



Industrial Action Procedures

1. Application
 2. Overview
 3. Protected Industrial Action
 4. Types of Industrial Action
 5. Payment During Industrial Action
 6. Superannuation
 7. Leave During Industrial Action
 8. Picket Lines
 9. Responsibilities
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1. APPLICATION

These procedures apply to all staff members employed by the University.

2. OVERVIEW

- 2.1 The University recognises the right of staff members to participate in protected industrial action in accordance with the *Fair Work Act 2009* (the Act). The University also supports staff members who wish to continue to work on days when colleagues are engaged in protected industrial action.
- 2.2 The University must continue to operate and provide quality services and operations in support of its students, customers, and clients during periods of industrial action. When staff members are taking protected industrial action, all campuses will remain open for normal operating hours and work will be available for all staff members. However, in exceptional circumstances, the University may decide to close part, or all, of a building where there are concerns related to health, safety and security.
- 2.3 These procedures provide guidance in relation to the legal obligations that apply to the University and its staff members and to meet the requirements of the Act.

3. PROTECTED INDUSTRIAL ACTION

- 3.1 It is unlawful to harm or disadvantage staff members in respect of their employment because they have participated in protected industrial action. Conversely, unprotected industrial action exposes staff members to the possibility of penalties both at common law and under the Act.
- 3.2 Staff members may participate in protected industrial action if the requirements of the Act are met, including:
 - a) there are negotiations occurring for a new enterprise agreement and the existing enterprise agreement covering staff has passed its nominal expiry date;
 - b) the industrial action is authorised by a protected action ballot;



University of
South Australia

- c) written notice in accordance with the Act is provided by unions to the University prior to the commencement of industrial action;
- d) only the notified action is taken;
- e) the action is only taken by union members; and
- f) the industrial action does not involve action that involves or is likely to involve personal injury, wilful or reckless destruction of, or damage to property, the unlawful taking, keeping or use of property.

3.3 Industrial action taken by staff members will not be protected if:

- a) the relevant union has not followed the requirements for protected action prescribed by the Act and as outlined in 3.2 above;
- b) a staff member is not a member of a union that has conducted a protected action ballot in 3.2 above, or
- c) claims for a new enterprise agreement support the inclusion of terms that cannot be lawfully included.

4. TYPES OF INDUSTRIAL ACTION

4.1 Examples of industrial action include strikes, bans and unauthorised stop work meetings. The Act defines industrial action in section 19 of the Act as:

“(a) the performance of work by an employee in a manner different from that in which it is customarily performed, or the adoption of a practice in relation to work by an employee, the result of which is a restriction or limitation on, or a delay in, the performance of the work;

(b) a ban, limitation or restriction on the performance of work by an employee or on the acceptance of or offering for work by an employee;

(c) a failure or refusal by employees to attend for work or a failure or refusal to perform any work at all by employees who attend for work;

(d) the lockout of employees from their employment by the employer of the employees.”

4.2 Industrial action does not include action by staff members that is authorised or agreed to by the University or action by a staff member if the action was based on a reasonable concern by the staff member about an imminent risk to their health or safety.

4.3 During protected industrial action, staff members must behave reasonably and in accordance with the Code of Ethical Conduct.

4.4 Strike action

A strike is a withdrawal of labour by staff members. Under such action, staff members refuse to attend or perform all work, not just selected duties.



4.5 Partial work bans

Work bans include staff members refusing to perform part (but not all) of their normal duties.

4.6 Unauthorised stop work meetings

- a) A stop work meeting that is not authorised by the University is effectively a short strike, and time spent at a stop work meeting that would normally be work time must be unpaid.
- b) Attendance at a meeting for which the University has given authorisation to staff to attend, such as to consider a proposed agreement, will not constitute industrial action. Likewise, attendance at a union meeting held during a staff member's lunch break or out of ordinary hours will not constitute industrial action.

5. PAYMENT DURING INDUSTRIAL ACTION

5.1 Under the Act, it is unlawful for the University to pay staff members or for staff members to accept payment during periods of industrial action, other than in cases of partial work bans. Where industrial action takes the form of partial work bans, the University may either:

- a) reduce payment in proportion to the amount of time that a staff member would normally spend performing that task during the day;
- b) refuse to accept performance of any work by the staff member engaged in the partial work ban and not make any payment to the staff member for the period of the bans; or
- c) take no action.

5.2 Where the University decides to reduce or withhold a staff member's pay where they have taken industrial action in the form of a partial work ban, a formal notice will be provided to the staff member by the Executive Director: People, Talent and Culture outlining the reduction (including the amount).

5.3. If a staff member engages in unprotected industrial action, a minimum of four (4) hours pay must be deducted.

5.4 A staff member may request a review where their pay has been deducted and they believe the deduction has been made incorrectly. An application for review shall be made in writing to the Executive Director: People, Talent and Culture.

6. SUPERANNUATION

No superannuation contributions will be made by the University to staff members where their pay has been deducted due to their participation in a strike or unauthorised stop work meeting. Staff members may have the option of maintaining both staff and University



superannuation contributions in such cases, depending on the rules of the superannuation fund to which they belong.

7. LEAVE DURING INDUSTRIAL ACTION

7.1 The University has a responsibility during periods of industrial action to ensure that operational requirements continue to be met and that staff members who are not participating in industrial action attend work.

7.2 Pre-approved leave

Leave applications made by staff members and formally approved by their supervisor well in advance of industrial action should continue as planned. However, this does not preclude a supervisor from reviewing leave arrangements to ensure that operational requirements are met.

7.3 Recreation leave applications and flexible work arrangements

Prior arrangements or applications for recreation leave or flexible work arrangements (that may or may not have been formally approved) including variable work time, time in lieu, rostered days off and working from home will usually be honoured. However, when a supervisor is considering whether to approve a leave application or flexible work arrangement, they should consider whether the application or arrangement:

- a) was made sufficiently in advance of the industrial action;
- b) is not designed to avoid obligations to attend work during periods of industrial action;
- c) operational requirements will continue to be met; and
- d) is in accordance with relevant University policies, procedures and guidelines.

7.4 Personal, family responsibility, carers and compassionate leave

Except where leave is pre-approved in advance under 7.1 above, all applications for personal, family responsibility, carers and compassionate leave taken during periods of industrial action, may require supporting evidence or other documentation as outlined in relevant procedures.

8. PICKET LINES

8.1 Where picket lines are in place at any of the University's campuses or buildings, the University will monitor behaviour of staff members on picket lines to ensure that they operate in a respectful and professional manner and will attempt to ensure that unreasonable behaviour is minimised or eliminated.

8.2 Staff members not participating in industrial action, and visitors and students, should be allowed to enter University campuses or buildings without intimidation. If staff members, visitors or students are prevented from entering University campuses or buildings, or believe they have been intimidated or victimised when crossing a picket line, they should report the matter to Security and their supervisor as soon as possible.



9. RESPONSIBILITIES

9.1 Staff members participating in strike action or work stoppages

- a) Staff members are requested to advise their supervisor as soon as possible so that appropriate arrangements can be implemented to minimise disruption to students and the normal operational services of the University.
- b) Supervisors may ask staff members prior to the industrial action whether they intend to participate in the industrial action. However, staff members are under no obligation to advise their supervisor of their intention to take protected industrial action.
- c) **Continuing and fixed term staff members** are required to submit a leave request for the time they participated in industrial action in [myHR](#). Details on how to submit a leave request can be [found here](#). The leave request will be sent to the staff member's supervisor for approval. Once approved, the amount of time the staff member submitted in their leave request will be deducted from their pay in the next available pay period and this time will be shown on their pay advice.
- d) **Casual staff members** are required to complete a [Casual Staff Declaration of Participation in Industrial Action Form](#) and provide it to their supervisor. Casual staff members are required to not claim on their time sheet for the time they participated in industrial action for the duties that were scheduled or planned to be undertaken during the industrial action.

9.2 Staff members not participating in industrial action

Staff members attend to their work duties as normal.

9.3 Supervisors

Unless supervisors are participating in the industrial action, they are responsible for minimising any disruption to the operations and service of the University. This includes:

- a) advising other staff members of their rights and responsibilities;
- b) advising students of teaching (and other) arrangements during a period of industrial action;
- c) reporting about any aspect of the industrial action as directed by the University;
- d) where possible, they should seek to establish which staff members will be participating in industrial action to assist with planning to minimise disruption to services and operations;
- e) review and approve leave requests submitted through [myHR](#) by continuing or fixed term staff members participating in industrial action;
- f) sign the [Casual Staff Declaration of Participation in Industrial Action Form](#) submitted by a casual staff member participating in strike action or unauthorised stop work meetings (in the appropriate area provided) as confirmation that



University of
South Australia

supervisors have received the form and forward to [Payroll Services](#) in the People, Talent and Culture Unit.

Where a supervisor participates in industrial action, the next level up manager must make alternative arrangements for the management of industrial action.

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