

# Defamation in Academia: A Legal and Practical Limit on Academic Freedom

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Researchers and academics are routinely required to defend statements they have made in the course of their work — at conferences of their peers, in the context of internal reviews, in complaint and discipline proceedings, and in peer-reviewed publications. But the prospect of defending the same statements in a court when faced with a defamation claim (or even the dark threat of a defamation claim) is another beast entirely — one that can have the devastating effect of inhibiting academic freedom.

Academic freedom has been defined as the freedom to teach, discuss, research, and publish works without institutional censorship or other unreasonable interference. Without academic freedom, post-secondary institutions cannot achieve their goals of conducting independent research, disseminating knowledge, or fostering independent thinking and expression.<sup>2</sup> Defamation law is meant to protect reputations against harmful false statements. In Canada, defamation law places a heavy burden on defendants to justify their statements (i.e. prove their truth) or otherwise defend them. Moreover, the time, expense, and emotional toll of litigating a defamation claim can, and does, intimidate academics into silence, sometimes even inhibiting them from entering a field of inquiry. Settlement of defamation claims can result in agreements that restrict expression by including confidentiality and non-disparagement clauses.

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***The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.***

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