

Freedom of Speech and Academic Freedom Guidelines

Section 1 - Objective and Scope

(1) These Guidelines provide guidance to UNE Representatives and students on the application of the [Freedom of Speech Principles and Academic Freedom Statement](#).

(2) These Guidelines apply to and are to be observed by all students and UNE Representatives including representatives of UNE Controlled Entities, external visiting speakers and invited visiting speakers.

(3) Within these Guidelines:

- a. Part A provides guidance on the application of the [Freedom of Speech Principles](#); and
- b. Part B provides guidance on the application of the [Academic Freedom Statement](#).

Part A - Freedom of Speech

(4) The University actively promotes freedom of speech through:

- a. encouraging and planning opportunities for speech and discourse, including:
 - i. promoting events, debates, discourse, conversation and other speaking chances at UNE, maximising wherever possible opportunities for access and varied methods of participation and engagement
- b. supporting the right of students and UNE Representatives for freedom of assembly and association, including:
 - i. ensuring there is no retribution nor unreasonable withholding of permission to participate in lawful speech, peaceful protests and advocacy.
 - ii. providing reasonable support for University staff and student unions, associations, clubs and organisations engaged in lawful activities; and
- c. communicating and encouraging an understanding of the need for speakers to ensure their speech:
 - i. does not inhibit UNE from fulfilling its duty to foster the wellbeing of staff and students;
 - ii. is not unauthorised disclosure of content classified as commercial-in-confidence or associated with an officer's lawful duties or clinical or legal privilege (e.g. Council member duties; information accepted via a public interest disclosure or privileged content etc);
 - iii. does not disclose personal, health or sensitive information that under privacy laws is subject to consent or other conditions for collection, storage, access, use or disclosure requirements that have not been met; and
 - iv. is appropriately attributed to others in regard to authorship and/or copyright where applicable.
- d. providing opportunities which support and encourage University staff to test and develop skills and experience relating to free speech.

(5) On notification of a request for public events and discourse, 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 an Invited Visiting Speaker and External Visiting Speaker in framing any such requirements and conditions;
- c. refuse permission to an External Visiting Speaker to speak on University land or at University facilities where the content of the speech is or is likely to:
 - i. be unlawful;
 - ii. prejudice the fulfillment by the University of its duty to foster the wellbeing of staff and students; and/or
 - iii. 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.
- d. require a person or persons 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.

(6) The University will not unreasonably restrict or withhold permission of access or use of the University's land or facilities for external visiting speakers or invited visiting speakers, where such access or use is for the purposes of lawful speech (noting the University may require reasonable terms and conditions for visitors and use of land and facilities be followed).

Part B - Academic Freedom Statement

(7) The University actively promotes academic freedom through:

- a. corporate governance ensuring stewardship of UNE's object and of 'free inquiry', oversight of development and delivery of academic programs, and monitoring of academic performance and compliance and of controlled entities;
- b. staff and students have opportunity to participate in governance and decision-making;
- c. academic governance upholding academic quality and integrity including academic freedom;
- d. policies, ethics processes and other academic practices upholding academic freedom as a core value and outlining scholarly standards to guide the design and conduct of research, teaching and learning and outreach programs; and
- e. academic leadership structures which aid the furthering of academic freedom principles, including
 - i. the promotion of opportunities for participation in academic events and public discourse, peer review and academic quality and integrity;
 - ii. protection for academic freedom in legal/funding/collaboration agreements; and
 - iii. protection or support of staff and students against unfair attack as a result of the pursuit of free inquiry.

(8) UNE staff and students are afforded academic freedom, while noting that this right carries with it:

- a. the responsibility to maximise academic freedom; and
- b. the responsibility to exercise academic freedom in accordance with scholarly standards.

(9) UNE staff and students in exercising academic freedom are free to make informed comment on societal behaviours and practice and in challenging held beliefs, policies and structures.

(10) The exercise by staff or students of academic freedom, subject to the above limitations, shall not constitute

misconduct nor attract any penalty or other adverse action.

Section 2 - Authority and Compliance

Compliance

(11) The freedoms expressed in these Guidelines are consistent with the [University of New England Act 1993 \(NSW\)](#) (NSW) and its references within UNE's object and principal functions, including:

- a. UNE's object, which 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'.
- b. UNE's principal functions including:
 - i. the encouragement of the dissemination, advancement, development and application of knowledge informed by free inquiry (Section 6(2)(b));
 - ii. the participation in public discourse (Section 6(2)(d)); and
 - iii. the provision of teaching and learning that engage with advanced knowledge and inquiry (Section 6(2)(f)).

(12) The [Higher Education Support Act 2003](#) (Cth) (as amended) requires all higher education providers to have policy material that 'upholds freedom of speech, academic freedom and free intellectual inquiry in relation to learning, teaching and research' (Section 19-115).

(13) The [Higher Education Standards Framework \(Threshold Standards\) 2015](#) requires that (Part B, B1.1 "Higher Education Provider" Category):

- a. The higher education provider has a clearly articulated higher education purpose that includes a commitment to and support for free intellectual inquiry in its academic endeavours.
- b. The higher education provider delivers teaching and learning that engage with advanced knowledge and inquiry.
- c. The higher education provider's academic staff are active in scholarship that informs their teaching, and are active in research when engaged in research student supervision.

(14) The [UNE Academic and English Language Teaching Staff Enterprise Agreement 2020-2022](#) & the [UNE Professional Staff Enterprise Agreement 2019-2022](#) (clause 5.2(d)) state 'The University and its Employees are committed to the

- a. protection and promotion of intellectual freedom within the University where Employees are able to:
 - i. express unpopular or controversial views which do not defame, harass, vilify or intimidate; and
 - ii. pursue critical and open academic inquiry and to freely discuss, publish and research;
 - iii. express opinions or comment outside their discipline or areas of professional expertise as long as they do so on their own behalf and do not claim to represent the University;
 - iv. participate in public debates relating to decision making processes and express opinions about issues and ideas related to their discipline area or areas of professional expertise and about higher education issues more generally;
 - v. participate in professional and representative bodies, including Unions, and engage in community service without harassment, intimidation or unfair treatment.

(15) These values are supported:

- a. as part of UNE's overarching Code of Conduct for all University Representatives; and

- b. within other policies and guidelines of the University.

Authority

(16) These Guidelines are made by the Vice-Chancellor and Chief Executive Officer, pursuant to the [Vice-Chancellor Functions Rule](#).

(17) UNE students, University Representatives and Controlled Entities must observe these Guidelines in relation to University matters.

(18) The Custodian of these Guidelines is the Vice-Chancellor and Chief Executive Officer.

(19) These Guidelines operate from the Effective Date.

(20) Previous Guidelines regarding intellectual or academic freedom are replaced and have no further operation from the Effective Date.

Section 3 - Definitions (specific to this document)

(21) 'duty to foster the wellbeing of staff and students':

- a. includes the duty to ensure that no member of staff and no student suffers unfair disadvantage or unfair adverse discrimination by reason of their inherent attributes;
- b. 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 in exercising their freedom of speech;
- c. supports reasonable and proportionate measures to prevent any person from using lawful speech which is intended to insult, humiliate or intimidate other persons and which a reasonable person would regard, in the circumstances, as likely to have one or more of those effects;
- d. does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another.

Status and Details

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Glossary Terms and Definitions

"UNE Representative" - Means a University employee (casual, fixed term and permanent), contractor, agent, appointee, UNE Council member, adjunct, visiting academic and any other person engaged by the University to undertake some activity for or on behalf of the University. It includes corporations and other bodies falling into one or more of these categories.

"Student" - Is an admitted student or an enrolled student, at the relevant time: 1. an admitted student is a student who has been admitted to a UNE course of study and who is entitled to enrol in a unit of study or who has completed all of the units in the UNE course of study; 2. an enrolled student is a student who is enrolled in a unit of study at UNE.

"Code of Conduct" - A document (variously referred to as a 'Code of Ethics', 'Code of Behaviour' and various other titles) broadly communicated within the entity setting out the entity's expected standards of behaviour.

"University Representative" - University Representative means a University employee (casual, fixed term and permanent) contractor, agent, appointee, UNE Council member, adjunct, visiting academic and any other person engaged by the University to undertake some activity for or on behalf of the University. It includes corporations and other bodies falling into one or more of these categories.

"Academic Freedom" - Academic Freedom includes: the freedom of academic staff to teach, discuss, and research and to disseminate and publish the results of their research; 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; 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; the freedom of academic staff to participate in professional or representative academic bodies; the freedom of students to participate in student societies and associations; 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. Academic Freedom is supported at UNE by the Freedom of Speech Principles and Academic Freedom Statement and Policy, and this definition should be read in conjunction with those documents.

"External Visiting Speaker" - External Visiting Speaker is any person who is not an invited visiting speaker and for whom permission is sought to speak on the university's land or facilities.

"Invited Visiting Speaker" - Invited Visiting Speaker is any person who has been invited by the University or by a

student society.