

Freedom of Speech and Academic Freedom

Policy

Table of Contents

1. PURPOSE.....	3
2. SCOPE	3
3. DEFINITIONS	3
4. POLICY	3
5. Freedom of Speech and Academic Freedom Code.....	4
6. Operation.....	6
7. RELATED DOCUMENTS	7
8. RELEVANT LEGISLATION	7
9. POSITIONS RESPONSIBLE	7
10. APPROVAL INFORMATION.....	8
REFERENCES and ACKNOWLEDGEMENTS	8

1. PURPOSE

The *Freedom of Speech and Academic Freedom Policy* sets out JMC Academy's commitment to the exercise of academic freedom, underpinned by the principle of freedom of speech.

About this Policy

JMC Academy's *Freedom of Speech and Academic Freedom Policy* is based on the 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 of policies supporting freedom of speech and intellectual inquiry in Australian higher education completed in March 2019, [here](#). In 2020, Professor (Emeritus) Sally Walker undertook a review of the implementation of the Model Code, [here](#). Walker reported that of the 33 universities that had adopted the Model Code nine were fully aligned; 14 were mostly aligned; four were partly aligned with significant areas not aligned and six had policies that were not aligned. JMC Academy's *Freedom of Speech and Academic Freedom Policy* is mostly aligned; where it does not align is because JMC Academy is a non self accrediting Higher Education Institution; amendments are because the Model Code was written for universities. This Policy also considers the *Higher Education Support Amendment (Freedom of Speech) Act 2021*, [here](#) which provided new definitions for free intellectual inquiry.

2. SCOPE

The *Freedom of Speech and Academic Freedom Policy* applies to:

- 2.1. The Governing Council, its boards and committees, including those involved in academic governance.
- 2.2. Student Representative bodies to the extent that they have policies and rules which are capable of being applied to restrict or burden the freedom of speech of anyone, or academic freedom.
- 2.3. All students, members of the JMC Academy's workforce and visiting speakers to JMC Academy.

For the purpose of this policy, all members of the JMC Academy's workforce are referred to as 'staff.'

3. DEFINITIONS

All definitions are located in the *JMC Academy Glossary*.

4. POLICY

- 4.1. JMC Academy's reputation as an educational institution depends upon its ability and determination to challenge, revise and renew accepted ideas, to encourage debate, and to support the development and testing of theories.
- 4.2. A core value of JMC Academy is to preserve, defend and promote the traditional principles of freedom of speech and academic freedom in the conduct of its affairs.
- 4.3. JMC Academy recognises and values the right to academic freedom and freedom of speech as central to its endeavours in teaching and learning and scholarship and is committed to its promotion and protection within JMC Academy. Nevertheless, academic staff must exercise caution not to incorporate contentious material into their teaching that lacks relevance to the course content.

- 4.4. JMC Academy supports the right of its scholars to engage in critical inquiry and robust and unfettered critical debate. Scholars at JMC Academy are free to engage in intellectual and critical enquiry, scholarly endeavour and public discourse without fear or favour. In return for that freedom, JMC Academy expects that all its scholars will conduct their academic work with the highest integrity, employing appropriate academic and scholarly rigor to ensure accuracy.
- 4.5. Academic freedom and freedom of speech are of such value that they will not be restricted or burdened except by restrictions or burdens permitted by this *Freedom of Speech and Academic Freedom Policy*.
- 4.6. Academic freedom and freedom of speech carries responsibilities to exercise professional care and competence in teaching, learning and scholarship in such a way to not adversely affect the ability of others to exercise freedom of speech or academic freedom.
- 4.7. Students and staff are expected to adhere to the provisions of relevant legislation, and to the rules, policies, regulations, procedures and guidelines of JMC Academy, the accepted ethical practices of the higher education community in Australia, and the standards of relevant academic research disciplines and professional practice.
- 4.8. By recognising, promoting and supporting the right to freedom of speech and academic freedom, JMC Academy does not imply endorsement of particular views expressed by our academics. The views expressed are the views of the academic staff, even though an affiliation with JMC Academy is indicated. Therefore, diligent efforts should be made to clarify that their statements may not represent the views of the JMC Academy. Moreover, when academic staff share opinions in public on topics outside their expertise, it is essential for them to clearly state that they are expressing personal views as private individuals, and not in their capacity as JMC staff members. Views on behalf of JMC Academy can only be expressed by officials and executives because of the position they hold or by other members of JMC Academy if specifically authorised to do so.
- 4.9. Academic freedom is not a defence for acting unlawfully, for poor behaviour or disrespectful treatment of others and in their exercise of academic freedom academic staff will always also observe the JMC Academy's Code of Conduct.

5. Freedom of Speech and Academic Freedom Code

- 5.1. Every member of staff and every student at JMC Academy enjoys freedom of speech exercised on JMC Academy campuses and facilities or in connection with JMC Academy subject only to restraints or burdens imposed by:
 - 5.1.1. law;
 - 5.1.2. the reasonable and proportionate regulation of conduct necessary to the discharge of JMC Academy's teaching and research activities
 - 5.1.3. the right and freedom of others to express themselves and to hear and receive information and opinions;
 - 5.1.4. the reasonable and proportionate regulation of conduct to enable JMC Academy to fulfil its duty to foster the wellbeing of students and staff;
 - 5.1.5. the reasonable and proportionate regulation of conduct necessary to enable JMC Academy to give effect to its legal duties including its duties to visiting speakers to JMC Academy.

- 5.2. Subject to reasonable and proportionate regulation of the kind referred to in the previous Principle, a person's lawful speech on JMC Academy's campuses or in or in connection with a JMC Academy activity shall not constitute misconduct nor attract any penalty or other adverse action by reference only to its content.
- 5.3. Every member of the academic staff and every student enjoys academic freedom subject only to prohibitions, restrictions or conditions:
 - 5.3.1. imposed by law;
 - 5.3.2. imposed by the reasonable and proportionate regulation necessary to the discharge of JMC Academy's teaching and research activities;
 - 5.3.3. imposed by the reasonable and proportionate regulation necessary to discharge JMC Academy's duty to foster the wellbeing of students and staff;
 - 5.3.4. imposed by the reasonable and proportionate regulation to enable JMC Academy to give effect to its legal duties;
 - 5.3.5. imposed by JMC Academy by way of its reasonable requirements as to the courses to be delivered and the content and means of their delivery.
- 5.4. The exercise by a member of the academic staff or of a student of academic freedom, subject to the above limitations, shall not constitute misconduct nor attract any penalty or other adverse action.
- 5.5. In entering into affiliation, collaborative or contractual arrangements with third parties and in accepting donations from third parties subject to conditions, JMC Academy 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 the academic staff or students carrying on research or study under such arrangements or subject to such conditions.
- 5.6. JMC Academy has the right and responsibility to determine the terms and conditions upon which it shall permit external visiting speakers and invited visiting speakers to speak on JMC Academy campuses and use JMC Academy facilities and in so doing may:
 - 5.6.1. require the person or persons organising the event to comply with JMC Academy's booking procedures and to provide information relevant to the conduct of any event, and any public safety and security issues;
 - 5.6.2. distinguish between invited visiting speakers and external visiting speakers in framing any such requirements and conditions;
 - 5.6.3. refuse permission to any invited visiting speaker or external visiting speaker to speak on JMC Academy campuses or at JMC Academy facilities where the content of the speech is or is likely to:
 - 5.6.4. be unlawful; or
 - 5.6.5. prejudice the fulfilment by JMC Academy of its duty to foster the wellbeing of staff and students;
 - 5.6.6. 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 JMC Academy's character as an institution of higher learning;
 - 5.6.7. require a person or persons seeking permission for the use of JMC Academy campuses or facilities for any external 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 external visiting speaker is to speak.

- 5.7. Subject to the preceding Principles, JMC Academy shall not refuse permission for the use of its land or facilities by an external visiting speaker or invited visiting speaker nor attach conditions to its permission, solely on the basis of the content of the proposed speech by the visitor.
- 5.8. Consistently with these Principles, JMC Academy 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 supportive of JMC Academy's duty to foster the wellbeing of staff and students. They are not precluded from including content solely on the ground that it may offend or shock any student or class of students.

6. Operation

- 6.1. Students at JMC Academy have the right to:
 - 6.1.1. Have access to information about freedom of speech and academic freedom,
 - 6.1.2. Develop design theories, concepts and products underpinned by the access to information from a broad and diverse scholarly base and be active in exploring ideas, theories, and experience,
 - 6.1.3. Freely and generously cooperate with other students to reciprocally exchange,
 - 6.1.4. Information and ideas for significant scholarly advancement,
 - 6.1.5. Explicitly work together with both staff and their colleagues to create classroom cultures that support robust discussions of ideas, theories, and experience, and
 - 6.1.6. Create original and innovative solutions to complex problems with open-minded and professional research approaches, unimpeded by preconceived notions of outcomes by staff or industry representatives.
- 6.2. All staff at JMC Academy have the right to:
 - 6.2.1. Exercise the right of academic freedom without fear of harassment, bullying, intimidation, or unfair treatment,
 - 6.2.2. Speak, write, and publish, or perform, create, and exhibit, without being subject to JMC Academy sanction, censorship, or discipline,
 - 6.2.3. Express unpopular or controversial views, although this does not mean the right to harass, vilify or intimidate other persons or to demean alternate points of view,
 - 6.2.4. Explicitly work together with other academics and students in creating classroom cultures that support robust discussions of ideas, theories, and experience,
 - 6.2.5. Be responsible for the transmission and/or communication of the knowledge so gained, openly within the academy and into the community at large, in conformity with the law and policies and obligations of the academy, and
 - 6.2.6. Work in a safe environment where academic integrity and honesty are key guiding principles and rigorous attention is paid to Intellectual Property.
- 6.3. JMC Academy will:
 - 6.3.1. Have regard to the Principles in the drafting, review or amendment of any policies and procedures.
 - 6.3.2. Interpret and apply policies and procedures, so far as is reasonably practicable, in accordance with the Principles.
 - 6.3.3. Exercise any power or discretion as applied under its Delegations Charter in accordance with the Principles in this Code.

6.3.4. Ensure that this policy prevails, to the extent of any inconsistency, over any policy or procedure of JMC Academy.

7. RELATED DOCUMENTS

- 7.1. JMC Academy Glossary
- 7.2. JMC Academy's Code of Conduct
- 7.3. Discrimination, Bullying, Harassment and Sexual Misconduct Policy
- 7.4. Diversity Equity and Inclusion Policy

8. RELEVANT LEGISLATION

- 8.1. Higher Education Support Act 2003 (Cth)
- 8.2. Higher Education Standards Framework (Threshold Standards) 2021
- 8.3. Higher Education Support Amendment (Freedom of Speech) Act 2021

9. POSITIONS RESPONSIBLE

- 9.1. Governing Council, and all its board and committees, including those responsible for academic governance
- 9.2. Students, visitors and members of JMC Academy's workforce

10. APPROVAL INFORMATION

Approval Authority	Governing Council
Health Check approval authority	Dean and/or CEO
Review date	07/12/2026

Version	Approved by	Approval date	Effective date	Modifications	Status
1.0	Academic Board	02/12/2019	05/12/2019	As a result of the Policy review conducted by JMC Academy, it was determined that as the Academic Freedom Policy and Free Intellectual Inquiry Policy were similar enough (it was taken that free intellectual inquiry is a core principle of academic freedom) that they could be combined into a single statement.	Suspended
1.1	Dean, Quality (former Director of Education)	28/06/2021	01/07/2021	Amendments as per external reviewer's recommendations.	Suspended
1.2	Dean, Quality	20/12/2021	25/01/2022	'Free intellectual inquiry' replaced by 'freedom of speech' as per amendment to the Tertiary Education Quality and Standards Agency Higher Education Standards Framework Amendment (Threshold Standards—Freedom of Speech and Academic Freedom) 2021	Suspended
1.3	Dean	12/08/2022	12/08/2022	Position/s updated.	Superseded
1.4	Governing Council	07/03/2024	07/03/2024	Policy reviewed to ensure alignment with Walker's (2020) review of the implementation of French's Model Code (2019) and the HESA Amendment Act (2021). <i>The reviewing of this policy and procedure was done with reference to those P&Ps identified in the review as having documents that fully aligned with the Code (University of Sydney, RMIT, University of Queensland, and the University of Western Australia)</i>	Current

Version control tables from previous Policies and Procedures reside in the original documents.

REFERENCES and ACKNOWLEDGEMENTS

- Columbia JMC Academy. (2005). *Academic Freedom Statement of the First Global Colloquium of JMC Academy Presidents*. <http://www.columbia.edu/~md2221/academicstatement.doc>
- FairWork Commission. (2018). *Decision: JMC Academy of Technology Sydney Academic Staff Agreement 2018*. <https://www.uts.edu.au/sites/default/files/2019-01/UTS-Academic-Staff-Agreement-2018-FWC-Approval.pdf>
- French. R.S. (2019). *Report of the Independent Review of Freedom of Speech in Australian Higher Education Providers*. <https://www.dese.gov.au/higher-education->

[publications/resources/report-independent-review-freedom-speech-australian-higher-education-providers-march-2019](#)

TEQSA. (2018). *Guidance Note: Research and Research Training*. <https://www.teqsa.gov.au/latest-news/publications/guidance-note-research-and-research-training>

TEQSA. (2018). *Guidance Note: Scholarship*. <https://www.teqsa.gov.au/latest-news/publications/guidance-note-scholarship>

TEQSA. (2019). *Guidance Note: Academic Leadership*. <https://www.teqsa.gov.au/providers/resources/guidance-note-academic-leadership>.

Walker, S. (2020). *Report of the Independent Review of the Adoption of the Model Code on Freedom of Speech and Academic Freedom*. <https://www.education.gov.au/higher-education-reviews-and-consultations/independent-review-adoption-model-code-freedom-speech-and-academic-freedom>