**DRAFT Resources for Faculty Associations on Free Speech Policy Directive**

*September 24, 2018*

**Background:**

On August 30, 2018 the Ontario government announced that universities could face funding cuts if they do not comply with newly introduced requirements for campus free speech policies. Every college and university in the province is required to develop and post a free speech policy by January 1, 2019, as well as prepare annual reports on implementation and progress beginning in September 2019.

The government is requiring that each policy apply to faculty, students, staff, management and guests, include a definition of free speech, and include principles based on the [University of Chicago Principles on Free Expression](https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf). It also states that existing student disciplinary measures would apply to students whose actions are against the policy, and that funding for student groups would be conditional upon compliance with the policy. The full announcement that includes the requirements for each policy is available [here](https://news.ontario.ca/opo/en/2018/08/ontario-protects-free-speech-on-campuses.html) and [here](https://news.ontario.ca/opo/en/2018/08/upholding-free-speech-on-ontarios-university-and-college-campuses.html).

The government has also directed HEQCO to undertake research on free speech, monitor progress on this issue, as well as review and assess each institution’s annual report and provide advice to the Minister.

No details are included about how the government would go about cutting funding in response to an institution’s failure to abide by their own policy.

**OCUFA response**

OCUFA responded to the government’s free speech policy directive with a short statement on August 31, 2018:

“The Ontario government has announced that universities could face funding cuts if they do not comply with newly introduced requirements for campus free speech policies. OCUFA does not believe this government intervention is necessary and is deeply concerned with its implications for the province’s universities, faculty, staff, and students.

Threatening to withhold funding from postsecondary institutions will only serve to undermine the quality of education at our universities and unfairly penalize students. In fact, this directive could be counterproductive and actually chill free speech on campus. Members of the university community may be discouraged from speaking up for fear of being disciplined.

Ontario’s university faculty strongly support a culture of free, vibrant, and diverse speech on our campuses. The pursuit of knowledge is at the core of the university mission and, by its very nature, often leads to enthusiastic discussion and sometimes heated debate. This is why faculty have academic freedom provisions in our collective agreements that provide strong speech protections and why universities already have policies that attempt to foster free speech on campus while maintaining a safe and secure educational environment.

The government should have invested more time working with university administrators, faculty, staff, and students to understand the potential consequences of this directive. Over the coming months, it will be vitally important that members of the university community have opportunities to exercise their speech rights through broad and comprehensive campus consultation about these policies, their implementation, and their likely impact on campus speech and university funding.”

Gyllian Phillips,
President, Ontario Confederation of University Faculty Associations

**OCUFA message box**

OCUFA has developed key messages to support faculty association leaders in responding to this issue in the public. When issues related to these new free speech policies arise on our campuses, it will be helpful to have key messages to guide us when asked to speak in the campus, local or provincial media. They can also inform our advocacy work, for example, if local MPPs are interested in learning more about your faculty association’s position on this issue. It’s possible they may also be helpful in internal governance discussions at the Senate, Board or other tables. However, they were developed with a primarily public audience in mind.

| **Issue** | **Key messages** | **Supporting messages** |
| --- | --- | --- |
| ***There is no free speech crisis*** | Despite the government’s political posturing, there is no free speech crisis on university campuses. Ontario’s universities are vital spaces that foster a culture of rich academic debate and free expression.  | The pursuit of knowledge is at the core of the university mission and that requires our campuses be places where diversity is celebrated and all community members have the right to speak their minds and respectfully challenge each other intellectually. |
| Universities already have policies that work to foster free speech on campus while maintaining an inclusive educational environment. Individual institutions, through internal democratic processes, should determine when additional policies and procedures might be needed to protect the speech rights of community members.  |
| Ontario’s university faculty strongly supporter a culture of free, vibrant, and diverse speech on our campuses. With this principle in mind, faculty have worked hard to ensure we have academic freedom provisions that provide strong speech protections. |
| ***University autonomy*** | Ontario’s universities operate autonomously so that they are protected from the political whims of government. This unnecessary government intervention infringes upon that autonomy.The government should respect the autonomy of Ontario’s universities and reconsider this politically motivated directive. | This unneeded interference in the academic governance of Ontario’s universities will have concerning implications for faculty, staff, and students. |
| Universities are institutions of teaching and research. It is inappropriate for them to be used as ideological tools to further this government’s political agenda. |
| University policy development should be a transparent and accountable process, driven by the university community, including faculty, students, and staff. |
| ***Quality of education and research*** | Threatening budget cuts for already underfunded universities and colleges undermines their academic integrity and jeopardizes student education and research quality.The government should support high-quality education and research by investing in Ontario’s universities instead of threatening cuts to university funding. | Ontario’s faculty are deeply concerned with the government’s effort to tie funding to the implementation of university free speech policies. |
| Ontario’s faculty have long cautioned against the government’s plans to tie a portion of university funding to performance against arbitrary metrics such as this one. |
| Ontario’s universities already receive the lowest per-student funding in Canada. Any further funding cuts will harm the quality of education and unfairly penalize students. |
| ***Chilling speech*** | Threatening to discipline students, staff, and faculty will actually limit their expression rights. It will create a more polarized and litigious campus environment where community members may be discouraged from speaking up for fear of being disciplined.The government should support the speech rights of students, staff, and faculty by withdrawing their prescribed disciplinary measures. | Our universities should foster rich and inclusive academic debate where all members of the university community feel able to contribute to the discussion without being concerned about hateful attacks being directed at them or their colleagues. |
| This directive will be counterproductive and actually chill free speech on campus, especially for systemically marginalized groups. |
| Threatening to withhold financial support or recognition from campus student groups suppresses student voices and denies students their right to freedom of association. |
| ***Fostering speech rights*** | There are improvements that could be made to foster stronger speech freedoms on our campuses, but the government's new free speech policy requirement will do nothing to address these issues or foster better speech on campus | The rise of precarious academic work means that a majority of university faculty cannot depend on the academic freedom protections afforded to tenure-stream faculty. Job security will go a long way in supporting the speech rights of contract faculty. |
| There has been a continued decline in the transparency and accountability with which administrative and academic decisions are made at our universities and many of these decision-making bodies no longer make decisions that reflect the priorities of the campus community. We need to commit ourselves to building more democratic campuses if we wait to ensure freedom of expression on our university campuses.  |
| ***Consultation*** | The government did not consult with any sector stakeholders before mandating these unnecessary free speech policies. It will be vital that university administrations conduct consultations on their own campuses to ensure adopted policies reflect the priorities of the campus community.  | The government should have consulted with university administrators, faculty, staff, and students to understand the potential consequences of this needless directive. |
| As university administrations move forward, it will be vitally important they consult with the campus community about the development of any policies governing speech, what they should include, how they should be implemented, and how they could impact campus speech and university funding in the future. |
| University administrations should consult with faculty, students, and staff to ensure that any new policies reflect the needs of our diverse and distinct campus communities. |

**Working with campus partners**

This issue will be of concern to other campus groups and unions as well. In particular, students are likely to be most impacted by any disciplinary measures. Given the impact on the entire campus community, it’s a good issue to be in touch with other groups about, either through your existing cross-campus alliance or by reaching out to other groups individually.

At the provincial level, a wide coalition of student unions and labour unions have signed on to a joint statement to demonstrate their unified position on this issue. This may also be a tool you can use on your campus. A coalition of groups on your campus may want to sign on to a similar statement.

*[Insert joint statement once finalized; this is the final draft without signatories listed or logos included.]*

Joint statement in response to Ontario Government free speech policy directive

Ontario’s universities and colleges are vital spaces where a culture of rich academic debate and free expression should be fostered. Core to the mandate of our postsecondary institutions is the advancement of knowledge, and that requires our campuses be places where all community members have the right to speak their minds and respectfully challenge each other intellectually. Faculty associations, labour unions, and student unions deeply believe in these rights, and will continue our collective work to uphold them.

There is no free speech crisis on Ontario campuses. This is an ideological fiction advanced by the government to justify interference in the academic governance and autonomy of Ontario's universities and colleges. It is telling that the government did not consult with any sector stakeholders before announcing the new requirement for campus “free speech” policies and disciplinary measures tied to possible cuts to university and college funding.

This intervention is not just unnecessary, it is harmful. These policies will actually limit the rights of faculty, staff, and students to express themselves and jeopardize the quality of student education and research:

* Threatening to discipline students, staff, and faculty actually limits expression rights on campus, especially for systemically marginalized groups. Members of the campus community may be discouraged from speaking up for fear of being disciplined.
* Threatening to withhold financial support or recognition from campus student groups suppresses student voices and denies students their right to freedom of association.
* Threatening budget cuts for already underfunded universities and colleges undermines their academic integrity and jeopardizes education and research quality.
* Requiring universities and colleges to develop "free speech" policies undermines institutional autonomy and overrides important protections that allow our postsecondary institutions to operate free of political interference from government.

Given these many real dangers, we encourage the Ontario Government to reconsider this directive, withdraw their prescribed disciplinary measures, withdraw their threatened funding cuts, respect the autonomy of Ontario's universities and colleges, and support the speech rights of students, staff, and faculty.

Ontario’s universities and colleges already have policies in place that govern campus speech, and it does not make sense to require them to be arbitrarily rewritten just to conform to a set of principles developed by a private university in the United States.

There are improvements that could be made to foster stronger speech freedoms on our campuses. The rise of precarious academic work means that a majority of university and college faculty cannot depend on the academic freedom protections afforded to tenure-stream faculty and, although university faculty and students are represented on institutional decision-making bodies, representative collegial governance bodies are lacking at Ontario’s colleges.

However, the government's new free speech policy requirement will do nothing to address these issues or foster better speech on campus. It will only create a more polarized and litigious environment that risks suppressing speech.

Meaningfully addressing the real challenges our campuses face will require postsecondary institutions to embrace collegial governance by adopting more transparent and accountable decision-making bodies that represent all members of the campus community. It is through more democratic campuses that we will ensure freedom of expression and the continued vitality of Ontario’s postsecondary institutions.

**Responses from across the sector**

# **Canadian Association of University Teachers:** “Ontario “free speech” requirements for universities and colleges cause for concern,” August 31, 2018. Available at: <https://www.caut.ca/latest/2018/08/ontario-free-speech-requirements-universities-and-colleges-cause-concern>

# **Canadian Federation of Students – Ontario**: “Government Free Speech Policy sets dangerous precedent on Ontario campuses,” September 4, 2018. Available at: <https://globenewswire.com/news-release/2018/09/04/1565064/0/en/Government-Free-Speech-Policy-sets-dangerous-precedent-on-Ontario-campuses.html>

# **Canadian Union of Public Employees – Ontario**: “Ford Government Directive Seeks to Control Freedom of Expression on Ontario Campuses,” September 5, 2018. Available at: <https://www.newswire.ca/news-releases/ford-government-directive-seeks-to-control-freedom-of-expression-on-ontario-campuses-692475641.html>

**Centre for Free Expression, Ryerson University**: “No Thank Your, Premier Ford,” September 5, 2018. Available at: https://cfe.ryerson.ca/blog/2018/09/no-thank-you-premier-ford

# **Council of Ontario Universities: “**Ontario universities share goal of protecting free speech on campus, will work closely with government,” August 30, 2018. Available at: <http://cou.on.ca/articles/free-speech-on-campus/>

# **Ontario Confederation of University Faculty Associations:**“Ontario’s faculty concerned with government effort to tie funding to university free speech policies,” August 31, 2018. Available at: <https://ocufa.on.ca/press-releases/ontarios-faculty-concerned-with-government-effort-to-tie-funding-to-university-free-speech-policies/>

# **Ontario Undergraduate Student Alliance:** “Students Respond to Free Speech Policy Mandate,” August 30, 2018. Available at: <https://www.ousa.ca/newsroom_free_speech_policy_response_aug18>

**Other Resources**

**Worldviews Lecture on fostering free speech on campus**

At the 2018 Worldviews Lecture, Professor Sigal Ben-Porath addressed the increasingly heightened debate around free speech on campus. Her lecture was followed by a panel discussion that explored challenges for democratic values and minority rights in academia and beyond. For a summary of the lecture, click [here](https://ocufa.on.ca/blog-posts/2018-worldviews-lecture-addresses-challenges-fostering-free-speech-on-campus/). To view a video of the entire lecture, including the panel discussion, click [here](https://play.library.utoronto.ca/h99Ve0qR5TlW).

**Academic Matters**

The theme of the Fall 208 issue of Academic Matters is free speech on campus. The entire issue will be available online this fall at [academicmatters.ca](https://academicmatters.ca/).

**AAUP Report: Campus Free-Speech Legislation: History, Progress, and Problems**

Claiming that free speech is “dying” on American campuses, a conservative think tank has led an effort to push states to adopt a model bill that, in the name of defending campus free speech, risks undermining it. This report, published in April 2018, seeks to understand the context and content of the “campus free-speech” movement, to track its influence within state legislatures, and to draw some conclusions concerning the best ways to respond to it. You can read the full report [here](https://www.aaup.org/report/campus-free-speech-legislation-history-progress-and-problems).

**Existing policies:**

*The following is a list of existing free speech policies at Ontario universities. It is important to not that many institutions have other policies in place that protect freedom of expression, although they may not have an existing standalone free speech policy.*

**University of Toronto:** “Statement on Freedom of Speech,” May 28, 1992.Available at: http://www.governingcouncil.utoronto.ca/Assets/Governing+Council+Digital+Assets/Policies/PDF/ppmay281992.pdf

**Wilfrid Laurier University:** “Statement on Freedom of Expression,” May 29, 2018. Available at: https://www.wlu.ca/about/discover-laurier/freedom-of-expression/index.html

**McMaster University: “**Freedom of Expression, Protest and Dissent: Guidance For EventOrganizers and Participants,”,June 2018. Available at: https://dailynews.mcmaster.ca/wp-content/uploads/sites/3/2018/06/Guidance-for-Event-Organizers.pdf

***Draft policies***

**Trent University:** “Draft Policy on Free Speech,” September 2018. Available at: https://ocufa.sharepoint.com/:b:/g/EQOgkfXNzn5OuNGcQF7MFnIBbrxH7N\_zIIB0sdHAZfS9\_g