

Name of Policy	Management of Statutory Right of Entry Exercisable by Union Officials Policy	
Description of Policy	This policy provides for the management of circumstances where a Commonwealth, State or Territory statute confers a right of entry to workplaces on a particular officer, employee or official of a registered organisation of employees (a Union).	
<input type="checkbox"/> New Policy		<input type="checkbox"/> Revision
Description of Revision		
	<i>Insert</i> <i>Please type brief description of the insert and specify information to be inserted</i>	

Human Resources Directorate

Policy and Revision Number	
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1. Background Information

1.1 Right of Entry

Certain Commonwealth, State and Territory statutes contain provisions which confer a right of entry to ACU workplaces to authorised officers or employees of a Federal registered organisation of employees or of a State registered Union.

Those statutes and the nature of the instrument granting authorisation are as follows:

- 1.1.1 All Workplaces:** Workplace Relations Act 1996 (Cth)
Permit, issued under Section 740 of the Workplace Relations Act 1996, by a Registrar.
- 1.1.2 ACT Workplaces:** Occupation Health and Safety Act 1989 (ACT)
Authority, in writing, given by an organisation of employees registered under the Workplace Relations Act 1996.
- 1.1.3 NSW Workplaces:** Occupation Health and Safety Act 2000 (NSW)
Authority, issued under Part 7 of Chapter 5 of the Industrial Relations Act 1996 (NSW), by the Industrial Registrar of NSW.
- 1.1.4 Queensland Workplaces:** Workplace Health and Safety Act 1995 (Qld)
Identity Card, issued under Section 90H of the Workplace Health and Safety Act 1995 (Qld) by the Industrial Registrar of Queensland.
- 1.1.5 Victorian Workplaces:** Occupation Health and Safety Act 2004 (Vic)
Entry Permit, issued under Section 83 of the Occupation Health and Safety Act 2004 (Vic), by the Victorian Magistrates' Court.

1.2 Purpose of Right of Entry

The purpose for which right of entry may be exercised by an authorised person and the conditions and limitations which apply to the exercise of that right are as follows:

1.2.1 All Workplaces: Workplace Relations Act 1996 (Cth)

Purpose:

To represent the organisation's members in the workplace, hold discussions with potential members and investigate suspected breaches of industrial laws, industrial instruments and OHS laws.

Conditions and limitations:

1. *To represent members or hold discussions:*
 - Must hold a current Permit under the *Act* and produce it on request;
 - Must give a written Entry Notice in the form required by the Regulations;
 - Entry Notice must be given to the occupier of the workplace at least 24 hours, but not more than 14 days, before the entry;
 - Entry Notice must specify the date of entry;
 - Entry Notice must specify section 760 as the section of the *Act* that authorises the entry;
 - Entry may occur only in working hours and discussions may only occur during the employees' mealtimes or during other breaks.

2. *To investigate breaches of Industrial laws or instruments:*
 - Must hold a Permit under the *Act* and produce it on request;
 - Must give a written Entry Notice in the form required by the Regulations;

- Entry Notice must be given to the occupier of the workplace notice of at least 24 hours, but not more than 14 days, before the entry;
- Entry Notice must specify the date of entry;
- Entry Notice must specify section 747 as the section of the *Act* that authorises the entry;
- Entry Notice must set out particulars of the suspected breach;
- Where the suspected breach is of an AWA, there is no right of entry unless the employee who is a party to the AWA makes a written request to the organisation to investigate the breach;
- Entry may occur only in working hours.

3. *To investigate breaches of OHS laws:*

- Must hold a Permit under the *Act* and produce it on request;
- Entry may occur only in working hours;
- *Additionally, if entry is for the purpose of exercising a right to inspect employment records conferred by State or Territory OHS law:*
 - i) Must give a written Notice
 - ii) Notice must be given to the occupier of the workplace notice of at least 24 hours before the entry; and,
 - iii) Notice must set out the reason for exercising the right to inspect

1.2.2 ACT Workplaces: Occupation Health and Safety Act 1989 (ACT)

Purpose:

To investigate a contravention of the *Act* or the concomitant *Regulations* that an authorised representative of a registered organisation suspects on reasonable grounds may have happened, may be happening, or is likely to happen.

Conditions and limitations:

- Must hold an Authority under the *Act* and produce it on request;
- Entry may occur only in working hours;
- The authorised representative must tell the occupier of the premises that the representative is on the premises as soon as reasonably practicable after entering the premises;
- *Additionally, if entry is for the purpose of exercising a right to inspect employment records:*
 - i) Must give a written Notice
 - ii) Notice must give to the occupier of the workplace notice of at least 24 hours before the entry; and,
 - iii) Notice must set out the reason for exercising the right to inspect

1.2.3 NSW Workplaces: Occupation Health and Safety Act 2000 (NSW)

Purpose:

For the purpose of investigating any suspected breach of the occupational health and safety legislation.

Conditions and limitations:

- Must hold an Authority, issued under Part 7 of Chapter 5 of the Industrial Relations Act 1996 (NSW);
- Must tell the occupier of the premises that the representative is on the premises as soon as reasonably practicable after entering the premises;
- Must do as little damage as possible.

1.2.4 Queensland Workplaces: Workplace Health and Safety Act 1995 (Qld)

Purpose:

To contribute to workplace health and safety in workplaces and relevant workplace areas –

- where an authorised representative reasonably suspects that a contravention of the *Act* involving workplace health and safety has happened or is happening, or
- by an authorised representative discussing matters relating to workplace health and safety at the place with workers.

Conditions and limitations:

- Must hold an Identity Card issued under the *Act* and produce it on request;
- Must give to the occupier of the workplace notice of at least 24 hours before the entry;
- If the right is exercised for discussion with workers, discussion may only occur during a work break, including a meal break;
- The authorised representative must tell the occupier of the workplace that the representative is on the premises as soon as reasonably practicable after entering the premises;
- Additionally, if entry is for the purpose of exercising a right to inspect employment records:
 - i) Must give a written Notice
 - ii) Notice must give the occupier of the workplace notice of at least 24 hours before the entry; and,
 - iii) Notice must set out the reason for exercising the right to inspect.

1.2.5 Victorian Workplaces: Occupation Health and Safety Act 2004 (Vic)

Purpose:

Enquiring into a contravention of the *Act* or the concomitant Regulations which an authorised representative reasonably suspects has occurred or is occurring at a place that is a workplace.

Conditions and limitations:

- Must hold an Entry Permit under the *Act* and must take all reasonable steps to produce the Permit to the occupier immediately upon entry;
- Must take all reasonable steps to give a Notice to the occupier immediately upon entry;
- Notice must be in the form approved by the Victorian WorkCover Authority;
- Notice must include a description of the suspected contravention
- Additionally, if entry is for the purpose of exercising a right to inspect employment records:
 - i) Must give a written Notice
 - ii) Notice must give the occupier of the workplace notice of at least 24 hours before the entry; and,
 - iii) Notice must set out reason for exercising the right to inspect;
- Entry may occur only in working hours;
- Consulting with employees may occur during meal-time or other breaks.

2. Policy Statement

Where an officer or employee of a Federal registered organisation of employees or of a State registered Union enters an ACU workplace in exercise of a right of entry conferred by a statute, the presence of that person in the workplace is to be managed so as to ensure that there is actual compliance with the conditions and limitations placed on the exercise of that right by the particular statute.

3. Policy Purpose

The Policy recognises that, because ACU is a Limited Company with workplaces located in the States of New South Wales, Victoria and Queensland and in the Australian Capital Territory, the purposes for which and the basis upon which Union officials may exercise a statutory right of entry will vary from workplace to workplace. The Policy is directed to ensuring an appropriate management response in each of the varied circumstances in which a right of entry to a University workplace may be exercised.

4. Application of Policy – All Staff

4.1 Where a staff member is approached by, or becomes aware of, a person present in an ACU workplace on the basis that the person is an officer or employee of a Union authorised to exercise a right of entry by a Commonwealth, State or Territory statute, the staff member must notify her or his immediate supervisor. Where the immediate supervisor is unavailable or cannot be readily located at the time, the staff member must notify the next more senior officer.

4.2 Where a supervisor or a Senior Officer is approached by, or becomes aware of, or is informed of a person present in an ACU workplace on the basis that the person is an officer or employee of a Union authorised to exercise a right of entry by a Commonwealth, State or Territory statute, the supervisor or the Senior Officer must notify the Manager, Employee Relations. Where the Manager, Employee Relations is unavailable or cannot be readily located at the time, the supervisor or Senior Officer must notify the Director, Human Resources.

5. Approvals

A staff member must not provide a person present in an ACU workplace on the basis that the person is an officer or employee of a Union authorised to exercise a right of entry by a Commonwealth, State or Territory statute with access to any documents or electronic files, including employment records, otherwise than in accordance with the staff member's delegated authority in the University's Staffing Delegations Register. All such requests must be referred to the appropriately delegated officer.

6. Policy Review

The University may make changes to this policy from time to time. In this regard, any staff member who wishes to make any comments about this Policy may forward her/his suggestions to the Director, Human Resources.

7. Further Assistance

Any staff member who requires assistance in understanding this Policy should first consult the Manager, Employee Relations.