

## **Policy on Freedom of Expression**

[APPROVED by Board: November 27, 2018]

*[This policy statement applies to faculty and staff (including management), students and guests]*

This statement is intended to reaffirm the University of Windsor's long-standing commitment to freedom of expression (free speech) in the university community.<sup>1</sup> This commitment is expressed in various university policies.<sup>2</sup> Also reaffirmed in this statement are the freedoms of association and assembly, which are closely related to freedom of expression.

Freedom of expression protects the individual's freedom to communicate - to speak to others, and to hear what others have to say - without interference from the state or from others.

Freedom of expression is protected because it contributes to the growth of public knowledge, because it is necessary to the operation of a democratic form of government, and because it is important to the individual's development as an autonomous agent.

In communicating with others, individuals give shape to their ideas and aspirations, become capable of reflection and evaluation, and gain greater understanding of themselves and the world. It is through communicative interaction that individuals develop and emerge as autonomous agents in the positive sense of being able to consciously direct their lives and to participate in the direction of their community. Through communication individuals create different kinds of relationships with others and participate in different collective activities, such as self-government and the pursuit of knowledge.

Underlying the commitment to freedom of expression is a belief that humans are substantially rational beings capable of evaluating factual and other claims and an assumption that public discourse is open to a wide range of competing views that may be assessed by the audience. Ideas should not be censored simply because we think they are mistaken and fear that some members of the community may find them persuasive or that others may find them offensive. A commitment to freedom of expression means protecting expression for reasons more basic than our agreement with its message.

Freedom of expression, though, is subject to limits. Canadian law includes restrictions on obscenity, hate speech, threats, defamation, and harassment. The law also regulates the time or location at which expression may occur, in order to coordinate expression with other activities in public spaces.

## **The University – Freedom of Expression and Academic Freedom**

The free exchange of ideas and information is central to the University of Windsor's mission of "Enabling people to make a better world through education, scholarship, research and engagement". Members of the academic community must be free to investigate and disseminate ideas, including those that are controversial or unconventional, without fear of censorship or discipline by the university or by the state. Academic freedom is the shape free expression takes within the context of the university's research and teaching mission. The University's commitment to academic freedom<sup>3</sup> is set out in its collective agreement with faculty:

The fundamental purpose of the University and its unique contribution is the search for new knowledge and the free dissemination of what is known. Academic freedom in universities is essential to both these purposes in the teaching function of the University as well as in its scholarship, research, and creative work.

Because academic freedom is rooted in the university's mission, its exercise carries certain responsibilities. Faculty and students are expected to adhere to certain standards of communicative engagement. They are expected to treat other members of the academic community as interlocutors, who should be addressed and heard. The university must be a place of tolerance, respect, and inclusion, where all members are able to live and work free from discrimination and harassment.<sup>4</sup>

The university is composed of many sites or forums, each contributing in a particular way to its larger mission. The rules of speech are different in each of these locations. Speech may be subject to limits in the classroom or meeting-room, concerning who speaks and when, and the manner and subject of the speech. Exchanges in the classroom must be respectful, because the classroom is a place of learning based on thoughtful discussion. Those members of the university community who live on campus should be protected from discriminatory speech in the area of their residence. The university is also a workplace. University employees or members should be protected from degrading or harassing speech in the same way that workers in other offices or workplaces are protected.

### **Free Speech on Campus**

Students, faculty members, staff, and guests have the right to express themselves in the common or open spaces of the university. This right is subject only to those limits that are necessary to protect the operation of the university and to prevent harm to the university's members and guests. Students, staff, faculty members, and guests should be protected from unlawful hate speech and harassment, such as racist or sexual comments. However, no member of the academic community has a right to be protected from the expression of ideas they dislike or regard as wrong or offensive. The individual's expression may be zealous, impassioned, and even uncivil. The university may restrict or limit such expression only when it disrupts the central activities of the institution; when, for example, the expression is so loud that it interferes with teaching activities.<sup>5</sup>

Extra-curricular events, including visiting speakers, are an important part of the university's academic life. Such events should be restricted only when they are likely to involve unlawful speech. At the same time, freedom of expression protects the right of others in the university to protest such an event. The right to protest is protected provided the protestors do not seek to disrupt academic or other activities on campus.

### **Freedom of Expression and the University's Mission**

The free exchanges of ideas and information is central to the university's role as a place of learning and research. The university must permit and protect the free expression of its community members, subject only to limits necessary to protect the operation of the institution or to prevent harm to members of the university. The university must resist any attempt to interfere with the freedom of expression of its members and guests. The university has in place procedures for addressing interferences with the rights of the community's members and guests to express themselves.<sup>6</sup>

## ENDNOTES

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<sup>1</sup> The terms free speech/freedom of speech and free expression/freedom of expression are used interchangeably in this document.

<sup>2</sup> See, for example, *Senate Bylaw 33: Student Rights and Freedoms*, section 2:

The University acknowledges that the mutual respect of student and teacher is fundamental to the learning process. It accepts as first principles the rights of freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication, as interpreted under the Canadian Charter of Rights and Freedoms. These are rights which must be respected and protected if a University is to function and flourish. In the University classroom environment, these freedoms shall mean a reasonable opportunity for a student to question and to comment upon material under discussion and to introduce material relevant to the topic under discussion. It is the instructor's responsibility to assure these freedoms and the freedom of discussion for all students.

The Canadian Charter of Rights and Freedoms also guarantees to everyone the freedom of peaceful assembly and the freedom of association. The University affirms the right of public peaceful assembly and the open expression of ideas and opinions. While the protection of the Charter is afforded to all, this does not diminish the obligation to observe the law and not to interfere with the rights and privileges of others or the continuity of the educational process.”

<sup>3</sup> The university's commitment to academic freedom is also articulated in *Senate Bylaw 23: Criteria for Renewal, Tenure and Promotion*:

The academic profession is the only group recognized by society to have the primary purpose of discovering and disseminating knowledge and understanding. In order to pursue this purpose, members of the academic profession must be ensured conditions, as much as possible, which permit the free pursuit of truth and this involves freedom to discuss and to criticize. Academic freedom is a fundamental prerequisite for the academic profession. Academic freedom is intended as a safeguard against all those who would challenge the intellectual autonomy of the University and its members, or who would seek to utilize its resources exclusively for the propagation of their own ideologies. However, academic freedom that promises the common good by ensuring the search for truth and its exposition must not be abused. Therefore, the proper exercise of academic freedom is contingent upon the recognition and adequate discharge of duties and responsibilities. Tenure, a continuing full-time appointment with the University, is one of the basic means of protecting and encouraging the exercise of academic freedom.

<sup>4</sup> The *University of Windsor Human Rights Policy (1997)* [currently under review] provides that: “Every individual at the University is entitled to work/study in an environment free of discrimination and harassment and in particular to work/study in an environment free of discrimination and harassment including but not limited to discrimination and harassment based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, handicap, age, marital status, family status, receipt of public assistance or record of offences.” (Note that the Ontario *Human Rights Code*, RSO 1990, c. H-19, was amended to include additional grounds of discrimination such as gender identity, gender expression, and disability.) The university's policy defines harassment as “vexatious comment or conduct in relation to a person or group of persons which has the effect or purpose of creating a hostile or intimidating working or educational environment when [ among other thing] ... such treatment has the effect or purpose of offending or demeaning a person or group of persons on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, handicap, age, marital status, family status, receipt of public assistance, or record of offences”. The policy further states that: “Harassment may occur during one incident, or over a series of incidents including incidents which, in isolation, would not necessarily constitute harassment. Harassment prevents or impairs the full and equal enjoyment of employment and educational services, benefits and/or opportunities and may occur between people of the same or different status within the University community, regardless of age or sex.” Harassment may also be directed at a group as well as at an individual. Harassment may be psychological, verbal or physical or may be all of these.

<sup>5</sup> *University of Windsor, Policy on Student Code of Conduct (2005)*. Activities that violate the Code include, “Intentional obstruction or disruption of teaching, research, administration, disciplinary proceedings, or other University activities, including public service functions, and other authorized activities on University premises.”

<sup>6</sup> *Procedures for Addressing Student Non-Academic Conduct; Collective Agreements between the Board of Governors of the University of Windsor and the Faculty Assn., Unifor Local 195, Unifor Locals 2458, CUPE Local 1001, CUPE Local 1393, and CUPE Local 4580; Senate Bylaw 32: Procedural Irregularities and Discrimination Regarding Academic Instruction, Academic Evaluation and Academic Grade Appeals*.