

University of Sydney (Policies Development and Review) Rule 2011 (as amended)

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University of Sydney (Policies Development and Review) Rule 2011

The Senate of the University of Sydney, as the governing authority of the University of Sydney, by resolution, makes the following Rule under subsection 37 (1) of the *University of Sydney Act 1989* for the purposes of the *University of Sydney By-law 1999*.

Dated 31 October 2011 2011

Vice-Chancellor and Principal

PART 1 PRELIMINARY

1 NAME OF RULE

This is the *University of Sydney (Policies Development and Review) Rule 2011*.

2 COMMENCEMENT

This Rule commences on 1 February 2012.

3 STATEMENT OF INTENT

- (1) This Rule is made by the Senate under section 37 (1) of the Act for the purposes of the *University of Sydney By-law 1999*.
- (2) The principal objectives of this Rule are:
 - (a) to set out a standard procedure for developing policy documents for the University, to ensure that policies are properly prepared and that appropriate consultation is undertaken on proposed policies;
 - (b) to provide for the establishment and operation of a Policy Register; and
 - (c) to establish and define the documents which constitute the University's policy framework.

4 INTERPRETATION

- (1) In this Rule:

Act means the *University of Sydney Act 1989*.

administrator, in relation to a policy or policy proposal, means the determining authority, or other authority or officer of the University nominated by the relevant determining authority. The administrator is responsible for the implementation of the policy.

Administrative Delegations Rule means the *University of Sydney (Delegations of Authority – Administrative Functions) Rule 2016* or replaced from time to time.

determining authority, in relation to a policy or policy proposal, means the authority or officer of the University to whom the Senate has delegated the power to make policy in relation to a particular area of the University's activities or operations.

General Counsel means the General Counsel of the University.

guidelines means advisory and explanatory statements offering any or all of detail, context or recommendations for good practice.

Policy Register means the Policy Register referred to in clause 15.

local provisions means mandatory statements of principles or procedures applicable within a particular faculty, academic college or administrative unit of the University, which have been determined in accordance with clause 9.

policy means a mandatory statement of the principles guiding the University's operations and decision making, established by a resolution or other decision of the Senate or by a determining authority.

policy proposal means a proposal for the adoption of a policy, or for an amendment or repeal of a policy.

procedures means mandatory statements of the University's standard and required practice. Procedures prescribe actions and are specific.

registered means registered in the Policy Register.

repeal, in relation to a policy, procedures, guidelines or local provision, or a provision of any such document, includes making provision that has the effect that the document or provision ceases to have effect (such as by revoking the policy).

- (2) Words and expressions not defined by or under subclause (1) have the meanings they have in the Act.
- (3) A heading to a Part or a Schedule is a provision of this Rule. Other headings are not provisions of this Rule, but the number of a clause or subclause is a provision of this Rule even if it is in a heading.
- (4) A note, marginal note, footnote or endnote is not a provision of this Rule.

5 UNIVERSITY POLICY FRAMEWORK

- (1) The University requires its operations to be conducted and its affairs to be managed in accordance with the documents which comprise the University's policy framework.
- (2) The University policy framework is comprised of:
 - (a) policies
 - (b) procedures
 - (c) local provisions
 - (d) guidelines.

- (3) Policies, procedures, guidelines and local provisions must be separately documented.
- (4) Procedures and guidelines must not be inconsistent with any policy.
- (5) Local provisions must not be inconsistent with any policy or procedures.

6 AUTHORITY TO ADOPT INCLUDES AUTHORITY TO AMEND AND REPEAL

Authority to adopt or determine a policy, procedures, guidelines or local provisions includes authority to amend and repeal it.

7 DETERMINING AUTHORITY MAY NOMINATE ADMINISTRATOR

- (1) The determining authority for any particular policy area may nominate another authority or officer of the University as administrator of that policy.
- (2) A nomination made under subclause (1) which is not made in the policy itself must be made in writing and a copy provided to the General Counsel as soon as possible after it is made.
- (3) A nomination made under this clause is an amendment for the purposes of clause 18 of this policy.

8 PROCEDURES AND GUIDELINES

- (1) Provided that doing so is consistent with the Administrative Delegations Rule, the administrator of a policy may, in writing, determine procedures to be followed in implementing the policy.
- (2) Provided that doing so is consistent with the Administrative Delegations Rule, the administrator of a policy may, in writing, provide guidelines for the implementation of a policy.
- (3) Procedures determined under this clause are binding.
- (4) Guidelines provided under this clause are not binding.

9 LOCAL PROVISIONS

- (1) The Dean of a faculty, the Head of School and Dean of a University school, or the chief officer of an administrative area may, in writing, determine local provisions to be followed in that faculty, academic college or administrative unit.
- (2) Local provisions determined under this clause are binding.

10 INCONSISTENCY

- (1) A provision of a policy that is inconsistent with the Act, a by-law or a rule is invalid to the extent of the inconsistency.
- (2) If a provision of a policy adopted by an authority or officer of the University mentioned in one of the following paragraphs is inconsistent with a provision of a policy adopted by an authority or officer of the University mentioned in a later paragraph, the second-mentioned provision is invalid to the extent of the inconsistency:

- (a) the Senate
 - (b) Academic Board
 - (c) the Vice-Chancellor
 - (d) the Chief Financial Officer, the Chief Information Officer, the General Counsel or the Director, University Libraries
 - (e) a Faculty or a Dean; or a University school or a Head of School and Dean (University school)
 - (f) an officer or another authority of the University.
- (3) A provision of a local provision that is inconsistent with the Act, a by-law, a rule, a policy or procedures is invalid to the extent of the inconsistency.

PART 2 DEVELOPMENT, ADOPTION AND REVIEW OF POLICIES

11 APPLICATION OF, AND COMPLIANCE WITH, THIS PART

- (1) This Part applies to the development, adoption and review of policies only, and does not apply to procedures, guidelines or local provisions.
- (2) A failure to comply with a provision of this Part does not affect the validity or operation of a policy.

12 PROCESS FOR DEVELOPING POLICIES

- (1) An authority or officer of the University must not adopt a policy unless the policy was developed in accordance with the process in subclause (2) and any applicable procedures.
- (2) The process is the following.
 - (a) The administrator of policies dealing with the area to which the policy relates prepares, or arranges for the preparation of, a policy proposal.
 - (b) The policy proposal must include or be accompanied by:
 - (i.) a statement of the objectives of the policy;
 - (ii.) a justification for the policy, including an analysis of potential alternative ways of achieving the objectives of the policy;
 - (iii.) a statement of how the policy accords with the object of the University;
 - (iv.) a statement of the consultations to be undertaken on the policy proposal, identifying who is to be consulted.
 - (c) Subject to paragraph (d) of this subclause, the General Counsel considers whether the policy is necessary, having regard to the by-laws, other rules and policies in force at the relevant time.

- (d) The General Counsel shall not decline to certify that a policy is necessary except with the consent of the Vice-Chancellor.
- (e) If the General Counsel:
 - (i.) certifies that the policy is necessary — the administrator consults, or arranges for consultations with, stakeholders about the policy proposal;
 - (ii.) declines so to certify — the administrator must not proceed further with the policy proposal in the form originally submitted.
- (f) The administrator, taking account of the outcome of the consultation and any legal advice obtained, prepares the policy.
- (g) The administrator submits the policy to the determining authority for adoption.
- (h) When submitted to the determining authority, the policy must include or be accompanied by:
 - (i.) a statement of the objectives of the policy;
 - (ii.) a justification for the policy, including an analysis of potential alternative ways of achieving the objectives of the policy;
 - (iii.) a statement of how the policy accords with the object of the University;
 - (iv.) a statement of the consultations undertaken on the policy proposal, identifying who was consulted and the outcomes of the consultation;
 - (v.) a statement of the consequential amendments to, or repeals of, by-laws, rules and policies which will be required if the policy is adopted;
 - (vi.) a certificate from the General Counsel to the effect that the policy is necessary.

Note 1: for subparagraphs (b) (iii) and (h) (iii): under section 6 of the Act, the object of the University is the promotion, within the limits of the University's resources, of scholarship, research, free inquiry, the interaction of research and teaching, and academic excellence.

Note 2: if adopted, the policy is published and registered in the Policy Register: see Part 3.

13 DETERMINING AUTHORITY TO BE SATISFIED OF CERTAIN MATTERS BEFORE ADOPTING POLICIES

A determining authority must not adopt a policy unless satisfied that:

- (a) the policy is necessary and appropriate;
- (b) the policy is consistent with the University's object;
- (c) the consultation undertaken in the development of the policy was adequate and appropriate;
- (d) proper provision has been or is to be made for consequential amendments to, or repeals of, by-laws, rules and policies in force at the time the policy is adopted.

Note: for paragraph (b): under section 6 of the Act, the object of the University is the promotion, within the limits of the University's resources, of scholarship, research, free inquiry, the interaction of research and teaching, and academic excellence.

14 POLICIES MUST BE KEPT UNDER REVIEW

Subject to the provisions of Part 4 of this Rule, the administrator of a policy must ensure that a review is conducted, no later than 6 months before the end of 5 years after the policy commenced, to determine:

- (a) whether the objectives of the policy are being achieved by the policy;
- (b) whether the policy should continue to apply;
- (c) whether any amendments should be made to the policy.

PART 3 REGISTRATION AND PUBLICATION OF POLICIES ETC

15 GENERAL COUNSEL TO MAINTAIN POLICY REGISTER

(1) The General Counsel is to maintain a register, to be known as the Policy Register.

(2) The Register comprises, at any time, a database of:

- (a) the Act;
- (b) the by-laws;
- (c) the rules;
- (d) policies;
- (e) procedures;
- (f) local provisions;
- (g) links to guidelines

issued on or after the commencement of this Rule, and compilations of these, that have been registered as provided by this Rule.

(3) The form of the Register is to be as determined by the General Counsel. However, subject to subclauses (4) and (5), the Register must be:

- (a) available on the Internet and accessible to any person through the Internet;
- (b) kept in a form, and indexed, such that contents of the Register that relate to particular matters can be easily identified and retrieved from the Internet.

(4) In relation to a policy, the determining authority may limit access to particular classes of persons.

(5) In relation to procedures or guidelines, the administrator may limit access to particular classes of persons.

(6) In relation to local provisions, the relevant Dean, Head of School and Dean (University school) or chief officer may limit access to particular classes of persons.

Note: for example, in some circumstances it may be determined to limit access to members of the University community rather than to provide general public access.

16 POLICIES, PROCEDURES AND LOCAL PROVISIONS MUST BE REGISTERED TO BE ENFORCEABLE

- (1) A policy, procedures or local provisions adopted or determined after the commencement of this Rule is not enforceable by or against the University unless registered.
- (2) A policy, procedures or local provisions adopted after the commencement of this Rule cannot be incorporated by reference into a contract between the University and another person unless registered.
- (3) A policy, procedures or local provisions is registered on the day on which it is made available through the Policy Register.

17 COPY DOCUMENTS TO BE PROVIDED TO GENERAL COUNSEL

- (1) If the Senate makes a by-law or a rule, adopts a policy, determines procedures or issues guidelines, the Secretary to the Senate must give a copy of it to the General Counsel as soon as reasonably practicable.
- (2) If an authority or officer of the University makes a rule, adopts a policy, makes procedures or local provisions or issues guidelines, the authority or officer must ensure that a copy of it is given to the General Counsel as soon as reasonably practicable.
- (3) In relation to guidelines, the Secretary to the Senate or other relevant authority or officer must also provide to General Counsel the URL of the document in which the guidelines are contained, and any other information necessary to enable an electronic link to the document to be created.

18 POLICIES, PROCEDURES AND LOCAL PROVISIONS TO BE REGISTERED

- (1) The General Counsel must register each by-law, rule, policy, procedures or local provisions a copy of which is provided under clause 17.
- (2) The General Counsel may compile consolidated versions of by-laws, rules, policies, procedures and local provisions, and may register these consolidated versions.
- (3) If any of the following is amended:
 - (a) a by-law;
 - (b) a rule;
 - (c) a policy;
 - (d) a procedure;
 - (e) a local provision;

the General Counsel must, as soon as practicable, compile and register a consolidated version.

- (4) The General Counsel may include in the Register any other document, as the General Counsel thinks fit.

- (5) The General Counsel may, in writing, determine requirements for the form of documents to be registered. Despite subclause (1), the General Counsel need not register a document unless it is given to the General Counsel in a form that meets those requirements.

19 REGISTER IS AUTHORITATIVE

- (1) For all purposes, the Policy Register is presumed to be a complete and accurate record of the documents that are included in it.
- (2) A registered policy is, unless the contrary is established, presumed to be a complete and accurate record of that policy at the date of registration.
- (3) A registered compilation of a policy is, unless the contrary is established, presumed to be a complete and accurate record of that policy as amended and in force at the date of registration of the compilation.
- (4) Registered procedures are, unless the contrary is established, presumed to be a complete and accurate record of the procedures at the date of registration.
- (5) A registered compilation of procedures is, unless the contrary is established, presumed to be a complete and accurate record of the procedures as at the date of registration of the compilation.
- (6) Registered local provisions are, unless the contrary is established, presumed to be a complete and accurate record of the local provisions as at the date of registration.
- (7) A registered compilation of local provisions is, unless the contrary is established, presumed to be a complete and accurate record of the local provisions as at the date of registration.
- (8) It is presumed, unless the contrary is established, that a document that purports to be an extract from the Register is what it purports to be.
- (9) A statement in the Register, or in a registered document, that a document was registered at a particular time is admissible as evidence of that fact and, unless the contrary is established, is conclusive evidence.

20 RECTIFICATION OF POLICY REGISTER

- (1) The General Counsel may correct errors and omissions in the Policy Register, but not in the original document. The correction must be noted in the Register.
- (2) A correction under subclause (1):
 - (a) does not affect a right or privilege that was acquired, or that accrued, because of reliance on the content of the Register before the alteration was made;
 - (b) does not impose or increase an obligation or liability incurred before that correction was made.

PART 4 TRANSITIONAL PROVISIONS

21 PRESENT DOCUMENTS CONTINUE TO HAVE EFFECT

All policies, procedures and local provisions that are effective at the commencement of this Rule will continue to be effective, regardless of registration, until they are amended or repealed.

22 ESTABLISHMENT OF INITIAL POLICY REGISTER

- (1) As soon as practicable after the commencement of this Rule, the General Counsel will establish the Policy Register and will register all documents which General Counsel identifies as current and appropriate for registration.
- (2) Documents registered under this Part may be registered in their present form despite any determination made by the General Counsel under Clause 18.

NOTES

UNIVERSITY OF SYDNEY (POLICIES DEVELOPMENT AND REVIEW) RULE 2011

Date made:	31 October 2011
Date registered:	
Date commenced:	1 February 2012
Date amended	21 June 2017 (administrative amendment)
Administered by:	Vice-Chancellor and Principal
Review date:	
Related documents:	<i>University of Sydney Act 1989</i> <i>University of Sydney (Delegations of Authority – Administrative Functions) Rule 2016</i> <i>University of Sydney (Delegations of Authority – Academic Functions) Rule 2016</i>

AMENDMENT HISTORY

PROVISION	AMENDMENT	COMMENCING
4(1); Related documents	Updating references to <i>University of Sydney (Delegations of Authority – Administrative Functions) Rule 2016</i>	21 June 2017
Related documents	Updating references to <i>University of Sydney (Delegations of Authority – Academic Functions) Rule 2016</i>	21 June 2017
9(1); 10(2)(e); 15(6)	Consequential amendments arising from organisational design changes	21 June 2017
10(2)(d)	Administrative amendment	21 June 2017