

Name of Policy	Management of Union Activities at ACU Policy
Description of Policy	This policy describes the protocols to be followed by a staff member who is a Union delegate, and a Union officer, to request to visit an ACU campus; and the management of circumstances where a statute confers a right of entry to ACU workplaces on an officer, employee or official of a Union.
Policy applies to	<input checked="" type="checkbox"/> University-wide <input type="checkbox"/> Specific (<i>outline location, campus, organisational unit etc.</i>)
	<input checked="" type="checkbox"/> Staff Only <input type="checkbox"/> Students Only <input type="checkbox"/> Staff and Students
Policy Status	<input type="checkbox"/> New Policy <input checked="" type="checkbox"/> Revision of Existing Policy
Description of Revision	The updated policy consolidates the protocols for entry to ACU workplaces by Union officers and employees in accordance with the Fair Work Act.

Approval Authority	Vice-Chancellor and President
Governing Authority	Chief Operating Officer
Responsible Officer	Director, Human Resources

Approval Date	1 June 2008
Effective Date	1 June 2008
Date of Last Revision	20 November 2015
Effective Date of Last Revision	20 November 2015
Date of Policy Review*	30 June 2020

* Unless otherwise indicated, this policy will still apply beyond the review date.

Related Policies, Procedures, Guidelines and Local Protocols	Guidelines for Staff Participation in ER Committees Staff Assistance, Support and Representation Policy
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1. Background Information

The parties to the *Australian Catholic University Staff Enterprise Agreement 2017 - 2021* (the **Agreement**) include the National Tertiary Education Union and the Community and Public Sector Union (the Unions) which are registered organisations of employees in accordance with the *Fair Work Act, 2009* (the **Act**).

Staff members who are members of the Unions elect a staff member as their delegate to conduct Union activities at ACU workplaces, which include providing assistance or support to, or representation of staff members. The University recognises that officers and employees of registered Unions may request to visit an ACU campus to undertake consultations with Union members, delegates and staff members who are eligible to be represented by that Union.

In addition, certain Commonwealth, State and Territory statutes contain provisions which confer a formal Right of Entry to ACU workplaces to authorised officers or employees of a Federal or State registered Union.

2. Policy Statement

A person, including a staff member, must not undertake any Union activities in an ACU workplace other than in accordance with the provisions of the Fair Work Act and this Policy.

Where an officer and/or employee of a Federal or State registered Union requests to visit an ACU campus, the protocols detailed in this policy are to be followed.

In circumstances where a Union officer or employee enters an ACU workplace to exercise their formal right of entry, the presence of that person in the workplace will be managed to ensure compliance with the relevant legislation (refer to Appendix 1).

3. Policy Purpose

This Policy outlines the responsibilities of those staff members who are elected by members of a Union to undertake Union activities at ACU workplaces, including staff members who are elected as delegates or officials of the Union. This Policy also clarifies the protocols to be followed when a Union officer or employee requests to visit an ACU campus, including for the purpose of providing a staff member with assistance or support, or representation.

As ACU is a Limited Company with workplaces located in the States of New South Wales, Victoria, Queensland, South Australia and in the Australian Capital Territory, the purposes for which and the basis upon which Union officers or employees may exercise a statutory right of entry will vary from workplace to workplace (see Appendix 1).

4. Application of Policy

Staff member undertaking Union activities

- 4.1 A staff member who is elected by Union members to be a delegate or other representative must notify the Director Human Resources (or nominee) by email, of their election prior to undertaking any Union activities at ACU.
- 4.2 A staff member who has been elected as a delegate or Union representative must only undertake Union activities during the staff member's meal times or during other work breaks; and must not undertake Union activities at any venue other than the staff member's usual work station or office at any ACU workplace without the written consent of the Director Human Resources (or nominee).
- 4.3 Where a staff member has been nominated or elected to be a member of a committee required to be established by the Agreement or another University policy, the staff member's reasonable preparation for and attendance at meetings of the committee is not considered to be a "Union activity" for the purposes of this Policy (refer to the Guidelines for Staff Participation in Employment Related Committees).
- 4.4 A staff member must not use the University's property, including intellectual property, material resources, including office equipment and consumables, in undertaking Union activities at ACU other than in accordance with this Policy.
- 4.5 A staff member's use of the University's Information Technology services to undertake Union activities will be considered personal use and must be in accordance with the University's *Acceptable Use of Information Technology Policy* and *Email Messaging Policy*. For example, a staff member elected as a delegate may establish and use a subscription only email list, for the purpose of conveying information regarding Union activities to staff who are Union members.
- 4.6 A staff member must not use the University's Information Technology Facilities; including its telecommunication systems such as the video-conferencing facilities, electronic messaging systems, information systems and networks (including local drives, hard drives and web servers), to conduct or publicize Union activities other

than in accordance with this Policy or as may be approved in writing by the Director Human Resources (or nominee).

Entry to ACU workplace by a Support Person or Staff Representative

- 4.7 A staff member who wishes to invite a person to enter an ACU workplace for the purpose of that person providing assistance or support to; or representation of a staff member, is required to notify their nominated supervisor (or other relevant University officer) in advance by normally giving at least 24 hours' notice of the person's arrival on campus¹.

Entry to ACU workplace by Union Officers or Employees

- 4.8 When an officer or employee of a registered Union requests to enter an ACU campus to consult with members, the officer or employee, (or ACU staff member who is acting on behalf of the Union), is required to send a notification email to the Director Human Resources (or nominee).

The email must be sent at least one complete working day prior to the time and date of proposed visit and provide the following information:

- (a) the name/s of the Union officer, employee and/or delegate;
- (b) the proposed time/s and date/s of the visit;
- (c) the campus and location on that campus of the proposed visit; and
- (d) the reason for the visit (e.g. consultation with members during enterprise bargaining negotiations).

- 4.10 The confirmation of the Director Human Resources (or nominee) regarding a notification to enter an ACU workplace will be conveyed to the applicant by email as soon as practicable, including the identification of any conditions or requirements.
- 4.11 Union officers, employees and/or delegates must not interrupt the normal operations of the University while they are visiting campus. Consultation with members may occur within public areas such as lunchrooms, or rooms which have been booked for such purpose, during meal and other break times. When visiting an ACU campus, Union officers and/or employees should firstly report to the local campus reception to advise of their arrival and location throughout the day.

Union Officers and Employees Located at an ACU Campus

- 4.12 Where the University has approved a request that a Union employee be located on an ACU campus, the Union employee is required to abide by the University's Policies and Procedures whilst they are on campus.

¹ Information regarding the role of a Support Person and a Staff Representative is available in the Staff Assistance, Support and Representation Policy.

Union Presence at ACU Public Events at an ACU Campus

- 4.13 Where a Union wishes to participate in a public event that has been scheduled to occur on an ACU campus, the Union is required to notify the Director Human Resources (or nominee) in advance in order for appropriate arrangements to be made in accordance with the relevant University Policy.

The University reserves the right to agree or not to agree to Union presence on any one or more of its campuses at University events that are open to the public.

Where the University agrees that the Union may attend, Union officers, officials, employees, delegates and members must not use the ACU brand and/or in any other way imply that there is ACU agreement to the Union's activities.

- 4.14 Where the Union wishes to initiate / hold an event on campus, notwithstanding that a room booking may be confirmed, the Union is required to have the express approval of the relevant Associate Vice Chancellor or Campus Dean who has considered the relevant University Policy and local operating requirements.

The University reserves the right to allow or not allow the Union to conduct an event on one or more of its campuses that may be open to the University community or the public.

Union Officers and Employees Who Hold a Right of Entry Permit

- 4.14 Where a person to whom a current Permit under Section 512 of the *Fair Work Act* has been issued provides the Director Human Resources (or nominee) with a copy of their Permit, the Director Human Resources may provide that person with an exemption from the provisions of sub-clause 4.8 of this Policy.

Any exemption granted by the Director Human Resources may set out conditions of entry to the workplace as the Director Human Resources may consider appropriate in the circumstances.

Union Officers and Employees Exercising Right of Entry

- 4.13 Where a staff member becomes aware of a person on campus who is an officer or employee of a Union which is authorised to exercise a right of entry by a Commonwealth, State or Territory statute, the staff member must notify her or his nominated supervisor. Where the nominated supervisor is unavailable the staff member must notify the next line manager and/or the Director Human Resources.
- 4.14 Where a nominated supervisor or line manager is approached by, or becomes aware of, or is informed of a person who is an officer or employee of a Union authorised to exercise a right of entry by a Commonwealth, State or Territory legislation, the nominated supervisor or the line manager must immediately notify the Director, Human Resources (or nominee).
- 4.15 Where the Director Human Resources (or nominee) is advised of the presence of a Union Officer or employee who is exercising their Right of Entry to an ACU campus,

the Director Human Resources (or nominee) will normally confirm with the Union Officer or employee that the purpose of their exercising the Right of Entry is consistent with the requirements of the relevant legislation.

4.16 A permit holder does not have unfettered access to the workplace, documents or staff. Where a union officer or official is conducting discussions with staff members, they can only hold discussions with those staff members whose industrial interests the Union is entitled to represent. While on site the Union officer or official must comply with the University's workplace health and safety requirements. For non-workplace health and safety entry, the Union officer or official must comply with the University's reasonable requests, e.g. about a particular room to be made available for interviews or discussions.

5. Approvals

The Director Human Resources (or nominee) may approve a request from a Union officer or employee to visit an ACU campus including any applicable conditions to apply.

Only the appropriately delegated ACU officer may provide an officer or employee of a Union with access to any documents, including employment records, in accordance with the staff member's delegated authority in the University's Delegations of Authority Policy and Register. All such requests must be referred to the appropriately delegated officer or to the Director Human Resources (or nominee).

6. Policy Review

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

7. Further Assistance

Any staff member who requires assistance in understanding this policy should first consult their nominated supervisor who is responsible for the implementation and operation of these arrangements in their work area. Should further information or advice be required staff should visit [Service Central](#).

Appendix 1: List of Relevant Legislation Granting Union Right of Entry to an ACU Campus

1.1 The relevant statutes and the nature of the legislative or industrial instrument granting a right of entry authorisation are as follows:

- 1.1.1 All Workplaces: *Fair Work Act 2009 (Cth)***
Permit issued under Section 512 of the *Fair Work Act, 2009*.
- 1.1.2 ACT Workplaces: *Work Health and Safety Act 2011 (ACT)***
Permit issued under Section 131 (NB the Union Official must concurrently hold a Permit issued under Section 512 of the *Fair Work Act 2009*).
- 1.1.3 NSW Workplaces: *Work Health and Safety Act 2011 (NSW)***
Authority, issued under Section 299 of Part 7 of Chapter 5 of the *Industrial Relations Act 1996 (NSW)*, by the Industrial Registrar of NSW.
- 1.1.4 Queensland Workplaces: *Workplace Health and Safety Act 2011 (Qld)***
Identity Card issued under Section 131 of the *Workplace Health and Safety Act 2011 (Qld)* by the Industrial Registrar of Queensland.
- 1.1.5 South Australian Workplaces: *Work Health and Safety Act (2012)***
WHS Entry Permit Holder, issued under Section 131 of the *Work Health and Safety Act 2012* by the authorising authority (NB the union official must concurrently hold a Permit issued under Section 512 of the *Fair Work Act, 2009 (Com)* and Section 140 of the *Fair Work Act, 1994 (SA)*).
- 1.1.6 Victorian Workplaces: *Occupational Health and Safety Act 2004 (Vic)***
Entry Permit, issued under Section 83 of the *Occupational Health and Safety Act 2004 (Vic)*, by the Victorian Magistrates' Court.

1.2 Purpose of Right of Entry

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

1.2.1 All Workplaces: *Fair Work Act 2009 (Cth)*

Purpose:

To represent the organisation's members in the workplace, hold discussions with potential members and investigate suspected breaches of industrial legislation, industrial instruments (Awards and Enterprise Agreements) and Workplace Health and Safety laws.

Conditions and limitations:

1. To represent members or hold discussions the Officer or employee:

- Must hold a current Permit under the Act and produce it on request;
- Must give a written Entry Notice in the form required by Section 484 of the Act;
- Entry Notice must be given to the occupier of the workplace at least 24 hours, but not more than 14 days, before the entry;

- Entry Notice must specify the date of entry and the premises that are proposed to be entered;
- Entry Notice must specify section of the Act authorises the entry;
- Entry may occur only in working hours and discussions may only occur during mealtimes or during other breaks.

2. *To investigate suspected contravention or breaches of Industrial laws or instruments the Officer or employee:*

- Must hold a Permit under the Act and produce it on request;
- Must have a union member who works on the premises and is affected by the suspected contravention;
- Must give a written Entry Notice in the form required by the Regulations;
- The Entry Notice must be given to the occupier of the workplace notice of at least 24 hours, but not more than 14 days, before the entry;
- Entry Notice must specify the date of entry;
- Entry Notice must specify section 481 as the section of the Act that authorises the entry;
- Entry Notice must set out particulars of the suspected breach;
- Entry may occur only in working hours.

3. *To investigate breaches of Workplace Health and Safety laws the Officer or employee:*

- Must hold a Permit under the Act and produce it on request;
- Entry may occur only in working hours;
- *Additionally, if entry is for the purpose of exercising a right to inspect employment records conferred by State or Territory Health and Safety law the Officer or employee:*
 - i) Must give a written Notice as per Section 494 of the Act,
 - ii) Notice must be given to the occupier of the workplace notice of at least 24 hours before the entry; and,
 - iii) Notice must set out the reason for exercising the right to inspect

Where a Union officer wishes to inspect any employment records or documents, the official must give a written notice to produce the records or documents within 5 days and the notice must allow 14 days for the University to produce the records/documents. Any dispute regarding the operation of Right of Entry provisions may be referred to the Fair Work Commission as per Section 505 of the Act.

1.2.2 ACT Workplaces: Work Health and Safety Act 2011 (ACT)

Purpose:

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

Conditions and limitations - the Officer or employee:

- Must hold an Authority under Part 7 of the Act and produce it on request;
- Entry may occur only in working hours;
- The authorised representative must tell the occupier of the premises that the representative is on the premises as soon as reasonably practicable after entering the premises;
- *Additionally, if entry is for the purpose of exercising a right to inspect employment records;*
 - i) Must give a written Notice under Section 120 of the Act;
 - ii) Notice must give to the occupier of the workplace notice of at least 24 hours before the entry; and,
 - iii) Notice must set out the reason for exercising the right to inspect.

1.2.3 NSW Workplaces: *Work Health and Safety Act 2011 (NSW)*

Purpose:

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

Conditions and limitations the Officer or employee:

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

1.2.4 Queensland Workplaces: *Workplace Health and Safety Act 2011 (Qld)*

Purpose:

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

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

Conditions and limitations the Officer or employee:

- Must hold an Identity Card issued under Part 7 of the Act and produce it on request;

- Must give to the occupier of the workplace notice of at least 24 hours before the entry;
- If the right is exercised for discussion with workers, discussion may only occur during a work break, including a meal break;
- The authorised representative must tell the occupier of the workplace that the representative is on the premises as soon as reasonably practicable after entering the premises;
- *Additionally, if entry is for the purpose of exercising a right to inspect employment records; the Officer or employee:*
 - i) Must give a written Notice under Section 120 of the Act;
 - ii) Notice must give the occupier of the workplace notice of at least 24 hours before the entry; and,
 - iii) Notice must set out the reason for exercising the right to inspect.

1.2.4 **South Australian Workplaces:** *Work Health and Safety Act 2012 (SA)*

Purpose:

Inquiring into a suspected contravention of the Act that relates to or affects a relevant worker and/or undertaking consultation on work health and safety matters with workers.

Conditions and limitations the Officer or employee:

- Must hold an Entry Permit under Section 122 of the Act and must take all reasonable steps to produce the Permit to the occupier immediately upon entry;
- Must take all reasonable steps to give a Notice to the occupier immediately upon entry;
- Notice must include a description of the suspected contravention
- *Additionally, if entry is for the purpose of exercising a right to inspect employment records;*
 - i) Must give a written Notice under Section 122 of the Act,
 - ii) Notice must give the occupier of the workplace notice of at least 24 hours before the entry; and,
 - iii) Notice must set out reason for exercising the right to inspect;
- Entry may occur only in working hours;
- Consulting with employees may occur during meal-time or other breaks.

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

Purpose:

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

Conditions and limitations the Officer or employee:

- Must hold an Entry Permit under Section 83 of the Act and must take all reasonable steps to produce the Permit to the occupier immediately upon entry;
- Must take all reasonable steps to give a Notice to the occupier immediately upon entry;
- Notice must be in the form approved by the Victorian WorkCover Authority;
- Notice must include a description of the suspected contravention
- *Additionally, if entry is for the purpose of exercising a right to inspect employment records;*
 - iv) Must give a written Notice under Section 87 of the Act;
 - v) Notice must give the occupier of the workplace notice of at least 24 hours before the entry; and,
 - vi) Notice must set out reason for exercising the right to inspect;
- Entry may occur only in working hours;
- Consulting with workers may occur during meal-time or other breaks.