



FREE SPEECH ON CAMPUS AUDIT 2017

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1. Executive summary

Australia's universities are failing to protect free speech on campus.

The Institute of Public Affairs (IPA)'s Free Speech on Campus Audit 2017 is a systematic analysis of over 165 policies and actions at Australia's 42 universities. The Audit rates each university's support for free speech through analysis of policies and actions that limit the diversity of ideas on campus.

Key findings of the Audit are:

- The majority of Australia's universities limit the diversity of ideas on campus:
 - » Thirty-four of Australia's 42 universities (81 per cent) received a **Red** rating for policies and actions that are hostile to free speech on campus, an increase from 33 in 2016.
 - » Seven of Australia's universities (17 per cent) received an **Amber** rating for policies and actions that threaten free speech on campus.
 - » One university, the University of New England, received a **Green** rating for supporting free speech on campus.
- Just eight of Australia's 42 universities (19 per cent) have an explicit policy that protects intellectual freedom, as mandated by the *Higher Education Support Act 2003*.
- There is evidence of increasing censorship at Australia's universities, as well as a growing number and scope of speech codes since the previous Audit in 2016:
 - » The number of universities which have Red ranked policies has increased from 28 to 31 since the 2016 Audit.
 - » The number of universities where there have been actions intended to limit the diversity of ideas has increased from 9 to 16 since the 2016 Audit.
- The institutions most hostile to intellectual freedom are the University of Sydney (36), Charles Sturt University (15), followed by James Cook University (14) and Monash University (14), according to the new Hostility Score which measures the aggregate number of problematic policies and actions.
- University policies prohibit a wide variety of speech, including 'insulting' and 'unwelcome' comments, 'offensive' language, and, in some cases, 'sarcasm' and hurt 'feelings'.
- There have been a growing number of censorious actions at Australian universities, including violent protests against the presence of speakers, venue cancellations for controversial speakers, students required to pay selective security fees, activist students demanding censorship of course content, universities censoring academics for their speech, students instructed to not express their viewpoint, and the growing use of trigger warnings.

The failure to protect freedom of expression is seriously imperilling the discovery of truth, the core purpose of Australia's universities; student development, which requires debate and challenge; and the future of Australian society, which depends on a tolerance and openness to debate.

In order to protect free speech, it is recommended that Australia's universities: (1) abolish policies that limit free speech; 2) introduce a policy that protects intellectual freedom, as mandated by legislation; and (3) commit to the University of Chicago's sector-leading statement on free expression.

5 Worst Policies

- » Federation University's Bullying Prevention statement defines bullying to include hurting another person's 'feelings'.
- » The University of Queensland's Discrimination and Harassment policy, Western Sydney University's Bullying Prevention Guidelines, and Charles Sturt University's Anti-Racism Policy forbid 'sarcasm'.
- » La Trobe University defines bullying to include 'unintentional... offence' and says students must not use language that causes 'emotional injury'.
- » The Australian National University's Discipline Rule 2017, Bond University's Student Handbook, and Charles Sturt University's Harassment and Bullying Prevention Policy prevents behaviour that is 'unwelcome'.
- » Monash University's social media policy forbids students, in activities both related to the university and personal usage, from making comments that 'might be construed' to be 'offensive'.

5 Worst Actions 2017

- » The University of Sydney student union attempted to block the screening a film, Red Pill, because, it was claimed, the mere showing of a video could 'physically threaten women on campus'.
- » Monash University has become Australia's first to formally introduce trigger warnings, which are now part of course guides.
- » A James Cook University academic is facing serious misconduct allegations following comments about the Great Barrier Reef's health.
- » Monash University withdrew a textbook because a quiz question offended international students from China, the academic who set the question was also suspended and has since left the university.
- » The University of Sydney has required conservative students to pay costly security fees which are not charged for the activities of other student groups.

2. Introduction

In 2016, the Institute of Public Affairs undertook the first systematic appraisal of the state of intellectual freedom at Australia's universities, the *Free Speech on Campus Audit 2016*.¹ The audit, which builds on the work of the IPA's *Foundations of Western Civilisation Program*, helped spark a national debate about the state of free speech on campus in Australia, and has been extensively covered in Australian media and international outlets.² Since the release of the 2016 Audit, the state of free speech on campus in Australia has worsened. **The 2017 Audit finds evidence of growing censorship at universities and, despite some limited reform, worsening university policies.**

A functioning university, to fulfil its Enlightenment mission to strive for empirical truth, depends on the battle of ideas.³ Today, a censorious culture has developed at universities. Speakers are cancelled and violently protested because certain groups disagree with their ideas. Students are self-censoring for fear of social ostracism and academic repercussions. Trigger warnings, alerts before content that could cause emotional discomfort, and safe spaces are coddling students from intellectual challenge. Activists are demanding course censorship on the basis that they dislike the content. Meanwhile, speech codes have institutionalised restrictions on free speech. **It is of serious concern that universities, the institutions designed to facilitate a flourishing debate, have instead become hotbeds of censorship and are lacking in viewpoint diversity.**

These trends are evident across the Anglosphere. In the United States of America, the Foundation for Individual Rights in Education's (FIRE) *Spotlight on Speech Codes 2017* found 94 per cent of universities have policies that threaten free speech.⁴ In the past two years alone FIRE has logged 40 cases where speakers scheduled to appear at a campus event have subsequently been 'disinvited' because of opposition to their ideas.⁵

In other cases, where the events went ahead, there has been substantial hostility to free speech. Libertarian political scientist Charles Murray and his progressive host, Professor Allison Stanger, were loudly shouted down and surrounded by an angry mob at Middlebury College, in a violent attack that left Professor Stanger injured.⁶ Conservative provocateur Milo Yiannopoulos was forced to evacuate the University of California at Berkeley because of violent protesters. Professor Bret Weinstein of Evergreen State College was confronted by 50 students in class who demanded he resign, following an email in which he rejected the demand that all white students and faculty stay away from campus for a day of 'racial awareness'.⁷ He was subsequently advised by

1 Matthew Lesh, "Free Speech on Campus Audit 2016" (Melbourne, Vic: Institute of Public Affairs, May 6, 2016).

2 Rachel Baxendale, "Eight in 10 Unis Clip Free Speech," *The Australian*, May 17, 2016; The Australian Editorial, "Universities Prohibit Sarcasm," *The Australian*, May 19, 2016; Alan Jones, "Alan Jones – Matthew Lesh," *The Alan Jones Breakfast Show* (Sydney, NSW: 2GB Sydney, April 14, 2016); SkyNews Australia, Lesh: Intellectual Debate Is Being Stifled at Australian Universities, 2016; John Anderson, "Left Pulling Our Unis off Centre," *The Australian*, June 29, 2017; Dave Huber-Assistant and 2016, "Sarcasm Prohibited: 'Dire Outlook' for Free Speech on Campuses Down Under," *The College Fix*, May 21, 2016; Adam Steinbaugh, "Survey of Australian Universities Reveals Dire Outlook for Campus Free Speech," *FIRE*, May 18, 2016.; Joseph Bisett, "The Standard of Discourse at Australian Universities," *The Sydney Tory*, October 19, 2017; Caroline Mehl, "Threat to Free Speech Spreads to Australian Campuses," *HeterodoxAcademy.org*, January 9, 2017.

3 Immanuel Kant, "What Is Enlightenment?," Columbia University, 1784.

4 FIRE, "Spotlight on Speech Codes 2017," *Foundation for Individual Rights in Education*, 2017.

5 "Disinvitation Database," *FIRE*, accessed November 14, 2017.

6 Charles Murray, "Fecklessness at Middlebury," *American Enterprise Institute*, AEIdeas, June 12, 2017.

7 VICE News, Evergreen State College Controversy (HBO), accessed October 2, 2017.

campus police to stay off campus due to threats to his physical safety, and resigned his position at Evergreen as it became untenable.

In the United Kingdom, the Spiked! *Free Speech University Rankings 2017* found 94 per cent of British universities censor speech—up from 80 per cent in 2015.⁸ Two-fifths of student unions in Britain have a formal 'no platform' policy that bans speakers who may be offensive to students.⁹ In one case, a university student union attempted to ban major newspapers including the Sun, Mail and Express.¹⁰ A wide range of voices—including Zionists, and men promoting pro-choice policies on abortion—have been forbidden from speaking on campus.¹¹ Books, newspapers and even songs have been censored at universities to avoid causing offence.¹²

In Canada, the Justice Centre for Constitutional Freedoms' *Campus Freedom Index* gave 38 universities an 'F' ranking, an increase of 6 since 2016.¹³ Just six Canadian universities received an A grade. There have been many cases of censorship at Canadian universities. Ryerson University in Toronto ironically cancelled a panel on the stifling of free speech on university campuses after a backlash by students.¹⁴ In another, a debt clock was banished from campus because it was 'unsanctioned activism' by students.¹⁵ A student was instructed to remove a Donald Trump hat because it amounted to 'hate language'.¹⁶ Meanwhile, a teaching assistant in a communications subject was sanctioned for showing the 'controversial' video of a debate in class.¹⁷

In Australia, the state of free speech on campus is in peril. Protests against speakers and certain ideas have turned violent.¹⁸ Venues have been cancelled for events, and students forced to pay excessive security fees.¹⁹ Trigger warnings have been formally introduced.²⁰ Meanwhile, university guidelines are restricting the way students can express ideas.

The Australian columnist, Janet Albrechtsen, asked the University of Sydney, the University of Melbourne, Monash University, the University of New South Wales, the University of Queensland, Queensland University of Technology and the Australian National University whether they supported a letter from the University of Chicago to new students which encouraged them 'to speak, write, listen, challenge and learn without fear of censorship'.²¹ Albrechtsen found that no Australian university was willing to endorse the letter.

8 Tom Slater, "Free Speech University Rankings! - A Spiked Campaign," Spiked! Online, 2017.

9 Andrew Anthony, "Is Free Speech in British Universities under Threat?," *The Guardian*, January 24, 2016, sec. World news.

10 Mark Sweney and Jasper Jackson, "City University Students Vote for Campus Ban on Sun, Mail and Express," *The Guardian*, November 18, 2016, sec. Media.

11 "Free Speech Is so Last Century. Today's Students Want the 'Right to Be Comfortable,'" *The Spectator*, November 22, 2014.

12 Aftab Ali, "Worst UK Universities for Banning Free Speech Named amid 'an Epidemic,'" *The Independent*, January 18, 2016.

13 Justice Centre for Constitutional Freedoms, "Campus Freedom Index 2017" (Calgary, Canada: Justice Centre for Constitutional Freedoms, 2017).

14 Jack Hauen, "Facing Pushback, Ryerson University Cancels Panel Discussion on Campus Free Speech," *National Post*, August 16, 2017.

15 Christine Van Geyn, "We All Pay The Price For Runaway Political Correctness On Campus," *HuffPost Canada*, November 30, 2016.

16 Aaron Chatha, "Fight Breaks out at University of Calgary over Trump Hat," *Metro Calgary*, October 17, 2016.

17 Tristin Hopper, "Full Recording of Wilfrid Laurier Reprimanding Lindsay Shepherd for Showing a Jordan Peterson Video," *National Post*, November 21, 2017.

18 Pallavi Singhal, "Police Called as Hundreds of Protesters Surround Sydney University 'Vote No' Rally," *The Sydney Morning Herald*, September 14, 2017; Australian Associated Press, "Student Protesters Guilty of Assault on Julie Bishop, Claims Christopher Pyne," *The Guardian*, May 17, 2014.

19 Clarissa Bye, "Sydney University Charging Students a Security Fee for Conservative Events," *Daily Telegraph*, November 8, 2017.

20 Matthew Lesh, "WARNING: This Article Contains Ideas That Offend," *The Spectator Australia*, August 20, 2016; ANU, "Creating a Safe Campus," Australian National University, July 13, 2015.

21 Janet Albrechtsen, "No-offence culture of American campuses hurts Australia too," *The Australian*, November 2, 2016

The legal and moral responsibility to protect intellectual freedom

Universities have a legal and moral responsibility to jealously guard their special position as bastions of free academic inquiry. Universities are established by government legislation, built on public property, and principally funded by government grants and state-subsidised loans.²² Therefore universities are, in all formal senses, public institutions with an accompanying social responsibility to the taxpayers who fund the organisations. In addition, universities must guard their ability to strive for academic truth, which can only be achieved in an atmosphere in which students and academics are free to express their views.

Universities are legislatively bound to protect freedom of expression. All universities are mandated to meet a range of criteria in exchange for federal funding, and are responsible to the federal university regulator, the Tertiary Education Quality Standards Agency (TEQSA) which enforces the relevant legislation, the Higher Education Support Act 2003 and the Higher Education Standards (HES) Framework 2015.

The Higher Education Support Act 2003 requires that, as a condition of receiving federal funding:

A higher education provider... must have a policy that upholds free intellectual inquiry in relation to learning, teaching and research.²³

This requirement is extended to all of Australia's domestic universities. This section was first inserted by the Gillard Government in 2011, with the explicit intension of safeguarding free intellectual inquiry.²⁴ Furthermore, the HES Framework stipulates that higher education providers display a clear commitment to 'free intellectual inquiry'. The legislation states:

The higher education provider has a clearly articulated higher education purpose that includes a commitment to and support for free intellectual inquiry in its academic endeavours.

The HES Framework also requires that a university's 'governing body takes steps to develop and maintain an institutional environment in which freedom of intellectual inquiry is upheld and protected'.²⁵

This university's responsibility to support freedom of expression has been subsequently upheld by the university regulator, TEQSA. In 2017, following extensive amendments to the draft 'Diversity and Equity' guidance note, TEQSA stated: 'Measures taken to accommodate diversity should also not contravene the pursuit of free intellectual inquiry, and more generally, freedom of expression'.²⁶

There are three essential reasons that intellectual freedom must be protected on campus. **Firstly, in order for universities to fulfil their core research mission, which is to discover truth, academics and students must be free to explore ideas.** Secondly, for students

22 Andrew Norton, "Mapping Australian Higher Education" (Melbourne, Victoria: Grattan Institute, January 2012).

23 This section was introduced into the legislation by the *Higher Education Support Amendment (Demand Driven Funding System and Other Measures) Bill 2011*, see Commonwealth of Australia, "Higher Education Support Act 2003".

24 Dan Harrison, "New Bill Will Protect Academic Freedom," *The Sydney Morning Herald*, May 27, 2011; Peter Garrett, "BILLS : Higher Education Support Amendment (Demand Driven Funding System and Other Measures) Bill 2011: Second Reading" (Parliament House, Canberra, May 26, 2011).

25 Commonwealth of Australia, "Higher Education Standards Framework (Threshold Standards) 2015," October 7, 2015.

26 For further discussion of the Diversity and Equity guidance note, in both draft and final stages, see Matthew Lesh, "University Regulator Backs down on Free Intellectual Inquiry Attack," *FreedomWatch, Institute of Public Affairs*, May 31, 2017.

to learn and grow academically they must be exposed to a variety of perspectives, even those that they disagree with and find offensive. Finally, in order to guarantee Australia is a tolerant society in the future, we must carefully instill the value of free speech in today's youth. As per the quote typically attributed to Abraham Lincoln, 'The philosophy of the school room in one generation will be the philosophy of government in the next'.

The Audit proceeds as follows. Firstly, the findings of this year's audit are summarised. Secondly, the policies and actions of universities are put under the microscope. Thirdly, the importance of intellectual freedom is outlined. Fourthly, the recommendations for universities to secure free speech on campus are presented. Finally, the methodology, which is based on similar audits in Britain and the United States, is outlined.

3. Findings

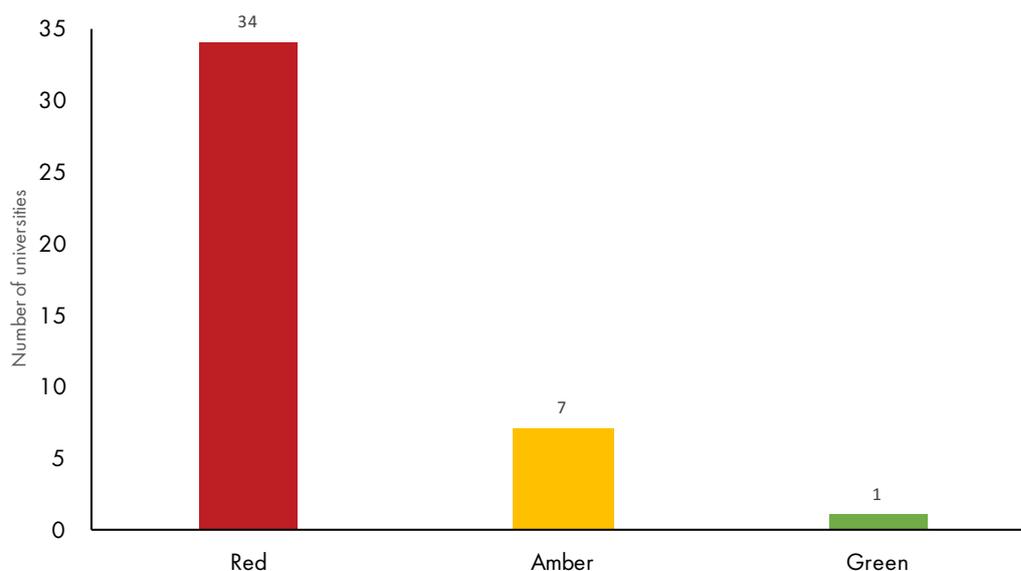
Ratings

Thirty-four of Australia's 42 universities (81 per cent) received a **Red** rating for their policies or actions that are hostile to freedom of speech. Seven of Australia's 42 universities (17 per cent) received an **Amber** ranking because of threats to freedom of speech. Just one received a **Green** ranking rating for their support for free speech on campus.

Table 1: Free Speech on Campus Audit 2017 ratings

Rating 2017	Policy	Action	Overall
Red	31 (74%)	13 (31%)	34 (81%)
Amber	10 (24%)	3 (7%)	7 (17%)
Green	1 (2%)		1 (2%)
N/A		26 (62%)	

Figure 1: Free Speech on Campus Audit 2017 – Ratings – Overall



Thirty-one (74%) of Australia's universities received a 'Red' rating for their policies, 10 (24%) received an Amber rating for their policies, and just one (2%) received a Green rating for policies. Thirteen (31%) of Australia's universities received a Red rating for their actions, three (7%) an Amber rating, and 26 (62%) are not applicable on this measure due to the lack of identified action.

Figure 2: Free Speech on Campus Audit 2017 – Ratings – Policy

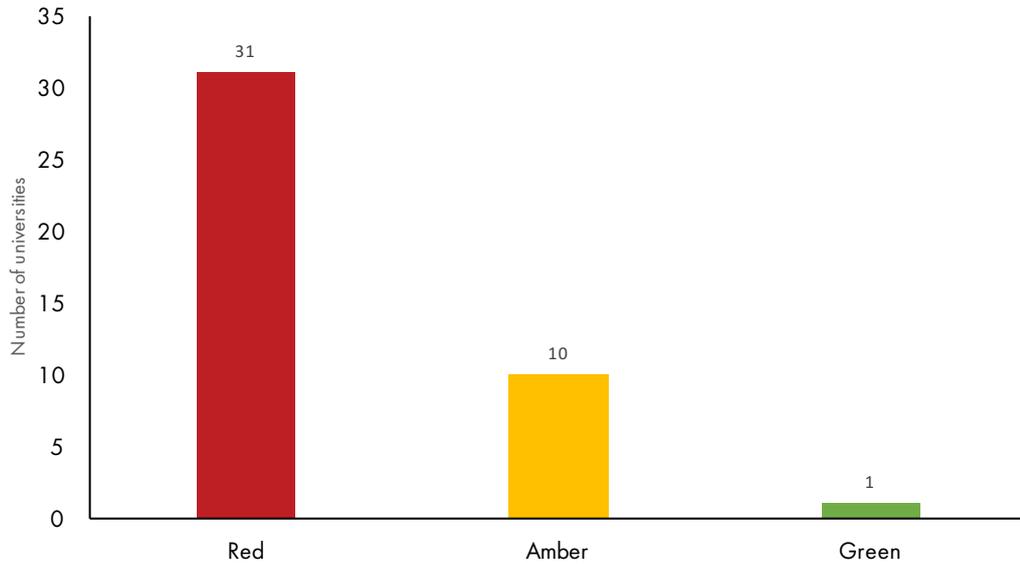
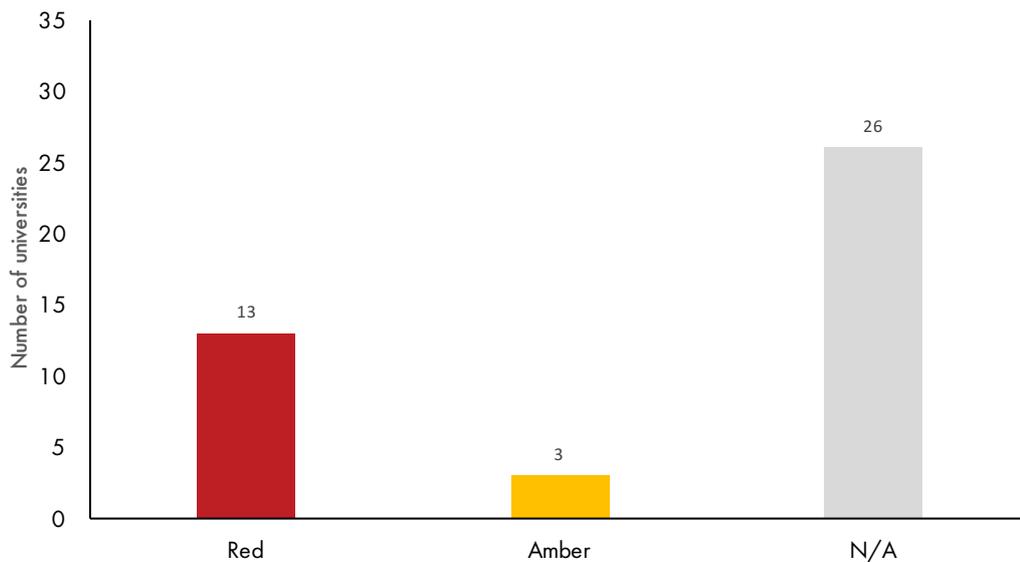


Figure 3: Free Speech on Campus Audit 2017 – Ratings – Action



Hostility score

In addition to policy and action ratings, for the first time the 2017 Audit includes a new Hostility Score. The Hostility Score, which allows for each university to be individually ranked, is a calculated sum of the *number of actions and policies* that restrict free speech at each university. Each Red ranked policy and action increases an institution's Hostility Score by 3 points, and each Amber policy and action increases the Hostility Score by 1 point. The existence of an intellectual freedom policy decreases the Hostility Score by a bonus 3 points. (i.e. A university which has one Red policy, two Amber policies, one Red action, and no freedom policy, would receive a Hostility Score of eight. That is, three points for the Red policy, plus one point for each Amber policy, plus three points for the Red action totalling eight.)

Table 2: Free Speech on Campus Audit 2017 – University Ranking

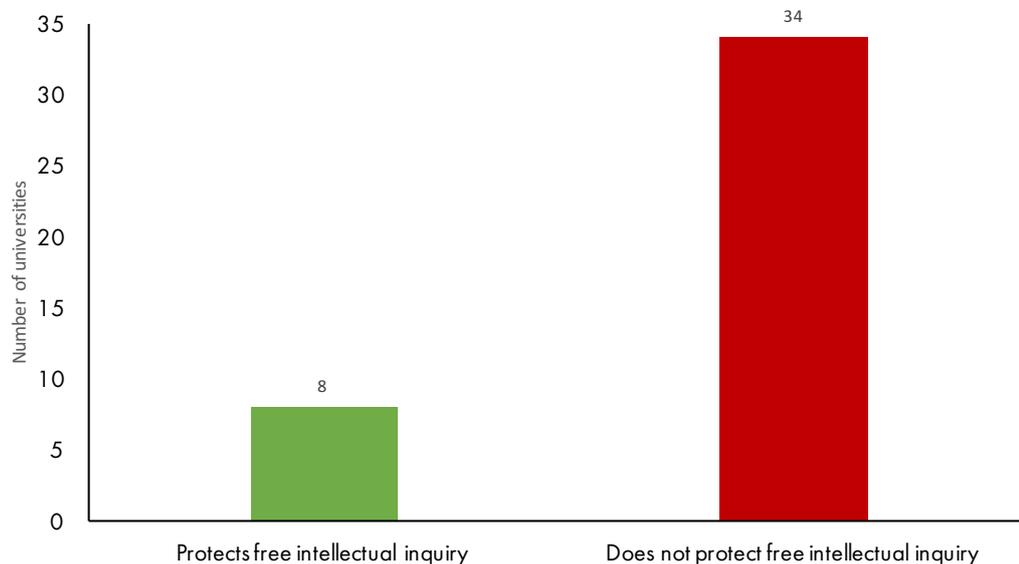
University	Freedom policy	Policy rating	Action rating	Overall rating	Hostility score
University of Sydney	Yes	Amber	Red	Red	36
Charles Sturt University	No	Red	N/A	Red	15
James Cook University	No	Red	Red	Red	14
Monash University	No	Red	Red	Red	14
Federation University	No	Red	N/A	Red	13
University of Western Australia	No	Red	Red	Red	12
Torrens University Australia	No	Red	N/A	Red	11
University of South Australia	No	Red	Red	Red	11
Edith Cowan University	No	Red	Red	Red	9
La Trobe University	No	Red	N/A	Red	9
Murdoch University	No	Red	N/A	Red	9
University of Newcastle	No	Red	Amber	Red	9
University of Queensland	Yes	Red	Red	Red	9
University of Wollongong	No	Red	N/A	Red	9
Western Sydney University	No	Red	N/A	Red	8
Australian Catholic University	No	Red	N/A	Red	7
Australian National University	No	Red	Red	Red	7
Charles Darwin University	No	Red	N/A	Red	7
Curtin University	Yes	Red	N/A	Red	7
Flinders University	No	Amber	Red	Red	7
Swinburne University of Technology	No	Red	N/A	Red	7
University of Adelaide	No	Red	Red	Red	7
University of New South Wales	No	Red	Red	Red	7
University of Technology, Sydney	No	Red	Amber	Red	7
Deakin University	Yes	Amber	Red	Red	6
Queensland University of Technology	No	Red	Red	Red	6
University of Canberra	No	Red	N/A	Red	6
University of Sunshine Coast	No	Red	N/A	Red	6
Bond University	No	Red	N/A	Red	4
Central Queensland University	No	Red	N/A	Red	4
Macquarie University	No	Red	N/A	Red	4
RMIT University	No	Red	N/A	Red	4
University of Melbourne	Yes	Amber	Amber	Amber	4
Southern Cross University	No	Red	N/A	Red	3
University of Southern Queensland	No	Amber	N/A	Amber	2
Victoria University	No	Amber	N/A	Amber	2
Carnegie Mellon University	No	Amber	N/A	Amber	1
Griffith University	No	Amber	N/A	Amber	1
University of Divinity	No	Amber	N/A	Amber	1
University of Notre Dame Australia	Yes	Red	N/A	Red	1
University of Tasmania	Yes	Amber	N/A	Amber	0
University of New England	Yes	Green	N/A	Green	0

Intellectual freedom policies

Just eight (19%) of Australia's 42 universities have an explicit policy that protects free intellectual inquiry, as mandated by the Higher Education Support Act 2003.

Universities have a wide array of policies on everything from management of hazardous materials to the awarding of degrees, however in most cases they lack an explicit policy on their core purpose, free intellectual inquiry. Central Queensland University, for example, has 138 policies and procedures that apply to students, and yet not a single policy that addresses issues of free speech and intellectual freedom.²⁷ **Charles Sturt University has a 1,600 word policy on when, where and how flags should be flown, however does it not have a policy dedicated to free intellectual inquiry on campus.**²⁸

Figure 4: Australian universities with policy that protects intellectual freedom



The eight universities which have policies that protect free intellectual inquiry are Curtin University, Deakin University, University of Melbourne, University of Queensland, University of New England, University of Notre Dame Australia, University of Sydney, and University of Tasmania. They vary in quality, however. The University of Queensland and University of Tasmania policies are limited in scope and only explicitly applicable to staff, potentially breaching the requirement that free intellectual inquiry be extended to 'learning'.²⁹ Some of Australia's universities do mention academic freedom in either enterprise bargaining agreements, or as part of other policies, however do not maintain standalone policies on academic freedom.³⁰

In other cases, the policies should be commended for broad wording and scope. For example, Curtin University states: 'The University will recognise and protect the right of all staff and students at the University to freely and honestly engage in critical enquiry, scholarly endeavour and

²⁷ CQUniversity, "Policy," March 3, 2017.

²⁸ Charles Sturt University, "Flags Policy," May 14, 2016.

²⁹ University of Tasmania, "Academic Freedom (GLP14)," June 27, 2014.

³⁰ See, for example: James Cook University, "Code of Conduct," April 28, 2016, "Code of Conduct," April 4, 2016; Macquarie University, "2.10 Intellectual Freedom," Staff Portal, 2014.

public discourse, and to participate in public debate without censorship or fear of professional disadvantage or penalty'.³¹

In particular, the University of Melbourne should be commended for its Academic Freedom of Expression Policy policy, and it is here reproduced in full (See Box 1). This policy is an inspiration for all of Australia's universities.

Box 1: University of Melbourne's Academic Freedom of Expression Policy

A core value of the University of Melbourne is to preserve, defend and promote the traditional principles of academic freedom in the conduct of its affairs, so that all scholars at the University are free to engage in critical enquiry, scholarly endeavour and public discourse without fear or favour.

Accordingly, the University supports the right of all scholars at the University to search for truth, and to hold and express diverse opinions. It recognises that scholarly debate should be robust and uninhibited. It recognises also that scholars are entitled to express their ideas and opinions even when doing so may cause offence. These principles apply to all activities in which scholars express their views both inside and outside the University

The liberty to speak freely extends to making statements on political matters, including policies affecting higher education, and to criticism of the University and its actions.

Scholars at the University should expect to be able to exercise academic freedom of expression and not be disadvantaged or subjected to less favourable treatment by the University for doing so.

³¹ Curtin University, "Intellectual Freedom Policy," May 27, 2016.

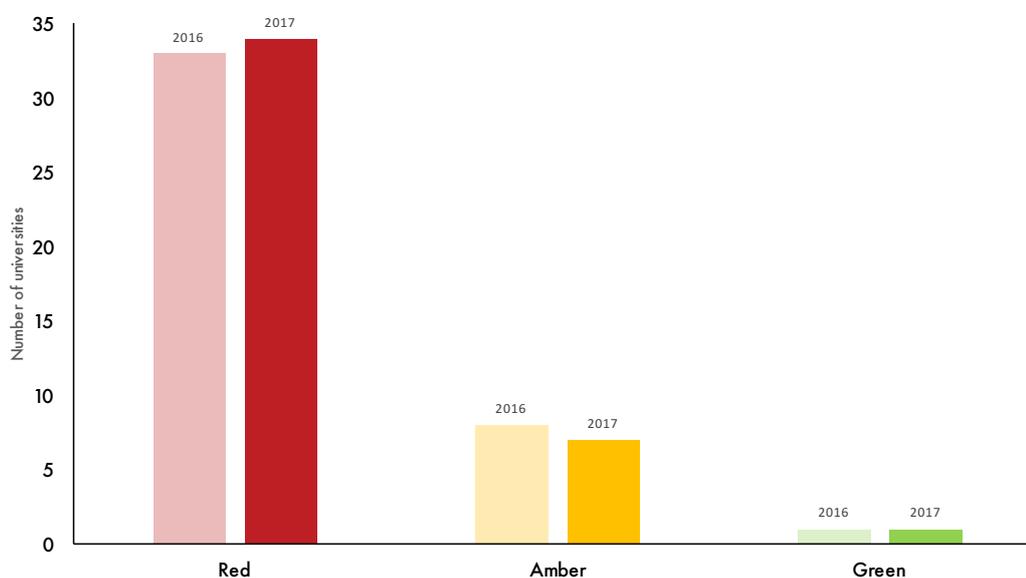
Changes since 2016

The 2017 Audit has found an increase in Red rated universities from 33 of Australia's 42 universities to 34, and a corresponding decrease by one Amber rated universities to seven. There has been no change in Green rated universities, which remains one.

Table 3: Universities with changing ratings between 2016 and 2017

Overall rating changes	2016 Rating	2017 Rating
Charles Sturt University	Amber	Red
University of Technology, Sydney	Amber	Red
University of Melbourne	Red	Amber

Figure 5: Australian University Ratings – Overall – 2016-2017



There has been an increase in censorious policies and actions. The number of universities which have Red ranked policies has increased from 28 to 31 since the 2016 Audit. The number of universities where there have been actions to limit the diversity of ideas, including Red and Amber rated actions, has increased from 9 to 16 since the 2016 Audit.

Table 4: Policy and action changes between 2016 and 2017 Audit

	2016 Audit	2017 Audit
Policy rating		
Red	28 (66%)	31 (73%)
Amber	13 (31%)	13 (31%)
Green	1 (2%)	1 (2%)
Action rating		
Red	9 (21%)	13 (31%)
Amber	0 (0%)	3 (7%)
N/A	33 (79%)	26 (62%)

There has been a variety of changes in policy and action ratings across institutions.

Table 5 Policy and action rating changes by university between 2016 and 2017 Audit

	2016 Audit	2017 Audit
Policy rating		
Australian National University	Amber	Red
Charles Sturt University	Amber	Red
James Cook University	Amber	Red
University of Melbourne	Red	Amber
University of Technology, Sydney	Amber	Red
Action rating		
Monash University	N/A	Red
University of Adelaide	N/A	Red
University of Melbourne	Red	Amber
University of New South Wales	N/A	Red
University of Newcastle	N/A	Red
University of Queensland	N/A	Red
University of South Australia	N/A	Red
University of Technology, Sydney	N/A	Red

4. What are the threats to freedom of expression?

Speech codes

University policies, created under legislation that establishes the university, carry formal legal standing.³² The 2016 Audit identified three main types of policies that restrict freedom of expression at Australia's universities. These type of policies have expanded since the previous Audit.

Firstly, harassment and bullying policies, that, while created with benign intentions, are often worded in such a vague and broad manner that they seriously threaten free speech on campus. Policies that prevent offensive behaviour, hurt feelings, or unwelcome comments, have a serious chilling effect on speech. These speech codes encourage students and academics to err on the side of caution rather than express a potentially controversial idea, and could be used to punish students for expressing their opinion.

Box 2: Spotlight on new speech codes since previous Audit

- » The Australian National University's Discipline Rule 2017 prevents behaviour that is 'unwelcome'.
- » Charles Sturt University has introduced a range of policies that limit freedom of expression on campus (See Box 4).
- » James Cook University's recently introduced Discrimination, Bullying and Harassment Policy prevents behavior that 'makes a person feel offended'.
- » La Trobe University's new policy defines bullying to include 'unintentional... offence' and states that students must not use language that causes 'emotional injury'.
- » Monash University's Civil Disturbance Policy broadly defines 'breach of the peace' to include 'offensive behaviour'.
- » RMIT University's updated Student Conduct Regulations forbids students from behaving in an 'offensive' manner that makes 'any others feel unsafe'.
- » The University of Canberra's new Human Rights and Discrimination Policy defines harassment to include 'offensive' conduct towards an individual or group.
- » The University of Sunshine Coast's new definition of bullying includes unintentional 'offensive language or comments,' and 'unwelcome' behaviour in its definition of harassment; as well as, in a new social media policy that applies to personal social media usage, forbids posting material that 'might be construed to be... offensive'.
- » The University of Wollongong's recently amended Respect for Diversity Policy defines harassment to include behaviour that is 'unwelcome' or 'offensive... to the recipient/s'.
- » Curtin University's Residence Handbook prevents students from displaying 'material considered to be offensive by Management'.

³² See, for example, Commonwealth of Australia, "Australian National University Act 1991," July 15, 2014; Government of Tasmania, "University of Tasmania Act 1992," January 1, 2013.

As the 2016 Audit stated: 'In practice these policies require students to assess each other's subjective individual sensitiveness before speaking'. This is an impossible task that requires students to read the minds of others before making comments. **University policies could be used against everything from inappropriate jokes that some students find offensive, to forbidding students from expressing an idea simply because it makes their classmates feel uncomfortable.**

Box 3: Speech code examples

- » Murdoch University's By-Laws state that assault and abuse includes 'insulting language' or 'offensive' behaviour. Murdoch prescribes a \$50 penalty to every person who breaks this by-law.
- » Federation University's Bullying Prevention statement includes hurting another person's 'feelings' as a definition of bullying.
- » Central Queensland University's Student Behavioural Misconduct provision prevents behaviour that 'could offend' or 'embarrass'.
- » The University of Queensland's Discrimination and Harassment policy, as well as Western Sydney University's Bullying Prevention Guidelines, forbid 'sarcasm'.
- » Bond University's Social Media policy forbids students from making 'offensive comments' on the internet. Bond's Student Handbook forbids behaviour that is 'unwelcome'.
- » Monash University's social media policy prevents students, in activities both related to the university and personal usage, from making comments that 'might be construed' to be 'offensive'.
- » Federation University's Electronic Communications policy defines inappropriate usage of internet facilities to include 'accessing or posting... material that may create or promulgate a negative impression of the University'.
- » The University of New South Wales' Diversity Toolkit states it is inappropriate to say that 'Aboriginal people have lived in Australia for 40,000 years,' but rather it must be said that Indigenous Australians have been here '..since the beginning of the Dreaming/s,' prioritising spiritual understanding over historic fact.

Secondly, information technology, internet usage and social media policies can be even more wide ranging, and seek to limit free expression on and off campus. These include policies that seek to control student personal use of social media, as well as policies that forbid students from criticising their academic institution.

Finally, there are language toolkits and speech guidelines that dictate to students how to express themselves on campus. These guidelines enforce politically correct language, rather than allowing students to express themselves freely.

There have been a number of changes to policies since the 2016 Audit. The most prominent and concerning case is that of Charles Sturt University (See Box 4). There has, however, been some progress at other institutions. Central Queensland University, for example, has amended its Code of Conduct to no longer prevent behaviour simply on the criteria that it 'may be unwelcome,' and the University of Melbourne (See Box 5) has reformed its policies.

Box 4: Spotlight on Charles Sturt University

Since the 2016 Audit, Charles Sturt University has introduced several policies that substantially restrict free speech on campus, and, accordingly, has been downgraded from an Amber to a Red institution in the 2017 Audit.

Firstly, in an extraordinary step, the University is introducing a new requirement for 'Indigenous Australian Content in Courses' by 2020 that seriously threatens student choice and academic freedom. All Indigenous content must be centrally approved, giving one set of academics and administrators the power to decide what and how it is taught. Students will also be taught very specific knowledge, for example, 'The Dreaming as worldview and law'. In practice, the requirements re-purpose the university from a place about exploring ideas, to teaching very specific and narrow topics in every course in an uncritical manner.

Secondly, Charles Sturt has imposed a new 'Anti-Racism Policy' with an explicit ideological bent. The policy claims racism is 'best understood when acknowledging the context of power, oppression and privilege,' adopting an explicitly post-modern definition of racism which is heavily contested, and rejecting the traditional definition of racism: the harbouring of specific racist beliefs. In addition, the policy states that curriculum design must be undertaken in a 'racially sensitive and culturally inclusive' manner, preventing the at-times necessary criticism of particular cultures.

Thirdly, the university has a very broad Harassment and Bullying Behaviour guidelines which include, in the definition of bullying, 'offensive language', 'ridicule', as well as 'sarcasm', threatening a wide array of genuine debate and discussion in class if it, in the subjective view of the assessor, was offensive or sarcastic.

Fourthly, the Student Charter states that students are 'expected to value' explicitly ideological political causes, such as 'social justice including ethical practice and global citizenship,' as well as 'economic, social and environmental sustainability, including the responsible stewardship of resources'. A University, by stating particular social goals, inherently threatens any students who might wish to express a different perspective on these issues.

Finally, along a similar theme, the University's Responsible Investment Guidelines has an explicit ideological bent, not just preventing investments in tobacco and gambling, but also activities related to coal seam gas. This, by taking a position on a contemporary policy issue, threatens students with different perspectives.

Box 5: Spotlight on the University of Melbourne

Since the 2016 Audit, the University of Melbourne has reformed its policies, and consequently has been upgraded from a Red to an Amber rating. It is notable that these reforms came after vice-chancellor Glyn Davis engaged with the content of last year's Audit.

In the 2016 Audit, the University of Melbourne received a Red policy ranking for its *Equal Opportunity Policy*, which potentially censored a wide array of speech by defining bullying to include 'offensive language' that would 'undermine' another person. This policy has since been repealed, and these issues have been incorporated into a new policy, the *Appropriate Workplace Behaviour Policy* (MPF1328).

The *Appropriate Workplace Behaviour Policy* clearly distinguishes between sections applicable to staff, as per the requirements of the *Fair Work Act 2009* and other legislation, and those applicable to students. The policy accurately defines the term bullying to only include behaviour that is unreasonable and repeated, and not merely offensive:

Bullying means repeated behaviour that a reasonable person, having regard to all the circumstances, would anticipate to be humiliating, intimidating, undermining or threatening and which causes a risk to health and safety.

The policy also explicitly states that it aims to be consistent with the University's values, which include that 'all scholars at the University are free to engage in critical enquiry, scholarly endeavour and public discourse without fear or favour'. The University of Melbourne is also one of the few universities which has an *Academic Freedom of Expression Policy*.

Nevertheless, the University did receive an Amber rating for the unreformed *Provision and Acceptable Use of IT Policy*, which could be used against students for spreading 'offensive or menacing images' and does not include a reasonable person test.

Actions

There have been a substantial number of actions taken by university administrators and students which limit the diversity of ideas on campus. These actions have a chilling effect on the ability of academics and students to explore ideas for fear of repercussions. A history of censorious actions discourages students from advocating for certain causes and voicing unpopular opinions.

Opinions, ideas and statements that are legal in Australian society at large should not be silenced on campus. The claim that certain ideas are too dangerous to be heard, and therefore speakers banned or events cancelled, prevents students from making up their own mind about the complex issues of the day. This is insulting to Australia's best and brightest who have made it to university.

The exception, of course, is speech which is illegal in Australian society, such as if a speaker were to incite violence. Nevertheless, censorship at Australia's universities in almost all cases is nowhere near the margin of illegal activity.

Box 6: Spotlight on new actions since previous Audit

- » There have been a wide array of censorious activities at the University of Sydney (See Box 7).
- » A James Cook University academic is facing serious misconduct allegations following comments about the Great Barrier Reef's health.
- » The University of Adelaide, University of South Australia and Edith Cowan University banned a 'nutrition expert,' Christine Cronau, from holding events on campus.
- » Monash University has become Australia's first to introduce trigger warnings as part of course guides.
- » UNSW has told students not to use the word 'marriage' when referring to the 'marriage theorem' in mathematics because this could cause 'offence'.
- » Monash University withdrew a textbook, and the University of Sydney issued an apology, after academics offended Chinese international students. The University of Newcastle faced a social media backlash after an academic refused to amend a slide that offended Chinese international students (See Box 9).
- » An Australian National University student newspaper sub-editor censored student opinion pieces following the election of Donald Trump as President of the United States.

Speakers have been cancelled and violently protested, students have been instructed not to voice certain ideas in class, and, in other cases, activist students themselves have demanded censorship and refuse to debate certain topics. A policy motion at the annual conference of the National Union of Students, the formal representative body of Australian students, in late 2016 called for protests against 'conservative' figures, and to oppose their speaking on campus.³³ The students also discussed the introduction of trigger warnings.

³³ Matthew Lesh, "Censorship, Trigger Warnings and 'Free Speech': The National Union of Students Meets," *The Spectator Australia*, December 13, 2016.

University of Melbourne Senior Lecturer Lauren Rosewarne has sounded the alarm about students who are not willing to engage with ideas. Rosewarne writes that some students are unwilling to do readings that conflict with their pre-existing views. 'This year for example, I had a slew of students arrive having already decided that radical feminism – not my political bent, no, but essential to cover – is oppressive devilry. Which means that when they're in tutorials, they politically opposed to engagement. That they didn't do the assigned reading in some kind of bizarre (and lazy) protest.'

Box 7: Spotlight on the University of Sydney

The University of Sydney has topped the Hostility Score ranking in the Free Speech on Campus Audit 2017. This is, chiefly, due to an extensive set of censorious actions. The university, as well as students, has on many occasions sought to limit the diversity of ideas on campus.

In the past, the student union has attempted to ban student clubs such as the Brotherhood Recreation and Outreach and threatened to deregister Christian clubs, speakers have been violently protested and in other cases banned from campus, academics have been sacked, and the university almost refused to host the Dalai Lama.

Since last year's Audit, the student union attempted to block the screening of the controversial Red Pill film because, it was claimed, that showing the film could 'physically threaten women on campus'. The university has charged security fees to conservative students which are not charged for the activities of other student groups. Meanwhile, a student protest against 'No' campaigners in the same-sex marriage referendum turned violent, requiring police attendance.

The University has also refused to provide students with a venue to host Australian Christian Lobby head Lyle Shelton. In another case, a student was told he could not link anti-Israel sentiment to anti-Semitism. The University also succumbed to demands for censorship, apologising after complaints were made by Chinese international students about a map in a lecture which showed disputed territory inside India rather than China.

The University of Sydney case displays that, even with minimal explicit policies that damage intellectual freedom, as well as a Charter of Academic Freedom, the actions by both students and administrators can speak louder than words. This has a serious chilling effect on the ability of staff and students to express ideas.

Since the previous audit in 2016, there has been an upsurge in cases of censorship (See Box 6). There have been a range of issues at the University of Sydney (See Box 7), as well as the emerging issue of Chinese international students complaining about teaching not aligning with Chinese foreign policy (See Box 9).

The 2016 Audit predicted that 'the situation [for free speech] will likely only worsen before it improves' and drew particular attention to 'trigger warnings (content disclaimers to stop students from feeling uncomfortable) [becoming] increasingly popular on Australian university campuses.' This prediction has proven accurate. Since the previous Audit, Monash University has become Australia's first to introduce trigger warnings in formal university policy, and there is growing usage of trigger warnings on official university websites.³⁴

Box 8: Actions

- » Queensland University of Technology (QUT) students faced years of procedural run-ins, which culminated in a federal court case under section 18C of the Racial Discrimination Act for expressing opposition to the existence of a computer lab on campus reserved for Aboriginal students.
- » Foreign Minister Julie Bishop was interrupted and subsequently physically assaulted during a visit to the University of Sydney.
- » Former Liberal MP Sophie Mirabella was shouted down and physically confronted during a guest lecture at the University of Melbourne.
- » Former Prime Minister Tony Abbott was forced to cancel a visit to Deakin University following security and logistical issues posed by student protests.
- » Retired British Army Colonel, Richard Kemp, a supporter of the Israeli Defence Force's human rights record, was prevented from addressing a public lecture due to a protest including staff and students.
- » Former Israeli Navy SEAL, Yoaz Hendel, was protested while speaking at the University of Sydney.
- » The University of Western Australia rejected the establishment of the Australia Consensus Centre led by Danish author and environmentalist Bjørn Lomborg following a public campaign against the centre.
- » The University of Sydney initially banned a visit by the Dalai Lama, though following public outrage reversed this decision.
- » The University of Sydney, University of Western Australia, and Australian National University cancelled events which included speakers associated with pan-Islamic political organisation, Hizb ut-Tahrir.
- » Socialist students at Deakin University were removed from campus for wearing T-shirts, and distributing stickers, badges and stubby holders, which read 'Up Yours Abbott'.

34 ANU, "Creating a Safe Campus"; Lesh, "WARNING: This Article Contains Ideas That Offend"; University of Melbourne, "The Hunting Ground · Events at The University of Melbourne," May 11, 2017, <https://events.unimelb.edu.au/events/8653-the-hunting-ground>.

Box 8: Actions (cont.)

- » Students were expelled from a residential college at James Cook University in response to jokes about religion during a music competition.
- » Liberal student delegates have been prevented from speaking at the National Union of Students' (NUS) national conferences through procedural measures and being shouted over.
- » University of Queensland Student Union has previously banned the Newman Society, a catholic student group, from conducting pro-life activity.

There are, however, some positive actions that should be noted. The University of Tasmania allowed a 'No' campaign event during the same-sex marriage debate to be held on the campus, despite extensive protests and demands for censorship.³⁵ Murdoch University was willing to host 'nutrition expert' Christine Cronau despite a backlash and cancellations by the University of Adelaide, University of South Australia and Edith Cowan University.³⁶ A Murdoch University spokesperson responded to concerns about hosting the controversial speaker that 'Murdoch University, as an institution of learning, works to promote critical thinking and learning through discussion, debate and exposure to alternatives points of view. One way to achieve this is to welcome other voices on campus in the form of guest speakers or visiting lecturers'. In another case, three university students who were jailed 45 years ago for protesting against the Vietnam War on campus were invited back to La Trobe University as honoured guests.³⁷

An emerging issue of concern is natural justice and procedural fairness. Claims of student harassment and bullying are typically confidential, and rarely discussed in the public domain. There are confidentiality provisions contained in many university speech code policies. For example, the Australian Catholic University's Discrimination and Harassment policy declares that all parties 'must not disclose, by any form of communication, either the fact or the substance of the matter' to anyone other than a staff representative, a counsellor or medical professional.³⁸ This would, presumably, prevent a student from discussing matters with a lawyer, family member, or partner.

In one misconduct of case, where these matters have reached the public domain, the process appears to be heavy handed. The Socialist Alternative at the University of Sydney has complained about a two year process of multiple hearings in relation to an allegation that a flag was stolen from a Jewish student stall.³⁹ The Socialist Alternative claims it was unfairly presumed to be guilty. This case raises serious questions about the capability of university administrators to act fairly and impartially in this, and other cases, where they need to meet the principles of natural justice.

35 Gregor Salmon and James Dunlevie, "Coalition for Marriage Values against University's Charter, Protesters Claim," ABC News, October 6, 2017.

36 Hannah Barry, "Backlash over Murdoch Uni's Decision to Host 'Dangerous Nutrition Expert,'" WA Today, June 8, 2017.

37 Josie Taylor, "Locked up in a Notorious Prison for Protesting at University," ABC News, February 24, 2017.

38 Australian Catholic University, "Discrimination and Harassment," March 9, 2016.

39 Sarah Garnham, "A Special Kind of Justice for Pro-Palestine Student Activists," Red Flag, August 1, 2017.

Box 9: Spotlight in international students from China

An emerging threat to free speech on campus are specific demands by Chinese international students for censorship of academic material that does not align with Chinese government foreign policy.

At the University of Newcastle, a lecturer who listed Hong Kong and Taiwan as separate territories faced social media condemnation, and even Chinese consulate pressure. This came after an offended student covertly recorded, and uploaded, their censorious demands. 'You have to consider all the students' feelings,' the student says in the widely shared video. 'You have to show your respect'. In this the case, the lecturer appropriately responded: 'If you feel offended about it, that is your opinion.'

In other instances universities have not stood up to the pressure. The University of Sydney apologised after a lecturer used a map that displayed disputed territory as part of India and Bhutan rather than within China's borders. Monash University has withdrawn a textbook that included a quiz question which offended Chinese students. The Monash academic who set the quiz was temporarily suspended, and has now voluntarily left the university following the furore.

It is important, in the face of financial pressures and substantial revenue from international students, that Australia's universities maintain their position as institutions of free intellectual inquiry.

5. Why is intellectual freedom important?

In an era of global political uncertainty, the free flow of ideas has never been more important. It is the very essence of living in a liberal, free and democratic society that all members are able to think freely and, accordingly, express themselves with minimal restraint. The freedom to express oneself is particularly paramount at universities. In order for universities to function, to encourage student intellectual development, and to behave as an exemplar for Australian society, universities must be places where all are able to express themselves without fear of repercussion.

In the United States this point has been made across the political spectrum, from Democrat Senator Elizabeth Warren and former President Barack Obama, to Republican legislators.⁴⁰ In response to free speech on campus issues in 2015, President Obama said: 'You don't have to be fearful of somebody spouting bad ideas. Just out-argue them. Beat 'em. Make the case as to why they're wrong. Win over adherents. That's how things work in a democracy'.⁴¹

British philosopher J. S. Mill, in the second chapter of *On Liberty*, argues that the mental wellbeing of humankind depends on freedom of opinion, and, accordingly, the ability to express opinions. Mill presents the utilitarian consequentialist argument against restricting free speech.⁴² Firstly, he posits that restricting freedom of speech assumes a level of superiority of knowledge that simply does not exist. By dismissing someone else's ideas you are assuming an impossible infallibility of your viewpoint. Secondly, it prevents the ability for criticism to help develop ideas and find the truth (one of the primary purposes of a university). Thirdly, the act of preventing certain speech leads ideas to be dismissed without actual consideration of their merits and possible truthfulness.

Since the Audit last year, university leaders have expressed their support for free speech in the face of growing threats. Australian Catholic University vice-chancellor Greg Craven said: 'Freedom of speech is less a specific right than the building block that grounds most of Western liberty'.⁴³ University of Sydney vice-chancellor Michael Spence has claimed: 'The university is committed to encouraging each of its graduates to participate actively in the world and engage in rational reasoning and critical thinking'.⁴⁴ In a speech at an international education conference in Shanghai, China Group of Eight Chief Executive Vicki Thomson said: 'We are a destination of choice [for international students] because we have, as a key principle, that everyone is free to challenge ideas, and to counter perceived wisdom, with the ability to feel comfortable being challenged'.⁴⁵

40 "President Obama: Student Protests Should Embrace Free Speech," *FIRE*, November 16, 2015; Zaid Jilani, "Elizabeth Warren Says Campus Free Speech Means No Censorship or Violence," *The Intercept*, October 27, 2017; Nick Roll, "Senate Hearing Explores Free Speech on College Campuses," *Inside HigherEd*, October 27, 2017.

41 "President Obama: Student Protests Should Embrace Free Speech," *FIRE*, November 16, 2015.

42 John Stuart Mill, *On Liberty* (Project Gutenberg, 2011).

43 Greg Craven, "Liberty Risk beyond Free Speech," *The Australian*, August 25, 2016.

44 Michael Spence, "We Don't Limit Free Expression," *The Australian*, August 7, 2017.

45 Vicki Thomson, "Managing a Group of the World's Leading Research-Intensive Universities through Fragile Political Settings" (7th International Conference on World-Class Universities (WCU-7), Shanghai, China, November 7, 2017).

There are three core reasons freedom of speech is must be upheld on campus:

1. To promote and protect free inquiry in the pursuit of truth

The University of Chicago's Committee on Freedom of Expression has correctly stated that 'it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive'.⁴⁶ It is the very essence of university life that ideas are able to flourish, be debated, and either lose, or win, in the contest of ideas. It is through the process of free debate, the Socratic method in which different sides of an issue are contested, that it is possible to find truth. Individuals are subject to clear legal restrictions that prevent defamation and harassment. However, policies that go beyond these restrictions are unjustified.

2. Students learn and grow by being exposed to a diversity of viewpoints

Students who are not exposed to a diversity of perspectives are intellectually weak and ill-prepared for life outside of the confines of a university. This point was made by Constitutional lawyer Greg Lukianoff and social psychologist Jonathan Haidt in their seminal cover story for *The Atlantic*, *The Coddling of the American Mind*: 'What are we doing to our students if we encourage them to develop extra-thin skin in the years just before they leave the cocoon of adult protection and enter the workforce? Would they not be better prepared to flourish if we taught them to question their own emotional reactions, and to give people the benefit of the doubt?' **It is the role of universities to teach students to explore ideas, to foster critical thinking and the examining of different perspectives, and in the process cause discomfort on the way to understanding.**

3. The tenor of debate on campus today sets the tone for Australia's future

The university campus of today will set the tone for the future of Australian society. President Abraham Lincoln is said to have commented: 'The philosophy of the school room in one generation will be the philosophy of government in the next'.⁴⁷ The censorship of ideas on campus will contribute to a more polarised political debate in the future, as it marks the end of people being able to civilly disagree with each other. The danger with encouraging universities to be echo chambers for trendy opinions is that Australian politics will end up in the same predicament. The culture on campus today will define the future of Australian society. Today's students are tomorrow's voters, politicians, judges, bureaucrats and educators. In order to encourage openness to debate in the future, free speech must be defended on campus today.

46 Committee on Freedom of Expression at the University of Chicago, "Report of the Committee on Freedom of Expression," January 2015.

47 It is uncertain if Lincoln made this comment, like many similar quotations the source is not clear.

6. How can universities secure intellectual freedom?

There are several steps that universities can take to secure free speech on campus in the face of calls for censorship and mounting concerns in the community. Universities must take steps to ensure that they can fulfil their function, to ensure students receive a strong education, and create a tolerant society, as well as ensure that the public maintain their faith in universities. Universities that take a clear and firm stand today will be much better placed in the face of future dangers.

Recommendation 1: Abolish speech codes by reforming existing university policies

The Free Speech on Campus Audits of 2016 and 2017 have identified a number of policies that limit free speech at Australia's universities. These policies, by preventing hurt feelings, unwelcome comments, and offensive conduct, can be used to silence those who are exploring controversial ideas. In practice, they have a chilling effect on freedom of speech, discouraging the discussion of controversial ideas. It is incumbent upon Australia's universities, particularly those who have received a Red policy rating, to immediately reform their policies to align with the principles of free intellectual inquiry. The sections of policies that limit free expression should be abolished.

Recommendation 2: Introduce a policy that protects intellectual freedom, as mandated by the Higher Education Support Act 2003

As discussed, Australia's universities, as a condition of federal funding, are required by legislation to protect free intellectual inquiry with a formal policy. This Audit has found that just 8 of Australia's 42 universities (19%) currently have explicit policies that protect intellectual freedom. This situation can be remedied by universities adopting policies, similar to the University of Melbourne (See Box 5), that explicitly guard free intellectual inquiry for academic staff and students. The university regulator, TEQSA, could also make a positive contribution to the sector by increasing its compliance attention on this part of the legislation.

Recommendation 3: Sign the sector-leading Report of the Committee on Freedom of Expression from the University of Chicago

A further step that universities can take in the name of protecting free intellectual inquiry is to adopt the Report of the Committee on Freedom of Expression from the University of Chicago (See Appendix 1). The seminal report 'guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge and learn' and that 'it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive'. The Foundation for Individual Rights in Education has launched a campaign in support of this statement, and has developed a model statement that all universities can adopt based upon the Chicago template.⁴⁸ Australian universities should similarly adopt this model, or alternatively, a leading Australian university or sector body could develop an equivalent statement on the importance of guarding free speech on campus.

48 FIRE, "Model Freedom of Expression Resolution Based on University of Chicago Statement," *FIRE*, September 28, 2015.

7. Conclusion

The Free Speech on Campus Audit 2017 has identified a range of concerns about the state of free expression at Australia's universities. Many university administrations and students no longer support free speech, instead preferring to actively forbid certain ideas. A majority of universities have policies that limit students from undertaking speech that other students might find offensive. University administrators and students have sought, through a wide variety of actions, to prevent certain speakers and ideas on campus. **Universities exist to encourage the promotion of ideas; therefore the various limits on free speech seriously damage the core mission of Australia's higher education system.**

While the situation is clearly trending in the wrong direction there is, however, reason to be optimistic. Firstly, universities can take action to guard free expression. As the problem is identified, there is increasing pressure on institutions to reform their policies and take other steps to protect the diversity of ideas. Secondly, some university academics themselves have begun to acknowledge that the problem, and are acting to protect the notion of a university. Heterodox Academy, founded by psychology professor Jonathan Haidt to support the diversity of ideas on campus, now has 1,350 members including 18 in Australia.⁴⁹ Finally, there is a growing backlash against censorship by students who want to explore ideas and maintain freedom of expression. There are students organising controversial events, and many attending.

A free, democratic and prosperous society depends on a culture of free expression. Universities are a key starting point in the development of this culture. Students and academics alike depend on an environment of free intellectual inquiry in order to learn and discover truth. Too often at Australia's universities, in both formal university speech codes and actions, freedom of speech is being limited. Universities must take action to protect free intellectual inquiry.

⁴⁹ Heterodox Academy, "About Us," Heterodox Academy, October 2, 2017.

8. Methodology

The 2017 Audit's methodology is an extension of the methodology used for the IPA's Free Speech on Campus Audit 2016.⁵⁰ It draws upon ratings systems developed for the American Foundation for Individual Rights in Education's (FIRE) annual *Spotlight on Speech Codes* and Spiked!'s *Free Speech University Rankings*.⁵¹

FIRE's *Spotlight on Speech Codes* has assessed university policies annually since 2006, applying a red, yellow and green traffic light system to each individual policy and institution. Spiked! began assessing free speech on British campuses in 2015, using a method that combines analysis of university and student union actions and policies that chill free speech on campus.

The method used in this audit similarly combines the two focuses, policies and actions, into a single analysis of the state of free speech at Australian universities. This provides a holistic understanding of speech on campuses, considering each policy and action in context. **The 2017 Audit includes analysis of over 165 policies and actions at Australia's 42 universities.**

In addition to the traffic light system of the 2016 Audit, the 2017 Audit also introduces a points system called the Hostility Score, to reflect how hostile the campus is to free expression of ideas. The score is based upon the number of threats measured by the number of problematic policies and actions. A higher Hostility Score is indicative of a more hostile campus to the free expression of ideas.

Green:

- A Green institution is one that has no policies, and has taken no action, that threatens campus expression.
 - » Policy: A university with no policies that infringe free speech receives a Green policy ranking. Furthermore, a university with a Freedom Policy, that is, a specific policy that protects intellectual freedom, is awarded a bonus negative 3 points towards the institution's Hostility Score.
 - » Action: A university with no identified actions that have sought to limit the diversity of ideas receives an N/A action rating.

Amber:

- An Amber institution is one that maintains policies that could be interpreted to restrict speech, though the exact impact on the free speech depends on how the policy is implemented, or there have been unsuccessful actions, taken by either university administrators or students, to limit the diversity of ideas on campus. Each Amber policy and action increases a university's Hostility Score by 1 point.
 - » Policy: a policy which has the potential to restrict freedom of speech, though the exact impact on campus expression depends on how it is implemented. For example, universities that restrict 'offensive' speech, though include a reasonableness and repeated activity test in the application of the policy. Despite the questionable policy of preventing 'offensive' speech, a reasonableness and repeated activity test provides some limited protection for freedom of expression.

50 Lesh, "Free Speech on Campus Audit 2016."

51 FIRE, "Spotlight on Speech Codes 2017"; Slater, "Free Speech University Rankings! - A Spiked Campaign."

- » Action: an Amber action is an act taken by the university administration, or students, which sought to damage the magnification of a voice on campus, though ultimately did not stop the voice from being heard. For example, if a student organisation protested a speaker with the intention of preventing the speech, though the speaker was able to give the speech.

Red:

- A Red institution is one that actively restricts free speech on campus through policies that either clearly and substantially restrict speech, or there have been action, taken by either university administrators or students, that limited the diversity of ideas on campus
 - » Policy: a Red policy is one that unambiguously infringes upon, and is broadly applicable to, expression. In other words, the threat to free speech at a Red institution is obvious on the face of the policy and does not depend on how the policy is applied. For example, a policy which restricts 'offensive' speech or 'unwelcome behaviour' is a clear violation as it is both unambiguous and broadly applicable to speech, as well as being an arbitrary, subjective basis for restricting speech.
 - » Action: a Red action is an act taken by the university administration, or students, which actively limits the diversity of voices on campus. For example, if a university or student union has cancelled a speaker because the speaker is too controversial, or a university has disciplined students on the basis of their political speech.

Policies source:

A range of university policies are assessed to determine the state of free speech on campus. The types of policies that were examined include, but are not limited to:

- » By-laws
- » Student codes
- » Conduct and misconduct policies
- » Bullying and harassment policies
- » Internet and social media policies
- » Academic freedom policies
- » Student guides

This Audit has only considered policies that apply to students. Staff policies, such as workplace bullying procedures, are not considered unless they also apply to students.

Actions source:

The source material for university and student action is published reports. This includes reports, for example, about preventing individuals from speaking on campus, student protests, and proposals to ban student clubs. These reports, which mostly relate to actions taken in the past five years, are inherently limited, as many actions would likely go unreported. Nevertheless, they do provide a basis on which to assess major university and student actions.

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Appendix 1: Report of the Committee on Freedom of Expression, University of Chicago, January 2015

The Committee on Freedom of Expression at the University of Chicago was appointed in July 2014 by President Robert J. Zimmer and Provost Eric D. Isaacs “in light of recent events nationwide that have tested institutional commitments to free and open discourse.” The Committee’s charge was to draft a statement “articulating the University’s overarching commitment to free, robust, and uninhibited debate and deliberation among all members of the University’s community.”

The Committee has carefully reviewed the University’s history, examined events at other institutions, and consulted a broad range of individuals both inside and outside the University. This statement reflects the long-standing and distinctive values of the University of Chicago and affirms the importance of maintaining and, indeed, celebrating those values for the future.

From its very founding, the University of Chicago has dedicated itself to the preservation and celebration of the freedom of expression as an essential element of the University’s culture. In 1902, in his address marking the University’s decennial, President William Rainey Harper declared that “the principle of complete freedom of speech on all subjects has from the beginning been regarded as fundamental in the University of Chicago” and that “this principle can neither now nor at any future time be called in question.”

Thirty years later, a student organization invited William Z. Foster, the Communist Party’s candidate for President, to lecture on campus. This triggered a storm of protest from critics both on and off campus. To those who condemned the University for allowing the event, President Robert M. Hutchins responded that “our students . . . should have freedom to discuss any problem that presents itself.” He insisted that the “cure” for ideas we oppose “lies through open discussion rather than through inhibition.” On a later occasion, Hutchins added that “free inquiry is indispensable to the good life, that universities exist for the sake of such inquiry, [and] that without it they cease to be universities.”

In 1968, at another time of great turmoil in universities, President Edward H. Levi, in his inaugural address, celebrated “those virtues which from the beginning and until now have characterized our institution.” Central to the values of the University of Chicago, Levi explained, is a profound commitment to “freedom of inquiry.” This freedom, he proclaimed, “is our inheritance.”

More recently, President Hanna Holborn Gray observed that “education should not be intended to make people comfortable, it is meant to make them think. Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of the greatest freedom.”

The words of Harper, Hutchins, Levi, and Gray capture both the spirit and the promise of the University of Chicago. Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University, the University of Chicago fully respects and supports the freedom of all members of the University community “to discuss any problem that presents itself.”

Of course, the ideas of different members of the University community will often and quite naturally conflict. But it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University's commitment to a completely free and open discussion of ideas.

In a word, the University's fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University's educational mission.

As a corollary to the University's commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.

As Robert M. Hutchins observed, without a vibrant commitment to free and open inquiry, a university ceases to be a university. The University of Chicago's long-standing commitment to this principle lies at the very core of our University's greatness. That is our inheritance, and it is our promise to the future.

Appendix 2: Full list of university policies and actions

The full list of university policies and actions can be viewed at jpa.org.au.

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