

## Academic + Provost

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# Freedom Matters

- \* In September 2017, UBC President and Vice-Chancellor Santa Ono tasked a working group to consider the important issue of freedom of expression – not as an institutional effort to create or change policy, but as an educational and aspirational exercise. The document below, entitled “Freedom Matters”, is the output of that working group’s efforts and expresses that working group’s views of why freedom of expression should matter at UBC and why its protection should apply equitably to all.

An early statement was circulated to the university community in November 2017, prompting vigorous debate and attracting feedback from alumni, faculty, staff and students, including nearly 200 written responses and at least three alternative versions. Numerous UBC classes also responded, and the working group convened a public forum to encourage further feedback. Many respondents indicated an appetite for a short, blanket endorsement of free expression, but many more argued for a statement of context exploring how that freedom applies, how it can be protected for all members of the UBC community and how it interacts with other freedoms and rights.

In April 2018, following this extended period of consultation and input by many, the working group released the final statement included below. The statement distils many of the tensions that arise between various rights and expectations. It is intended by the working group to be a resource that underscores the importance of freedom of expression while also helping all of us at UBC grapple with specific instances where tensions around expression may arise.

## Freedom of expression matters. It fuels what good universities do.

UBC has long been committed to promoting and defending the freedoms necessary for the pursuit and dissemination of knowledge – providing an environment in which people are comfortable to question the status quo, to challenge old assumptions, and to debate difficult issues. As former UBC President Martha Piper wrote in 2001, “in the university, unconventional ideas and controversial opinions deserve special protection.” President Santa Ono has since added, “UBC fosters a welcoming, open community for discussing and debating all ideas and practices, no matter how complex, contentious, or difficult.”

A commitment to these goals is crucial to maintaining an inclusive, collaborative and innovative learning and research environment. Otherwise, as a Canadian public university, how could we, for example:

1. Learn and share the lessons of the past if objectionable parts of the historical record were suppressed?
2. Optimize innovation if entire lines of inquiry were forbidden?
3. Equip students to tackle future challenges, if they were shielded from demanding, provocative thought?
4. Safeguard the freedoms and rights of all our members, including those facing systemic inequality or historic marginalization?

Three principles underlie our commitment to free expression.

First, the common good of society depends upon an unfettered search for knowledge and its free expression. When carried out responsibly and ethically, free and open exchange advances discovery, understanding and wisdom.

Second, UBC's scholarly community comprises people with diverse viewpoints and disciplinary perspectives. By enabling these disparate voices to participate equitably in rigorous investigation and intellectual exchange, we provide a venue for learning and research excellence that is distinct to universities and, given our diversity, unique to UBC.

Third, as a self-governing democratic institution, even one in which rights and freedoms are, or have been, distributed unequally, the resolute and equitable protection of free expression, in balance with other constitutionally protected rights and freedoms, offers the best path toward an inclusive environment and a better world.

As the leading formal expression of Canadian values in this regard, the Canadian Charter of Rights and Freedoms recognizes freedom of expression as one of four "Fundamental Freedoms," and defines it as "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication." But Charter rights and freedoms are neither absolute nor ranked in any kind of hierarchy. When Charter rights conflict, they must be balanced and reconciled; and legislatures may act to limit all rights and freedoms when they can demonstrate justification for doing so – as, for example, in prohibiting hate speech or defamation. (As a practical matter, the Charter does not directly apply to universities, although its protections may apply when the university implements government programs or policies and may apply as well to some limited discretionary decisions the university makes.)

The full and complicated scope of freedom of expression can be illuminated in contrast to academic freedom. These two concepts, while complementary and related, differ in

significant detail.

Academic freedom is defined in the UBC Academic Calendar: “The members of the University enjoy certain rights and privileges essential to the fulfilment of its primary functions: instruction and the pursuit of knowledge. *Central among these rights is the freedom, within the law, to pursue what seem to them fruitful avenues of inquiry, to teach and to learn unhindered by external or non-academic constraints, to engage in full and unrestricted consideration of any opinion.*” By this definition, UBC scholars are entitled to “full and unrestricted consideration of any opinion” – subject to academic constraints. For example, professors are constrained by the need to teach their subject matter. They are constrained in research and publication by peer review, in which subject area experts discriminate between competent and incompetent work. The Academy does not hold that all ideas are equal.

Academic freedom protects scholars from non-academic constraints on their research and teaching. It also creates positive obligations on the university to protect and support the academic freedom of all members of the community—not just students and faculty—and on scholars to use this freedom responsibly. As President Piper wrote in 2001, “Academic freedom must be accompanied by academic responsibility; that is, [participants] must act responsibly, base statements and opinions on fact and evidence, and use acceptable scholarly methods in the pursuit of truth.”

No such formal mechanism limits or governs the exercise of free expression. Indeed, some in society invoke the rubric of “free speech” to advance ideas and agendas that might be repudiated by those with expertise. By demanding equal time, insisting on the right to “present both sides of an issue,” or dismissing informed criticism as elitist, they can use freedom of expression to assault academic freedom, challenging the very concepts of expertise and knowledge.

Some argue that the best way to counter such attacks is through unfettered public debate. They say that UBC should restrict statements on freedom of expression to a categorical endorsement, subject only to legal limits such as those in the Criminal Code (e.g., hate speech) or in provincial human rights legislation. Anything more, they argue, might be seen as limiting or undermining free expression, rather than supporting it.

UBC’s commitment to freedom of expression, however, should go beyond the observation of basic legal requirements. We must hold in balance concurrent legal and moral responsibilities regarding freedom of expression while providing a respectful, constructive and inclusive environment for all.

UBC President Stephen Toope said in a [2009 statement](https://president.ubc.ca/featured/2017/04/06/presidents-message-to-the-ubc-community-on-respectful-) (<https://president.ubc.ca/featured/2017/04/06/presidents-message-to-the-ubc-community-on-respectful->

debate-2/2, "A tension exists between our community values of respect for human dignity and the special place of free expression that universities protect."

That tension can be both intellectual and emotional. It is inevitable, and sometimes appropriate, that people will feel intellectually uncomfortable when confronting ideas they find noxious, that challenge deeply held beliefs – or when their own deeply held beliefs are decried as noxious and offensive. In such circumstances, openness and respectfulness should be a common goal. That said, the desire for civility ought not be a pretext for shutting down groups or individuals whose views some may find distasteful, disquieting, or disturbing. Principled dialogue does not preclude passion and protest. Tolerance does not demand acquiescence, even if the maintenance of good relationships sometimes requires forbearance.

The tension is also legal and practical. UBC is not an empty public square. As an institution of teaching and research, it is a workplace, a learning environment and, for many community members, a home – multiple contexts in which freedom of expression may be protected differently, as it is honoured in balance with other rights and freedoms, including the right to equality of treatment, and the right to life, liberty and security of the person. For this reason, UBC has created procedures that help community members to work through conflicts together, guided by shared values.

In UBC's 2018 strategic plan, President Ono has offered a framework within which to decide how to balance freedoms and rights. That framework rests on three pillars, one of which is "inclusion," defined as: "a commitment to access, success and representation of historically underserved, marginalized or excluded populations." In making inclusion a priority, the strategic plan reminds us that, in a community and a world where power is not distributed equally, institutions such as UBC ought to ensure that those from historically marginalized groups enjoy full protection of their human rights and freedoms, including the expectation to speak and to be heard, and to learn in a climate free of prejudice. There could be no better example of the need for this priority than the historical abrogation of those rights for the Musqueam and Okanagan First Nations, on whose unceded, ancestral and traditional territories UBC sits.

Everyone at UBC bears the responsibility to recognize the unique vulnerabilities of minority group members and those who have experienced systemic violence or attacks on freedoms. We must ensure that freedom of expression is shared among all. Freedom of expression must never be abused or used to disadvantage members of our community who enjoy less power.

UBC's commitment to freedom of expression is resolute; we must protect it assiduously, in concert with our commitment to an inclusive community. Finding the balance will be an ongoing collective challenge. Each of us has the responsibility to honour freedom of

expression in a safe, inclusive UBC. *Tuum est* - it's up to you!

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**Working group members:**

Alan Hu, Faculty of Science

Janet Teasdale, VP Students

Judy Illes, Faculty of Medicine

Mary Bryson, Faculty of Education

Mary Liston, Faculty of Law

Michael Treschow, Faculty of Creative and Critical Studies

Neil Guppy, Faculty of Arts (Working Group Lead)

Sally Thorne, Faculty of Applied Science

Shirley Nakata, Ombudsperson for Students

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