

# Freedom of Speech Policy

For discussion:

# Background

- August 30, 2018 the provincial government announced a new requirement for postsecondary institutions to implement a policy on freedom of speech by January 1, 2019.
- The announcement articulated the minimum standard for compliance and indicated that universities fail to comply, the ministry may respond with reductions to operating grant funding.

# Minimal Consultation/Approval Timeline

Step	Committee	Meeting date
Initial Consultation	Policy Advisory Committee	September 17
Mandatory Consultation	Online consultation (post a draft policy for comment on the policy website)	October 1-October 12
Mandatory Consultation	ACX/Academic Council	October 23
Mandatory Consultation	University Administrative Council	October 24
Policy Assessment	Policy Advisory Committee	October 25
Deliberation	Audit & Finance Committee	November 19
Optional Consultation	ACX/Academic Council	November 27
Approval	Board of Governors	November 29

**Implementation by January 1, 2019**

# Provincial Requirements

- The policy must apply to faculty, students, staff, management and guest
- Definition of freedom of speech
- Principles based on the University of Chicago Statement on Principles of Free Expression:
  - Universities and colleges should be places for open discussion and free inquiry.
  - The university/college should not attempt to shield students from ideas or opinions that they disagree with or find offensive.
  - While members of the university/college are free to criticize and contest views expressed on campus, they may not obstruct or interfere with the freedom of others to express their views.
  - Speech that violates the law is not allowed.

# Provincial Requirements

- That existing student discipline measures apply to students whose actions are contrary to the policy (e.g. ongoing disruptive protesting that significantly interferes with the ability of an event to proceed).
- That institutions consider official student groups' compliance with the policy as condition for ongoing financial support or recognition, and encourage student unions to adopt policies that align with the free speech policy.
- That the college/university uses existing mechanisms to handle complaints and ensure compliance. Complaints against an institution that remain unresolved may be referred to the Ontario Ombudsman.

# Proposed Policy Content

## Requirement

- The policy must apply to faculty, students, staff, management and guests

## How to address

- Scope of Policy: University Members and authorized visitors and guests to the physical campus and online environment.

# Proposed policy content

## Requirement

- Universities and colleges should be places for open discussion and free inquiry.
- The university/college should not attempt to shield students from ideas or opinions that they disagree with or find offensive.

## How to address

- We will adopt these requirements, subject to articulated limits consistent with the University of Chicago Statement on Principles of Free Speech and the need to avoid significant interference with the functioning of the University, including events.

# Definition

## Requirement

- While members of the university/college are free to criticize and contest views expressed on campus, they may not obstruct or interfere with the freedom of others to express their views.

## How to address

- University Members and authorized visitors and guests are free to criticize and contest any view expressed on the UOIT Campus, and to criticize and contest speakers who are invited to express their views on campus, but they may **not** obstruct or otherwise interfere with the freedom of others to express views they reject or even find abhorrent.
- University may reasonably regulate the time, place and manner of expression to ensure that it does not unduly disrupt the functioning of the university



# Proposed Policy Content

## Requirement

- Speech that violates the law is not allowed.

## How to address

- Speech will be restricted if it violates the law:
  - Ontario Human Rights Code – discriminatory harassment based on a protected ground is not allowed
  - Violates any other municipal, provincial or federal law
  - Defames a specific individual
  - Constitutes a genuine threat
  - Harassment, including sexual harassment

# Limits on freedom of speech

Speech will be restricted if:

- It violates the law:
  - Ontario Human Rights Code – discriminatory harassment based on a protected ground is not allowed
  - Violates any other municipal, provincial or federal law
  - Defames a specific individual
  - Constitutes a genuine threat
  - Harassment, including sexual harassment
- It unduly disrupts and significantly interferes with the functioning of the university
  - Safety or security concerns
  - Ongoing disruptive protesting that significantly interferes with the ability of an event to proceed.
- **For employees:** It breaches fiduciary (board/leaders), privacy or confidentiality obligations/commitments

# Proposed Policy Content

## Requirement

- A definition of freedom of speech

## How to address

- ...the free expression of images, ideas, and perspectives using text or the spoken word, either virtually or physically.

# Proposed Policy Content

## Requirement

- That existing student discipline measures apply to students whose actions are contrary to the policy (e.g. ongoing disruptive protesting that significantly interferes with the ability of an event to proceed).

## How to address

- Student Conduct Policy will be used to address any conduct that is alleged to obstruct or interfere with the rights or other.
- All existing processes (investigation, decision, appeals, sanctions) would apply.

# Proposed Policy Content

## Requirement

- That institutions consider official student groups' compliance with the policy as condition for ongoing financial support or recognition, and encourage student unions to adopt policies that align with the free speech policy.

## How to address

- Recognized student associations will be encouraged to adopt a policy that aligns with the Free Speech Policy.
- Policy on Recognition of Student Organizations requires clubs, etc. to follow UOIT policy. Non-compliance with policies could result in losing recognition.

# Proposed Policy Content

## Requirement

- That the college/university uses existing mechanisms to handle complaints and ensure compliance. Complaints against an institution that remain unresolved may be referred to the Ontario Ombudsman.

## How to address

- Point to relevant existing policies/processes (still reviewing):
  - University decisions relating to Free Speech – Safe Disclosure Policy
  - Activities of student organizations – Policy on Recognition of Student Organizations
  - Conduct of students that obstructs or interferes with the rights of others – Student Conduct Policy

# Implementation

- Starting September 2019, each institution must prepare an annual report on implementation progress and a summary of its compliance, publish it online and submit it to the Higher Education Quality Council of Ontario.
- One year review to permit a check-in with the UOIT community.

# Questions and discussion