

Freedom of Speech on Campus
2019 Annual Report to the Ontario Government
by the
Higher Education Quality Council of Ontario

Introduction

On August 30, 2018 Ontario Premier Doug Ford formally announced that each of the province's colleges and universities would, by January 1, 2019, develop and implement a free speech policy that meets a minimum standard prescribed by the government.

The policies were to be based on the [University of Chicago's Statement on Principles of Free Expression](#). Government asked that institutions include the following elements:

- A definition of freedom of speech
- That universities and colleges should be places for open discussion and free inquiry
- That institutions should not attempt to shield students from ideas or opinions that they disagree with or find offensive
- That members of the institution are free to criticize and contest views expressed on campus, but may not interfere with the freedom of others to express their views
- That speech that violates the law or constitutes harassment or threat is not allowed

The policies were also to address administrative mechanisms whereby members of the college or university community could raise and resolve free speech issues. Any complaint that remained unsolved could be referred to the Ontario Ombudsman.

To monitor implementation of the initiative, the Higher Education Quality Council of Ontario (HEQCO) was tasked by government to review institutions' progress in developing and implementing their free speech policies. Institutions were instructed to develop, post and submit to HEQCO an annual report on the implementation of their free speech policies starting in September 2019. HEQCO's role in ensuring the success of the government's free speech initiative was summarized in a Dec. 14, 2019 memo by then Deputy Minister George Zegarac of the Ministry of Colleges and Universities (MCU):

A recent regulatory amendment to O. Reg. 336/06 made under the Higher Education Quality Council of Ontario Act, 2005 gives HEQCO the function to research and evaluate how free speech is addressed at each postsecondary institution and across the postsecondary sector, as well as provide reports and recommendations to the Minister on the results of such research and evaluation.

This is our first annual report, based on the institutional implementation reports posted across the province. As it is the inaugural report, it is divided into two components. The first is our review of the January 2019 launch of the policies and of the policies themselves. The second is our review of institutions' September 2019 reports on the implementation of the policies over the first eight months of operation.

A. Successful Launch of Institutional Policies

All public colleges and universities posted free speech policies in January 2019. The 24 colleges opted to cooperatively develop a single policy, which was adopted by all institutions, albeit with customization in regard to administrative mechanisms unique to each college. The universities' approach was institutionally driven. All but three of the universities developed new policies or revised existing ones to accommodate the government's conditions and timeline. Those three institutions had pre-existing policies that, upon review, they left in place.

The consequent policies are varied, both in construction and wording, but our assessment is that they reflect the University of Chicago principles articulated by government. Many of the policies reveal thoughtful, reflective consideration and sensitivity to the importance of free speech.

Appendix A provides a link to each institution's policy, as posted on institutional websites.

An observation

After careful consideration of the University of Chicago principles, we would like to highlight a fundamental component of that document that is not evident in all of the Ontario policies, perhaps because it was not included in the ministry's list of minimal conditions.

As we understand it, the essential principle of the University of Chicago position is that freedom of speech explicitly and unequivocally takes precedence over civility and respect in public discourse. The *University of Chicago Report of the Committee on Freedom of Expression* states:

Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

Although the mandatory minimum requirements set out by government are based on the University of Chicago principles, the government did not explicitly require a statement identifying the hierarchy of free speech over civility.

If the underlying principle of the University of Chicago position is the fundamental supremacy of free speech over civility, we note that there is ambiguity in the face of some of the published policies with regard to this principle. Some of the university policies refer to respect, civility and the role of the institution as a place for free and open dialogue, but do not explicitly acknowledge the dominance of free speech within that context. Our concern is that a failure to do so undercuts the very essence of the

principle. In other cases, the policies include statements that appear to articulate the hierarchy of principles, only to be followed with language that could be interpreted as contradictory to it.

We flagged this as an issue to watch for as implementation of the new policies began on campus. We were curious as to whether the tension between free speech and civility might surface as an issue as academic communities began to interpret and apply the policies to real life situations. This appears not to have been the case in the first eight months under the new policies. We will simply continue to be mindful of this potential issue.

B. First Annual Implementation Reports

HEQCO asked institutions to respond to a series of questions to inform our report to government. We asked institutions to tell us about institutional culture with regard to free speech, identify any institutional policies that had been impacted/revised because of the free speech policy, report on the number of events held on campus, and summarize any free speech complaints or issues and whether they were resolved.

We also encouraged institutions to use this first annual report to provide supporting or contextual information, such as institutional history and culture with regard to free speech policy and practice, as well as lessons learned through the process of developing a free speech policy, or from its implementation over the first eight months.

All publicly funded colleges and universities submitted and posted their implementation reports in September 2019. Appendix B provides the relevant links to institutional websites.

We note that there was considerable variance in the form, organization and level of detail in this first cycle of annual reporting. Nonetheless, we were able to assemble a comprehensive picture of the implementation journey across the province in the first eight months under the new requirements. Highlights from the institutional implementation reports are as follows:

The policies after eight months

As noted above, all institutions posted their free speech policies in January 2019. To date, none has been identified as requiring amendment due to issues or complications raised during the implementation. The college sector has scheduled a system-level review of its common free speech policy for fall 2019. A number of universities have also indicated that their freedom of speech policy is subject to pre-scheduled policy review windows. We consider regular review to be a best practice, even if no issues have been raised.

A number of institutions reported that they had completed or were still completing collateral development work associated with the new free speech policies. Predominantly, this relates to reviews of other policies to ensure alignment (for example, policies with regard to the booking of space, student conduct, and harassment and discrimination).

Some institutions report no ongoing dialogue on campus regarding free speech since the implementation of the new policy. Others report ongoing reflection about free speech and attendant

matters such as hate speech and safe spaces (for example, speakers and expert panels, public debate forums, institutional free speech websites).

There is almost no mention of media interest or coverage about institutional policies or their implementation.

Events on campus

We asked for a sense of the volume of non-curriculum (i.e., not directly attached to an academic program) events at colleges and universities. Collectively, the institutions reported in excess of 40,000 events, an estimate we know to be conservative as some institutions noted that they lacked a robust centralized logging system to capture all such activity across their campus locations. Clearly, Ontario's postsecondary institutions host a substantial volume of events aimed at fostering dialogue and discourse for both their internal and external communities.

We asked about cancellations of events due to concerns about safety or the costs of security. Only one cancellation for safety and security concerns was identified in the period from January through August 2019.

Some institutions took the time to summarize in their reports the risk-management assessment processes they have in place in order to identify and deal with safety and security risks. We believe formal risk-assessment processes to be a best practice.

Complaints and issues

Each institutional free speech policy has associated procedures regarding the lodging and resolution of a free speech related complaint. Twenty-one formal complaints were reported across the system, and all of these were, to the involved institutions' knowledge and understanding, resolved internally.

The Premier's August 30, 2018 announcement stated that any complaint against an institution that remained unresolved may be reported to the Ontario Ombudsman. No institution reported knowledge of a referral of a free speech complaint to the Ombudsman. It should be noted that under the Ombudsman Act, Ombudsman investigations are conducted in private (s. 18(2)). Furthermore, the Ombudsman is obligated to inform the institution only in the event that he or she decides to proceed with an investigation (s. 18 (1)). On its website, the Ombudsman's office further states, "Complaints are often resolved without need to contact the relevant organization." So, institutions may not know if a complaint has been lodged against them with the Ombudsman.

Housekeeping tips

We would like to share two lessons learned from this first annual report cycle to improve and streamline the process next year (September 2020):

1. While we specified the content to be covered in institutional reports, we did not issue a reporting template. We wanted to give institutions some freedom of expression, with latitude to customize their institutional narrative, and not just respond to a list of requirements. We discovered from their inquiries that many institutions pine for a template. We discovered that absent a template, some institutions did not touch on all the reporting

elements in their narrative that we had specified. We also discovered that for us, the easiest reviews were of submissions that simply treated our list of items as a template.

Next year, we will issue a template.

2. The first year of any new reporting requirement inevitably reveals room for improvement. Definitions (e.g., what is an event?) may not be consistently interpreted. Data (i.e., how many events were held) may not be collected. We will incorporate additional guidance into our instructions next year and share our requirements earlier so institutions can ready themselves for data collection and response. That said, we believe this first cycle of reporting was sufficiently robust and complete to allow us to prepare a province-wide report with confidence, as we have done.

Our Concluding Observations

HEQCO's task is to report on the implementation of the government's free speech initiative, not to pass judgement on or to police institutions.

That said, it is our conclusion that the initial roll out of the free speech initiative across Ontario colleges and universities has met government objectives.

We look forward to submitting our second report next year at this time.

Appendix A: Institutional Freedom of Speech Policies

UNIVERSITIES	
Algoma	https://employees.algomau.ca/services/wsDocuments/4158
Brock	https://brocku.ca/policies/wp-content/uploads/sites/94/Freedom-of-Expression-Policy.pdf
Carleton	https://carleton.ca/secretariat/wp-content/uploads/Freedom-of-Speech.pdf
Guelph	https://www.uoguelph.ca/secretariat/policy/1.2
Hearst	http://www.uhearst.ca/docs/politique-sur-la-liberte-dexpression.pdf
Lakehead	https://www.lakeheadu.ca/faculty-and-staff/policies/general/node/49726
Laurentian	https://laurentian.ca/policy-freedom-of-speech
McMaster	https://op.mcmaster.ca/wp-content/uploads/2018/10/Guidance-for-Event-Organizers_FINAL_8Jun18.pdf
Nipissing	https://nipissingu.ca/sites/default/files/2018-12/Free%20Speech%20Policy%20-%20Dec%202018.pdf
OCADU	https://www2.ocadu.ca/internal-update/ocad-university-freedom-of-expression-statement-and-policies
Ottawa	https://www.uottawa.ca/administration-and-governance/policy-121-statement-free-expression
Ontario Tech U	https://usgc.uoit.ca/policy/freedom-of-expression-policy.php
Queen's	https://www.queensu.ca/secretariat/policies/administration-and-operations/free-expression-queens-university-policy
Ryerson	https://www.ryerson.ca/freedom-of-speech/
Toronto	http://www.governingcouncil.utoronto.ca/Assets/Governing+Council+Digital+Assets/Policies/PDF/ppmay281992.pdf
Trent	https://www.trentu.ca/governance/sites/trentu.ca.governance/files/documents/Free%20Speech%20Policy%20-%20ACCESSIBLE.pdf
Waterloo	https://uwaterloo.ca/secretariat/policies-procedures-guidelines/policies/policy-8-freedom-speech-0
Western	https://www.uwo.ca/univsec/pdf/policies_procedures/section1/mapp154.pdf
Wilfrid Laurier	https://www.wlu.ca/about/discover-laurier/freedom-of-expression/index.html
Windsor	https://lawlibrary.uwindsor.ca/Presto/content/Detail.aspx?ctID=OTdhY2QzODgtNjhYi00ZWY0LTg2OTUtNmU5NjEzY2JkMWYx&rID=OTg=&qrs=RmFsc2U=&q=KFVuaXZlcnNpdHlfb2ZfV2luZHNvcl9DZW50cmFsX1BvbGliaWVzLkFsbFRleHQ6KGV4cHJlc3Npb24pKQ==&ph=VHJ1ZQ==&bckToL=VHJ1ZQ==&rrtc=VHJ1ZQ==
York	https://secretariat-policies.info.yorku.ca/policies/free-speech-statement-of-policy/

COLLEGES	
Algonquin	https://www.algonquincollege.com/policies/files/2019/01/ADO7_Upholding-Free-Speech-v2.pdf
Boréal	http://www.collegeboreal.ca/wp-content/uploads/2018/12/C-5-Maintien-du-droit-a-la-liberte-dexpression.pdf
Cambrian	https://cambriancollege.ca/wp-content/directory/policies/Corporate%20Policies/General%20Administration/General%20Operations/Cambrian%20Statement%20on%20Upholding%20Free%20Speech.pdf
Canadore	https://cdn.agilitycms.com/canadore-college/Attachments/about-us/policies/Free%20speech%20policy%20statement%202018.pdf
Centennial	https://p.widencdn.net/ajx9gc/ac100-25-free-speech-policy
Conestoga	https://cms.conestogac.on.ca/sites/corporate-websites/policies/PDFDocuments/Presidents%20Office/Free%20speech%20policy%20-%20English%20version.pdf
Confederation	http://www.confederationcollege.ca/sites/default/files/uploads/department/ch1-s1-17_free_speech_0.pdf
Durham	https://durhamcollege.ca/wp-content/uploads/322-upholding-free-speech.pdf
Fanshawe	https://www.fanshawec.ca/sites/default/files/legacy/oldfanshawe/sites/default/files/assets/policies/pdf/c305.pdf
George Brown	https://www.georgebrown.ca/news/free-speech-policy/
Georgian	https://www.georgiancollege.ca/wp-content/uploads/CS-001-Free-Speech-policy-and-procedure.pdf
Humber	https://humber.ca/legal-and-risk-management/policies/general-administration/policy-statement-on-upholding-free-speech.html
La Cité	https://www.collegelacite.ca/directives/humaines/rh-13
Lambton	https://www.lambtoncollege.ca/custom/Pages/Policies/Policy.aspx?id=2147523917
Loyalist	https://www.loyalistcollege.com/policy-statement-on-upholding-free-speech/
Mohawk	https://www.mohawkcollege.ca/about-mohawk/leadership-and-administration/policies-and-procedures/policy-statement-on-upholding
Niagara	https://www.niagaracollege.ca/practices/view/general-operations/free-speech/
Northern	http://www.northernc.on.ca/docs/pdfs/Policy_on_Free_Speech_Dec17_2018.pdf
Sault	https://www.saultcollege.ca/AboutUs/PDF/Policies/Statement%20of%20Commitment%20-%20Freedom%20of%20Expression.pdf
Seneca	http://www.senecacollege.ca/about/policies/free-speech-policy.html
Sheridan	https://policy.sheridanc.on.ca/
S. S. Fleming	https://department.flemingcollege.ca/hr/working-at-fleming/policies-and-procedures/
St. Clair	http://www.stclaircollege.ca/boardandstaff/corporatedocuments/scc_policy_5-22.pdf
St. Lawrence	https://www.stlawrencecollege.ca/about/college-reports-and-policies/free-speech-policy/

Appendix B: 2019 University and College Freedom of Speech Annual Reports

UNIVERSITIES	
Algoma	https://www.algomau.ca/wp-content/uploads/2019/08/2019-08-26-Algoma-University-Annual-Report-Implementation-of-Freedom-of-Expression-Policy-Policy-AD4-December-21-2018.pdf
Brock	https://brocku.ca/free-speech/wp-content/uploads/sites/195/Brock-University-Annual-Report-on-Freedom-of-Expression-Jan-July-2019.pdf
Carleton	https://carleton.ca/senate/wp-content/uploads/Final-Free-Speech-Annual-Report-August-1-2019.pdf
Guelph	https://www.uoguelph.ca/freedom-of-expression/FOE-Annual-Report-September-3-2019.pdf
Hearst	http://www.uhearst.ca/sites/default/files/downloads/rapport-udeh-sur-la-politique-concernant-la-liberte-dexpression.pdf
Lakehead	https://www.lakeheadu.ca/sites/default/files/uploads/108/documents/FreeExpressionPolicy-Lakehead-AnnualReport-HECQO-30Aug2019.pdf
Laurentian	https://laurentian.ca/assets/files/Freedom-of-Speech.pdf
McMaster	https://op.mcmaster.ca/wp-content/uploads/2019/08/FoE_McMaster-Annual-Report_15Aug19.pdf
Nipissing	https://www.nipissingu.ca/sites/default/files/2019-09/Free%20Speech%20Report%20-%20HEQCO.pdf
OCADU	https://www.ocadu.ca/Assets/documents/OCAD+U+Freedom+of+Expression+Annual+Report+2019.pdf
Ottawa	https://www.uottawa.ca/vice-president-academic/sites/www.uottawa.ca.vice-president-academic/files/uottawa_report_2019_final_eng.pdf
Ontario Tech U	https://shared.uoit.ca/shared/uoit/documents/uoit-publications/freedom_of_expression_2019_report.pdf
Queen's	https://www.queensu.ca/secretariat/sites/webpublish.queensu.ca.uslclwww/files/files/Free%20Speech%20Reporting%202018-19.pdf
Ryerson	https://www.ryerson.ca/content/dam/freedom-of-speech/Ryerson-FreeSpeechReportbackFINAL.pdf
Toronto	http://freespeech.utoronto.ca/wp-content/uploads/U.-Toronto-2019-Freedom-Speech-Annual-Report.pdf
Trent	https://www.trentu.ca/president/free-speech-policy
Waterloo	https://uwaterloo.ca/secretariat/annual-report-re-policy-8-freedom-speech-2019
Western	https://www.uwo.ca/ipb/publicaccountability/documents/HEQCO_FoE_report_08-19.pdf
Wilfrid Laurier	https://wlu.ca/about/discover-laurier/freedom-of-expression/assets/resources/annual-report-on-free-speech-policy-2019.html
Windsor	http://www.uwindsor.ca/provost/sites/uwindsor.ca.provost/files/freedom_of_expression_implementation_annual_report_university_of_windsor.pdf
York	https://secretariat.info.yorku.ca/files/Freedom-of-Speech-Annual-Report-2019.pdf

COLLEGES	
Algonquin	https://www.algonquincollege.com/reports/files/2019/09/2019-HEQCO-Freedom-of-Speech-Annual-Report-FINAL-Algonquin-College.pdf
Boréal	http://www.collegeboreal.ca/wp-content/uploads/2019/08/Rapport-annuel-sur-la-libert%C3%A9-d'expression-2018-19.pdf
Cambrian	https://cambriancollege.ca/wp-content/uploads/2019/08/FreeSpeech_AnnualReport_19.pdf
Canadore	https://cdn.agilitycms.com/canadore-college/Attachments/about-us/policies/Annual%20Free%20Speech%20Report.pdf
Centennial	https://p.widencdn.net/dkaxll/Centennial-College-Free-Speech-Annual-Report_2019
Conestoga	https://cms.conestogac.on.ca/sites/corporate-websites/about/College%20Reports/Free%20Speech%20Report%202019.pdf
Confederation	https://www.confederationcollege.ca/sites/default/files/uploads/department/ch1-s1-17_heqco_letter.pdf
Durham	https://durhamcollege.ca/wp-content/uploads/free-speech-policy-annual-Report.pdf
Fanshawe	https://www.fanshawec.ca/sites/default/files/uploads/strategicplan/free_speech_annual_report_2019.pdf
George Brown	https://www.georgebrown.ca/policies/freedom-of-expression/
Georgian	https://www.georgiancollege.ca/wp-content/uploads/Georgian-College-Free-Speech-Annual-Report-August-2019.pdf
Humber	https://humber.ca/sites/default/files/uploads/documents/annual_report_on_freedom_of_speech.pdf
La Cité	https://www.collegelacite.ca/documents/10315/14318779/La_Cite_-_Rapport_annuel_Liberte_expression.pdf/c7250cda-4f04-e9cd-3414-074bb3d8eb9e
Lambton	https://www.lambtoncollege.ca/uploadedFiles/LambtonCollege/Content/About_Us/Our_College/College_Reports_and_Plans/Free%20Speech%20Annual%20Report.pdf
Loyalist	https://www.loyalistcollege.com/wp-content/uploads/2019/09/Freedom-of-Speech-Report-2019.pdf
Mohawk	https://www.mohawkcollege.ca/about-mohawk/leadership-and-administration/policies-and-procedures/policy-statement-on-upholding
Niagara	https://www.niagaracollege.ca/wp-content/uploads/Free-Speech-Annual-Report-to-HEQCO.pdf
Northern	http://www.northernc.on.ca/wp-content/uploads/2019/09/2019-Free-Speech-Annual-Report-Northern-College.pdf
Sault	https://www.saultcollege.ca/AboutUs/PDF/Policies/Sault%20College%20Free%20Speech%20Report.pdf
Seneca	https://www.senecacollege.ca/about/reports/free-speech/
Sheridan	https://www.sheridancollege.ca/about/administration-and-governance.aspx
S. S. Fleming	https://flemingcollege.ca/PDF/Fleming-College-Free-Speech-Annual-Report.pdf
St. Clair	http://www.stclaircollege.ca/boardandstaff/corporatedocuments/Free-Speech-Annual-Report-2019.pdf
St. Lawrence	https://www.stlawrencecollege.ca/about/college-reports-and-policies/free-speech-policy/