

Freedom of Speech and Academic Freedom Policy

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| Contacts | policy@imc.edu.au | | |
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| 2024.06 | Academic Board | 27 June 2024 | 27 June 2024 |

1 PURPOSE

The Australian National Institute of Management and Commerce (the Institute) promotes and protects free intellectual inquiry and expression in its learning, teaching, scholarship and research activities.

The Institute:

- (1) Ensures that the lawful freedom of speech of staff, students and visitors to the Institute is treated as a paramount value and, therefore, is not restricted nor its exercise unnecessarily burdened other than those imposed by law and set out in the Principles of the Policy.
- (2) Ensures that academic freedom is treated as a defining value by the Institute and is not restricted nor its exercise unnecessarily burdened other than those imposed by law and set out in the Principles of the Policy.
- (3) Affirms the importance of the Institute’s institutional autonomy under law in regulating its affairs, including protecting freedom of speech and academic freedom.
- (4) Requires mutual respect and consideration internally and externally, with tolerance of different views and cultures.

This policy outlines the principles of lawful freedom of speech and academic freedom of staff, students and visitors as they apply at the Institute.

2 SCOPE

- (1) This policy applies to the governing bodies of the Institute, its officers and employees and its decision-making organs, including those involved in academic governance.

- (2) This policy applies to student representative bodies to the extent that they have policies and rules that can be used to restrict or burden the freedom of speech of anyone, or academic freedom.

3 DEFINITIONS

Academic Freedom means the freedom to conduct research, teach, speak, and publish wherever the search for truth and understanding may lead, *subject to the norms and standards of scholarly inquiry*, without interference or penalty.

Academic Freedom, for this Policy, comprises the following elements:

- The freedom of academic staff to teach, discuss, and research and to disseminate and publish the results of their research within the norms and standards of scholarly inquiry.
- 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 their personal capacity about their subjects and by scholarly standards for study and research.
- The freedom of academic staff and students to express their opinions about the higher education provider in which they work or are enrolled.
- The freedom of academic staff, without constraint imposed because of their employment by the Institute, to make lawful public comment on any issue in their personal capacities.
- 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 Institute about the choice of academic courses and offerings, how they are taught and the choices of research activities and how they are conducted.

Academic Staff means all persons employed by the Institute to teach and/or carry out research and extends to those who provide, whether on an honorary basis or otherwise, teaching services and/or conduct research at the Institute.

External Visiting Speaker means any person who is not an invited visiting speaker and for whom permission is sought to speak on the Institute's land or inside its facilities.

Imposed by Law includes 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 means any person invited by the Institute to speak on the Institute's land or inside its facilities.

Non-statutory Policies and Rules mean any non-statutory policies, rules, guidelines, principles, codes, charters or similar instruments.

Speech extends to all forms of expressive conduct, including oral and written speech, artistic, musical and performing works and activities, and social media communication. The word ‘speak’ has a corresponding meaning.

Staff includes all employees of the Institute, whether full-time or part-time, academic and administrative staff.

The Duty to Foster the Wellbeing of Staff 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 by law, including race, gender, sexuality, religion and political belief.
- 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 or external organisation on account of anything they have said or proposed to say in exercising their freedom of speech.
- Supports reasonable and proportionate measures to prevent any person from using lawful speech that 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.
- Does not extend to a duty to protect any person from feeling offended, shocked or insulted by the lawful speech of another.

The Institute includes its decision-making organs and officers, student representative bodies, undergraduate and post-graduate, and any entities controlled by TOP/IMC.

Unlawful means in contravention of a prohibition, restriction or condition imposed by law.

4 PRINCIPLES

- (1) Every member of the staff and every student at the Institute enjoys the freedom of speech exercised on the Institute’s land or in connection with the Institute, subject only to restraints or burdens imposed by:
 - a. The accepted standards and norms of scholarly inquiry.
 - b. Law, as prevailing under any jurisdiction where staff and/or students may operate.
 - c. The reasonable and proportionate regulation of conduct necessary to discharge the Institute’s teaching and research activities.
 - d. The right and freedom of others to express themselves and to hear and receive information and opinions.
 - e. The reasonable and proportionate regulation of conduct will enable the Institute to fulfil its duty to foster the wellbeing of staff and students.

- f. The reasonable and proportionate regulation of conduct necessary to enable the Institute to give effect to its legal duties, including its duties to visitors to the Institute.
- (2) A person's lawful speech on the Institute's land or in connection with an activity at the Institute shall not constitute misconduct nor attract any penalty or other adverse action by reference only to its content.
 - (3) Every member of the academic staff and every student enjoys academic freedom subject only to prohibitions, restrictions or conditions:
 - a. Imposed by the accepted and standard expectations of scholarly inquiry;
 - b. Imposed by law as prevailing within any jurisdiction where staff and/or students may be operating;
 - c. Imposed by the reasonable and proportionate regulation necessary to the discharge of the Institute's teaching and research activities;
 - d. Imposed by the reasonable and proportionate regulation necessary to discharge the Institute's duty to foster the wellbeing of students and staff;
 - e. Imposed by the reasonable and proportionate regulation to enable the Institute to give effect to its legal duties; and
 - f. Imposed by the Institute by way of its reasonable requirements as to the courses to be delivered and the content and means of their delivery.

The exercise of academic freedom by a member of the academic staff or a student, subject to the above limitations, shall not constitute misconduct nor attract any penalty or other adverse action.

- (4) In entering into affiliation, collaborative or contractual arrangements with third parties and in accepting donations from third parties subject to conditions, the Institute shall take all reasonable steps not only to minimise any restrictions or burdens 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 but to ensure that freedom of speech or academic freedom is maintained to the extent possible under any local jurisdiction.
- (5) The Institute has the right and responsibility to determine the terms and conditions upon which it shall permit external visitors and invited visitors to speak on the Institute's land and use its facilities and, in so doing, will expect and require those visitors to adhere to the same standards of academic and scholarly inquiry of the Institute.

In so doing, the Institute may:

- a. Require the person or persons organising the event to comply with the Institute's booking procedures and to provide information relevant to the conduct of any event and any public safety and security issues.
- b. Distinguish between invited and external visitors in framing such requirements and conditions.

- c. Refuse permission to any invited visitor or external visitor to speak on the Institute's land or in its facilities where the content of the speech is or is likely to:
 - (i) Be unlawful.
 - (ii) Prejudice the Institute's fulfilment of its duty to foster the well-being of staff and students.
 - (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 Institute's character as an institution of higher learning.
 - d. Require a person or persons seeking permission for the use of the Institute's 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 Institute shall not refuse permission for the use of its land or facilities by an external visitor or invited visitor nor attach conditions to its permission solely based on the content of the proposed speech by the visitor.

The Institute 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 supporting the Institute's duty to foster the wellbeing of staff and students. They are not precluded from including content solely because it may offend or shock any student or class of students.

5 RELATED DOCUMENTS

- i. *Freedom of Speech and Academic Freedom Procedures*
- ii. *Authorship Policy*
- iii. *Bullying Harassment and Discrimination Prevention Policy and Procedure*
- iv. *Code of Conduct for Students*
- v. *Employee Handbook*
- vi. *Research Code of Conduct*
- vii. *Staff Code of Conduct*
- viii. *Student Academic Integrity Policy*
- ix. *Student Complaints and Appeals Policy*

6 VERSION CONTROL

| Historical Version | Approved by | Approval Date |
|--------------------|----------------|----------------|
| 2021.04 | Academic Board | 19 April 2021 |
| 2016.08 | Academic Board | 15 August 2016 |

The Deputy President (Education) oversees the implementation and compliance of this policy. Please contact the Deputy President's office for any enquiries or clarifications related to this policy.