

# Academic Freedom and Freedom of Speech Policy

## 1 Purpose

UNSW College has an unequivocal commitment to academic freedom and freedom of speech. The only constraints we place on academic freedom and freedom of speech are those that apply to the community under the law. The Academic Freedom and Freedom of Speech Policy (the policy) supports and protects:

- (a) the pursuit of free inquiry, informed discourse and public debate at UNSW College; and
- (b) the circumstances under which UNSW College may be required to constrain the exercise of academic freedom.

## 2 Scope

This Policy applies to all UNSW College staff, students, affiliates, external visitors and invited visiting speakers (collectively 'visitors').

## 3 Policy statement

UNSW College is a place where many different views and opinions are expressed and vigorously debated. We expect those engaged in these debates to treat others with respect. We welcome speakers of all backgrounds and beliefs to use UNSW land and facilities, respectfully acknowledging the Bedegal people who are the traditional custodians of the lands where the UNSW College campus is located.

## 4 Academic Freedom

- 4.1. Every member of the academic staff, and every student enjoys academic freedom subject only to prohibitions, restrictions or conditions imposed by:
  - i. law, including those laws which protect persons from being humiliated or intimidated;
  - ii. the reasonable and proportionate regulation of conduct necessary to the discharge of UNSW College's teaching and research activities, including making arrangements to ensure that those activities are not disrupted by any protests;
  - iii. the reasonable and proportionate regulation of conduct to enable the College to fulfil its duty to foster the well-being of students and staff, including by way of mitigating the risk that protests become violent and ensuring the safety of staff and students; and
  - iv. the College by way of its reasonable requirements as to the courses to be delivered and the content and means of their delivery.

- 4.2. The exercise by a member of the academic staff or of a student of academic freedom, subject to the limitations in Section 4.1, shall not constitute misconduct nor attract any penalty or other adverse action.
- 4.3. Without limiting the provisions of statement 4.2, UNSW College staff, students and affiliates have the right, without fear of harassment, intimidation or unfair treatment, to:
  - i. pursue critical and open inquiry;
  - ii. research and publish;
  - iii. participate in public debates and express opinions, including unpopular or controversial opinions about issues and ideas, but this does not mean the right to harass, vilify, denigrate, or intimidate;
  - iv. participate in an appropriate form in decision-making processes and structures particular to their field of expertise;
  - v. participate in professional and representative bodies, including unions and student societies, and engage in community service;
  - vi. participate in public debates in a private or personal capacity;
  - vii. express opinions about the college, its management and its operations; and
  - viii. in the case of staff specifically, teach, assess and develop curricula within agreed college processes.
- 4.4. Notwithstanding the freedoms described in Section 4.3, UNSW College has autonomy 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.
- 4.5. UNSW College 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 college's duty to foster the well-being of staff and students. Academic staff are not precluded from including content solely on the ground that it may offend or shock any student or class of student.

## **5 Freedom of Speech**

- 5.1. UNSW College staff, students, affiliates and visitors enjoy freedom of expression and have the right to participate in public debates and express opinions, including unpopular or controversial opinions about issues and ideas subject only to prohibitions, restrictions or conditions imposed by:
  - i. law, including those laws which protect persons from being humiliated or intimidated;

- ii. the reasonable and proportionate regulation of conduct necessary to the discharge of UNSW College's teaching and research activities, including making arrangements to ensure that those activities are not disrupted by any protests;
  - iii. the right and freedom of others to express themselves and to hear and receive information and opinions;
  - iv. the reasonable and proportionate regulation of conduct to enable the College to fulfil its duty to foster the wellbeing of students and staff, including by way of mitigating the risk that protests become violent and ensuring the safety of staff and students; and
  - v. the reasonable and proportionate regulation of conduct necessary to enable the college to give effect to its legal duties including its duties to visitors to the college.
- 5.2. UNSW College staff have the freedom to make lawful public comment on any issue in their personal capacities without constraint imposed by reason of their employment.
- 5.3. Subject to the limitations in Section 5.2, a person's lawful speech on the college's land, at college facilities or in connection with a college activity shall not constitute misconduct nor attract any penalty or other adverse action by reference only to its content.

## **6 External relationships**

- 6.1. In entering into affiliation, collaborative or contractual arrangements with third parties and in accepting donations from third parties subject to conditions, the College 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 or students undertaking research or study under such arrangements or subject to such conditions.
- 6.2. UNSW College has the right and responsibility to determine the terms and conditions upon which it shall permit visitors to speak, on UNSW College land, at UNSW College facilities or in connection with a UNSW College activity, and in doing so may:
- i. require event organiser(s) to comply with the College booking procedures and provide information related to the event;
  - ii. distinguish between invited visiting speakers and other external visitors in framing the terms and conditions of events at the College;
  - iii. refuse permission to speak where the content of the speech is, or is likely to be unlawful or prejudice the College's ability to fulfil its duty to foster the wellbeing of students and staff, including by way of mitigating the risk that protests become violent and ensuring the safety of staff and students,

- iv. refuse permission to speak where the content of the speech involves or is likely to involve, the advancement of theories or propositions which purport to be based on scholarship or research but which fall below the scholarly standards to such an extent as to be detrimental to UNSW College character as an institution of high learning; and
  - v. require event organiser(s) 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 visitor is to speak.
- 6.3. Subject to the requirements of Section 6.2, UNSW College will not refuse or attach conditions to the use of its land or facilities, or participation in UNSW College activities, solely on the basis of the content of the proposed speech by the visitor.

## 7 Roles, responsibilities and delegations

Role	Responsibility
College Board of Directors	Overall responsibility for the implementation and upholding of the Academic Freedom and Freedom of Speech Policy.
College Staff	Understand the application and constraints of the Academic Freedom and Freedom of Speech Policy.
Students	Understand the application and constraints of the Academic Freedom and Freedom of Speech Policy.
Visitors	Understand the application and constraints of the Academic Freedom and Freedom of Speech Policy

## 8 Definitions

Definitions and Acronyms	
Academic Freedom	<p>for the purposes of this Policy comprises the following elements:</p> <ul style="list-style-type: none"> <li>• the freedom of academic staff to teach, discuss, and research and to disseminate and publish the results of their research</li> <li>• 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</li> <li>• the freedom of academic staff and students to express their opinions in relation to the higher education provider in which they work or are enrolled</li> <li>• the freedom of academic staff to participate in professional or representative academic bodies</li> <li>• the freedom of students to participate in student societies and associations</li> </ul>

	<ul style="list-style-type: none"> <li>the autonomy of the higher education provider 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.</li> </ul>
Academic Staff	all those who are employed by the College to teach and/or carry out research at the College.
External visiting speaker	any person who is not an invited visiting speaker and for whom permission is sought to speak on the College 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 College to speak on the College'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 College whether full-time or part-time and whether or not academic staff.
The duty to foster the well-being of staff and students	<p>includes the duty to ensure that no member of staff and no student suffers unfair disadvantage or unfair adverse discrimination on any basis recognised by law including race, gender, sexuality, religion and political belief</p> <ul style="list-style-type: none"> <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> <li>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, intimidate, harass or bully other persons and which is intended to have one or more of those effects</li> <li>does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another.</li> </ul>
College	means the University of New South Wales College

Unlawful	Unlawful means in contravention of a prohibition or restriction or condition imposed by law.
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Related Policy Documents and Supporting Documents	
Legislation	<a href="#">Higher Education Standards Framework (Threshold Standards) 2021</a>
Policy	<ul style="list-style-type: none"> <li>• <a href="#">Staff Code of Conduct</a></li> <li>• <a href="#">Equity Diversity and Inclusion Policy</a></li> <li>• <a href="#">Student Code of Conduct</a></li> <li>• <a href="#">Student Grievances and Complaints Policy</a></li> </ul>
Procedures	<ul style="list-style-type: none"> <li>• <a href="#">Student Grievances and Complaints Procedure</a></li> </ul>

### Policy Governance

Academic Freedom Policy	
Category/Business Group	Academic Programs
Published Externally (Yes/No)	Yes
Approver	Academic Board
Responsible Officer	Executive Director Academic
Contact Officer	Director, Academic Programs
Effective Date	17/08/2023
Next Review Date	17/08/2026
Version	1.0

### Revision History

Version	Approved by	Approval date	Effective date	Sections modified
1	Academic Board	08 August 2023	17 August 2023	N/A

Please visit our website to ensure that you have the latest version of this Policy. Policies are available at: [unswcollege.unsw.edu.au/about/policies](https://unswcollege.unsw.edu.au/about/policies)