

# Academic Freedom and Freedom of Speech Policy



## 1 Purpose

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;
- ensure that freedom of lawful Speech of all University Employees, Students and Visitors is treated as a paramount value;
- ensure that Academic Freedom is treated as a defining value by the University; and
- ensure that freedom of Speech and Academic Freedom are not restricted nor, in their exercise, burdened otherwise than by restrictions or burdens Imposed by Law and as set out in this policy.

## 2 Scope

This policy applies to:

- the University's Council, officers, Employees, Students and other decision-making bodies, including the Academic Board and Academic Board Members; and
- Student representative bodies to the extent that they have policies and rules which are capable of being applied to restrict freedom of Speech or Academic Freedom.

## 3 Policy Statement

The principles of this policy are intended to guide the preparation, review, amendment, interpretation and application of the University's industrial agreements, contracts, policies and procedures. This policy prevails to the extent of any inconsistency with the University's other policies or procedures.

This Policy aligns with:

- *Higher Education Standards Framework (Threshold Standards) 2021: Standard 6.1*

## 4 Principles

### 4.1 Freedom of Speech

The University is a place where every Employee, Student and Visitor enjoys freedom to express themselves in the advancement of knowledge by argument and disagreement in the exercise of freedom of Speech when using University Facilities.

### 4.2 Academic Freedom

The University will promote and defend Academic Freedom as a defining value of the University in the conduct of its affairs, so that all Employees and Students may engage without fear or favour in the University's core mission of the advancement of knowledge.

### 4.3 Limitations on Freedoms

The University will protect freedom of Speech and Academic Freedom subject only to restrictions or burdens:

- Imposed by Law;
- imposed by the reasonable and proportionate action necessary to the discharge of the University's learning, teaching and Research activities;
- imposed by the right and freedom of others to express themselves and receive information and opinions, recognising the freedom of Employees and Students to express their respective views;
- imposed by the reasonable and proportionate regulation necessary to discharge the University's Duty to Foster the Wellbeing of Employees, Students and Visitors;
- imposed by the reasonable and proportionate regulation necessary to prevent the advancement of theories or propositions
  - which fall below scholarly standards to such an extent as to be detrimental to the University's character as an institution of higher learning, and
  - where the advancement of such theories or propositions might, if given effect, result in physical or mental harm to others; or
- imposed by the University by way of its reasonable requirements applicable to the Academic Programs and Courses to be delivered and the content and means of their

delivery.

Employees are not precluded from including content in an Academic Program or Course or undertaking Research solely on the ground that it may offend or shock any Employee, Student or group of Students.

#### **4.4 Exercise of Freedoms not Misconduct**

The exercise by Employees or Students of:

- freedom of Speech, subject to any restrictions or burdens set out in this policy, shall not constitute misconduct nor attract any penalty or other adverse action by reference only to its content; or
- Academic Freedom, subject to any restrictions or burdens set out in this policy, shall not constitute misconduct nor attract any penalty or other adverse action.

#### **4.5 Visitors**

The University has the right and responsibility to determine the circumstances, terms and conditions upon which it shall permit Visitors to speak using University Facilities.

The University shall not refuse permission for the use of University Facilities by a Visitor, nor attach conditions to its permission, solely on the basis of the content of the proposed Speech by the Visitor. However, the University may refuse permission to any Visitor to speak using University Facilities where the content of the Speech is or is likely to:

- be Unlawful;
- prejudice the fulfilment by the University of its Duty to Foster the Wellbeing of Employees, Students and Visitors; or
- involve the advancement of theories or propositions 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, and where the advancement of such theories or propositions might, if given effect, result in physical or mental harm to others.

#### **4.6 Third Parties**

In entering into affiliation, collaborative or contractual arrangements with third parties and accepting donations from third parties that are subject to conditions, the University shall take all reasonable steps to minimise the restrictions or burdens imposed by these arrangements or

conditions on the freedom of Speech or the Academic Freedom of any Employees or Students when carrying out Research or study under these arrangements or subject to these conditions.

## 5 References

Nil.

## 6 Schedules

This policy must be read in conjunction with its subordinate schedules as provided in the table below.

## 7 Policy Information

<b>Accountable Officer</b>	Vice-Chancellor
<b>Responsible Officer</b>	University Secretary
<b>Policy Type</b>	Governance Policy
<b>Policy Suite</b>	
<b>Subordinate Schedules</b>	
<b>Approved Date</b>	14/12/2020
<b>Effective Date</b>	14/12/2020
<b>Review Date</b>	14/12/2025
<b>Relevant Legislation</b>	<a href="#"><i>Age Discrimination Act 2004 (Cth)</i></a> <a href="#"><i>Anti-Discrimination Act 1991 (Qld)</i></a> <a href="#"><i>Australian Human Rights Commission Act 1986 (Cth)</i></a> <a href="#"><i>Disability Discrimination Act 1992 (Cth)</i></a> <a href="#"><i>Human Rights Act 2019 (Qld)</i></a> <a href="#"><i>Racial Discrimination Act 1975 (Cth)</i></a> <a href="#"><i>Sex Discrimination Act 1984 (Cth)</i></a> <a href="#"><i>University of Southern Queensland Act 1998 (Qld)</i></a>
<b>Policy Exceptions</b>	<a href="#">Policy Exceptions Register</a>

<b>Related Policies</b>	<a href="#">Code of Conduct Policy</a>  <a href="#">Student General Conduct Policy</a>  <a href="#">Student Grievance Resolution Policy</a>  <a href="#">Student Expectations and Responsibilities Policy</a>
<b>Related Procedures</b>	<a href="#">Employee Complaints (Sexual Harassment, Sexual Assault and Sex Discrimination) Procedure</a>  <a href="#">Student General Misconduct Procedure</a>  <a href="#">Student Grievance Resolution Procedure</a>
<b>Related forms, publications and websites</b>	<a href="#">Enterprise Agreement</a>
<b>Definitions</b>	<p><b>Terms defined in the Definitions Dictionary</b></p> <p><a href="#">Academic Freedom</a></p> <p>Academic Freedom comprises: the freedom of Employees, in the course of their academic activities, to educate, discuss, or research and to disseminate and publish the results of those activities; the freedom of Employees and Students, in the course of their academic activities, to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to those activities; the freedom of Employees and Students to express their opinions in relation to the University; the freedom of Employees, without constraint imposed by reason of their employment by the University, to make lawful public comment on any issue in their personal capacities; the freedom of Employees to participate in or speak on behalf of professional or representative bodies and associations; the freedom of Students to participate in or speak on behalf of student societies and associations; and the autonomy of the University in relation to the choice of Academic Programs and Courses, the ways in which they are taught and the choices of research activities and the ways in which they are conducted. Public comment is not made in a personal capacity where: the comment includes a reference, express or implied, to the University; or the Employee identifies their employment or any affiliation with the University, refers to their position in the University.</p> <p><a href="#">Academic Program</a></p> <p>An approved Higher Education Award of the University, consisting of a combination of Courses the successful completion of an offering of</p>

which, together with any credit transfers and Exemptions in accordance with the relevant requirements, will fulfil the prescribed requirements for that particular Award.

### Council

Council means the governing body, the University of Southern Queensland Council.

### Course

A discrete element of a program, normally undertaken over a single Study Period, in which the Student enrolls, and on completion of which the Student is awarded a grade.

### Employee

A person employed by the University and whose conditions of employment are covered by the Enterprise Agreement and includes persons employed on a continuing, fixed term or casual basis. Employees also include senior Employees whose conditions of employment are covered by a written agreement or contract with the University.

### Research

Research is the creation of new knowledge and/or the use of existing knowledge in a new and creative way to generate new concepts, methodologies, inventions and understandings. This could include the synthesis and analysis of previous research to the extent that it is new and creative.

### Student

A person who is enrolled in a UniSQ Upskill Course or who is admitted to an Award Program or Non-Award Program offered by the University and is: currently enrolled in one or more Courses or study units; or not currently enrolled but is on an approved Leave of Absence or whose admission has not been cancelled.

### Title

A term used to specify a particular academic rank or recognise a particular contribution to the University or the community.

### University

The term 'University' or 'UniSQ' means the University of Southern

Queensland.

## **Definitions that relate to this policy only**

### **Academic Board**

Academic Board means the Academic Board of the University as established by the Council under section 39 of the *University of Southern Queensland Act 1998* (Qld).

### **Academic Board Member**

Academic Board Member means any member of the Academic Board as determined by the Council under section 39 of the *University of Southern Queensland Act 1998* (Qld).

### **Council Member**

Council member means any member of the Council as set out in Part 2 Division 3 of the *University of Southern Queensland Act 1998* (Qld).

### **Imposed by Law**

In relation to restrictions or burdens or conditions on a freedom, includes, without limitations, restrictions, burdens or conditions imposed by statute law, the common law, the law of defamation, duties of confidentiality, restrictions deriving from intellectual property law and restrictions imposed by contract.

### **Speech**

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.

### **The Duty to Foster the Wellbeing of Employees, Students and Visitors**

The Duty to Foster the Wellbeing of Employees, Students and Visitors:

- includes the duty to take reasonable steps to ensure that no Employee, no Student and no Visitor 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 take reasonable steps to ensure that no Employee, no Student and no Visitor is subject to abusive, threatening or intimidating behaviour by another Employee, Student or Visitor on account of anything they have said or propose 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;
- includes the duty to ensure, so far as is reasonably practicable, the health and safety of its Employees, Students and Visitors when using University Facilities;
- does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another

### **University Facilities**

University Facilities include, but are not limited to:

- social media, communications and online platforms and environments; or
- any premises, buildings, amenities land or locations, which are owned, licensed, controlled or managed by, or in the lawful possession of, the University.

### **Unlawful**

In contravention of a prohibition or restriction or requirement imposed by law

### **Visitor**

A Visitor is a person, not being an Employee or Student, who has been invited by the University or an affiliated Student representative body to speak using University Facilities or for whom permission is sought to speak using University Facilities

### **Keywords**

French Model Code, lawful Speech, limitations, Visitor, misconduct, limitations on freedom, Student representative body

### **Record No**

20/70PL



