

Statement on Academic Freedom and Freedom of Speech

This Statement, together with the attached Principles, outlines Edith Cowan College's commitment to promoting and protecting academic freedom and freedom of speech within the College and the broader community generally which the College considers is fundamental to its purpose of driving change through education in a motivating and dynamic learning environment.

ECC is therefore committed to promoting and protecting the rights of:

1. academic employees, in relation to their area of expertise, to pursue critical and open inquiry and to freely discuss, teach, assess, develop curricula, carry out research and publish;
2. students, in the course of their academic activities, to pursue critical and open inquiry and to freely discuss, assess, carry out research and publish;
3. all College employees, to participate in decision-making processes and structures within the College, including the rights to express opinions about the operations of the College and higher education policy more generally;
4. all College employees, to participate in public debates, express unpopular or controversial views and opinions about issues and ideas related to their discipline area, or area of expertise, about the College or higher education issues more generally; and
5. all College employees, to participate in professional and representative bodies and engage in community service without fear of harassment, intimidation or unfair treatment.

Whilst it is not the intention of the College to unnecessarily restrict or limit an individual's pursuit of academic freedom or freedom of speech, ECC considers that it is reasonable to require that individuals exercise the above rights:

1. in a professional and ethical manner;
2. in a manner that does not harass, vilify, intimidate or defame others or the College;
3. in accordance with the College's policies and procedures (as amended from time to time), including but not limited to the *Staff Code of Conduct*, *Student Code of Conduct*, and (for staff) the *Navitas Media Relations and Speaking Engagement Policy*; and
4. in a manner consistent with the College's values: drive, adventurous, conviction, genuine, rigour and respect.

ECC will have regard to this Statement and the attached Principles when making decisions, exercising its discretion, drafting new policies and procedures and reviewing and updating existing policies and procedures. To the extent of any inconsistency between the *Staff Code of Conduct*, *Student Code of Conduct* and this Statement, the codes of conduct will prevail. In relation to research, ECC will be guided by the [National Statement on Ethical Conduct in Human Research \(2007\) - Updated 2018 | NHMRC](#).

Approved by: ECC Academic Council

Resolution 2/2024-03

Principles for the Protection of Academic Freedom and Freedom of Speech at Edith Cowan College

Application

The College has adopted a Statement on Academic Freedom and Freedom of Speech. These Principles outline how the College will uphold the commitments made in the Statement.

Operation

The College, and all aspects of the College which have decision-making powers (including the College's governance bodies, officers and employees) will have regard to these Principles when making decisions, exercising discretion, drafting, reviewing or amending industrial agreements and policies and procedures, but the Principles will not have overriding legal status.

Student representatives of the College should also have regard to these Principles to the extent that they have policies which are capable of being applied to, or are making decisions which may, restrict or burden academic freedom or freedom of speech.

Definitions

'**academic freedom**' for the purposes of these Principles comprises the following elements:

1. the freedom of staff, in the course of their academic activities, to educate, discuss, or research and to disseminate and publish the results of those activities;
2. the freedom of staff and students to engage in intellectual inquiry in the course of their academic activities, to express their opinions and beliefs, and to contribute to public debate, in relation to those activities;
3. the freedom of staff and students to express their opinions in relation to the College;
4. the freedom of staff to participate in professional or representative bodies and associations;
5. the freedom of students to participate in student societies and associations; and
6. the autonomy of the College 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.

'**imposed by law**' in relation to restrictions or burdens or conditions on a freedom include restrictions or burdens or conditions imposed by the common law (including the law of defamation), duties of confidentiality, restrictions deriving from intellectual property law and restrictions imposed by contract.

'**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.

'the duty to foster the wellbeing of staff and students':

1. includes the duty to ensure that no member of staff and no student suffers unfair disadvantage or unfair adverse discrimination on any basis recognised at law including race, gender, sexuality, disability, religion and political belief;
2. 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;
3. supports reasonable and proportionate measures to prohibit any person from using lawful speech which a reasonable person would regard, in the circumstances, both:

- (a) as likely to humiliate, intimidate, harass or bully other persons; and
 - (b) as being intended to have any one or more of those effects; and
4. does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another.

Principles

1. Every member of the staff and every student at the College enjoys freedom of speech exercised on College land or in connection with the College subject only to restraints or burdens imposed by:
 - (a) law;
 - (b) the reasonable and proportionate regulation of conduct necessary to the discharge of the College's education activities, and, to the extent that those activities are informed and advanced by argument and disagreement, by setting scholarly standards for those arguments and disagreements that are conducive to the College's purpose of driving change through education in a motivating and dynamic learning environment.
 - (c) the right and freedom of others to express themselves and to hear and receive information and opinions;
 - (d) the reasonable and proportionate regulation of conduct to enable the College to fulfil its duty to foster the wellbeing of students and staff;
 - (e) 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.
2. Subject to the College's codes of conduct, nothing in any policy of the College shall restrict or inhibit the freedom of staff to make public comment on any issue in their personal capacities. When speaking in their personal capacity, on matters outside their academic expertise, staff may not identify themselves as associated with Edith Cowan College, Edith Cowan University or Navitas.
3. Subject to reasonable and proportionate regulation of the kind referred to above, a person's lawful speech on the College's land 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. If Edith Cowan University puts limits on the use of their land /premises, ECC will comply with that direction.
4. Every member of the staff and every student enjoys academic freedom subject only to prohibitions, restrictions or conditions:
 - (a) imposed by law;
 - (b) imposed by the reasonable and proportionate regulation necessary to the discharge of the College's education activities;
 - (c) imposed by the reasonable and proportionate regulation necessary to discharge the College's duty to foster the wellbeing of students and staff, such as adding trigger warnings to allow students to manage their exposure to confronting material;
 - (d) imposed by the reasonable and proportionate regulation necessary to enable the College to give effect to its legal duties;
 - (e) imposed by the College by way of its reasonable requirements as to the units or courses to be delivered and the content and means of their delivery.
5. When exercising its discretion to impose reasonable and proportionate regulation in respect of each of the matters outlined above, the College will use reasonable endeavours to ensure that such regulation has a formal basis in existing policies or procedures to the extent possible, and is not being imposed purely to prohibit, restrict or impose conditions on the exercise

of academic freedom.

6. The exercise by a staff member or student of academic freedom, subject to the above limitations, shall not constitute misconduct nor attract any penalty or other adverse action.
7. 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 member of staff or students carrying out study under such arrangements or subject to such conditions.
8. The College has the right and responsibility to determine the terms and conditions upon which it shall permit non-invited visiting speakers and invited visiting speakers to speak on College land and use College facilities and in so doing may:
 - (a) require the person or persons organising the event to comply with the College'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 visiting speakers and non-invited visiting speakers in framing any such requirements and conditions;
 - (c) refuse permission to any invited visiting speaker or non-invited visiting speaker to speak on College land or through the use of College facilities where the content of the speech is or is likely to be unlawful, prejudice the fulfilment by the College of its duty to foster the wellbeing of staff and students, or is inconsistent with the College's values;
 - (d) refuse permission to any non-invited visiting speaker to speak on College land or through the use of College facilities where the content of the speech is or is likely to 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 College's character as an institution of higher learning; and
 - (e) require a person or persons seeking permission for the use of College land or facilities for any non-invited 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 non-invited visiting speaker is to speak.

If Edith Cowan University puts limits on the use of their land /premises, ECC will comply with that direction.

9. The College may take reasonable and proportionate steps to ensure that all students in any of its units have an opportunity to be fully informed of the content of those units. Staff are not precluded from including content solely on the ground that it may offend or shock any student or class of students but in doing so must comply with any College policies supportive of the College's duty to foster the wellbeing of staff and students.

Note: The College's Principles for the Protection of Academic Freedom and Freedom of Speech are based upon a model code for the protection of these freedoms developed by former High Court Chief Justice, the Hon Robert S. French AC, following an independent review into the effectiveness of Australian universities in promoting and protecting freedom of speech and academic freedom on their campuses, which was completed in March 2019. This statement and associated principles were drafted with reference to ECC's partner university, Edith Cowan University.