Management of Union Activities at ACU Policy

Section 1 - Background Information

(1) The parties to the ACU Staff Enterprise Agreement 2022-2025 (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 (Cth) (the Act).

(2) 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 (henceforth to be referred to as Union officers) 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.

(3) 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.

Section 2 - Policy Statement

(4) 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 2009 (Cth) and this Policy.

(5) Where an officer of a Federal or State registered Union requests to visit an ACU campus, the protocols detailed in this Policy are to be followed.

(6) In circumstances where a Union officer 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).

(7) This Policy should be read in conjunction with clause 1.15 (Union Rights) of the Agreement.

Section 3 - Policy Purpose

(8) This Policy:

a. outlines arrangements to facilitate effective and accessible industrial representation of ACU staff, and 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; and
b. clarifies the protocols to be followed when a Union officer requests to visit an ACU campus, including for the purpose of providing a staff member with assistance or support, or representation.

(9) 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

may exercise a statutory right of entry will vary from workplace to workplace (see Appendix 1).

Section 4 - Application of Policy

Part A - Staff member undertaking Union activities

(10) A staff member who is elected by Union members to be a delegate or other representative must notify the Chief People Officer (or nominee) by email, of their election prior to undertaking any Union activities at ACU.

(11) A staff member who has been elected as a delegate or Union representative will be allowed reasonable time off during working hours or a reasonable workload allocation for the conduct of Union business;

(12) 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 considered to be work time, that is, it is not considered to be a "Union activity" for the purposes of this Policy (refer to the Participation of Staff in University Employment Related Committees Guidelines).

(13) The University will provide the Branch President of the ACU branch of the CPSU and the NTEU, respectively, with time release equivalent to 40% of full-time each per week to enable them to perform their Union-related duties. The 40%-time release may be shared between the Branch President and another Union officer for each Union.

(14) The University will provide the ACU Branch President of the CPSU and NTEU respectively with the following services and facilities free of charge:

a. an office and associated meeting room each at the ACU Branch President's home campus;
b. reasonable Union-related use of and access to the internet and email. Such reasonable Union-related use includes broadcast emails from the ACU Branch President of the NTEU or CPSU respectively to staff members;
c. access to the staff directory for the purposes of finding the contact details of and communicating with University staff for Union business; and
d. access to the University's intranet.

(15) A staff member will have reasonable access to the University's property, including intellectual property, material resources, including office equipment and consumables, in undertaking Union activities at ACU in accordance with this Policy.

(16) A staff member's use of the University's Information Technology services to undertake Union activities must be in accordance with the ICT Acceptable Use Policy, Email Distribution List Policy and Email Distribution List Procedure. 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 or potential Union members.

(17) A staff member will have reasonable access to the University's Information Technology Facilities to conduct or publicize Union activities other than in accordance with this Policy or as may be approved in writing by the Chief People Officer (or nominee).

Part B - Entry to ACU workplace by a Support Person or Staff Representative

(18) 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 campus[1].

Details of the person including contact and vocational information should be provided with the notice.

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

Part C - Entry to ACU workplace by Union Officers

(19) When a Union officer requests to enter an ACU campus to consult with members, the officer is required to send a notification email to the Chief People Officer (or nominee).

(20) 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;
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).

(21) The confirmation of the Chief People Officer (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.

(22) Union officers 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. When visiting an ACU campus, Union officers should firstly report to the local campus reception to advise of their arrival and location throughout the day. Where there is no reception on a campus, Union officers must contact AskACU to be connected to the local campus security.

Part D - Union Officers Located at an ACU Campus

(23) Where the University has approved a request that a Union officer be located on an ACU campus, the Union officer is required to abide by the University's policies and procedures whilst they are on campus.

Part E - Union Presence at ACU Public Events at an ACU Campus

(24) 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 Chief People Officer (or nominee) in advance in order for appropriate arrangements to be made in accordance with the relevant University event guidelines.

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

(26) Where the University agrees that the Union may attend, Union officers, 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.

(27) The NTEU and the CPSU may each hold up to 5 Union meetings per year during working time. Staff members will be able to attend these meetings during working time. Where the Union wishes to hold a meeting on campus, notwithstanding that a room booking may be confirmed, the Union is required to have the approval of the Chief People Officer prior to the event taking place.

(28) 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.

Part F - Union Officers Who Hold a Right of Entry Permit

(29) Where a person to whom a current Permit under Section 512 of the Fair Work Act 2009 (Cth) has been issued provides the Chief People Officer (or nominee) with a copy of their Permit, the Chief People Officer may provide that person with an exemption from the provisions of clauses 19-20 of this Policy.

(30) Any exemption granted by the Chief People Officer may set out conditions of entry to the workplace as the Chief People Officer may consider appropriate in the circumstances.

(31) A right of entry permit holder may apply to the Fair Work Commission for an exemption certificate waiving the 24-hour notice period where the Commission is satisfied there is a suspected underpayment of wages affecting a staff member, and reasonably believes that advance notice of entry would hinder an effective investigation into the suspected contravention.

(32) A right of entry permit issued under the Fair Work Act 2009 (Cth) is not required when the Union officer is assisting a WHS representative on request under a State or Territory WHS law.

Part G - Union Officers Exercising Right of Entry

(33) Where a staff member becomes aware of a person on campus who is a Union officer who is authorised to exercise a right of entry by a Commonwealth, State or Territory statute, the staff member must notify their nominated supervisor. Where the nominated supervisor is unavailable the staff member must notify the next line manager and / or the Chief People Officer.

(34) Where a nominated supervisor is approached by, becomes aware of, or is informed of a person who is a Union officer authorised to exercise a right of entry by a Commonwealth, State or Territory legislation, the nominated supervisor must immediately notify the Chief People Officer (or nominee).

(35) Where the Chief People Officer (or nominee) is advised of the presence of a Union officer who is exercising their Right of Entry to an ACU campus, the Chief People Officer (or nominee) will normally confirm with the Union Officer that the purpose of their exercising the Right of Entry is consistent with the requirements of the relevant legislation.

(36) A right of entry permit holder does not have unfettered access to the workplace, documents or staff. Where a union officer 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 must comply with the University's workplace health and safety requirements. For non-workplace health and safety entry, the Union officer must comply with the University's reasonable requests, e.g. about a particular room to be made available for interviews or discussions.

Section 5 - Approvals

(37) The Chief People Officer (or nominee) may approve a request from a Union officer to visit an ACU campus including any applicable conditions to apply.

(38) Only the appropriately delegated ACU officer may provide a Union officer 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 Chief People Officer (or nominee).

Section 6 - Revisions made to this Policy

(39) 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 the People and Capability.

Section 7 - Further Assistance

(40) 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.

Section 8 - List of Relevant Legislation Granting Union Right of Entry to an ACU Campus

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

a. All Workplaces: Fair Work Act 2009 (Cth)
   Permit issued under Section 512 of the Fair Work Act 2009 (Cth).
b. 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 (Cth)).
c. 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.
d. Queensland Workplaces: Work Health and Safety Act 2011 (QLD)
   Identity Card issued under Section 131 of the Work Health and Safety Act 2011 (QLD) by the Industrial Registrar of Queensland.
e. South Australian Workplaces: Work Health and Safety Act 2012 (SA)
   WHS Entry Permit Holder, issued under Section 131 of the Work Health and Safety Act 2012 (SA) by the authorising authority (NB the union official must concurrently hold a Permit issued under Section 512 of the Fair Work Act 2009 (Cth) and Section 140 of the Fair Work Act 1994 (SA).
f. 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.

Purpose of Right of Entry

(42) 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:

All Workplaces: Fair Work Act 2009 (Cth)

(43) 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.

(44) Conditions and limitations:

a. To represent members or hold discussions the Officer or employee:
    i. Must hold a current Permit under the Act and produce it on request;
    ii. Must give a written Entry Notice in the form required by Section 484 of the Act;
    iii. Entry Notice must be given to the occupier of the workplace at least 24 hours, but not more than 14 days, before the entry see clause 31 for exemption information);
    iv. Entry Notice must specify the date of entry and the premises that are proposed to be entered;
    v. Entry Notice must specify section of the Act authorises the entry;
    vi. Entry may occur only in working hours and discussions may only occur during mealtimes or during other breaks.
b. To investigate suspected contravention or breaches of Industrial laws or instruments the Officer or employee:
    i. Must hold a Permit under the Act and produce it on request;
    ii. Must have a union member who works on the premises and is affected by the suspected contravention;
    iii. Must give a written Entry Notice in the form required by the
    iv. Regulations;
    v. 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;
    vi. Entry Notice must specify the date of entry;
    vii. Entry Notice must specify section 481 as the section of the Act that authorises the entry;
    viii. Entry Notice must set out particulars of the suspected breach;
    ix. Entry may occur only in working hours.
c. To investigate breaches of Workplace Health and Safety laws the Officer or employee:
    i. Must hold a Permit under the Act and produce it on request;
    ii. Entry may occur only in working hours;
    iii. 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:
        - Must give a written Notice as per Section 494 of the Act,
        - Notice must be given to the occupier of the workplace notice of at least 24 hours before the entry; and,
        - Notice must set out the reason for exercising the right to inspect

(45) 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.

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

(46) 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.

(47) Conditions and limitations - the Officer or employee:

a. Must hold an Authority under Part 7 of the Act and produce it on request (see clause 32 for exemption information);

b. Entry may occur only in working hours;
c. 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;
d. 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.

NSW Workplaces: Work Health and Safety Act 2012 (NSW)

(48) Purpose: For the purpose of investigating any suspected breach of the workplace health and safety legislation.

(49) Conditions and limitations: The Officer or employee:

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

Queensland Workplaces: Work Health and Safety Act 2011 (QLD)

(50) Purpose: To contribute to workplace health and safety in workplaces and relevant workplace areas:

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

(51) Conditions and limitations the Officer or employee:

a. Must hold an Identity Card issued under Part 7 of the Act and produce it on request;
b. Must give to the occupier of the workplace notice of at least 24 hours before the entry;
c. If the right is exercised for discussion with workers, discussion may only occur during a work break, including a meal break;
d. 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;
e. 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.

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

(52) 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.

(53) Conditions and limitations the Officer or employee:

a. 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;

b. Must take all reasonable steps to give a Notice to the occupier immediately upon entry;
c. Notice must include a description of the suspected contravention
d. 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;
e. Entry may occur only in working hours;
f. Consulting with employees may occur during meal-time or other breaks.

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

(54) 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.

(55) Conditions and limitations the Officer or employee:

a. 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;
b. Must take all reasonable steps to give a Notice to the occupier immediately upon entry;
c. Notice must be in the form approved by the Victorian WorkCover Authority;
d. Notice must include a description of the suspected contravention
e. Additionally, if entry is for the purpose of exercising a right to inspect employment records;
    i. Must give a written Notice under Section 87 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;
f. Entry may occur only in working hours;
g. Consulting with workers may occur during meal-time or other breaks.

Section 9 - Associated Information

(56) For related legislation, policies, procedures and guidelines and any supporting resources please refer to the Associated Information tab.

Status and Details

Status	Current
Effective Date	18th October 2024
Review Date	18th October 2029
Approval Authority	Governance Officer
Approval Date	18th October 2024
Expiry Date	Not Applicable
Responsible Executive	Angelle Laurence Chief People Officer
Responsible Manager	Angelle Laurence Chief People Officer
Enquiries Contact	Bernardine Lynch ER and Safety Committees and Policy Officer People and Capability