



**C A F A**  
Coalition for Academic  
Freedom in the Americas

**C L A A**  
Coalición por la Libertad  
Académica en las Américas

*Sent via email to*

*Minister of Education Jean-François Roberge*

*Minister of Higher Education Danielle McCann*

July, 2022

**Re: Protect and promote university autonomy, other key elements of academic freedom**

Dear Ministers Roberge and McCann:

We write as organizers of the Coalition for Academic Freedom in the Americas (“the Coalition”) to express our deep concern over the recent passage of Bill 32, relating to academic freedom within universities in Quebec. While Bill 32’s stated aim is to advance and ensure the right to academic freedom – aims the Coalition naturally supports – as written, the bill represents a direct threat to academic freedom and university autonomy in particular, potentially stripping university communities of control over key aspects of their self-governance, and placing it in the hands of outside political actors. Likewise, the bill asserts a definition of academic freedom that is overly narrow and inconsistent with current human rights doctrine, and should be revised. We respectfully urge that you promptly address the concerns laid out below, so that when implemented, Bill 32 does not violate the very rights it ostensibly seeks to protect. We would welcome a dialogue with your office to discuss the matter further.

The Coalition is a hemisphere-wide network of universities, academics, students, and activists, working to protect and promote academic freedom throughout the Americas, including through monitoring, advocacy, and public- and on-campus learning activities. Our leadership consists of Scholars at Risk,<sup>1</sup> the Universidad de Monterrey, Mexico, and the Human Rights Research and Education Center of the University of Ottawa.<sup>2</sup> Where academic freedom is threatened through legislative, regulatory, or related action, the Coalition seeks to alert the relevant authorities and to propose corrective measures in line with relevant legal doctrine and human rights commitments. Accordingly, we join the already vocal and widespread opposition to the Bill within Canada, including scholars and activists from the [University of Montreal](#), [Concordia University](#), the [University of Quebec](#), the [Quebec Student Union](#), the [Fédération nationale des enseignantes et enseignants du Québec](#), and the [Fédération Québécoise des Professeures et Professeurs d’université](#), to name a few.

On June 3, 2022, Quebec’s National Assembly passed Bill 32: “An Act Respecting Academic Freedom in the University Sector,” which purportedly seeks to “recognize, promote and protect university academic freedom in order to support the mission of university-level educational institutions, which includes the

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<sup>1</sup> Scholars at Risk is an international NGO headquartered in New York, working to protect threatened scholars and promote academic freedom around the world.

<sup>2</sup> This letter does not necessarily reflect the views of individual Coalition members or member institutions.



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production and transmission of knowledge through research, creation and teaching activities and through services to the community.” Among other things, Bill 32 requires each higher education institution to adopt a policy pertaining to academic freedom; establish a council, and appoint an individual, to oversee the implementation of that policy; and to take measures to increase awareness about and recognition of academic freedom on campus.

While the Bill’s stated goals appear uncontroversial, and even laudable, the authority it gives to a non-university actor – namely the Minister of Higher Education – to oversee and micromanage its implementation represents a patent encroachment on university autonomy and thus a distinct threat to academic freedom. Specifically, Paragraph 6 of the Bill gives the Minister apparently unlimited discretion to “order an educational institution to include in its policy any element” that the Minister “considers. . . necessary for protecting university academic freedom.” Should an institution fail to adopt a policy that the Minister (again, apparently in his/her sole discretion) deems compliant with the Bill, the Minister may then designate a person to “have the necessary corrections made. . . at the institution’s expense and in the manner determined by the Minister.” Relatedly, Paragraph 7 of the Bill requires that each institution report annually to the Minister, including the processing of complaints regarding violations of academic freedom, the measures and penalties applied, and “any other information required by the Minister.”

In short, the Bill vests an outside political actor with broad authority to determine the steps every university in Quebec must take to protect academic freedom, and how they must respond when the Minister believes it has been violated. Unlike members of the relevant higher education community, the individuals to whom Bill 32 grants ultimate decision-making authority do not necessarily possess expertise in university administration, applicable legal or human rights principles, or other relevant subject matter; may lack personal knowledge of the institution, facts, or actors involved in a given situation; and are ultimately answerable to popular opinion rather than academic expertise.

As human rights advocates who have been engaged for years in promoting and protecting academic freedom in the Americas and around the world, we have seen the impact of similar legislation: it invariably accompanies efforts to politicize the higher education space, chills expression on campus, and undermines the very freedom it purports to protect.

For this reason, a number of authorities – including UNESCO, whose 1997 Recommendation concerning the status of higher education teaching professionals the Bill cites to directly – make clear that this type of encroachment on self-governance is fundamentally incompatible with academic freedom. As the Recommendation states, autonomy is “the institutional form of academic freedom.” Moreover, “self-governance” is an “essential component[] of meaningful autonomy for institutions of higher education.” In the years since UNESCO’s Recommendation, numerous authorities have affirmed its uncontroversial



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assertions regarding autonomy.<sup>3</sup> Despite its explicit acknowledgment of the importance of autonomy and reference to the UNESCO Recommendation, Bill 32 manifestly works against this purpose by giving control over crucial university functions to outside political actors.

Questions of how to protect academic freedom and respond to violations must be decided by members of each higher education community – in particular, university leadership working in partnership with representatives of academic staff and students. They must do so in a manner that is transparent, ensures accountability, and is consistent with relevant laws and norms. Individuals who believe their rights have been violated may avail themselves first of procedures within their institution, and then, if necessary, before the courts. No new remedies are needed, and remedies that interject political interference into campus matters are not just unnecessary, they are dangerous.

Finally, we also note with concern the bill’s narrow definition of academic freedom, which omits to mention the rights of higher education students. We urge that the academic freedom of students be explicitly acknowledged – as it has been by numerous international authorities – particularly given the degree to which students’ rights may be implicated by the Bill. Moreover, we urge that any definition of academic freedom that is adopted going forward be revised consistent with current human rights doctrine.<sup>4</sup>

Given the concerns laid out above, we respectfully urge you to ensure protection of academic freedom and university autonomy by addressing these concerns immediately, before Bill 32 is implemented. We hope to schedule a meeting with you in the near term to discuss our concerns and any remedial measures in more detail.

We appreciate your attention to this important matter and look forward to your reply.

Sincerely,

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<sup>3</sup> See, e.g. *Report on Academic Freedom and the Freedom of Opinion and Expression*, UN Special rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/75/261 (2020) (UN Rep’t) at para. 9 (noting that academic freedom includes “institutional protections – autonomy and self-governance, themselves rooted in human rights standards – to guarantee the freedom for those pursuits. States are under a positive obligation to create a general enabling environment for seeking, receiving and imparting information and ideas. Institutional protection and autonomy are a part of that enabling environment.”; see also *Inter-American Principles on Academic Freedom and University Autonomy*, (Inter-American Principles) Principle II, University Autonomy.

<sup>4</sup> See UN Rep’t, paras. 6-8; *Inter-American Principles*, generally.