



Justice Centre for Constitutional Freedoms

March 16, 2017

Dr. Amit Chakma
President & Vice-Chancellor
Western University
Stevenson Hall, Suite 2107
London, Ontario, Canada, N6A 5B8

Dear Dr. Chakma,

Re: March 18, 2017 Presentation by Professor Jordan Peterson Organized by Young Canadians in Action.

It has come to our attention that Western University has imposed an approximately \$1,000 “security fee” on a Western student club, Young Canadians in Action (YCIA), for hosting an event that features University of Toronto Professor Jordan Peterson.

Based on Canada’s fundamental freedom of expression and the rule of law, we urge Western University to honour its commitment to free speech and remit the “security fee” to YCIA.

Free Speech on Campus

The University’s stated commitment to free speech¹ raises the following question: why should YCIA or its members be penalized for the potential misconduct of other people? Why should these tuition-paying students, who have a legal right to express their views peacefully on campus, have to pay money on account of the potential misbehaviour of others, in order for YCIA’s members to exercise their free expression rights on a university campus?

One can understand the imposition of security fees in respect of events where alcohol is served, or events where special and potentially hazardous equipment is used. These are situations where the event organizers engage in inherently risky activities. YCIA engages in no risky behaviour – any risk is created solely by those who would violate the *Code of Student Conduct* by disrupting a lawful and peaceful event. Imposing security fees on the events of a student group in these circumstances amounts to extortion.

The popularity or unpopularity of a campus club’s beliefs or message ought to be irrelevant when it comes to upholding the right of students to express their opinions peacefully on campus.

¹ See e.g. *Code of Student Conduct* I.7: “Nothing in this Code shall be construed to prohibit peaceful assemblies and demonstrations, lawful picketing, or to inhibit free speech as guaranteed by law.”

It is manifestly unfair that YCIA's members are subjected to conditions and requirements, such as "security fees," which are not imposed on those who express popular opinions. Subjecting the expression of unpopular opinion on campus to "security fees" that are not imposed on students wishing to express popular opinions is discriminatory, and contrary to the University's mission and purpose to serve as a forum for the debate of ideas.

Western University's extortion of funds in exchange for peaceful expression empowers those who violate the *Code of Student Conduct* to prevent speech they disagree with. By pacifying violent and disruptive extremists, Western panders to wrongdoers it should be disciplining. It also creates a kind of University-sanctioned popularity contest: the expression of popular views is rewarded while the expression of unpopular opinion is punished with security fees. Nobody should be penalized for merely wanting to express – or listen to – politically incorrect views. The University has an obligation to uphold students' right to freedom of expression, but has instead done the opposite by demanding payment to address the potential misconduct of hypothetical protestors.

University's Legal Obligation to Uphold Free Expression and the Rule of Law

The University has an obligation to uphold students' right to freedom of expression (see *Wilson v. University of Calgary*, 2014 ABQB 190; *R. v. Whatcott*, 2012 ABQB 231), but has instead done the opposite by demanding payment from YCIA to address the potential misconduct of hypothetical protestors.


Further, a policy that forces one person to pay for the actual or potential bad behaviour of other people is wholly inconsistent with the rule of law. The rule of law means, among other things, that everyone is entitled to the full protection of the law, regardless of the person's race, religion, ethnicity, beliefs, opinions, or other personal characteristics. If an unpopular ethnic or religious minority on campus was the frequent target of threats and assaults, and therefore required additional security protection due to the bad behaviour of *other people* (who are not members of that minority), would Western University force members of that ethnic or religious minority to pay additional security costs? That would constitute a form of punishing the victim for the bad behaviour of the perpetrator. Under the rule of law, administrative decisions makers, including University officials, do not have unfettered discretion to act against unpopular groups: *Roncarelli v. Duplessis*, [1959] S.C.R. 121. Prohibiting controversial expression on campus unless a fee is paid grossly violates the rule of law.

It is important to note that freedom of expression protects the right to receive expressive material as much as it does the right to create and disseminate it: *Edmonton Journal v. Alberta (Attorney General)*, [1989] 2 S.C.R. 1326, at pp. 1339-40. *Charter* section 2(b) protects not only speakers, but viewers, listeners, readers and recipients as well. See: *Ford v. Quebec (Attorney General)*, [1988] 2 SCR 712, at p. 767; *Little Sisters Book and Art Emporium v. Canada (Minister of Justice)*, 2000 SCC 69, para 41; *Harper v. Canada (Attorney General)*, [2004] 1 SCR 827; *Toronto Coalition to Stop the War v. Canada (Public Safety and Emergency Preparedness)*, 2010 FC 957 (CanLII), at paragraph 85.

Conclusion

The principles of the rule of law and freedom of expression are fundamental to Canada's free and democratic society. Their violation cannot be overlooked or ignored. We urge the University to remit the "security fee" back to YCIA and cease breaching its duty to uphold the rule of law and free expression on campus.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line that extends to the right.

John Carpay, B.A., LL.B.
President