

## **Freedom of Speech and Academic Freedom Regulations**

### **1. Preamble**

Murdoch University's purpose is to be a creative force for current and future generations. In its pursuit to promote free-thinking, Murdoch University strives to be a leader in providing high quality education and research, motivating its Staff and Students to push past the status quo. Murdoch University declares its commitment to uphold Freedom of Speech and Academic Freedom as fundamental to the process of gaining and disseminating knowledge without unreasonable interference or penalty by the University. Murdoch University will always be an environment where ideas can be freely expressed and debated within the constraints of the law.

Murdoch University acknowledges that its lands have been a place for Aboriginal and Torres Strait Islander peoples to come together and learn. This tradition spans over thousands of years that respects the past, lives in the present and looks forward to the future.

### **2. Purpose**

To ensure that the freedom of lawful speech of Staff and Students of the University and Visitors to the University is treated as a paramount value and therefore is not restricted nor its exercise unnecessarily burdened by restrictions or burdens other than those imposed by law and set out in the principles of this Regulation.

To ensure that Academic Freedom is treated as a defining value by the University and therefore not restricted nor its exercise unnecessarily burdened by restrictions or burdens other than those imposed by law and set out in the principles of this Regulation.

### **3. Scope**

3.1 These Regulations apply to:

- 3.1.1 Senate members and members of Murdoch University committees;
- 3.1.2 Staff and Students of Murdoch University;
- 3.1.3 prospective Students (for the purpose of Regulation 6.3); and
- 3.1.4 Visitors to Murdoch University.

3.2 Subject to any statement to the contrary within these Regulations, these Regulations shall prevail in the event of any conflicting provisions in other Regulations, Policies, Procedure or Guidelines of Murdoch University to the extent of the inconsistency.

3.3 These Regulations shall be read in conjunction with any Murdoch University's Enterprise Agreement that is in force. In the event of any conflict between the Enterprise Agreement and these Regulations, the Enterprise Agreement will prevail in respect of any person covered by the Enterprise Agreement.

3.4 The University shall have regard to these Regulations:

- 3.4.1 in the drafting, review or amendment of any policies or rules;

- 3.4.2 in the drafting, review or amendment of delegated legislation pursuant to any delegated law-making powers;
- 3.4.3 so far as reasonably practicable, in the interpretation and application of policies and rules;
- 3.4.4 in the exercise of any power or discretion under a policy or rule;
- 3.4.5 in the exercise of any power or discretion conferred on the University by a law made by the University in the exercise of its delegated law-making powers, so far as that law allows; and
- 3.4.6 in the exercise of any power or discretion conferred on the University under any contract or workplace agreement, so far as it is consistent with the terms of that contract or workplace agreement.

#### 4. Definitions

In this Regulation:

4.1 **"Academic Freedom"** means:

- 4.1.1 the freedom of Academic Staff to pursue critical and open inquiry, to freely teach, assess, develop curricula, discuss, to research and disseminate and publish the results of their research, subject to the laws and customs of the jurisdiction in which they are operating;
- 4.1.2 the freedom of Academic Staff and Students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate related to their subjects of study, research, their discipline area or areas of professional expertise, and about higher education issues more generally;
- 4.1.3 the freedom of Academic Staff and Students to express their opinions in relation to the University;
- 4.1.4 the freedom of Academic Staff and Students to express unpopular or controversial views, but this does not mean the right to harass, bully, vilify, defame or intimidate;
- 4.1.5 the freedom of Academic Staff to make comment outside their discipline or areas of professional expertise as long as they clearly do so on their own behalf and do not claim to represent the University or present their comments in such a way as might be reasonably linked to the University;
- 4.1.6 the freedom of Academic Staff to participate in professional or representative academic bodies;
- 4.1.7 the freedom entitling Students to participate in student societies and associations; and
- 4.1.8 the autonomy of the University in relation to the choice of academic courses and offerings, the ways in which they are taught, the choice of research activities and the ways in which they are conducted.

4.2 **"Academic Misconduct"** has the same meaning as defined by Murdoch University's *Student Integrity Regulations*.

4.3 **"Academic Staff"** means all those who are employed by Murdoch University to teach and/or carry out research and extends to those who, whether on an honorary basis or otherwise, provide teaching services and/or conduct research at the University. Academic Staff undertaking academic work may include

teaching, research, leadership, administration and service to the University, broader community and industry.

- 4.4 **"Duty to Foster the Wellbeing of Staff and Student":**
- 4.4.1 includes the duty to ensure that no Staff or Student suffers unfair disadvantage or unfair adverse discrimination on any basis recognised at Law including race, gender, sexuality, religion and political belief;
  - 4.4.2 includes the duty to ensure that no Staff or 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;
  - 4.4.3 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 or intimidate other persons and which is intended to have either or both of those effects; and
  - 4.4.4 does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another.
- 4.5 **"External Visiting Speaker"** means any person who is not an Invited Visiting Speaker and for whom permission from Murdoch University is sought to speak on the University's land or facilities.
- 4.6 **"Invited Visiting Speaker"** means any person who has been invited by Murdoch University to speak on Murdoch University's land or facilities. For the purposes of this definition, 'Murdoch University' includes its decision-making organs and officers; its undergraduate and postgraduate student representative bodies; any clubs, societies and associations recognised by its decision-making organs or student representative bodies; and any entities controlled by the University.
- 4.7 **"Law"** means any law, including any requirement of any statute, regulation, proclamation, ordinance, or by-law, any common law and any law based on equity.
- 4.8 **"Regulations"** means all these regulations.
- 4.9 **"Speech"** includes 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.
- 4.10 **"Staff"** means all employees of the University and all those holding Murdoch University honorary titles.
- 4.11 **"Student"** means a person enrolled at Murdoch University.
- 4.12 **Visitor"** means External Visiting Speakers and Invited Visiting Speakers.

## 5. Academic Freedom and Freedom of Speech

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:

- 5.1 the restrictions or burdens imposed by such arrangements in respect of;
- 5.2 conditions on,

the Freedom of Speech or Academic Freedom of any member of the Academic Staff or Students carrying on research or study under such arrangements or subject to such conditions.

## **6. Academic Freedom**

- 6.1 All Academic Staff and Students enjoy Academic Freedom subject to prohibitions, restrictions or conditions imposed:
  - 6.1.1 by Law including by statute law, the common law (including but not limited to the law of defamation), duties of confidentiality, restrictions deriving from intellectual property law and restrictions imposed by contract;
  - 6.1.2 by the reasonable and proportionate regulation to the discharge of Murdoch University's teaching and research activities;
  - 6.1.3 by the reasonable and proportionate regulation necessary to discharge Murdoch University's Duty to Foster the Wellbeing of Staff and Students;
  - 6.1.4 by the reasonable and proportionate regulation necessary to give effect to Murdoch University's legal duties;
  - 6.1.5 by Murdoch University by way of its reasonable requirements as to the courses to be delivered and the content and means of the delivery; or
  - 6.1.6 by the reasonable and proportionate regulation of Academic Misconduct of Students by the University.
- 6.2 The exercise of Academic Freedom by Academic Staff or Students, subject to the prohibitions, restrictions and conditions under Regulation 6.1, shall not constitute misconduct nor attract any penalty or other adverse action.
- 6.3 Murdoch University must 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. Subject to the Laws of the relevant jurisdiction in which courses are being delivered, there is no preclusion to including content solely on the ground that it may offend or shock any student or class of students.

## **7. Freedom of Speech**

- 7.1 Murdoch University will ensure that all Staff and Students enjoy Freedom of Speech exercised on University's land or in connection with the University subject to restraints or burdens imposed:
  - 7.1.1 by Law (including but not limited to the law of defamation, duties of confidentiality, restrictions deriving from intellectual property law and restrictions imposed by contract);
  - 7.1.2 by the reasonable and proportionate regulation to the discharge of Murdoch University's teaching and research activities;
  - 7.1.3 by the right and freedom of others to express themselves and to hear and receive information and opinions;
  - 7.1.4 by the reasonable and proportionate regulation of conduct to enable the University to fulfil its Duty to Foster the Wellbeing of Staff and Students; or
  - 7.1.5 by the reasonable and proportionate regulation necessary to give effect to Murdoch University's legal duties including its duties to Visitors to the University.
- 7.2 Staff must consider any impact on the health or safety of a person and the ability to comply with legal obligations when exercising Freedom of Speech.

- 7.3 Subject to the Laws of the relevant jurisdiction in which academic content is being delivered, Academic Staff are not precluded from including academic content solely on the grounds that it may offend or shock any Student or class of Students.
- 7.4 Lawful speech by Staff, Students or Visitors subject to the limitations referred to in Regulations 7.1 and 7.2, shall not constitute misconduct nor attract any penalty or other adverse action.

**8. Visiting Speakers**

- 8.1 Murdoch 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 the University’s land or use University facilities.
- 8.2 Murdoch University:
  - 8.2.1 requires the organisers of the event at which the Visitor is to speak to comply with Murdoch University’s procedures and to provide information relevant to the conduct of any event and any public safety and security issues;
  - 8.2.2 distinguishes between External Visiting Speakers and Invited Visiting Speakers in framing the terms and conditions under Regulation 8.1 and any such requirement under Regulation 8.2(a);
  - 8.2.3 refuses permission to any External Visiting Speakers or Invited Visiting Speakers to speak on the University’s land or facilities where the content of the speech is likely to:
    - 8.2.3.1 be unlawful;
    - 8.2.3.2 prejudice the fulfilment of the University’s Duty to Foster the Wellbeing of Staff and Students; or
    - 8.2.3.3 fall below the University’s scholarly standards to such an extent that would be detrimental to the welfare of the University;
  - 8.2.4 requires External Visiting Speakers to contribute in whole or 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; and
  - 8.2.5 subject to Regulation 8.2(c), shall not refuse permission for the use of its land or facilities by Visitor nor attach conditions to its permission, solely on the basis of the content of the proposed speech.

**Approval and Implementation:**

<b>Approval Authority:</b>	Senate
<b>Responsible Officer(s):</b>	University Secretary President Academic Council
<b>Committee with oversight:</b>	Senate
<b>Contact Officer:</b>	University Secretary

**Revision History:**

<b>Version</b>	<b>Date Approved</b>	<b>Effective Date (if later than 'Date Approved')</b>	<b>Next Review Date</b>	<b>Resolution No. (if applicable)</b>
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Approved	09/12/2020			S/38/2020

**Note: All enquiries relating to Legislation should be referred to the University Secretary's Office.**