



Minister for Health and Wellbeing
Minister for Higher Education
Minister for Medical and Health Research
Minister for Transport
Minister for Vocational Education and Skills
Member for Yerrabi

Mr Robert French AC
freedomofspeechreview@education.gov.au

Dear Mr French

Thank you for your letter of 4 December 2018 regarding the review into freedom of expression and intellectual inquiry in Australian higher education (the Review).

In relation to your request for any Territory legislation that may be relevant to your review, and noting that you have written separately to universities for their governing legislation, statutes and policies within the Review's scope, I would call your attention to the following:

- a) *Discrimination Act 1991*, Section 67A, "Unlawful vilification". This provision makes it unlawful to incite hatred towards a person or group of people based on gender, race, disability, and other characteristics;
- b) *Civil Law Wrongs Act 2002*, Chapter 9. This provision makes actionable the publication of defamatory material without proof of damages, and makes no distinction between slander or libel; and
- c) *Human Rights Act 2004*, Sections 12, 14, and 16. These sections combined protect individuals' rights to privacy, fair reputation, freedom of thought, conscience, religion and belief, freedom of expression. To quote Section 16 in its entirety:

"(1) Everyone has the right to hold opinions without interference. (2) Everyone has the right to freedom of expression. This right includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of borders, whether orally, in writing or in print, by way of art, or in another way chosen by him or her."

It should be noted that these legislative provisions apply to everyone, regardless of their association with an institution of higher education.

I would also draw your attention to the *Information Privacy Act 2014* and *Health Records (Privacy and Access) Act 1997*, which together prohibit persons from collecting, using, or disclosing personal information that could harm an individual.



The ACT Government, and Canberra's tertiary education sector, places the highest value on preserving and protecting the freedom of speech, expression, and intellectual inquiry of all persons – regardless of whether they are engaged in education or not. These are bedrock principles of democracy and human rights that we have a duty to uphold.

I hope you find this information useful to the Review. I also look forward to receiving additional information about future consultations with relevant stakeholders as the Review progresses.

Yours sincerely



Meegan Fitzharris MLA

2/1/2019