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NAVIGATING CONTENTIOUS ISSUES AT MUFA GENERAL MEETINGS

MUFA relies on deliberative, democratic decision-making to resolve important issues in general meetings, some of which are contentious. In all MUFA meetings, members are expected to be respectful to each other, and the chair of the meeting is responsible for ensuring courtesy and decorum. In this regard, understanding the freedom of expression is helpful because it requires toleration of different views, and because it requires some restrictions on speech.

Limitations on the freedom of expression in universities and deliberative bodies

As members of the McMaster community, faculty have an inherent interest in the freedom of expression, as this freedom is crucial for teaching, learning, and the growth of knowledge. Many universities have adopted formal policies protecting this freedom. In 2018, the Ontario Government required every publicly funded college and university in Ontario to adopt a free speech policy consistent with the *Chicago Statement on the Freedom of Expression*.¹ The Chicago Statement notes that the freedom of expression is crucial to the functioning of a university, and there is no absolute right for university members to be shielded from offensive speech.

“In a word, the University’s fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University’s educational mission.”

At the same time, the Chicago Statement highlights reasonable restrictions on speech.

“The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University’s commitment to a completely free and open discussion of ideas.”

¹ <https://news.ontario.ca/en/backgrounder/49950/upholding-free-speech-on-ontarios-university-and-college-campuses>

MUFA is a separate legal entity from McMaster University, as it is a registered non-profit corporation with its own Constitution and By-laws. However, MUFA is subject to many of the same laws as universities that place legal restrictions on speech, including the Ontario Human Rights Code and the Ontario Occupational Health & Safety Act. In this regard, Ontario law imposes similar restrictions on speech as those articulated in the Chicago Statement.

The free expression and exchange of ideas is crucial to democratic, deliberative decision-making. It is through such exchange that democratic assemblies consider and evaluate the merits of competing proposals and (hopefully) arrive at better decisions. Nevertheless, deliberative, democratic associations adopt rules of order (e.g., *Bourinot's* or *Robert's*) that impose restrictions on speech during debate that might not be allowable in other contexts because such rules are necessary for the functioning of deliberative democracy. A few examples demonstrate the point.

Rules requiring speakers to take turns, rules that limit the number and duration of times that members can speak, and rules that limit the total time for debate, are justifiable as necessary for an assembly that must make a decision through a deliberative, democratic process. Rules requiring remarks to be relevant are necessary so the assembly can deliberate on the matter before them. Rules of order commonly require courteous language because discourteous language could inhibit careful deliberation, provoke violence, threaten the acceptance of democratic resolution processes, or threaten the stability of the association itself.² MUFA has adopted *Bourinot's Rules of Order* to balance free expression with limits on speech that are necessary to promote deliberative, democratic decision-making.

Rules for navigating contentious issues at MUFA general meetings³

Bourinot's Rules of Order contain a number of rules that can help us navigate contentious issues at MUFA general meetings in a civil, respectful fashion. The following is a non-exhaustive list of such rules.

- The general purpose of assembly rules is “to ensure that everyone ... who has the right to be present at the assembly has the opportunity to express an opinion; that the rights of a minority are respected; that clear decisions or conclusions are reached on the issues raised on the basis of a free majority vote; and as far possible that proceedings are governed by an assessment of the issues rather than by personality factors.” (p. 39)
- The chair “ensures the efficient conduct of the business before the assembly but does not participate in debate. The chair must remain objective and impartial, acting strictly as an umpire of the proceedings.” (p. 43)
- “Whenever possible, a motion should be worded in affirmative terms and it should express fully and unambiguously the intent of the mover.” Motions should avoid phrases that “represent opinions which are arguable or make statements which may or may not be factual.” (p. 47)
- “Meetings are held to permit those who qualify to express their views on the matters raised for consideration; all members have such a right provided they are prepared to exercise it within the agreed framework of rules and usages.” (p. 52)
- “A member, having risen to signal a desire to speak, must await recognition by the chair.” (p. 53)

² In a deliberative, democratic context, there is a place for passionate disagreement. But rules of order often require members to direct passionate disagreement towards the motion under consideration, and not towards those arguing for or against the motion.

³ From *Bourinot's Rules of Order*, 4th edition by Geoffrey Stanford (1995), McClelland & Stewart.

- “All remarks should be addressed to the chair. Even if a member who has the floor wishes to ask a question of some other member, the question should properly be directed to the chair, as the chair has the right to determine whether the question, or any other matter, is in order.” (p. 53)
- “Remarks and arguments must be relevant to the question being considered. The chair is the judge of relevancy and can interrupt a speaker who is deviating unduly from the main thread of the discussion.” (p. 53)
- “The purposes of any meeting will be served when all members act with propriety in the course of debate. More latitude can be allowed in small and informal meetings, but in all cases the rights and sensibilities of all participants must be observed and respected.” (p. 53)
- “In formal assemblies the word ‘order’ has more than one meaning. The chair calls the meeting to order to quiet the participants and get their attention focused on the business of the meeting. The by-laws or regulations of organizations set out an order of procedure. Order also means decorum and plain good behaviour. It is the chair’s duty to see that order in all these senses is observed and preserved” (p. 56)
- “If in the course of debate a member says or does something that is contrary to the rules or established custom, the chair should immediately call him or her to order. ... The chair’s ruling is not debatable, and it is usually accepted. It may still be challenged, however, on a properly seconded motion to dissent from the ruling.” (p. 56)
- “Any member can at any time rise on a point of order, interrupting a speaker if necessary, to point out a breach of the rules. The speaker should sit down while the point is cleared. The chair must then rule whether a breach of order has occurred.” (p. 56)
- “Slander is the spoken and libel is the written defamation of the character of another. Both are actionable in law, and everyone participating in a meeting must be alert to the possible serious consequences of intemperate or harmful statements.” (p. 57)

*Approved by the MUFA Executive
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