

Academic Freedom and Freedom of Speech Policy

1. STRATEGIC PLAN THEME AND COMPLIANCE OBLIGATION SUPPORTED

[Higher Education Support Act 2003](#)

[Higher Education Standards Framework \(Threshold Standards\) 2015](#)

[Foreign Influence Transparency Scheme Act 2018](#)

[Academic, Professional and General Staff Agreement 2017-2021](#)

Strategic Plan Theme: [People and Culture](#)

2. PURPOSE

- 2.1 To ensure that the freedom of lawful speech of staff and students of the University and visitors to the University is treated as a paramount value and therefore is not restricted nor its exercise unnecessarily burdened by restrictions or burdens other than those imposed by law or referred to in this Policy.
- 2.2 To ensure that academic freedom is treated as a defining value by the University and therefore not restricted nor its exercise unnecessarily burdened by restrictions or burdens other than those imposed by law or referred to in this Policy.
- 2.3 To affirm the importance of the University's institutional autonomy under law in the regulation of its affairs, including in the protection of freedom of speech and academic freedom.
- 2.4 To address the matters above in the context of Curtin's Values and the Code of Conduct.

3. POLICY STATEMENT

- 3.1 The University shall have regard to this Policy:
 - (a) in the drafting, review or amendment of any non-statutory policies or rules and in the drafting, review or amendment of delegated legislation pursuant to any delegated law-making powers;
 - (b) so far as is reasonably practicable, in the interpretation and application of existing non-statutory policies and rules of the University;
 - (c) in the exercise of any power or discretion under a non-statutory policy or rule of the University; and
 - (d) in the exercise of any power or discretion conferred on the University by a law made by the University in the exercise of its delegated law-making powers, so far as that law allows.
- 3.2 Every member of the staff and every student at the University enjoys freedom of speech exercised on University land or in connection with the University subject only to restraints or burdens imposed by:
 - (a) applicable law;
 - (b) the reasonable and proportionate regulation of conduct by the University in relation to the University's teaching and research activities;
 - (c) the right and freedom of others to express themselves and to hear and receive information and opinions;
 - (d) the reasonable and proportionate regulation of conduct by the University to enable the University to fulfil its duty to foster the wellbeing of students and staff;
 - (e) the reasonable and proportionate regulation of conduct by the University to enable the University to give effect to its Values, the Code of Conduct and its legal duties including its duties to visitors to the University.
- 3.3 Subject to reasonable and proportionate regulation of the kind referred to in the previous section, a person's lawful speech on the University's land or in connection with a University activity shall

not constitute misconduct nor attract any penalty or other adverse action by reference only to its content; nor shall the freedom of academic staff to make lawful public comment on any issue in their personal capacities be subject to constraint imposed by reason of their employment by the University.

- 3.4 Every member of the academic staff and every student enjoys academic freedom subject only to prohibitions, restrictions or conditions:
- (a) imposed by applicable law;
 - (b) imposed by reasonable and proportionate regulation of conduct by the University in relation to the University's teaching and research activities;
 - (c) imposed by reasonable and proportionate regulation of conduct by the University to enable the University to fulfil its duty to foster the wellbeing of students and staff;
 - (d) imposed by the University by way of reasonable and proportionate regulation to enable the University to give effect to its Values, Code of Conduct, and legal duties;
 - (e) imposed by the University by way of its reasonable requirements as to the conduct of research and the courses to be delivered and the content and means of their delivery.
- 3.5 The exercise by a member of the 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.
- 3.6 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.
- 3.7 The University has the right and responsibility to determine the terms and conditions upon which it shall permit external visiting speakers and invited visiting speakers to speak on University land and use University facilities and in so doing may:
- (a) require the person or persons organising the event to comply with the University's booking procedures and to provide information relevant to the conduct of any event, and any public safety and security issues;
 - (b) distinguish between invited visiting speakers and external visiting speakers in framing any such requirements and conditions;
 - (c) refuse permission to any invited visiting speaker or external visiting speaker to speak on University land or at University facilities where the content of the speech is or is likely to:
 - (i) be unlawful;
 - (ii) be inconsistent with the University's Values; or
 - (iii) prejudice the fulfilment by the University of its duty to foster the wellbeing of staff and students;
 - (d) refuse permission to any external visiting speaker to speak on University land or at University facilities where the content of the speech is or is likely to involve the advancement of theories or propositions which purport to be based on scholarship or research but which fall below scholarly standards to such an extent as to be detrimental to the University's character as an institution of higher learning;
 - (e) require a person or persons seeking permission for the use of University land or facilities for any external visiting speaker to contribute in whole or in part to the cost of providing security and other measures in the interests of public safety and order in connection with the event at which the external visiting speaker is to speak.
- 3.8 Subject to section 3.7, the University shall not refuse permission for the use of its land or facilities by an external visiting speaker or invited visiting speaker nor attach conditions to its permission, solely on the basis of the content of the proposed speech by the visitor.
- 3.9 Consistently 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.

4. SCOPE OF POLICY

This Policy applies to the governing body of the University, its officers and employees and its decision-making organs, including those involved in academic governance.

5. DEFINITIONS

(Note: Commonly defined terms are located in the [Curtin Common Definitions](#). Any defined terms below are specific to this document)

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 University;
- 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 University in relation to the choice of academic courses and offerings, the ways in which they are taught and the choice 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.

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.

Invited visiting speaker

Any person who has been invited by the University to speak on the University's land or facilities.

Non-statutory policies and rules

Means any non-statutory policies, rules, guidelines, principles, codes or charters or similar instruments.

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 'staff' 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 to ensure that no member of staff and no student suffers unfair disadvantage or unfair adverse discrimination on any basis recognised at law including race, gender, sexuality, religion and political belief;
- includes the duty to ensure 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.

Unlawful

Means in contravention of a prohibition or restriction or condition imposed by law

6. SUPPORTING PROCEDURES

Nil

7. RELATED DOCUMENTS/LINKS

[Academic, Professional and General Staff Agreement 2017-2021](#)

[Statute 10](#)

[Code of Conduct](#)

[Student Charter](#)

[Hire of University Facilities](#)

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Policy Manager	Provost
Approval Authority	Council
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REVISION HISTORY

Version	Approved/ Amended/ Rescinded	Date	Committee / Board / Executive Manager	Approval / Resolution Number	Key Changes & Notes
New	Approved	02/12/2019	Council	C 159/19	Attachment A to Item 7.2