

Freedom of Speech and Academic Freedom - Governing Policy

1. Purpose of policy

1.1 The purpose of this policy is to affirm the University of the Sunshine Coast's commitment to treat freedom of speech and academic freedom as of paramount value to the University and to ensure that these freedoms are not unnecessarily burdened by restrictions other than those imposed by law and for the reasonable and proportionate regulation of conduct by the University. This policy should be read in conjunction with the Staff Code of Conduct – Governing Policy. In the event there is a conflict between the two policies, the *Staff Code of Conduct – Governing Policy* will take precedence.

2. Policy scope and application

2.1 This policy applies to all students, current employees and people representing the University, including visiting, honorary and adjunct academics, members of University Council, external members of University committees, and individuals acting in a voluntary capacity.

2.2 The University will have regard to the principles of this policy in the drafting, review, amendment, interpretation of or exercise of any power or discretion under the university's policies or procedures.

2.3 The university will have regard to the principles of this policy in the exercise of any power or discretion conferred on the University under any contract or workplace agreement, so far as it is consistent with the terms of that contract or workplace agreement. This policy is intended to complement, and not detract from, relevant sections of the University's Enterprise Agreement.

3. Definitions

Please refer to the University's Glossary of Terms for policies and procedures. Terms and definitions identified below are specific to this policy and are critical to its effectiveness:

'academic freedom' for the purposes of this Policy comprises the following elements:

- the freedom of academic staff to teach, discuss, and research and to disseminate and publish the results of their research;
- the freedom of academic staff and students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to their subjects of study and research;
- the freedom of academic staff and students to express their opinions in relation to the higher education provider in which they work or are enrolled;
- the freedom of academic staff to participate in professional or representative academic bodies;
- the freedom of students to participate in student societies and associations;
- the autonomy of the higher education provider in relation to the choice of academic courses and offerings, the ways in which they are taught and the choices of research activities and the ways in which they are conducted.

'academic staff' all those who are employed by the university to teach and/or carry out research and extends to those who provide, whether on an honorary basis or otherwise, teaching services and/or conduct research at the university.

'external visiting speaker' any person who is not an invited visiting speaker and for whom permission is sought to speak on the University's land or facilities, including virtual spaces using the University's ICT resources.

'imposed by law' in relation to restrictions or burdens or conditions on a freedom include restrictions or burdens or conditions imposed by statute law, the common law (including the law of defamation), duties of confidentiality, restrictions deriving from intellectual property law and restrictions imposed by contract.

APPROVAL AUTHORITY

Council

RESPONSIBLE EXECUTIVE MEMBER

Vice-Chancellor and President

DESIGNATED OFFICER

Director, Governance and Risk Management

FIRST APPROVED

6 August 2020

LAST AMENDED

2 June 2021

REVIEW DATE

5 August 2025

STATUS

Active

'invited visiting speaker' any person who has been invited by the University to speak on the university's land or facilities, including virtual spaces using the University ICT resources.

'speech' extends to all forms of expressive conduct including oral speech and written, artistic, musical and performing works and activity and communication using social media; the word 'speak' has a corresponding meaning.

'staff' for the purposes of this policy includes all employees of the University whether fulltime or part-time and whether or not academic staff.

'the duty to foster the wellbeing of staff and students';

- includes the duty that no member of staff and no student suffers unfair disadvantage or discrimination on any basis recognised at law including race, sex, gender, sexuality, religion and political belief;
- includes the duty that no member of staff and no student is subject to threatening or intimidating behaviour by another person or persons on account of anything they have said or proposed to say in exercising their freedom of speech;
- supports reasonable and proportionate measures to prevent any person from using lawful speech which a reasonable person would regard, in the circumstances, as likely to humiliate or intimidate other persons and which is intended to have either or both of those effects;
- does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another.

'the university' means the University as an entity and includes its decision-making organs and officers, its student representative bodies, undergraduate and post-graduate, and any entities controlled by the university.

'unlawful' means in contravention of a prohibition or restriction or condition imposed by law.

4. Policy Statement

4.1 Principles

4.1.1 Every member of academic staff and every student at the University enjoys freedom of speech exercised on University land or in connection with the University and academic freedom subject only to prohibitions, restrictions or conditions imposed by:

- law;
- the reasonable and proportionate regulation of conduct necessary to the discharge of the university's teaching and research activities;
- the right and freedom of others to express themselves and to hear and receive information and opinions;
- the reasonable and proportionate regulation necessary to discharge the university's duty to foster the wellbeing of students and staff;
- the reasonable and proportionate regulation of conduct necessary to enable the University to give effect to its legal duties including its duties to visitors to the university;
- the University by way of its reasonable requirements as to the courses to be delivered and the content and means of their delivery.

4.1.2 Subject to reasonable and proportionate regulation of the kind referred to in 4.1.1, a person's lawful speech on the university's land or in connection with a University activity shall not constitute misconduct, unless it has been determined as a breach under the *Staff Code of Conduct – Governing Policy*, nor attract any penalty or other adverse action by reference only to its content.

4.1.3 The exercise by a member of academic staff or of a student of academic freedom, subject to the above limitations, shall not constitute misconduct nor attract any penalty or other adverse action unless it has been determined as a breach under the *Staff Code of Conduct – Governing Policy*.

4.1.4 In entering into affiliation, collaborative or contractual arrangements with third parties and in accepting donations from third parties subject to conditions, the University shall take all reasonable steps to minimise the restrictions or burdens imposed by such arrangements or conditions on the freedom of speech or academic freedom of any member of the academic staff or students carrying on research or study under such arrangements or subject to such conditions.

4.1.5 The University has the right and responsibility to determine the terms and conditions upon which it shall permit external visitors and invited visitors to speak on University land and use University facilities. Such terms are identified in the *Hire of University Facilities – Operational Policy*.

4.1.6 Subject to the preceding Principles the University shall not refuse permission for the use of its land or facilities by an external visitor or invited visitor nor attach conditions to its permission, solely on the basis of the content of the proposed speech by the visitor.

4.1.7 Consistent with this Policy the University may take reasonable and proportionate steps to ensure that all prospective students in any of its courses have an opportunity to be fully informed of the content of those courses. Academic staff must comply with any policies and rules supportive of the university's duty to foster the wellbeing of staff and students. They are not precluded from including content solely on the ground that it may offend or shock any student or class of students.

5. Authorities/Responsibilities

The following authorities/responsibilities are delegated under this policy:

| ACTIVITY | UNIVERSITY OFFICER/COMMITTEE |
|--|---|
| Approval of action where the policy is breached | Vice-Chancellor and President |
| Investigation of an alleged breach of the code by staff | Director, People and Culture |
| Investigation of an alleged breach of the code by students | Pro Vice-Chancellor (Students) |
| Determination of the terms and conditions upon which external visitors and invited visitors may speak on University land and use University facilities | Pro-Vice Chancellor (Global and Engagement) |
| | Chief Operating Officer |

END

RELATED DOCUMENTS

- Acceptable Use of ICT Resources - Governing Policy
- Anti-Discrimination and Freedom from Bullying and Harassment - Governing Policy
- Conduct on University Premises - Operational Policy
- Conflict of Interest - Governing Policy
- Donation Acceptance - Operational Policy
- Equity, Diversity and Inclusion - Governing Policy
- Externally Funded Research - Academic Policy
- Health, Safety and Wellbeing - Governing Policy
- Hire of University Facilities - Operational Policy
- Learning and Teaching Grants, Awards and Fellowships - Academic Policy
- Management of Contracts and Memoranda of Understanding (MOUs) - Governing Policy
- Marketing and Communications - Operational Policy
- Resolution of Complaints (Staff) - Guidelines
- Resources - Room Bookings - Operational Policy
- Responsible Research Conduct - Governing Policy
- Social Media - Operational Policy
- Social Media - Procedures
- Staff Code of Conduct - Governing Policy
- Student Conduct - Governing Policy

RELATED LEGISLATION / STANDARDS

- Higher Education Support Act 2003 (Cth)