



Ontario
Civil Liberties
Association

"The OCLA takes a vigorous and highly principled approach to defending free speech rights, which is an approach that is sorely needed in Canada today."

—John Carpay,
President,
Justice Centre for
Constitutional Freedoms

"I am very pleased to learn of the Ontario Civil Liberties Association, and wish it the greatest success in its work, which could not be more timely and urgent as elementary civil rights, including freedom of speech, are under attack in much of the world, not excluding the more free and democratic societies."

—Noam Chomsky,
Institute Professor, MIT

"Freedom of expression is our most fundamental and most precious freedom. It has been under attack in Canada for years. The Ontario Civil Liberties Association has taken a position on freedom of expression that is both courageous and principled. The OCLA now stands alone and its position should be supported by all Canadians who cherish democracy and freedom."

—Robert Martin,
Professor of Law,
Emeritus,
Western University

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By Email

Dr. Richard Florizone, President and Vice-Chancellor
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Re: Reprisals for students' expression in social media

The Ontario Civil Liberties Association (OCLA) advocates for civil and human rights, including freedom of expression. It has come to our attention through media reports that Dalhousie University has commenced a disciplinary proceeding against Ms. Masuma Khan in relation to her postings on Facebook.

The practice of using Dalhousie University's statutory powers to discipline its students for the purpose of censoring students for their political expression on social media is concerning to us. We believe that this practice and the policies upon which it is based are inconsistent with the core values of freedom of thought and expression. We write this letter to ask that Dalhousie University repeal its policies that use student discipline to suppress the freedom of expression of its students.

The right to free expression, protected by subsection 2(b) of the *Canadian Charter of Rights and Freedoms* ("Charter"), is a cornerstone of Canadian democracy. Every person in Canada is free to express opinions and ideas that may be contrary to those held by the government or its agents. The search for political, artistic, and scientific truth, the protection of individual autonomy and self-development, and the promotion of public participation in the democratic process are core values protected by the *Charter*.¹

The *Charter* applies to universities in respect of disciplinary proceedings taken against their students – universities are not a *Charter*-free zone.² Social media is a valuable public forum that has been likened to a digital public square by Canadian courts.³ As such, expression on social media is entitled to heightened protection under the *Charter*.

¹ *R. v. Keegstra*, [1990] 3 SCR 697 at pp. 762-763.

² *Pridgen v. University of Calgary*, 2010 ABQB 644 at para. 69; aff'd 2012 ABCA 139 at para. 128.

³ *R. v. Elliot*, 2016 ONCJ 35 (CanLII).

The courts have held that universities may place “reasonable limits on speech on campus”⁴ in order to implement their educational mission; however, this power does not extend to off-campus activities. In the post-*loco parentis* era, universities are no longer the guardians of the good character or morals of their students, and universities are neither liable for nor can regulate the off-campus actions of individuals who happen to be studying there.

Social media posts are a form of public speech in the “digital public square”; they are off-campus activities as much as a debate in any public venue would be. We believe that universities have no business interfering with the conduct of its students at such public off-campus venues, and the legitimate desire for a functional learning environment ought not to be used as a smokescreen to stifle political debate and silence dissent.

We urge Dalhousie University to restrict the use of its powers to discipline students solely to educational matters that are of a genuine on-campus nature, while leaving the resolution of non-academic or off-campus conflicts to the students themselves and to bodies that are suited in a democratic society to do so, such as the police and the courts.

Dalhousie University must refrain from using the blunt tool of student discipline for indoctrinating students in what to think and feel, and instead must allow open and public debate on controversial matters.

We hope to hear from you soon about this important matter. In particular, we wish to know if the university will repeal the impugned policies.

Yours truly,



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⁴ *Pridgen v. University of Calgary*, 2012 ABCA 139 at para. 124 (emphasis added).