

# CHARTER OF FREEDOM OF SPEECH AND ACADEMIC FREEDOM

The Senate of the University of Sydney, as the governing authority of the University of Sydney and with the endorsement of the Academic Board, by resolution adopts this Charter.

Dated: 9 December 2019

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## PART 1 – CHARTER OF FREEDOM OF SPEECH AND ACADEMIC FREEDOM

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### 1 Commencement

This Charter commences on 1 January 2020.

### 2 Charter

- (1) The University of Sydney's campuses and facilities sit on the ancestral lands of many of Australia's First Peoples, who have for thousands of generations exchanged knowledge for the benefit of all.
- (2) Respectfully acknowledging the ancient learning cultures and traditions of Aboriginal and Torres Strait Islander peoples, The University of Sydney declares its commitment to freedom of speech and academic freedom as fundamental to the conduct of a democratic society and to the quest for intellectual, moral and material advance in the human condition.
- (3) The University of Sydney affirms its institutional right and responsibility, and the rights and responsibilities of each of its scholars and students, to pursue knowledge for its own sake, wherever the pursuit might lead. The University further supports the responsible transmission of that knowledge so gained, openly within

the academy and into the community at large, in conformity with the law and the policies and obligations of the University.

- (4) The University of Sydney, consistently with the principles enunciated in its mission and policies, undertakes to promote and support:
  - (a) the free, and responsible pursuit of knowledge through research in accordance with the highest ethical, professional and legal standards;
  - (b) the dissemination of the outcomes of research, in education, as publications and creative works, and in public discourse; and
  - (c) the principled and informed discussion and debate of all aspects of knowledge and culture.
- (5) The University of Sydney greatly values courage, civility and respect and promotes a climate where people disagree well.
- (6) In support of this Charter, The University of Sydney adopts the Principles in Part 2 for the protection of freedom of speech and academic freedom and declares its commitment to upholding these Principles.

**Note:** The University's Principles for the Protection of Freedom of Speech and Academic Freedom are based on a model code for the protection of these freedoms developed by former High Court Chief Justice, the Hon Robert S. French AC, following an independent review of policies supporting freedom of speech and intellectual inquiry in Australian higher education completed in March 2019: <https://www.education.gov.au/review-university-freedom-speech>

## PART 2 – PRINCIPLES FOR THE PROTECTION OF FREEDOM OF SPEECH AND ACADEMIC FREEDOM AT THE UNIVERSITY OF SYDNEY

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### 3 Operation

The University shall have regard to these Principles in drafting, reviewing or amending any non-statutory policies, rules or industrial agreements and in the drafting, reviewing or amending of delegated legislation pursuant to any delegated law-making powers, but the Principles do not have overriding legal effect.

### 4 Definitions

**academic freedom**

for the purposes of these Principles, comprises the following elements:

- the freedom of staff, 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 staff 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 staff and students to express their opinions in relation to the University in which they work or are enrolled;



- the freedom of staff to participate in professional or representative bodies and associations;
- the freedom of students to participate in student societies and associations; and
- the autonomy of the University 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.

<b>external visiting speaker</b>	means any person who is not an invited visiting speaker and for whom permission is sought to speak on University land or through the use of University facilities.
<b>imposed by law</b>	in relation to restrictions or burdens or conditions on a freedom, includes 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.
<b>invited visiting speaker</b>	means any person who has been invited by the University or a member of the University community, whether in that or some other capacity, to speak on University land or through the use of University facilities.
<b>non-statutory policies and rules</b>	means any non-statutory policies, rules, guidelines, principles, codes, charters or similar instruments.
<b>speech</b>	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.
<b>staff</b>	for the purposes of these Principles, includes all employees and affiliates of the University.
<b>student</b>	for the purposes of these Principles, is a person who is defined as a student by the University of Sydney Student Charter 2020, which presently provides that a student is a person who is: <ul style="list-style-type: none"><li>• currently admitted to candidature in an award course at the University; or</li><li>• a non-award student, exchange student or study abroad student.</li></ul>
<b>the duty to foster the wellbeing of staff and students</b>	<ul style="list-style-type: none"><li>• 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, sex, gender, sexuality, religion and political belief;</li><li>• 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;</li></ul>



- supports reasonable and proportionate measures to prevent or proscribe any person from using lawful speech which a reasonable person would regard, in the circumstances, both:
  - as likely to humiliate, intimidate, harass or bully other persons; and
  - as being intended to have any one or more 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.

<b>University</b>	means the body corporate incorporated under Section 5 of the University of Sydney Act 1989.
<b>University community</b>	means staff and students of the University.
<b>unlawful</b>	means in contravention of a prohibition or restriction or condition imposed by law.

## 5 Principles

- (1) Every member of 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) law;
  - (b) the reasonable and proportionate regulation of conduct necessary to the discharge of the University's education and research activities and, to the extent that those activities are informed and advanced by argument and disagreement, by setting scholarly standards for those arguments and disagreements that are conducive to the University's core mission of the advancement of knowledge;
  - (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 to enable the University to fulfil its duty to foster the wellbeing of students and staff; and
  - (e) 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.
- (2) Nothing in any non-statutory policy or rule of the University shall restrict or inhibit the freedom of staff to make public comment on any issue in their personal capacities.
- (3) As a corollary to Principle 1 and recognising that the University is a place where people are free to express themselves as well as a place where people are free to protest and disagree, all staff and students enjoy the freedom to protest subject only to restraints and burdens imposed by:
  - (a) law, including those laws which protect persons from being humiliated or intimidated;
  - (b) the reasonable and proportionate regulation of conduct necessary to the discharge of the University's education and research activities, including by



- making arrangements to ensure that those activities are not disrupted by any protests;
- (c) the right and freedom of others to express themselves and receive information and opinions, recognising the freedom of all members of the University community to express their respective views;
  - (d) the reasonable and proportionate regulation of conduct to enable the University to fulfil its duty to foster the wellbeing of its students and staff, including by way of mitigating the risk that protests become violent and ensuring the safety of staff and students; and
  - (e) the reasonable and proportionate regulation of conduct necessary to enable the University to give effect to its legal duties to visitors to the University.
- (4) Subject to reasonable and proportionate regulation of the kind referred to above, 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.
- (5) Every member of staff and every student enjoys academic freedom subject only to prohibitions, restrictions or conditions:
- (a) imposed by law;
  - (b) imposed by the reasonable and proportionate regulation necessary to the discharge of the University's education and research activities, and, to the extent that those activities are informed and advanced by argument and disagreement, by setting scholarly standards for those arguments and disagreements that are conducive to the University's core mission of the advancement of knowledge;
  - (c) imposed by the reasonable and proportionate regulation necessary to discharge the University's duty to foster the wellbeing of students and staff;
  - (d) imposed by the reasonable and proportionate regulation necessary to enable the University to give effect to its legal duties; and
  - (e) imposed by the University by way of its reasonable requirements as to the courses to be delivered and the content and means of their delivery.
- (6) The exercise by a staff member or student of academic freedom, subject to the above limitations, shall not constitute misconduct nor attract any penalty or other adverse action.
- (7) 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 staff or students carrying out research or study under such arrangements or subject to such conditions.
- (8) 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 through the use of University facilities where the content of the speech is or is likely to:
    - (i) be unlawful; or
    - (ii) 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 through the use of 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; and
  - (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.
- (9) Subject to the preceding Principles 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.
- (10) 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. 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.

## **6 Rescissions and replacements**

This document replaces the *Charter of Academic Freedom* which is rescinded as from the date of commencement of this document.

## **NOTES**

### **Charter of Freedom of Speech and Academic Freedom**

Date adopted: 9 December 2019

Date commenced: 1 January 2020

Administrator: Vice-Chancellor

Review date: 31 December 2025

Rescinded documents: Charter of Academic Freedom

## AMENDMENT HISTORY

**Provision**    **Amendment**

**Commencing**