



THE UNIVERSITY OF  
**NOTRE DAME**  
A U S T R A L I A

# Policy: Protecting Academic Freedom and Freedom of Speech

Effective: 5 October 2020

Audience: Staff Members, Students  
and other members of the University  
community

Policy Category: Governance  
Policy Sub-category: Compliance

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## 1 OBJECTS

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- 1.1** The Objects of the University as defined in s5 of the *University of Notre Dame Australia Act 1989* (WA) are :
- (a) the provision of University education, within a context of Catholic faith and values; and
  - (b) the provision of an excellent standard of -
    - i. teaching, scholarship and research;
    - ii. training for the professions; and
    - iii. pastoral care for its students.

## 2 PURPOSE AND RELATIONSHIP TO STATEMENT: ACADEMIC FREEDOM

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- 2.1** The purpose of this Policy is to set out the principles of academic freedom and freedom of speech that are, as far as reasonably practicable, to be interpreted, applied and exercised in relation to the University's non-statutory governance framework and delegated decision making powers.
- 2.2** The principles of academic freedom and freedom of speech are fundamental to the mission and the culture of the University. The principle of academic freedom is also recognised in the University's *Statement: Academic Freedom*. This Policy must be read in conjunction with this Statement.
- 2.3** As an Australian University with a Catholic identity, the University is committed to the appropriate application of its institutional autonomy in pursuit of its Objects. The University also acknowledges its responsibility as an Australian higher education provider to promote the principles of academic freedom and freedom of speech set out in *A Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers* (Model Code).

## 3 SCOPE AND APPLICATION

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- 3.1** This Policy applies to:
- 3.1.1 students; Staff Members; honorary Adjunct appointees, Clinical Academic appointees and Visiting appointees of the University; when acting individually, or as part of a University decision-making committee;
  - 3.1.2 Directors, Trustees and Governors of the University;
  - 3.1.3 external members of University committees;
  - 3.1.4 student-affiliated representative bodies to the extent that they have policies and rules which are capable of being applied to restrict or burden the Academic Freedom or freedom of speech of anyone.
- 3.2** The Principles adopted in this Policy shall be applied as far as reasonably practicable, in relation to University non-statutory policies, statements, codes of conduct, rules and procedures.
- 3.3** The University reserves the right to take disciplinary action against a Staff Member or student where their exercise of free speech or academic freedom fails to adhere to this Policy, or to the University's relevant Code(s) of Conduct.

## 4 PRINCIPLES

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### **Freedom of Speech**

- 4.1** Staff Members and students of the University will be entitled to freedom of speech when exercised on a University campus or in connection with the University, subject only to those restraints or burdens imposed by:
- 4.1.1 law;
  - 4.1.2 the reasonable and proportionate regulation of conduct necessary to the discharge of the University's teaching and research activities;
  - 4.1.3 the right and freedom of others to express themselves and to hear and receive information and opinions;
  - 4.1.4 the reasonable and proportionate regulation of conduct to enable the University to fulfil its duty to foster the wellbeing of Staff Members and students;
  - 4.1.5 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.
- 4.2** For the purposes of subclauses 4.1.2 - 4.1.5, reasonable and proportionate regulation of conduct in relation to the exercise of free speech includes the general obligation on Staff Members and students to comply with the expected standards of conduct under the relevant University Code(s) of Conduct.
- 4.3** Subject to clause 4.1 and the requirements of the relevant Code(s) of Conduct, a person's lawful speech on the University's Campuses 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.
- 4.4** The freedom of Staff Members to make lawful public comment on any issue in their own personal capacities while not identifying themselves as being Staff Members of the University will not be subject to constraint imposed by reason of their employment with the University.

### **Academic Freedom**

- 4.5** Academic Staff and students will be entitled to academic freedom, subject only to those prohibitions, restrictions or conditions imposed by:
- 4.5.1 law;
  - 4.5.2 the reasonable and proportionate regulation necessary to discharge the University's teaching and research activities;
  - 4.5.3 the reasonable and proportionate regulation necessary to discharge the University's duty to foster the wellbeing of Staff Members and students;
  - 4.5.4 the reasonable and proportionate regulation to enable the University to give effect to its legal duties; and
  - 4.5.5 the University by way of its reasonable requirements as to the courses to be delivered and the content and means of their delivery.
- 4.6** For the purposes of subclauses 4.5.2 - 4.5.5 reasonable and proportionate regulation of conduct in relation to the exercise of academic freedom includes the general obligation of Staff Members and students to comply with the expected standards of conduct under the relevant University Code(s) of Conduct.

**4.7** The exercise by an Academic Staff Member or student of academic freedom, subject to the above limitations, shall not constitute misconduct nor attract any penalty or other adverse action.

#### **Dealings with third parties**

**4.8** In entering into affiliation, collaboration or a contractual arrangement 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 Academic Staff Member or students carrying on research or study under such arrangements or subject to such conditions.

#### **Visiting speakers**

**4.9** The University has the right and responsibility to determine the terms and conditions upon which it shall permit visiting speakers to speak on a University campus and use a University facility, and in so doing may:

- 4.9.1 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;
- 4.9.2 refuse permission to any visiting speaker to speak on a University campus or at a University facility where the content of the speech is, or is likely to:
  - (a) be unlawful; or
  - (b) prejudice the University's ability to fulfil its duty to foster the wellbeing of staff and students;
  - (c) prejudice the University's ability to fulfil its Objects or maintain its Catholic identity;
- 4.9.3 refuse permission to a visiting speaker to speak on a University campus or at a University facility 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;
- 4.9.4 require a person or persons seeking permission for the use of University campuses or facilities for any 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 visiting speaker is to speak.

#### **Disclosure of course content**

**4.10** In accordance with this Policy, the University will endeavour to take reasonable and proportionate steps to ensure that all prospective students have an opportunity to be informed of the content of University courses.

**4.11** Academic Staff Members must comply with any policies and rules supportive of the University's duty to foster the wellbeing of staff and students. However, they are not precluded from including content solely on the ground that it may offend or shock any student or class of students.

## 5 ROLES AND RESPONSIBILITIES

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- 5.1 Staff Members and students** are responsible for ensuring they exercise their right to academic freedom and freedom of speech on any University campus, or in connection with the University's activities, in a manner that upholds the prohibitions, restrictions or conditions imposed under this Policy, including the University's Objects and the University's Codes of Conduct.

## 6 RELATED DOCUMENTS

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- 6.1** *University of Notre Dame Australia Act 1989.*
- 6.2** *Statement: Academic Freedom*
- 6.3** *A Model Statement for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers: the Hon Robert S. French AC*  
<https://www.education.gov.au/review-university-freedom-speech>
- 6.4** *Code of Conduct: Students*
- 6.5** *Code of Conduct: Staff*
- 6.6** *Code of Conduct: Research.*
- 6.7** *Policy: Managing Misconduct*
- 6.8** *General Regulations – Student Discipline*

## 7 DEFINITIONS

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- 7.1 For the purpose of this Policy, the following definitions apply:**

**Academic Freedom** comprises:

- (a) In relation to Academic Staff Members, the freedoms listed in sections (a) to (e) of the *Statement: Academic Freedom*;
- (b) the freedom of 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;
- (c) the freedom of students to participate in student societies and associations; and
- (d) the autonomy of the University in pursuit of its statutory Objects and 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 Members** means Staff Members 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.

**Code(s) of Conduct** mean one or more of the following: *Code of Conduct: Students; Code of Conduct: Research; and/or Code of Conduct: Staff.*

**Visiting speaker** means any person who has been invited by the University, or who seeks permission, to speak on the University's campuses or facilities. For the purposes of this definition, 'the University' includes its decision-making organs and officers; its student representative bodies, undergraduate

and post-graduate; any clubs, societies and associations recognized by its decision-making organs or student representative bodies; and any entities controlled by the University.

**Non-statutory policies and rules** means any non-statutory policies, rules, guidelines, principles, Statements 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 Member** includes all employees of the University whether full-time or part-time and whether or not academic staff.

**University** means The University of Notre Dame Australia.

**University Campus** means any private land, whether owned or leased by the University, upon which University activities are conducted and any virtual spaces using the University's ICT resources.

Version	Approval Date	Approved by	Amendment
1	2 October 2020	Board of Directors, CR 04-20	Effective date – new Policy.