. 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 its 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 Lakehead University Life Support refused these conditions as unreasonable, LUSU then stripped the club of its status. LUSU sent a letter to members of the Lakehead University 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, LULS was granted official club status. It remains unclear whether the club will be ratified during the current 2011-2012 academic year.

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>



**The 2011 Campus Freedom Index
Wilfrid Laurier University**

1. University policies and principles – Ranking: Mediocre

Wilfrid Laurier University (WLU) defines the university's commitment to the teaching and learning of "scholarly exploration and the application of new ideas". This is subsequently followed by the university's mission statement and its description of the institution as one that "challenges people to become engaged and aware citizens of an increasingly complex world". 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."

Section 6.1 of the WLU Student Code of Conduct 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=2505&p=11452

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.

It is unclear whether or not security fees are charged to groups, as security is rarely used or called upon for events on campus.

2. University actions and practices – Ranking: Good

While there are many different groups and interests on campus at WLU, the university provides everyone the opportunity to express their message in an open forum, and allows for discussions on all topics. There have been no cases in which the university itself has banned speech on a particular topic, or censored a particular point of view. There does not appear to be any preferential or special treatment given to certain individuals or groups. There are no reported cases of the university denying equal access to facilities, resources or spaces on the basis a student's or group's viewpoint or opinion.

Although residence dons and counsellors are trained to promote “inclusive language,” there are no reported cases of residence dons or counsellors having suppressed free speech in a residence environment.

There have been times where university administration has “advised” that certain groups hold off on their message during a specific day or event. For example, Anti-War@Laurier (AW@L), which is an anti-war student activist group, had planned a protest during the Remembrance Day ceremony at Veteran's Green, which is a small park situated directly across from the university. The university administration heard of this protest and advised the group not follow through on this particular day. It is not known to what extent this was a demand or merely a suggestion, or if there were any threats to the group's funding, or other consequences. The recommendation (or



demand) of the university was adhered to by the group and no such protest occurred. It should be noted that the protest of Anti-War@Laurier at this particular location on November 11th could have constituted a disruption of the ceremony. Free expression rights do not extend to, or include, interrupting or interfering with the lawful activities of other people.

3. Student Union policies and principles – Ranking: Mediocre

The Wilfrid Laurier University Student Union (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.

There is no outlined link between this policy and that within Section 6.1 of the Student Code of Conduct (Harassment/Discrimination), but it is likely under this jurisdiction and subject to appropriate measures to be decided by the university’s administration if a complaint persists.

Source:

<http://waterloo.mylaurier.ca/content/documents/fileItemController/Inclusive%20Language%20Bulletin%20Board2.pdf>

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 – Ranking: Poor

It appears that no students or groups have thus far been penalized for violating the “Inclusive Language Statement” or the goals of the Diversity and Equity Office.

In 2008, a group coalesced to form a campus club named the “Laurier Free-thought Alliance” (LFA). The vision of said 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-wilfred-laurier-university-denies-recognition-to-campus-freethought-group/>



The 2011 Campus Freedom Index University of Western Ontario

1. University policies and principles – Ranking: Good

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.”¹ 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.”¹

UWO’s policy on “Picketing, distribution of literature and related activities” states:

In keeping with its traditional aim of providing an environment conducive to freedom of enquiry and expression, the University, as a general rule, will permit the use of its property and facilities for picketing, distribution of literature (if not considered to be libelous, seditious, inciting to riot, or beyond the bounds of common decency, under the laws applicable in Ontario), gatherings, related activities, etc., where there is some reasonable degree of student or faculty interest, providing, specifically, that 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 – Ranking: Poor

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.

However, in the fall of 2011, a campus pro-life group called Western Lifeline was denied equal access to prominent space on campus when it sought to organize an event called “Silent No More” which features women who speak about their own experiences with abortion. One UWO official, Mark Wellington, claims that this expression violates the Community Standards Policy but provides no explanation as to how or why it does.



3. Student Union policies and principles – Ranking: Poor

The UWO University Student Council (hereinafter referred to as the USC) has a “Community Standards Policy” and a “Poster Policy” which prohibit “potentially libelous language or statements” or “statements made to damage a person’s or group’s reputation.”

The USC Community Standards Policy strictly prohibits acts that are “deemed objectionable,”¹ and bans “unacceptable” speech, defined as speech that is “intended to demean others on the basis of their race, ancestry, place of origin, colour, ethnic origin, religion, disability, citizenship, creed, sex, sexual orientation, handicap, age, marital status, family status, the receipt of public assistance or record of offence, a conviction for which a pardon has been granted.” It is unclear how this policy is enforced, or what protocols are adhered to in dealing with violations. The Student Life office on the University Students’ Council enforces the “Poster Policy.”

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 biggest public space at Western is the University Community Centre (UCC) and “concrete beach,” a large flat area outside the UCC. This area is 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 are used to inform infringers of complaints. The Legal Affairs Officers also bring complaints before Clubs Policy Committee, and the Club Committee shall conduct a hearing to inform decisions on whether to discipline a group based on the content of their speech.

4. Student Union actions and practices – Ranking: Poor

In the fall of 2011, a campus pro-life group called Western Lifeline was denied equal access to prominent space on campus when it sought to organize an event called “Silent No More” which



features women who speak about their own experiences with abortion. No explanation has been provided as to how or why this expression might violate the Community Standards Policy.

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 contrast, when notable – and controversial – left-wing speakers spoke at UWO, such as Noam Chomsky, Robert F. Kennedy, Jr., Naomi Klein, there were no demands for payment of security fees, and the USC paid \$50,000 to Mr. Kennedy as an honorarium, in addition to first class airfare and accommodations to and from London, Ontario.

In November 2004, the USC sanctioned club Solidarity for Palestinian Human Rights 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 Arabic¹. The symbol was deemed offensive to Jewish and Israeli students and was considered speech that harassed and targeted students. The club was subsequently banned from all student council facilities for two years.



The 2011 Campus Freedom Index University of Toronto

1. University principles and policies – Ranking: Good

While the university is often praised as the ‘marketplace of ideas’ in which a multitude of opinions can be shared and debated, one of the university’s greatest challenges today is resisting its own tendencies to control, manage, limit, restrict and censor speech on campus. As the Canadian Association of Universities and Colleges states: threats to academic freedom can come from outside of the university but also from within.

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.
(<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.

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.”^{xiii}

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.”^{xiv}



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>)

Another 2006 memo, from the Provost to deans and chairs, also confirms this viewpoint and describes the university as primarily interested in protecting free speech. The following three



paragraphs, which are at the heart of this memo, are a helpful summary of the administration's viewpoint:

Academic freedom, freedom of speech and freedom of association are among the most important values held in the University. Of necessity, this means that there must be freedom to examine, discuss, debate and communicate controversial issues. However, we must also remind ourselves that such freedoms do not give license to prejudice. The University, as a community of scholars, has an equal responsibility to expose hate for what it is, and condemn hatred in all its guises. This is best achieved by reinforcing the values of civility and diversity and supporting the basic principles that define the Academy.

Often, at times of international strife and conflict, strongly-held statements and communications are made on campus that can be perceived as biased, uncomfortable or intimidating by those on the opposite side of an issue. On such occasions we need to show tolerance and respect for the human rights and fundamental freedoms of all members of our community by calling on our traditions of civility and freedom of expression. We must remind ourselves that opposing ideas and criticism are not inherently intolerant, or synonymous with hatred.

Ideally, academic freedom and freedom of speech should coexist with a respect for human rights and fundamental freedoms of all individuals. This approach eschews intolerance and intimidation by acknowledging that freedom of speech does not extend to defamation, or to communication of hate literature, which is, after all, a criminal offence.”

(<http://www.provost.utoronto.ca/public/pdadc/0405/46.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 preventing the disruption of events, for the express purpose of protecting free speech: <http://www.governingcouncil.utoronto.ca/policies/disrupt.htm>

2. University actions and practices – Ranking: Poor

The University of Toronto Students for Life (UTSFL) conducted a pro-life campaign for several years, 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 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 with this blatant and discriminatory restriction on their freedom of expression, and since that time have conducted their campaign on the streets of Toronto 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.



3. Student union principles and policies – Ranking: Mediocre

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. The Graduate Student Union comprises most graduate students. There is also an Association of Part-Time Undergraduate Students. There are also separate student unions for most of the areas of study: Women and Gender Studies Students' Union, for example, Engineering Students' Union, etc.

As the largest student union, UTSU grants or withholds official club status, makes club funding decisions, and monitors and manages club activities.

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."^{xv} 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."^{xvi} 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."^{xvii} UTSU later goes on to reserve the right to review the status of a club and its objectives on an annual basis.

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.



None of the student unions have security fee policies or access policies, as none of the student unions have management of property or buildings.

4. Student union actions and practices – Ranking: Good

There are no reported cases of UTSU censoring speech or discriminating against students or groups on the basis of the content of their expression.



The 2011 Campus Freedom Index Queen's University

1. University policies and principles – Ranking: Mediocre

The Queen's University Code of Conduct contains information pertaining to 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.¹

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.

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.*

¹ http://www.queensu.ca/secretariat/policies/senateandtrustees/Code_of_Conduct_final_2008.pdf



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.”²

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 Procedure document (<http://www.queensu.ca/secretariat/senate/policies/harass/index.html>) 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 which 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.

There are no official policies that discriminate on the content of speech. 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.

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.”³

Concerned students created a facebook group entitled “Queen’s University Students and Alumni for Free Speech” which had upwards of 600 members.⁴ 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”.⁵ The university administration responded that the program had been mischaracterized by the media, but nevertheless dropped the program in February of the following year.

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.

² <http://eventservices.queensu.ca/resources/file/QU-RoomResSchedulesIandII.pdf>

³ <http://oncampus.macleans.ca/education/2008/11/20/queens-diversity-program-mischaracterized-administration/>

⁴ <http://www.facebook.com/group.php?gid=35159911589>

⁵ Ibid



2. University actions and practices – Ranking: Good

Queen’s University’s hiring of “student facilitators” to monitor speech on campus by spying on students has been categorized under “policies and principles” rather than “actions and practices.”

There have not been reported incidents of the university censoring speech on campus or discriminating against students or campus clubs on the basis of opinion, viewpoint, philosophy or expression.

3. Student Union policies and principles – Ranking: Mediocre

The Alma Mater Society (AMS) has the power to deny access to any group which, in the view of the AMS, fails to promote “equity.” 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 which the AMS dislikes or disagrees with.

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.⁶

The Student Union does not have any discriminatory policies in regards to communications or venue rentals. The only policies that exist 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. 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 not have any policies which restrict free speech by candidates, third party student groups or students during student elections. There is a prohibition on “Vote No” campaigns run against a particular candidate. There is also a prohibition, when a referendum is held, on running one’s own “no” campaign, which must be monopolized by the officially mandated “Vote No Campaign.” (http://myams.org/media/4244/AMS_Policy_Manual-Part1-Procedures.pdf). All campaign media is subject to monitoring and one can be disqualified if the content is “discriminatory” or “inequitable.”

4. Student Union actions and practices – Ranking: Good

There have not been reported incidents of the AMS restricting or censoring speech on campus, or discriminating against students or groups based on the content of their expression.

⁶ <http://queensasus.com/exec/equity-office/>



The 2011 Campus Freedom Index Carleton University

1. University's policies and principles – Ranking: Good

In regards to academic freedom and free speech, 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. The University also has 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 general policy for students to book space on campus is that all applications 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 – Ranking: Poor

Carleton Lifeline is a pro-life student group at Carleton University. On October 4, 2010, four members of Lifeline and one supporter from another campus were arrested by Ottawa police for “trespassing” on the Carleton 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 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 that space, and the university stated that it was doing so *expressly because of the content of the group's expression*. The University 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, showing police confronting the students before they put up their display, has been posted to YouTube. During the video, one can identify an unnamed member of the University administration telling the group "*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/> .

The students' problems did not end with their arrest for attempting to set up a display in Tory Quad. 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. The Tory Quad has been used for numerous events, large and small, by various other campus clubs. 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. Carleton had no qualms about a graphic display 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.”

When the pro-life students held their signs on campus, they were physically blocked by people using large banners, who made it impossible for the pro-life students to express their views or to engage others students in dialogue.

In spite of *Criminal Code* prohibitions against obstruction, interruption and interference, and in spite of Carleton’s policy requiring students to respect the free expression rights of other people, Campus Security did nothing to stop the obstruction of the pro-life students’ expression.

Ryan Flannigan, head of Student Issues for the Administration, insisted that the students could not bring their lawyer with them when they met to discuss these matters in November of 2010. 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 they would be protected from criminal activity, and imposing various restrictions not imposed on any other students or campus clubs. The pro-life students have thus far rejected the offer.

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. This is content-based censorship of one viewpoint, not based on any university policy, regulation, bylaw or rule, and not directed at any other opinion, viewpoint, philosophy or expression on campus.

Students Ruth Lobo and Nicholas McLeod have commenced a court action against Carleton University and the student union (CUSA) to secure their campus free speech rights, arguing that they were discriminated against by the University because of their viewpoint, and claiming their Charter and contractual rights were violated. Detailed information about this court action is available at <http://carletonlifeline.wordpress.com/>.

3. Student Union principles and policies – Ranking: Poor

The Carleton University Students Association (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*).

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, the Heritage



Foundation, and Canadians for the Preservation of English 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.

Sections 5 and 6 of CUSA's policies state that “CUSA and CUSA Inc. respect and affirm a woman's right to choose her options in the case of pregnancy” and “CUSA further affirms that actions such as 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 will not be supported. As such, no CUSA resources, space, or funding will be allocated for the purpose of promoting these action,” respectively. 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

CUSA does not have a security division; it uses Campus Safety services provided by the University, and this service does not appear to have unreasonable or varying security fees based on the content of an event's message.

There are no policies governing CUSA's ability to grant official club status based on a group's opinion or expression, however there is a policy governing CUSA's ability to terminate ratification based on the content of a group's message. 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

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

CUSA's censorship powers extend to Student Elections, as it is an electoral offence if a candidate breaches the Carleton University Human Rights Code, detailed above (14.1.1, Consolidated Electoral Code Policy, *The Policies of the Carleton University Students' Association*).



4. Student union actions and practices – Ranking: Poor

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. This decertification occurred approximately six weeks following the arrest of pro-life students on campus on Carleton's Tory Quad (<http://carletonlifeline.wordpress.com/>).

CUSA noted that 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."

CUSA's Discrimination on Campus Policy states that CUSA respects and affirms "a woman's right to choose her options in case of pregnancy" and that "no CUSA resources, space, recognition or funding will be allocated for the purpose of promoting" 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."

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.

Students Ruth Lobo and Nicholas McLeod have commenced a court action against Carleton University and CUSA to secure their campus free speech rights. Detailed information about this court action is available at <http://carletonlifeline.wordpress.com/>.



The 2011 Campus Freedom Index University of Ottawa

1. University's principles and policies – Ranking: Mediocre

The University's Office of the Vice-President for Governance has been developing a Declaration of Student Rights⁷ in consultation with relevant parties, including student associations. The March 2010 draft text promotes “a climate of freedom, mutual respect and fairness”⁸ and protects fundamental freedoms including expression, association and peaceful assembly, “so as to respect democratic values.”⁹ Students have the right to be “heard in order to express their point of view, without fear of reprisals or threats.”¹⁰

There is a lack of coordination between the University administration and the Student Federation in the drafting of coherent policies regarding freedom of expression, discrimination, and protection from hate speech; the result is a myriad of initiatives. There is only token collaboration between these two parties in initiatives such as Allan Rock's Declaration of Student Rights. Similarly, the Centre for Equity and Human Rights (run by the student union), and other comparable groups, promote numerous, overlapping guidelines and policies. The result is a confusing body of codes and initiatives, and a lack of coordination between them, rendering them quite useless in situations where students or staff have actual grievances and seek due process and justice. Students who expect a coordinated effort between the SFUO and the University administration are often left disappointed.

The University recently changed its Policy on Sexual Harassment to include all forms of discrimination and harassment¹¹. 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 involves engaging in a course of comment or conduct, whether deliberate or inadvertent, which denies individuals their dignity and/or respect, or is offensive, intimidating, embarrassing or humiliating, vexatious or vindictive, or adversely affects the environment for study, that is known or ought to be known to be unwelcome. There are many types of harassing or intimidating behaviour, including, but not limited to: verbal or written intimidation/harassment (for example, shouting, swearing, belittling, demeaning comments or communications); physical intimidation/harassment (this includes any violent or threatening behaviour); reprisal or threat of reprisal.”

After years of lobbying by the Student Federation of the University of Ottawa (SFUO), the University established an Ombudsperson in 2010, appointing Lucie Allaire. “The purpose of the Office of the Ombudsperson is to provide an independent, impartial and informal dispute-resolution process for all members of the University community. It may make recommendations

⁷ <http://www.uottawa.ca/governance/consultation/>

⁸ http://www.uottawa.ca/governance/consultation/?page_id=19

⁹ http://www.uottawa.ca/governance/consultation/?page_id=47

¹⁰ http://www.uottawa.ca/governance/consultation/?page_id=47

¹¹ http://web5.uottawa.ca/admingov/policy_67.html



for resolution in individual cases and may also make recommendations for changes in policies and practices, where appropriate. The Office of the Ombudsperson does not replace existing channels of appeal at the University.” Reasons for approaching the ombudsperson include “you believe that you have been treated unfairly, you are not sure what to do or don’t know where else to turn, and you need information or advice about existing channels of appeal”¹²

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, but the office does not appear to have the power to restrict speech. The Office appoints a Director who is permitted to censor speech that violates its Sexual Harassment Policy. There are no cases recorded of residence assistants attempting to restrict or censor speech in residence. There do not appear to be any “time, place and manner” regulations that have the effect of discriminating against certain speech based on its content. The University does not appear to have policies which deny equal access to university facilities, or open spaces on campus, based on the content of a group's expression.

2. University's actions and practices – Ranking: Poor

The University of Ottawa has yet to recover from its Ann Coulter fiasco of March 2010. This cancelled event is one of the main reasons why the administration has invested in the aforementioned Declaration of Student Rights. 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. She was to be introduced by Ezra Levant, a free speech advocate who re-published the infamous “Danish cartoons” of Mohammed, leading to a prosecution by the Alberta Human Rights Commission.

Prior to Ms. Coulter's arrival, a letter signed by University of Ottawa academic vice-president François Houle offered Coulter a bleak warning:

¹² <http://www.uottawa.ca/ombudsperson/>



Dear Ms. Coulter,

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.

I hope you will enjoy your stay in our beautiful country, city and campus.

Sincerely,

François Houle.

Vice-recteur aux études / Vice-President Academic and Provost

Université d’Ottawa / University of Ottawa

550, rue Cumberland Street

Ottawa (ON) K1N 6N5

téléphone / telephone : 613 562-5737

télécopieur / fax : 613 562-5103¹³

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. Levant 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

¹³ <http://www.theglobeandmail.com/news/politics/ottawa-notebook/ann-coulter-prepares-human-rights-complaint/article1510468/>



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 rights to free speech and thought, and the rights of those who were preparing to hear her lecture.

After negative media publicity, the University released a statement declaring that “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.”¹⁴ 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.”¹⁵

¹⁴ <http://www.cbc.ca/news/canada/ottawa/story/2010/03/24/ottawa-ann-coulter-university.html>

¹⁵ <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. Their visits to Ottawa were also promoted by numerous SFUO student clubs through countless posters and tabling in the student centre.

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."]



[Kevin McLeod a co organizer of the event and CFOB board member who filled the access to information requests was shocked when he read the emails, some of which discussed his activities:

"The emails show a deep hostility on the part of the university administration to academic freedom, human rights and free speech and we haven't even seen all the emails yet."

McLeod is particularly disturbed by the statements of Feldthusen, then VP external but now serving as the dean of the university's law school:

"I initially emailed Professor Feldthusen about the event because he is an expert on tort law and I naively thought he'd want to meet Ka Hsaw Wa because Earth Rights was part of a very important legal case. I didn't expect Feldthusen to respond by ordering the university security to investigate which students were involved, it's a total disgrace. You can understand why Harvey Su and other refugees who have seen these emails are really disturbed."

Source: <http://rabble.ca/news/2010/05/university-ottawa-spied-leading-burmese-activist>

3. Student Union policies and principles – Ranking: Poor

The Student Federation of the University of Ottawa (SFUO) operates a Centre for Equity and Human Rights¹⁶, 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 Centre¹⁷ 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. In 2008, they published a controversial report, "Mistreatment of Students, Unfair Practices and Systemic Racism at the University of Ottawa."

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."¹⁸ This Centre appears to have some 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

¹⁶ <http://www.sfu.ca/services/advocate/>

¹⁷ <http://www.sfu.ca/services/appeals/en/index.html>

¹⁸ <http://www.sfu.ca/services/advocate/en/whowere.htm>



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.”¹⁹

Some clubs may therefore worry about being judged on the content of their legitimate *raison d’être* - such as the Israel Awareness Committee, which seeks to educate students about Israeli history, politics and culture. Many SFUO executives have openly voiced their anti-Israel views, and could perhaps use this clause to deny the IAC funding, campus space, etc. They might allege, for instance, that the IAC is affiliated with Canadian pro-Israel lobby organizations or the Embassy of Israel to Canada, and take action against the IAC due to the State of Israel’s alleged discrimination of Palestinians in the Palestinian Territories and Arab citizens of Israel.

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.

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. SFUO declares that its policies and practices will not discriminate on the basis of, among others, nationality, language, sex, sexual orientation, socio economic background, marital status, age, religion and disability.

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. One student recalled an event on campus regarding Palestinian terrorist attacks on Israel cities, at which a victim of these attacks was to speak. One could argue that this was “fear mongering” and generating anti-Palestinian (or at least anti-terrorist?) sentiment among students.

¹⁹ <http://www.sfu.ca/pdf/constitution/constitution.pdf>



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

Section 9.3.10 SFUO’s Constitution outlines the requirements for club ratification. In order to access SFUO resources and facilities, all student clubs must be ratified. SFUO prohibits student clubs from being ratified if its mission/values etc are considered “discriminatory” under Part K:

“the Club applicant’s constitution does not contain any discriminatory clauses and has no clauses that are contrary to any existing Canadian law.”
(Part I) “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.”

Fortunately, the booking of space is coordinated by Community Life Services, a body of the University administration, which is far more “content neutral” and less politicized than any body of the SFUO.

4. Student Union actions and practices – Ranking: Mediocre

SFUO executives (elected student politicians) and employees played a significant role in organizing the anti-Coulter protests in March of 2010, but it remains unclear as to whether this was officially sanctioned or condoned by the SFUO.

During the March 2010 SFUO elections, Tristan Dénoimée 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 with minor and major penalties.”²⁰ On the other side, there are allegations that the BOA included many of King’s friends, who were simply angry that she had not been re-elected. 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”²¹

²⁰ <http://thefulcrum.ca/articles/43806>

²¹ <http://campusaccountability.org/2011/03/09/sfuo-suspends-tristan-denomme/>



The 2011 Campus Freedom Index McGill University

1. University principles and policies – Ranking: Mediocre

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.

McGill University has no explicit speech code, nor institutionalized barrier to free speech. 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, behavior 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 behavior...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 last condition of creating a “harmful environment” is essential in defining when a complaint of Harassment can be initiated, and where the expression of an opinion becomes a “harmful action” against another individual.

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 workshops to help gay, transgender, and/or racial 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. Safe Space is not mentioned in SSMU's Constitution, nor in the *SEDE's Policy Handbook*, nor the *McGill University Handbook on Student Rights*, but it has increasingly been treated as a lawful stipulation to be observed.

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. McGill's current provost, Morton J. Mendelson, has spoken openly in defence of campus free speech.

2. University actions and practices – Ranking: Poor

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 conduct of its student union, using the autonomy of the Students' Society of McGill University (SSMU) as an escape clause. 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.”

At another event, organized by Conservative McGill, the Minister of Immigration was invited to speak to the student body on campus. A group of approximately twenty anarchists, almost all McGill students, blocked the entrance and threatened to attack the minister. It took over twenty minutes for McGill Security to help the organizers of the event make sure the Minister was safe, and subsequently the administration did nothing to pursue those who had threatened violence and engaged in disruptive activities.

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>



3. Student Union principles and policies – Ranking: Poor

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, whereby Iris Young's definition of oppression is provided: "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 establishes a form of Student Union speech code, endorsing 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.

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.

4. Student Union actions and practices – Ranking: Poor

The abuse of student union policies, the potential of which is explained above, played itself out in October 2009, with a "textbook example" of free speech revocation in the name of equity and protection from "oppression." On October 6th, the pro-life club Choose Life hosted a controversial talk, entitled "Echoes of the Holocaust," a speech drawing comparison between the atrocities of the Holocaust and abortion, 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.

This event highlighted the different responses of the university administration and the student union. Sara Woolf, a student union councilor at the time said, “The University erred very much on the side of academic freedom.” She labeled the talk as definite “hate speech.” Deputy Provost Mendelson firmly reprimanded the protests as disrupting the free expression of ideas on campus, and undermining the core value of a university to disseminate knowledge. Mendelson said, “we have to make a distinction between hate speech and speech we may find hateful,” and after a meeting of the McGill Senate, Principal Heather Munroe-Blum also criticized the protestors saying, “I see this as a blight in the context of a university known worldwide for academic freedom and freedom of speech...I urge them to consider reconvening the event right away.” The SSMU’s Vice-President University Affairs, Rebecca Dooley, responded to the Senate body by asserting that the event created a hostile environment, which “drew people to one side – hate-speech – and marginalized a person’s ability to engage in collegial debate.” Provost Anthony Masi debunked SSMU’s response by emphasizing that the event took place behind closed doors, and no one was forced to go. Provost Medelson expressed his surprise at the student reaction, claiming that “when his generation was in university, they were fighting administrators for the right to free speech, and now as an administrator, he finds himself fighting to protect that right from zealous students.”

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, despite only four complaints 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);

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The 2011 Campus Freedom Index University of New Brunswick

1. University's principles and policies – Ranking: Mediocre

Section 4.5 of the UNB Student Disciplinary Code states that students who “act or speak in a disorderly, disruptive, indecent or offensive manner” will be subject to sanctions.

(http://www.unb.ca/current/disciplinary_code/) UNB has a Human Rights officer tasked with enforcing the “University of New Brunswick 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 university does not ban speech on any particular topic. 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.

There do not appear to be any discriminatory policies in the areas of security fees, or use of university facilities and open spaces. Most university and student-run events on campus are either no-cost or low-cost. The majority of clubs are student-run, and students can set their own prices for events which they run.

2. University actions and practices – Ranking: Good

There are no reported incidents of the university discriminating against students or groups on the basis of the content of expression, or restricting free speech in residence or elsewhere. It appears that all student groups have had equal access to resources, which are available on a “first come, first served” basis.

3. Student Union principles and policies – Ranking: Mediocre

The Student Union's Clubs and Societies Policy (<http://www.unbsu.ca/content/239093>) denies funding to religious clubs and to clubs affiliated with a political party. While the denial of funding does not constitute censorship, it does amount to a form of discrimination when other clubs are provided with funding. Non-partisan clubs with a political or public policy agenda do receive funding.

Student Elections are subject to many “time, place and manner” restrictions (i.e.: when and how campaigning is allowed, etc.) but these appear to be content neutral.

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).

4. Student Union actions and practices – Ranking: Good

There are no reported 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.



The 2011 Campus Freedom Index Dalhousie University

1. The University's principles and policies – Ranking: Mediocre

The Dalhousie Office of Human Rights, Equity and Harassment Prevention serves the purpose of 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. The process is detailed on the Complaints Procedures for Complaints Against Students webpage.

Dalhousie employs a Human Rights and Equity Advisor, as well as an Equity Assistant (http://hrehp.dal.ca/contact_us.php). This on-campus equity office works to “foster and support an inclusive learning environment” and administers “the university’s human rights, equity, harassment, and other policies” (<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*
- *Create opportunities for people to tell their stories*



- *Aspire to a level of inclusion that makes accommodation unnecessary. Learn about universal access and related concepts.*
- *Promote the fact that diversity and inclusion benefit everyone*
- *Hold events in fully accessible locations. Consider providing sign language interpretation.*
- *Wherever possible, make materials and information available in a range of formats and languages.*
- *Distinguish between impact in intent. Address the impact.*
- *Resist tokenism. Know that true inclusion and diversity require genuine openness to change.*
- *Create an environment where differing perspectives are welcomed and people speak up and out.*
- *Encourage discussion and genuine dialogue on human rights and diversity.*
- *Conduct meetings with people while seated in circles. Create space for silence in meetings and ensure all participants have equal opportunity to speak.*
- *Consider the impact of change on people with little or less power in the organization.*
- *Use an 'equity lens' to review policy and practices*
- *Provide confidential and anonymous avenues for people to give feedback and information on their experience in an organization. If possible, consider the data that comes from groups that may be marginalized.*
- *Conduct accessibility assessments throughout the organization Be mindful of the dominance of Christian holidays in western culture. Learn about and acknowledge other traditions and celebrations.*

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.”



The purpose of this policy is to set out clear procedures to be followed in all instances where a student seeks accommodation to eliminate or ameliorate discrimination on one of the prohibited grounds. This policy replaces existing policies or practices concerning student accommodation.”

This opens 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 University Regulation Section C Offenses 1) E states:

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.

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 this Section 14 provision would protect freedom of speech in cases where administrators deem speech to be “discriminatory” under Section C of the Regulations.

Dalhousie has an anti-disruption policy in its Code of Student Conduct which 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 – Ranking: Poor

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. Seemingly, the



university did not appreciate Mr. Taylor's "racist views" and would not allow him on campus. (http://www.amren.com/mtnews/archives/2011/02/free_speech_not_1.php).

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 March 2011, the new-to-campus pro-life club at Dalhousie, Pro-Life At Dal (PLAD), organized a debate on abortion, to show both sides of the issue. The Vice-President of Student Services wrote a lengthy letter imposing various requirements on the club and on its event. PLAD was forced to pay a security fee of \$350 for sponsoring a two-sided abortion debate, but was not informed until the night of the debate that security officers would *not* intervene if any disruptions occurred. The room was vandalized prior to the event, and there were 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.

3. Student Union principles and policies – Ranking: Poor

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.

This section is extremely vague and leaves a great deal up to the interpretation of the student union executive and council, who can easily use these provisions to censor politically incorrect speech, as has taken place at other universities. It should be noted that the authors believe that student unions should have the right to discipline and decertify clubs for failing to abide by reasonable rules and regulations, and other misconduct, but student unions should not be able to discipline or decertify clubs based solely on the club's beliefs, opinions, philosophy or expression.

In the sections of Society policy that deal with the on-campus radio station at Dalhousie, CKDU, it is stated 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.

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;

This limits students who wish to form their own campaign independent of existing “yes” and “no” campaigns when a referendum is held. Official recognition from the Dalhousie Student Union is required for students to use Student Union space (which students are paying for anyway) 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—Ranking: Good

There are no reported cases of the student union denying equal access to university facilities based on the content of the group’s message, or otherwise discriminating against students or clubs on the basis of viewpoint.



**The 2011 Campus Freedom Index
Memorial University of Newfoundland**

1. University's policies and principles – Ranking: Good

The Preface to the Memorial University Student Code 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 by specifying that "vexatious" language is language outside the realm of academic discourse ("that exceeds the bounds of freedom of expression or academic freedom as these are understood in University policies and accepted practices, including but not restricted to, those explicitly adopted by the University").

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. There do not appear to be any "time, place and manner" regulations that have the effect of discriminating against certain speech based on its content. The University Code does not restrict or censor speech.

The University does not appear to have policies that discriminate, based on the content of the message, between various student groups, or between faculty, academic and alumni groups. No information is available as to whether the University has "security fee" policies for events that are used to discriminate against controversial speech by putting a high price on its expression. The University does not have policies that deny equal access to university facilities, or open spaces on campus, based on the content of a group's expression.



2. University actions and practices – Ranking: Good

There are no reported 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. There are no reported cases of residence assistants censoring speech in residence.

3. Student Union policies and principles – Ranking: Poor

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.

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.

4. Student Union actions and practices – Ranking: Poor

In 2007, the Memorial University of Newfoundland Students’ Union (MUNSU) denied the ratification of a campus pro-life group, MUN for Life, because MUNSU identifies itself as pro-choice, along with an umbrella organization known as the Canadian Federation of Students.

The Executive Director of MUNSU, James Farrell defended his position to deny ratification to the pro-life group by stating that the behavior of its members earned them a bad reputation on campus for spreading misinformation (“saying abortion causes breast cancer”), using shock tactics (the use of “plastic fetuses”) and general misogyny (being “woman haters”), but no members of MUN for Life were charged with, or convicted 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.

In a news release, MUN for Life pointed out that MUNSU ratifies a wide range of campus clubs with competing ideologies, and that MUNSU does not and could not agree with all of them. For example, there are Christian, Jewish, Muslim, and Pagan groups, and PC, Liberal, and New Democratic groups.

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

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