

STATUTE 13 – FREEDOM OF SPEECH AND INTELLECTUAL FREEDOM

- 13.1 Preamble and scope
- 13.2 Freedom of speech
- 13.3 Intellectual freedom
- 13.4 Freedom of association and representation
- 13.5 Duty to foster wellbeing
- 13.6 Visiting speakers
- 13.7 Definitions

- 13.1.1 The University recognises the open and honest exchange of diverse views as central to its Mission within the Catholic intellectual tradition. In accordance with this Statute 13, the University will uphold the rights of University members to enjoy freedom of speech and intellectual freedom inside and outside the University, without fear of penalty or adverse action by the University.
- 13.1.2 This Statute 13 applies to all University members.
- 13.1.3 This Statute 13 shall be subject to any contrary or conflicting provisions of law (including any provision in any legally enforceable agreement in place as at the date of the approval of this Statute 13) or any such provisions in the Constitution of Australian Catholic University Limited or its Enterprise Agreement in force from time to time.
- 13.1.4 Subject to any restrictions imposed by law, this Statute 13 shall prevail over any contrary or conflicting provision in any other University Statute, Regulation, Policy, Procedure, Protocol or other document of the University to the extent of the inconsistency.
- 13.1.5 With respect to the documents referred to in section 13.1.4:
- (a) the University shall have regard to the provisions of this Statute 13 in the drafting, review or amendment of any such document;
 - (b) such documents shall be interpreted in accordance with the provisions of this Statute 13; and
 - (c) any power or discretion conferred by any such document shall be exercised in accordance with provisions of this Statute 13.
- 13.1.6 Consistent with *Ex Corde Ecclesiae*, University members may exercise intellectual freedom (including academic freedom) provided that the University's duty to foster wellbeing (as referred to in Statute 13.5) is not compromised.



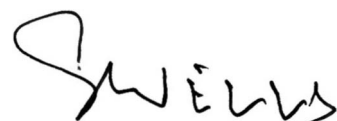
ORIGINATED BY SENATE RESOLUTION: S 2020/022
DATED: 8 April 2020

**COMMON SEAL AFFIXED
BY SECRETARY**



- 13.2.1 All University members may express and exchange views, including in relation to the University as a place of work and study, on University campuses, using the University's physical and virtual facilities or in connection with the University within the limits imposed by law, such as those which prohibit the expression of views that defame, harass, intimidate, discriminate against or vilify others.
- 13.2.2 Notwithstanding section 13.1.4 of this Statute, further limits on the right to lawful free speech are imposed by University policies designed to regulate the conduct of all University members in support of its Mission. All University members must:
- (a) respect the rights of other University members to express and exchange views;
 - (b) allow the University to meet its statutory duties to foster the wellbeing of University members;
 - (c) allow the work of the University to proceed without undue obstruction or disruption;
 - (d) allow the University to meet its duties to third parties including University members, regulators, commercial partners, contractors, philanthropic donors, invited visiting speakers and external visiting speakers;
 - (e) consider the University's concern to uphold its reputation as well as to foster wellbeing and that of University members; and
 - (f) clarify, as required, that the views expressed are their own, and not made on behalf of the University.

ORIGINATED BY SENATE RESOLUTION: S 2020/022
DATED: 8 April 2020



COMMON SEAL AFFIXED
BY SECRETARY



- 13.3.1 The University will defend the right of University members to exercise intellectual freedom inside and outside the University in their pursuit of truth and knowledge, provided it is done with rigour and evidence.
- 13.3.2 In the course of their work, all University members may express and exchange views on any topic related to their field of study or area(s) of expertise, including, but not limited to, on University campuses and using the University's physical and virtual facilities, and on other public platforms, including social media.
- 13.3.3 When exercising intellectual freedom, University members must, where relevant:
- (a) recognise the limits outlined in sections 13.2.1 and 13.2.2 of this Statute 13;
 - (b) uphold the design, delivery and quality assurance requirements of University courses as determined by the Academic Board and the Senate;
 - (c) uphold the research ethics and quality assurance requirements of University research projects in accordance with enforceable external codes, where relevant, in addition to University policies; and
 - (d) clarify, as required, when their views are expressed in a personal capacity, and not within the context of their particular area(s) of scholarly, intellectual or professional expertise.

ORIGINATED BY SENATE RESOLUTION: S 2020/022
DATED: 8 April 2020



COMMON SEAL AFFIXED
BY SECRETARY



**STATUTE TITLE: FREEDOM OF ASSOCIATION
AND REPRESENTATION**

STATUTE NO 13.4

Page 1 of 1

- 13.4.1 Subject to section 13.4.2, all University members have a right to participate in governing and representative bodies associated with the University and its work, including membership of such bodies and participation in the lawful activities of those bodies.
- 13.4.2 The right of participation outlined in section 13.4.1 is subject to the ordinary membership requirements outlined in the Constitution, the University's Statutes, terms of reference or other document governing the membership of, or participation in, such bodies.
- 13.4.3 University members may express the views of governing and representative bodies as members of those bodies in relation to the University as a place of work or study.
- 13.4.4 When exercising the right referred to in section 13.4.1 of this Statute 13, University members must:
- (a) recognise the limits outlined in sections 13.2.1 and 13.2.2 of this Statute 13; and
 - (b) clarify, as required or relevant, whether the views are expressed on behalf of the governing or representative body in respect of which they are a member or whether the views are representative of the University generally.

ORIGINATED BY SENATE RESOLUTION: S 2020/022
DATED: 8 April 2020


**COMMON SEAL AFFIXED
BY SECRETARY**



- 13.5.1 The University has a duty to foster the wellbeing of University members. In doing so, the University will not penalise any University member for exercising their right to free speech or intellectual freedom in accordance with this Statute 13.
- 13.5.2 The University values respectful exchange in the pursuit of truth and knowledge, consistent with the Catholic intellectual tradition. Subject to the matters outlined in sections 13.2.1 and 13.2.2 of this Statute 13, the University will not prevent the lawful expression of a person's views in any University forum, nor will it allow the obstruction or disruption of a forum where a diverse range of views may be openly contested.
- 13.5.3 The University will not prevent any University members from lawfully expressing a view solely on the basis that others may be offended by that view.



ORIGINATED BY SENATE RESOLUTION: S 2020/022
DATED: 8 April 2020

**COMMON SEAL AFFIXED
BY SECRETARY**



- 13.6.1 The University may request invited visiting speakers to speak on the University's land or use its physical or virtual facilities (including for public events) for the purpose of engaging in scholarly or professional forums subject to any terms and conditions imposed by the University.
- 13.6.2 The University may permit external visiting speakers to use University land or its physical or virtual facilities (including for public events), subject to any terms and conditions imposed by the University.
- 13.6.3 The terms and conditions the University may impose for the use of its land or physical and virtual facilities by any visiting speaker, whether or not they are associated with the University, may include, as relevant:
- (a) the payment of any fee for the hire of University facilities;
 - (b) confirmation of current public or general liability and professional indemnity insurance;
 - (c) the completion of any necessary risk or work, health and safety assessment;
 - (d) the implementation of appropriate security arrangements;
 - (e) the University's right to refuse to provide any campus forum or scholarly platform for the expression of extremist, harmful or unscholarly views, as determined by the University, or of views that would defame, harass, intimidate or vilify others; and
 - (f) the University's concern to uphold its reputation.
- 13.6.4 Subject to the terms and conditions of their engagement, and the matters outlined in sections 13.2.1 and 13.2.2 of this Statute 13, invited and external visiting speakers have the same right to free speech as University members, without fear of obstruction or disruption.

ORIGINATED BY SENATE RESOLUTION: S 2020/022
DATED: 8 April 2020



**COMMON SEAL AFFIXED
BY SECRETARY**



13.7.1 For the purposes of this Statute 13, the following definitions apply:

“Duty to foster wellbeing” includes the University’s duty to:

- safeguard, to the extent possible, the safety of University Members on University campuses;
- take reasonable steps to protect University Members from unlawful discrimination;
- take reasonable steps to protect University Members from harassment, discrimination, vilification or intimidation for expressing any lawful views in University forums; and
- promote fair, considerate and respectful treatment of all University members;

but does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another.

“External visiting speaker” means any person who is not an invited visiting speaker and for whom permission is sought to speak on the University’s land or use the University’s physical or virtual facilities.

“Free speech”, “freedom of speech” (or “expression”) means the expression and exchange of views on any matter within the limits of the law, without detriment. It extends to all forms of expressive conduct including oral speech and written, artistic, musical and performing works, and activity and communication using social media. It includes the expression of views about the University as a place of work and study. It also includes the right to participate in governing and representative bodies in accordance with this Statute 13, and to express the views of those bodies but does not extend to the undue obstruction or disruption of the work of the University, or the prevention of others’ freedom to express and exchange views.

“Governing and representative bodies” means bodies associated with the University and its work, including State Chapters defined in the Constitution of Australian Catholic University Limited, the governing bodies listed in Statute 2, staff and student unions, professional associations and campus student associations and other organisations, as referred to in Statute 9.

“Intellectual freedom” means the freedom of University members to:

- engage in unrestricted intellectual inquiry, to express their views openly, and to contribute to public debate, in relation to their subjects of study, research and/or area(s) of expertise; and
- teach, discuss, and research and to publish the results of their research, subject to the design, delivery and quality assurance requirements of University courses and research projects, as applicable;

and includes academic freedom of academic staff engaged in the above activities in their respective discipline(s) or area(s) of expertise.

“Invited visiting speaker” means any person who has been invited by or on behalf of the University to speak on the University’s land or use the University’s physical or virtual facilities.

“**Staff**”, consistent with the Constitution of Australian Catholic University Limited, the Australian Catholic University Staff Enterprise Agreement, and Statute 1, includes:

- academic staff and professional staff members;
- staff employed on a full-time, part-time, casual or honorary basis;
- staff employed under the Enterprise Agreement or pursuant to a senior staff, executive or any other form of employment contract; and
- members of Religious.

“**University member**”, for the purpose of this Statute 13, includes:

- staff;
- students (as defined in Statute 1);
- the members of the University’s governing bodies identified in Statute 2, regardless of whether they are employed by the University;
- any Member from time to time defined in the Constitution of Australian Catholic University Limited;
- honorary title holders of the University; and
- honorary degree recipients.



ORIGINATED BY SENATE RESOLUTION: S 2020/022
DATED: 8 April 2020

**COMMON SEAL AFFIXED
BY SECRETARY**

