

Public Speech for librarians and other information workers: An Intellectual Freedom Committee Discussion Document

October 5, 2020

The discussions that led to the CFLA-FCAB Position Statement on Speech in the Workplace revealed the wide variety of institutional settings in which Librarians and information workers are employed in Canada. It became clear that no single set of assumptions about organizational tolerance for public comments about matters relating to the workplace would be adequate. It also became clear that the ability to have frank and respectful discussions on library policy, strategic directions and approaches to operations within a workplace is not necessarily equal for all levels of staff or in all workplaces.

The variety of those settings and degrees of tolerance suggested to the Committee that discussions around common questions should take place in order that administrative or institutional assumptions are subject to full, frank and respectful discussion

Preliminary to the discussion of public speech with the aid of this document, the IFC recommends a discussion of the CFLA-FCAB Position Statement on Speech in the Workplace.

What is the responsibility of my workplace regarding my speech in the workplace?

All workplaces should strive for as full, frank and respectful discussion as is possible in the creation and implementation of policies, strategic plans, mission and value statements, approaches to offering services, collections, and similar matters that define the organizational culture. This is especially important when significant changes are under discussion.

Encouraging feedback from staff at all levels makes for a healthy organization and a feeling of ownership by staff in the organization's success. Creating regular avenues of communication for staff with each other and with management ensures that concerns are out in the open and can be addressed. The organizational climate should be such that no staff member feels hesitant to participate fully and respectfully in such discussions.

Are there limits on the rights of employees to speak publicly on matters

arising in the workplace?

As a general reality, if an employee chooses to speak out against an employer's policies or initiatives while acting as its representative, whether this is behind a service desk, in a community meeting, undertaking a community outreach activity or in any other circumstance where the employee is considered to be at work, the employee may be subject to disciplinary action if the employer chooses to take such action. As such actions are discretionary on the part of the employer, it is important that employees understand and discuss "red lines."

Remaining neutral on controversial issues, politics, and so on while acting as the library's representative remains part of the CFLA-FCAB Code of Ethics. It provides an atmosphere conducive to enquiry and reassures patrons that your personal interests, beliefs or biases are not restricting the information, materials, programs or services available to the public.

Can I be disciplined or fired for commenting negatively on a library policy on my personal social media? Or in other forms of public media?

Many employers will have policies governing actions on social media as an employee. There are likely policies that govern who is authorized to be a spokesperson for the organization; infringing such policies could result in disciplinary action. Such policies should be amenable to full, frank and respectful discussion.

Identifying as an employee in public media may lead some to assume that the employee is representing the employer's views. Some employers require the employees in this situation to add a disclaimer making it clear that the employee is not speaking on behalf of the employer. As there is considerable variation in practice in this regard, and as any resulting disciplinary action is at the discretion of the employer, it is important that employees understand and discuss "red lines."

If an employee's views that appear in any public media prove to be damaging to the employer's reputation or business, the employer may have legal grounds to take action if they choose to do so.

What does "neutrality toward users" mean when applied to free speech at my workplace?

Neutrality as a principle of librarianship has evolved over time and has been challenged by advocates of the social responsibility of libraries at various times. The intent of neutrality as a principle is to ensure that the library remains non-partisan and welcoming to all members of the community, providing a wide range of viewpoints on issues of the day which empower the user to form their own educated opinion.

What are my protections if I go to the media as a whistle blower about misconduct, corruption and crime in the workplace?

The CFLA-FCAB Code of Ethics includes the following language in its Privacy, Secrecy and Transparency section: “They also recognize that it is in the public interest that misconduct, corruption and crime be exposed by what constitute breaches of confidentiality by so-called ‘whistle blowers’.”

While this language encourages library staff to expose these practices by employers or colleagues and CFLA-FCAB supports that right in its Code of Ethics, the reaction of an employer cannot be predicted.

Legal protections for whistle blowers vary from province to province. An understanding of such legal protections will be important in any discussion of this issue. In addition to provincial and federal legislation, the provision of appropriate mechanisms for confidential reporting of misconduct, corruption and crime in the workplace will vary between employers.

Articles of interest on the topic:

1. Carney, Stephen, “Democratic Communication in the Library as Workplace ” , Journal of Information Ethics, Vol 12 no 2, 2003. Accessed October 20, 2019. <http://www.sanfordberman.org/biblinks/commun.pdf>
2. de la Peña McCook, Kathleen, “Workplace Speech in Libraries,” Progressive Librarian, #31. Accessed October 20, 2019. <http://www.progressivelibrariansguild.org/PL/PL31/006.pdf>
3. Farkas, Meredith. “When Speech Isn’t Free: Ensuring free speech requires more than neutrality,” American Libraries, May 1 2020. Accessed May 13, 2020. <https://americanlibrariesmagazine.org/2020/05/01/neutrality-when-speech-isnt-free/?fbclid=IwAR3gC4umhNVF5oRLBuwD7x5EwgpKJelwnh1dCTKxAg-Tm4eTUCEbldOPj-U>
4. Lubin, Daniel, “Speaking your mind can hurt your career”, Globe & Mail, May 12, 2018. Accessed October 20,2019. <https://www.theglobeandmail.com/report-on-business/careers/career-advice/experts/speaking-your-mind-can-hurt-your-career/article19003752/>
5. Rudner, Stuart, *Freedom of speech doesn't mean freedom from consequences*, Canadian HR Reporter, June 9, 2014. October 20, 2019. <https://www.hrreporter.com/columnist/canadian-hr-law/archive/2014/06/09/freedom-of-speech-doesnt-mean-freedom-from-consequences/>

6. Samek, Toni, “Library Workplace Speech, a modern irony! The Push for Library Workplace Speech,” February 21, 2009. Accessed October 20, 2019. <http://concernedlibrarians.blogspot.com/2009/02/library-workplace-speech.html>
7. Samfiru Tumarkin LLP, *Free Speech in the Workplace: You Can Be Fired*. Employment Law blog. November 25, 2019. Accessed April 29, 2020. <https://stlawyers.ca/blog-news/640-toronto-free-speech-in-the-workplace-you-can-be-fired/>
8. Stam, Lisa, *Freedom of Speech in the Workplace*, Employment and Human Rights Law in Canada, October 12, 2011. Accessed April 21, 2020 <https://www.canadaemploymenthumanrightslaw.com/2011/10/freedom-of-speech-in-the-workplace/>