

Name of Policy	Interim – Workplace Assistance and Representation of Staff and Registered Organisation Business Policy	
Description of Policy	This policy provides for the management of assistance to or the representation of staff members in relation to Workplace Relations matters, together with the management of the conduct of the business of registered organisations of employees in ACU workplaces by staff members who are members of such organisations or by Union officials	
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Human Resources Directorate

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1. Background Information

1.1 The University's Obligations

The background information set out in the *Interim – Visitors on University Premises at Invitation of Staff Policy* concerning the University's obligations under Occupational Health and Safety legislation, the Corporations Law and the Common Law; together with that information concerning effective management of risks, statutory right of entry and balance within the ethos of Australian Universities; is to be read in conjunction with the following information in this section.

1.2 Assistance under Workplace Agreements

The *Australian Catholic University Limited Staff Enterprise Agreement 2005 – 2008* (the Agreement) provides that a staff member may be assisted by a person of their choice, provided that person is not a practicing barrister or solicitor, in the following circumstances:

- During any meeting to discuss performance where a supervisor concludes that the performance of a staff member does not meet the expected standards (Sub-clause 4.9.2.2 and 4.9.2.3);
- During consultation on measures to be adopted to minimise adverse effects of a decision to make one or more positions redundant (Clause 6.14.1);
- Throughout the proceedings associated with alleged misconduct or serious misconduct (Sub-clause 6.15.1.3);
- Throughout the procedures for settling disputes concerning the matters in the Agreement (Sub-clause 7.1);
- Throughout the processes relating to consultation at ACU in Section 8 of the Agreement (Sub-clause 8.1);
- Throughout the course of discussions to address a proposal of significant change to work organisation which is likely to impact on the staff member (Clause 8.7.1); and,
- When the University is considering input by a staff member regarding change proposals for the purpose of deciding whether to proceed with the proposed change, either in its original or a revised form (Sub-clause 8.7.1.2).

1.3 Representation under Workplace Agreements

The Agreement provides that a staff member may be represented by their chosen representative, provided that person is not a practicing barrister or solicitor, in the following circumstances:

- Where a Misconduct Committee is pursuing its work to inquire into a matter referred to it for investigation (Sub-clause 6.15.3.2); and,
- Where, during the procedures for settling disputes concerning the matters in the Agreement, a dispute is found to extend beyond one organisational unit or is taken up, in writing, with the relevant Senior Staff member after earlier steps in the procedures were unsuccessful (Sub-clause 7.5).

1.4 Assistance or representation of staff as members of a registered organisation of employees:

The University Policy *Regulation of Salaries and Conditions of Employment* provides that the effective pursuit of the University's Mission requires that the salaries and conditions of employment of its staff be regulated by mutually enforceable statutory instruments. Consistent with that Policy, the University has entered into the *Australian Catholic University Limited Staff Enterprise Agreement 2005 – 2008*, a collective Workplace agreement to which Part 8 of the *Workplace Relations Act 1996* applies.

Each of the two registered organisations of employees which are a party to the Agreement have members employed at some or all ACU workplaces. The provisions of the Agreement (or those included in any AWA which may continue in existence) which provide the opportunity for a staff member to be either assisted or represented in particular circumstances, assume that such assistance or representation will in most instances be provided by an officer or employee of a registered organisation of employees.

1.5 Conducting registered organisation business

From time to time staff members who are members of the respective registered organisations of employees select from their number a staff member to conduct the business of the organisations at ACU workplaces. Such business may include, but may not be limited to, assistance to or representation of staff members in the nature of that referred to in sub-sections 1.1 and 1.2 of this Policy. Furthermore, conducting such business may lead to officers or employees of the organisations seeking to enter ACU workplaces. Clause 4.4.8 of this Policy provides for the effective management of the latter circumstances.

1.6 Staff member nominees of a registered organization

Sub-clause 8.4 of the Australian Catholic University Limited Staff Enterprise Agreement 2005 – 2008 establishes the composition of the ACU Staff Consultative Committee (ACUSCC) as including two academic staff members and two general staff members nominated by the registered organisations of employees which are parties to the Agreement. Section 5 of this Policy provides for management of the implementation of this Agreement provision.

2. Policy Statement

2.1 A person must not enter a learning - working environment at an ACU workplace for the purpose of providing assistance or representation to a staff member or to conduct the business of a registered organisation of employees without prior approval. Unless varied at the absolute discretion of the University in a particular case, the terms of any such approval will be those of this Policy.

2.2 A person who does not observe the terms of an approval or exemption granted pursuant to this Policy may, at the absolute discretion of the University, be removed from the workplace at any time.

2.3 A person must not conduct the business of a registered organisation of employees in an ACU workplace other than in accordance with this Policy.

3. Policy Purpose

This Policy provides for the management of assistance to or the representation of staff members in circumstances where an entitlement to assistance or representation is provided for in a Workplace Agreement (or in any AWA which may continue in existence).

The Policy is also directed to managing the conducting of the business of registered organisations of employees in ACU workplaces by staff members who are members of such organisations or officers or employees of the particular organisation.

4. Application of Policy

4.1 This policy does not apply to the representation of a staff member during bargaining under the Workplace Relations Act 1996 by a registered organisation of employees or by a bargaining agent appointed under that Act.

4.2 This policy does not apply where a person enters or seeks to enter an ACU workplace on the express basis that the person is an officer or employee of a registered organisation of employees authorised to exercise a right of entry by a Commonwealth, State or Territory statute.

4.3 For the purpose of this policy:

- “*Learning - working environment*” means any premises or other location under the control of the University (whether or not on its premises, eg the location of a field trip) where an employee works or where a student receives or engages in education, study or tutoring (whether individually or with other students) but does not include areas which are publicly accessible at the particular time, such as gardens, courtyards, cafes, cafeterias, chapels, reflection rooms, foyers and lobbies;
- “*Premises*” includes all University campuses, buildings, grounds, vehicles, commercial and other locations or places where university activities are conducted under the University’s management and control;
- “*Person*” includes a staff member.

4.4 Entry to ACU workplace

4.4.1 A staff member must not invite a person to enter a learning - working environment at an ACU workplace for the purpose of providing assistance to or representation of a staff member in the nature of that referred to in sub-sections 1.1 and 1.2 of this Policy, or for the conduct of the business of a registered organisation of employees without approval for the person to enter the particular learning - working environment first being obtained under this Policy.

4.4.2 A person must not enter a learning - working environment at an ACU workplace for the purpose of providing assistance to or representation of a staff member in the nature of that referred to in sub-sections 1.1 and 1.2 of this Policy or of conducting the business of a registered organisation of employees without approval for the person to enter the particular learning - working environment first being obtained under this Policy.

4.4.3 A staff member wishing to invite a person into a learning - working environment at an ACU workplace or a person wishing to enter a learning - working environment at an ACU workplace for a purpose to which this Policy applies (i.e. - to provide assistance to or representation of a staff member in relation to Workplace relations matters or to conduct the business of a registered organisation of employees) must apply for approval to do so not less than one complete working day before the time at which the proposed entry is to occur.

4.4.4 Subject to clause 4.4.8, the application must be made by email and be addressed to the Approving Officer. The application must state the identity of the person who seeks to enter the learning - working environment, the location of the learning - working environment and of the workplace, the proposed date and time of entry and for which of the purposes in this Policy entry is sought. Where a person seeks to enter the same location for a single purpose on more than one occasion, a single application specifying all dates and times at which entry is sought may be made.

4.4.5 Prior to reaching a decision on an application, the Approving Officer may make such enquiries as appear appropriate and may require the provision of photo-identification, normally in digital form.

4.4.6 The Approving Officer’s decision on an application must be conveyed to the applicant by email as soon as practicable. Any approval may set out such conditions as to entry to the workplace as the Approving Officer may find reasonably necessary in the

particular circumstances, having regard to those obligations of the University referred to in sub-section 1.1.

4.4.7 It is a condition of an approval under this Policy that the person to whom the approval applies must notify the Approving Officer, or another officer nominated by the Approving Officer in the approval, of the person's presence in the workplace as soon as practicable after entry. Notification will normally occur by telephone.

4.4.8 Where a person to whom a current Permit under Section 740 of the Workplace Relations Act 1996 has been issued provides the Approving Officer with a copy of the Permit and with photo-identity, normally in digital form, the Approving officer may provide that person with an exemption from the provisions of clauses 4.4.1, 4.4.2 and 4.4.3. Any exemption granted by the Approving Officer may set out such conditions as to entry to the workplace as the Approving Officer may find reasonably necessary in the particular circumstances, having regard to those obligations of the University referred to in sub-section 1.1.

4.5 Conducting registered organisation business

4.5.1 A staff member who is a member of a registered organisation of employees and who is selected by the members of that organisation to conduct the business of the organisation at ACU workplaces must not conduct the business of the organisation at any ACU workplace unless she/he has first notified the Approving Officer, in writing, of her/his selection by the members of the organisation.

4.5.2 A staff member to whom clause 4.5.1 applies, when on duty, must not conduct the business of the registered organisation of employees at times other than during the staff member's mealtimes or during other work breaks. Provided that, where the staff member has been nominated a registered organisation of employees as a member of a committee required to be established by the terms of a Workplace Agreement, the staff member's reasonable preparation for and attendance at duly convened meetings of the committee is not business of the registered organisation for the purposes of this clause.

4.5.3 A staff member to whom clause 4.5.1 applies must not conduct the business of the registered organisation of employees at any venue other than the staff member's usual work station or office at any ACU workplace without the consent of the Approving Officer, in writing.

4.5.4 A staff member must not use the University's property, including intellectual property, or material resources, including office equipment and consumables, in conducting the business of a registered organisation of employees.

4.5.5 A staff member must not use the University's Information Technology Facilities; including telecommunication systems (including video-conferencing facilities), electronic messaging systems, information systems and networks (including local and hard drives) and web servers, to conduct or publicize the business of a registered organisation of employees, other than in accordance with this Policy.

4.5.6 A staff member must only use the University's Information Telecommunications services to conduct the business of a registered organisation of employees on the basis that use of the services for that purpose are telephone calls of a personal nature for the purpose of the University's Telecommunications Usage Policy and must otherwise comply with that Policy.

4.5.7 Where, in accordance with the Section 4 of the University's Telecommunications Usage Policy, telecommunication services used to conduct the business of a registered organisation of employees are charged back to departments, the staff member who used the services must reimburse the University for the charge for the services if directed to do so.

- 4.5.8** A staff member must only use the University's electronic messaging (email) services to conduct the business of a registered organisation of employees on the basis that uses of the services for that purpose are of a permissible personal nature for the purpose paragraph 1 of Section 4 of the University's Electronic Messaging (email) Policy and must otherwise comply with that Policy.
- 4.5.9** A staff member must neither use the University's electronic messaging (email) services for a use prohibited by paragraph 2 of Section 4 of the University's Electronic Messaging (email) Policy nor broadcast email messages to Campus or University wide mailing lists for the purpose of conveying information regarding the business of a registered organisation of employees, or to publicize the organisation. However, a staff member to whom clause 4.5.1 applies may establish and, subject to clauses 4.4.2 and 4.5.8, may use a subscription only mailing list, limited to staff members, for those purposes.
- 4.5.10** A staff member must not use a University web server for the purpose of conveying information regarding the business of a registered organisation of employees or to publicize the organisation.

5. Staff member nominees of a registered organisation

Where a Workplace Agreement provides that a registered organisation of employees may nominate a staff member as a member of a committee required to be established by the terms of the Agreement, the nominated staff member is not required to seek approval under clause 4.4.2 prior to entering a learning - working environment at an ACU workplace for the purpose of attending a duly convened meeting of the committee of which she/ he is a member.

6. Approvals

- 6.1** For the purpose of this Policy the Approving Officer is the Director, Human Resources or his/her nominee.
- 6.2** A staff member must not provide a person present in a learning - working environment at an ACU workplace on the basis that the person is providing assistance to or representation for a staff member pursuant to this Policy 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.
- 6.3** The Approving Officer or his/her nominee may approve or direct the removal of a person from a workplace in accordance with sub-section 2.2.

7. 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.

8. Further Assistance

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