

# Academic and Intellectual Freedom/Freedom of Speech at UNSW

The University's commitment to promoting and protecting academic freedom is explicitly stated in these excerpts from the University of New South Wales Act 1989, UNSW Code of Conduct, Student Code of Conduct, UNSW Equity, Diversity and Inclusion Policy, UNSW Australia (Academic Staff) Enterprise Agreement and The Hefei Statement on the Ten Characteristics of Contemporary Research Universities.

## **University of New South Wales Act 1989 No 125**

Current version for 1 July 2017 to date (accessed 29 October 2018 at 09:50)

### **Part 2 Section 6 - Object and functions of University**

- (1) The object of the University is the promotion, within the limits of the University's resources, of scholarship, research, free inquiry, the interaction of research and teaching, and academic excellence.
- (2) The University has the following principal functions for the promotion of its object:
  - (a) the provision of facilities for education and research of university standard,
  - (b) the encouragement of the dissemination, advancement, development and application of knowledge informed by free inquiry,
  - (c) the provision of courses of study or instruction across a range of fields, and the carrying out of research, to meet the needs of the community,
  - (d) the participation in public discourse,
  - (e) the conferring of degrees, including those of Bachelor, Master and Doctor, and the awarding of diplomas, certificates and other awards,
  - (f) the provision of teaching and learning that engage with advanced knowledge and inquiry,
  - (g) the development of governance, procedural rules, admission policies, financial arrangements and quality assurance processes that are underpinned by the values and goals referred to in the functions set out in this subsection, and that are sufficient to ensure the integrity of the University's academic programs.

### **Policy and Agreements of UNSW related to academic or intellectual freedom**

The current UNSW statement on academic freedom is contained in the Code of Conduct and reads:

The University recognises and protects the concept and practice of academic freedom as essential to the proper conduct of teaching, research and scholarship within the University. While academic freedom is a right, it carries with it the duty of academics to use the freedom in a manner consistent with a responsible and honest search for and dissemination of knowledge and truth. Academic freedom is not a defence to poor behaviour or disrespectful treatment of others.<sup>1</sup>

The Student Code of Conduct complements our statement, in relation to behaviours that create an environment that enables and protects freedom of speech and academic freedom. It states that the University aims to provide students with the opportunity to study in an academic environment which fosters student participation in debate and in which students can freely express alternative points of view and to study and work in a safe, tolerant and productive academic environment.

Students are expected to:

- Treat all University staff, other students, and visitors to the University with courtesy, tolerance and respect. This extends to teaching staff in venues off-campus and online, and supervisors and others involved in workplace or clinical placements, fieldwork or other practicum
- Respect the rights of others to express political and religious views in a lawful manner
- Not behave in a way that disrupts or interferes with any teaching, learning or academic activity of the University or any political, cultural, social or sporting gathering conducted by the University or authorised to be held on a campus of the University.

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<sup>1</sup>The University of New South Wales, *Code of Conduct* (2 August 2018) The University of New South Wales <<https://www.gs.unsw.edu.au/policy/documents/codeofconduct.pdf>> pt B.

This commitment to academic freedom is to be read in conjunction with the Equity, Diversity and Inclusion Policy that states:

All staff and students must display respect as they seek to understand each other's perspectives, and endeavour to invite and explore the evidence supporting alternative points of view.<sup>2</sup>

Intellectual freedom is specifically addressed in cl 23 of the UNSW Enterprise Bargaining Agreement.

The University recognises intellectual freedom which entails the right of an employee to:

- (i) contribute to the decision-making processes and structures of the University; including the right to express opinions about the operations of the University and higher education policy more generally;
- (ii) pursue critical and open inquiry, publish, research and, consistent with the University's academic processes, freely discuss, teach, assess and develop curricula;
- (iii) participate in public debates and express opinions about issues and ideas and about the University or higher education issues more generally;
- (iv) participate in professional and representative bodies, including unions, and engage in community service;
- (v) express their personal views, consistent with the University's Code of Conduct, without fear of harassment, intimidation or unfair treatment.<sup>3</sup>

The University will not consider the use of unlawful speech (vilification, freedom of speech, academic freedom etc) as an expression of freedom of speech

### **The Hefei Statement on the Ten Characteristics of Contemporary Research Universities**

As a member of the Group of Eight, UNSW shares a commitment to the Hefei Statement on the core characteristics of a research university. In 2013, the Group of Eight joined with the Association of

American Universities, the League of European Research Universities and the Chinese 9 Universities to enter into the Hefei Statement on the ten core characteristics of research universities. This Statement declared:

6. The responsible exercise of academic freedom by faculty to produce and disseminate knowledge through research, teaching and service without undue constraint within a research culture based on open inquiry and the continued testing of current understanding, and which extends beyond the vocational or instrumental, sees beyond immediate needs and seeks to develop the understanding, skills and expertise necessary to fashion the future and help interpret our changing world.
7. A tolerance, recognition and welcoming of competing views, perspectives, frameworks and positions as being necessary to support progress, along with a commitment to civil debate and discussion to advance understanding and produce new knowledge and technologies.<sup>4</sup>

## Definitions

### Academic freedom

'The responsible exercise of academic freedom by faculty to produce and disseminate knowledge through research, teaching and service without undue constraint within a research culture based on open inquiry and the continued testing of current understanding, and which extends beyond the vocational or instrumental, sees beyond immediate needs and seeks to develop the understanding, skills and expertise necessary to fashion the future and help interpret our changing world.

A tolerance, recognition and welcoming of competing views, perspectives, frameworks and positions as being necessary to support progress, along with a commitment to civil debate and discussion to advance understanding and produce new knowledge and technologies<sup>2</sup>.'

### Unlawful

Not allowed by law

### Vilification

NSW anti-discrimination law defines vilification as a public act that could incite or encourage hatred, serious contempt or severe ridicule towards people because of certain characteristics, including:

- race, colour, nationality, descent, ethnic, ethno-religious or national origin
- homosexuality (lesbian or gay)
- HIV or AIDS status
- transgender status

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<sup>2</sup>The University of New South Wales, *Equity, Diversity and Inclusion Policy* (2 August 2018) The University of New South Wales

<<https://www.gs.unsw.edu.au/policy/documents/equitystatement.pdf>> cl 2.3.

<sup>3</sup>The University of New South Wales, *UNSW Australia (Academic Staff) Enterprise Agreement 2015* (2 August 2018) The University of New South Wales

<[https://www.hr.unsw.edu.au/services/indrel/Academic\\_EA\\_2015\\_Final.pdf](https://www.hr.unsw.edu.au/services/indrel/Academic_EA_2015_Final.pdf)> cl 23.

<sup>4</sup> *HEFEI Statement on the Ten Characteristics of Contemporary Research Universities* (AAU, Go8, LERU, C9, entered into on 10 October 2013) <<https://go8.edu.au/files/docs/10.10-hefei-statement-english-version.pdf>>