



York University Board of Governors

Notice of Special Meeting

Friday, December 14, 2018, 8:00 am

Room 519 Kaneff Tower

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| 1. Chair's Items (P. Tsaparis) | |
| 2. Statement of Policy on Free Speech (For approval, R. Lenton) | 1 |

Board of Governors

Memorandum

To: Board of Governors

From: Rhonda Lenton, President

Date: 14 December 2018

Subject: Statement of Policy on Free Speech

Having provided notice of the motion in November, it is recommended:

That the Board of Governors approve the Statement of Policy on Free Speech, as set out in Appendix A.

Rationale

On August 30, 2018 the provincial government announced a requirement that every publicly-assisted college and university develop and implement a free speech policy by January 1, 2019. In light of York's extensive, existing policy commitments with respect to free speech, the President established a Working Group on York's Free Speech Policies to seek wide community consultation in order to make recommendations regarding a consolidated policy statement and options to address any potential gaps in the policy framework.

The Working Group engaged in extensive community consultation over several weeks before preparing a draft Statement of Policy. The draft was discussed by the Board in November. Consultation and discussion continued following the November Board meeting leading to some changes to the draft Statement being made by the Working Group reflecting the input received. For ease of reference, the changes made to the Statement since the November meeting of the Board are:

Board of Governors

	November Version to Board	Final Version
Section 4	<p>York University reaffirms its commitment to provide an environment conducive to freedom of enquiry and expression where all members of the community may learn, teach, work and live, free from prejudice, inequality and discrimination based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.</p>	<p>York University reaffirms its commitment to provide an environment conducive to freedom of enquiry and expression where all members of the community may learn, teach, work and live, free from prejudice, inequality and discrimination based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, religion, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.</p>
Section 8	<p>York University affirms that it has in place mechanisms to deal with complaints and ensure compliance. Each of the existing policies underlying this Statement of Policy include mechanisms for interpretation, compliance and enforcement. Complaints that remain unresolved may be referred to the University Ombudsperson and to the Ontario Ombudsman. Additional guidelines, tool-kits, education and training with respect to free speech will be developed from time to time as needed.</p>	<p>York University affirms that it has in place mechanisms to deal with complaints and ensure compliance. Each of the existing policies underlying this Statement of Policy include mechanisms for interpretation, compliance and enforcement. Complaints that remain unresolved may be referred to the University Ombudsperson and to the Ontario Ombudsman. Additional guidelines, tool-kits, education and training with respect to free speech will be developed from time to time as needed. Relevant policies will be reviewed in a timely, consultative and effective manner pursuant to applicable governance processes.</p>

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The Province's call to universities to formulate a free speech policy put in focus that several of York's existing academic and administrative policies collectively articulate and facilitate the University's commitment to free speech. The proposed Statement of Policy itself introduces no new requirements, rather it stands as a consolidated declaration of York's commitment to provide a culture of free speech and appropriate mechanisms that cultivate and protect the right of all community members and invited guests to express their views within the law without fear of intimidation or harassment. It identifies and is supported by the set of underlying policies which will apply accordingly.

The Working Group and Senate Executive took note of an open letter addressed to President Lenton and Senate Executive dated 29 November 2019 from several senators. In addition to proposing specific amendments to the text of the Statement of Policy, it suggests several other activities be undertaken in support of free speech at York University.

In response to the open letter, the Working Group revised the proposed Statement of Policy as well as its *Resources and Projects* document. Specifically, as noted above, paragraph 8 now makes an explicit commitment to the timely, consultative and effective review of relevant policies that underlie the Statement. Such an undertaking aligns with Senate Executive's priority this year - communicated to Senate in October - to establish a review cycle of Senate policies ensuring timely opportunities to address issues that arise. Senate Executive confirms that proper and appropriate governance processes will be followed in the review exercises.

The balance of the proposals conveyed in the open letter should be addressed by the President. Appendix B is my written response.

I recognize the good will demonstrated by all participants in this mandated exercise and am confident that the Statement of Policy aptly embodies the ethos of York University and reflects the community's strong commitment to uphold the principles of free speech as defined by the University.

York University Statement of Policy on Free Speech

December 13, 2018

Purpose

1. York University wishes to affirm its longstanding protection of and support for free speech as a fundamental principle upon which it pursues its mission. This Statement of Policy has been informed and enhanced by submissions, comments and suggestions shared by many members of the York community who participated in consultations over a number of weeks in the Fall of 2018.

York's Definition of Free Speech

2. In light of York University's policies, and the laws governing the University, freedom of speech is the right to seek, receive, share and impart information and ideas of all kinds, in a variety of forms, including orally, in writing, in print, and in the form of art or music, or through any other media of one's choice. In the words of the Task Force on Student Life, Learning & Community (2009), the "University has an unwavering commitment to fundamental values of free expression, free inquiry, and respect for genuine diversity of thought and opinion." Preservation of free and open exchange of ideas and opinion for and by all members of the community through respectful debate, including robust rights to protest and express dissent, are central to the mission of York University. Attempts to prevent such free inquiry, whether from other members of the University community or from external groups, are inconsistent with this mission.

York's Policy on Free Speech

3. As set out in the *York University Act*, the objects and purposes of York University are, (a) the advancement of learning and the dissemination of knowledge; and (b) the intellectual, spiritual, social, moral and physical development of its members and the betterment of society. York University is committed to the goal of a welcoming and approachable campus, embracing global perspectives and differences in cultures, people and thinking, by engaging communities in collegial dialogue and supporting diversity awareness and cross-cultural knowledge.
4. York University reaffirms its commitment to provide an environment conducive to freedom of enquiry and expression where all members of the community may learn, teach, work and live, free from prejudice, inequality and discrimination based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, religion, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.
5. A range of York policies reflect the right of all community members and invited guests to express their views within the law without fear of intimidation or harassment. To guarantee this right, it is recognized that community members may be exposed to ideas or opinions they find disagreeable or offensive. Freedom of speech is not

absolute and does not protect expression that constitutes hate speech, harassment, threats, discrimination or otherwise violates the law. Consequently, the University will not tolerate members of our community or guests engaging in threatening speech or actions which violates York's commitments to ensure the safety of community members, as noted in various policies such as Disruptive and/or Harassing Behaviour in Academic Situations, Racism, Sexual Violence which address the priority of community safety and the harm that can arise from some forms of expression. These policies also provide recourse for those affected by such speech.

6. All persons having access to and use of University property must comply with York's policies and the laws of Canada, which circumscribe where, when and how speech may be permitted. Students, for example, are responsible for upholding an atmosphere of civility, diversity, equity and respect in their interactions with others, and should strive to make the campus safe, support the dignity of individuals and groups, and uphold individual and collective rights and responsibilities. The autonomy and responsibility of student groups over activities they organize or sponsor, and the development of their own policies in relation to freedom of speech and expression, are also affirmed.
7. This Statement of Policy draws from a number of policies at York University (set out in the Related Policy Section below), and the specific procedures in relation to complaints, dispute resolution, enforcement and remedies are set out under each underlying policy and also under applicable collective agreements.
8. York University affirms that it has in place mechanisms to deal with complaints and ensure compliance. Each of the existing policies underlying this Statement of Policy include mechanisms for interpretation, compliance and enforcement. Complaints that remain unresolved may be referred to the University Ombudsperson and to the Ontario Ombudsman. Additional guidelines, tool-kits, education and training with respect to free speech will be developed from time to time as needed. Relevant policies will be reviewed in a timely, consultative and effective manner pursuant to applicable governance processes.
9. York University will prepare an annual report on implementation progress, publish it online and submit it to the Higher Education Quality Council of Ontario (HEQCO).
10. This Statement will be reviewed coincident with the release of the first annual report, then 2 years following that and thereafter every five years.

11. Related Policies

Code of Student Rights and Responsibilities
Computing and Information Technology Facilities Policy
Disruptive and/or Harassing Behaviour in Academic Situations Policy
Firearms and Weapons Policy and Procedures
Hate Propaganda Guidelines
Healthy Workplace Policy
Policy Concerning Racism
Policy on Acceptance and Display of Commemorative Artwork
Poster Policy
Presidential Regulation Number 4 Regarding Student Government/Organizations
Prohibiting On-Campus Essay Writing Services Policy
School of Nursing Policy on Social Media
Sexual Violence Policy
Special Events and Visits of High Profile Guests Policy
Student Professional Behaviour Policy (BScN)
Student Professional Behaviour Policy (BSW)
Temporary Use of Space Policy
Workplace Harassment Prevention Policy
Workplace Violence Prevention Policy

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December 6, 2018

**RE: Response to Concerns Raised in the Open Letter of Nov. 29, 2018
regarding the Free Speech Draft Policy**

Dear Colleagues:

I would like to thank the community for the constructive approach that has been reflected in the feedback regarding the University's response to the free speech initiative. The process we undertook in responding to the government directive for a Freedom of Speech policy proceeded from the premise of consolidating and developing a synthesis of York's existing policies that address both the protection of free speech and its limits to ensure the safety of the campus and the University community. Our approach respects our long-standing commitment to freedom of speech and maintains our institutional autonomy in preserving it. This process now comes to Senate and the Board to approve the resulting Statement of Policy.

While the process to establish that we have a Statement of Policy has not been about changing York's approach to free speech or its approach to governance of its existing policies, the Working Group, in its advisory capacity, has developed a series of forward-oriented recommendations as part of our continuing efforts to update and improve our policies. Some of these recommendations have also been endorsed in the Open Letter to the President and Senate Executive.

I have had an opportunity to discuss these recommendations with Senate Executive and to determine where it would be necessary or helpful for the administration to respond.

In that regard, I would like to confirm the following:

- 1) There is agreement and a commitment to continue the agenda of work proposed by the Working Group in the document entitled "Free Speech Resources and Projects" by expanding the existing or establishing a new Working Group. You will find the final version of the Resources and Projects document from the Working Group attached to this document.
Representation of student perspectives, including the official student bodies of YUGSA and YFS will definitely be part of this process, as will representation of equity-seeking groups.
- 2) A review of the Code of Student Rights and Responsibilities (CSRR) is already underway being led by the Vice Provost Students with a commitment to consult broadly with student groups including the Student Representative Roundtable (SRR), YFS, YUGSA, and other student organizations.



- 3) To the extent that our existing policies are revised or elaborated, it goes without saying that the proper governance processes will be followed. The Senate interest in the Freedom of Speech Statement of Policy will need to be respected.
- 4) We are currently in the process of reviewing the structure of York's Office of the Ombudsperson according to the best standards of practice. It is therefore a timely opportunity to incorporate specific language regarding free speech.

Sincerely,

A handwritten signature in black ink, appearing to read "Rhonda L. Lenton".

Rhonda L. Lenton, PhD
President and Vice-Chancellor

York University Statement of Policy on Free Speech

Free Speech Resources and Projects

December 13, 2018

Building on York University's Statement of Policy on Free Speech and the submissions, comments and suggestions shared by many members of the York community who participated in consultations over a number of weeks in the Fall of 2018, the Working Group believes it is important to undertake a range activities and further consultations in relation to free speech at the University.

The Statement of Policy on Free Speech includes the recommendation that, "Additional guidelines, toolkits, education and training with respect to free speech will be developed from time to time as needed." Below, we elaborate on these recommended next steps.

As indicated below, each initiative may require a different working group or committee be struck to oversee its development and/or implementation.

1. Toolkit on Protest

The Working Group heard from a number of community members that the rules relating to protest at York are vague, and there is a perception that those who participate in protest activities may be subject to "reprisals" of various kinds. A "tool-kit" which includes the relevant policy language, examples of permitted and prohibited activities, and further resources for advice and recourse, would go some way to address the current ambiguity. In addition to providing an important source of information for those wishing to engage in protest, such a tool-kit could also form the basis for additional training and education for University staff. While there is significant expertise at York on these issues, the Centre for Human Rights, Equity and Inclusion, which already has developed a tool-kit for those planning events, might be well-suited to this project. The Working Group emphasizes the importance of broad and inclusive consultations in the development of such tool-kits.

2. Interpretive Guidelines

The Working Group heard from many members of the York community that their concern lay not in the general language of a Statement of Policy on Free Speech but how such policies have been and will be interpreted and applied. Interpretive Guidelines, which includes examples and commentary, could be helpful in several areas, and we would identify interpretive guidelines around the Temporary Use of University Space policy (for example, when additional charges for security would be required), the Student Code of Rights and Responsibilities, the policy concerning Racism, and the Senate Policy on Senate Policy on Disruptive and/or Harassing Behaviour in Academic Situations, as high priorities. In each setting, the Working Group would recommend a broadly consultative process for developing such guidelines, including the involvement of representative student bodies such as YFS and YUGSA, among others.

3. Web Portal for Free Speech Policies and Resources

Given the importance of clarity and access to information on free speech, the Working Group recommends the development of a single web portal on free speech, which would house York's Statement of Policy on Free Speech, Annual Reports and other publications developed in relation to the Statement of Policy, and would include tool-kits and interpretive guidelines, and links to relevant underlying policies.

4. Ongoing Discussion on Free Speech

The Statement of Policy commits York University to prepare an annual report on implementation progress, publish it online and submit it to the Higher Education Quality Council of Ontario (HEQCO). The Working Group recommends that a process be created for community members to provide ongoing input into the further development of resources relating to the Statement of Policy on Free Speech.

5. Addressing Gaps and New Policies

This process has highlighted how dynamic the area of free speech, and its limits, has become. York University has a long and rich history of fostering an environment in which ideas are freely and respectfully exchanged and debated and evolving its policies and procedures to reflect the needs and interests of the community. The Working Group sees value in reviewing both the Statement of Policy on Free Speech and initiating reviews of related policies at regular intervals to ensure they remain relevant and effective. In each case, these reviews should be undertaken in a collegial and consultative fashion. Additionally, the role of the University Ombudsperson as a recourse for those who feel policies relating to free speech have been applied unfairly should also be considered, and gaps or opportunities for elaborating on this role, if any, addressed.