Academic Freedom and Freedom of Speech Policy

Section 1 - Policy Statement

(1) The University is committed to and supports the exercise of academic freedom and freedom of speech. Academic freedom and freedom of speech is a defining value of the University and should not be unnecessarily burdened by restrictions other than those imposed by law and set out in the principles of the Model Code.

(2) This Policy is based on A model code for the protection of freedom of speech and academic freedom in Australian higher education providers

Policy Principles

Principles

(3) Staff members and students of the University enjoy freedom of speech on land of the University or in connection with a University activity, subject to Reasonable Free Speech Restrictions as set out in the University's governance documents, which may include reasonable and proportionate restrictions of conduct necessary to:

a. discharge the University's teaching and research activities in an orderly manner;
b. comply with the law;
c. discharge the duty to foster the wellbeing of staff members and students,
d. prevent harassment, vilification or intimidation,
e. prevent conflicts between the expression of the staff member and their ability to carry out their role effectively,
f. comply with the University's legal obligations including contractual obligations with third parties pertaining to such matters as confidentiality and the protection of intellectual property; and
g. maintain scholarly standards.

(4) Subject to Reasonable Free Speech Restrictions:

a. speech of staff members and students on University land or in connection with a University activity (including activities carried out digitally) will not constitute misconduct or attract any penalty by reference only to its content; and
b. lawful public comment by a staff member in their private capacity will not be constrained by reason of their employment by the University although the University will require them to not identify themselves as associated with the University when speaking outside the areas covered by Academic Freedom.

(5) Academic staff members and students at the University enjoy academic freedom, subject to Reasonable Academic Freedom Restrictions as set out in the University's governance documents, which may include:

a. reasonable and proportionate restrictions of conduct necessary to:
    i. comply with the law,
    ii. discharge the duty to foster the wellbeing of staff members and students;
    iii. prevent harassment, vilification or intimidation;

iv. ensure that research is carried out in accordance with the University's ethical obligations;
v. comply with the University's legal obligations including contractual obligations with third parties pertaining to such matters as confidentiality and the protection of intellectual property;

b. reasonable requirements as to the courses to be delivered and the content and means of their delivery and reasonable standards of behaviour in educational settings;
c. reasonable restrictions placed on students, including confidentiality and compliance with Codes of Conduct, by third parties providing clinical and work placements and similar work integrated learning opportunities.

(6) The exercise of academic freedom by academic staff members and students should not constitute misconduct or attract any penalty, subject to Reasonable Academic Freedom Restrictions.

(7) In entering into affiliation, collaborative or contractual arrangements with third parties and in accepting donations from third parties subject to conditions, the University should take reasonable steps to minimise the restrictions or burdens imposed by such arrangements on the freedom of speech of staff members and students or academic freedom of academic staff members and students.

(8) Academic staff members may provide a warning for students about content that may be confronting to some members of a class of student, but they are not obliged to do so.

(9) Academic staff members must comply with any governance document supportive of the University's duty to foster the wellbeing of staff members and students.

(10) Academic staff members are not precluded from including academic content solely on the ground that it may offend or shock any student or class of students.

(11) Staff members seeking to exercise academic freedom and freedom of speech must comply with their employment obligations and conditions of employment.

(12) External visitors and invited visitors are able to seek permission for the use of University land or facilities, subject to Reasonable Use Restrictions as set out in the University's governance documents, which may include:

a. requiring the person or persons organising the event to comply with booking procedures and to provide information relevant to the conduct of any event, and any public safety and security issues;
b. distinguishing between invited visitors and external visitors in framing any such requirements and conditions;
c. refusing permission to any invited visitor or external visitor to speak on University land or use University facilities where:
    i. the University assesses it necessary to comply with the University's legal obligations;
    ii. the University assesses it necessary to discharge the duty to foster the wellbeing of staff members and students;
    iii. it involves the uncontested 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 standing as an institution of higher learning;
d. requiring external speakers seeking permission for the use of University land 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 visitor is to speak.

(13) External visitors and invited visitors should not be refused permission solely on the basis of the lawful content of the proposed speech by the visitor but may be subject to Reasonable Use Restrictions.

Section 2 - Definitions

Academic freedom	means the: freedom of academic staff members to teach, discuss, research and to disseminate and publish the results of their research; freedom of academic staff members 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; freedom of academic staff members and students to express their opinions in relation to the University; freedom of academic staff members to participate in professional or representative academic bodies; freedom of students to participate in student societies and associations; 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.
Duty to foster the wellbeing of staff members 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; 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; supporting 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, harass or bully other persons and which is intended to have any one or more of those effects; ensuring that the University fulfils any other legal obligations with respect to the protection of staff members and students.
External visitor	means any person who is not an invited visitor and for whom permission is sought to speak on the University's land or facilities in accordance with the University's policies and procedures.
Invited visitor	means any person who has been invited by the University to speak on the University's land or facilities in accordance with the University's policies and procedures.
Speech	means 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.

Section 3 - Non-Compliance

(14) Non-compliance with Governance Documents is considered a breach of the Code of Conduct – Staff or the Code of Conduct – Students, as applicable, and is treated seriously by the University. Reports of concerns about non-compliance will be managed in accordance with the applicable disciplinary procedures outlined in the Charles Darwin University and Union Enterprise Agreement 2022 and the Code of Conduct – Students.

(15) Complaints may be raised in accordance with the Complaints and Grievance Policy and Procedure - Employees and Complaints Policy - Students.

(16) All staff members have an individual responsibility to raise any suspicion, allegation or report of fraud or corruption in accordance with the Fraud and Corruption Control Policy and Whistleblower Reporting (Improper Conduct) Procedure.

Status and Details

Status	Historic
Effective Date	15th January 2022
Review Date	29th April 2024
Approval Authority	University Council
Approval Date	29th April 2021
Expiry Date	17th April 2024
Responsible Executive	Fiona Coulson Vice-Chancellor
Implementation Officer	Brendon Douglas Vice-President Governance and University Secretary
Enquiries Contact	Brendon Douglas Vice-President Governance and University Secretary

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