Freedom of Speech and Academic Freedom Policy

Policy Owner	Academic Dean
Approving Authority	Governing Council
Implementation Responsibility	Academic Dean
Effective date	14/08/2023
Review date	TBA
Current Status	Version 1.1

1. Purpose

The Sydney Polytechnic Institute (SPI) recognises and respects the right to academic freedom and freedom of speech. SPI is committed to fostering a culture that facilitates the honest, ethical, lawful and fair exercise of such freedoms in all academic and professional activities. Additionally, SPI recognises the importance of the pursuit of scholarly inquiry and the expression of personal or professional views as vital to the wellbeing of staff and students alike.

This policy has been created to outline such freedoms, their limitations and their implementation within SPI and complies with the relevant guidelines and legislation, including Standard 6.1.4 of the Higher Education Standards Framework 2021 and the French Model Code that has been adopted by the Australian Government on Freedom of Speech and Academic Freedom in Higher Education[1][2].

2. Scope

This policy applies to all academic staff and students at the SPI, as well as any internal or external visitors and those with a public or formal relationship to the institute.

3. Definitions

The following definitions and terms will be used for the purposes of this policy:

- A**cademic freedom** encompasses the following:
    - the freedom of academic staff to teach, discuss, and research and to disseminate and publish the results of their research.
    - the freedom of academic staff and students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to their subjects of study and research.
    - the freedom of academic staff and students to express their opinions in relation to the higher education provider in which they work or are enrolled.
    - the freedom of academic staff to participate in professional or representative academic bodies.
    - the freedom of students to participate in student societies and associations.

[1] Report of the Independent Review of the Adoption of the Model Code on Freedom of Speech and Academic Freedom (French Model Code). Accessed on 2 August 2021 at https://www.dese.gov.au/higher-education-reviews-and-consultations/resources/report-independent-review-adoption-model-code-freedom-speech-and-academic-freedom

[2] Report of the Independent Review of Freedom of Speech in Australian Higher Education Providers March 2019. Accessed on 2 August 2021 at https://www.dese.gov.au/higher-education-publications/resources/report-independent-review-freedom-speech-australian-higher-education-providers-march-2019

- the autonomy of the higher education provider in relation to the choice of academic courses and offerings, the ways in which they are taught and the choices of research activities and the ways in which they are conducted.

- **Academic staff** are all those who are employed by the SPI to teach and/or carry out research and extends to those who provide, whether on an honorary basis or otherwise, teaching services and/or conduct research at the SPI.
- E**xternal visiting speaker** refers to any person who is not an invited visiting speaker and for whom permission is sought to speak on the SPI's land or facilities.
- **Invited visiting speaker** refers to any person who has been invited by the SPI to speak on the SPI's land or facilities.
- **Non-statutory policies and rules** mean any non-statutory policies, rules, guidelines, principles, codes or charters or similar instruments.
- **Speech** extends to all forms of expressive conduct including oral speech and written, artistic, musical and performing works and activity and communication using social media.
- **Staff** for the purposes of this policy, 'staff' includes all employees of the SPI whether full-time or part-time and whether or not academic staff.
- **The duty to foster the wellbeing of staff and students** refer to certain SPI responsibilities:
  - includes the duty to ensure that no member of staff and no student suffers unfair disadvantage or unfair adverse discrimination on any basis recognised at law including race, gender, sexuality, religion and political belief.
  - includes the duty to ensure that no member of staff and no student is subject to threatening or intimidating behaviour by another person or persons on account of anything they have said or proposed to say in exercising their freedom of speech.
  - supports reasonable and proportionate measures to prevent any person from using lawful speech which a reasonable person would regard, in the circumstances, as likely to humiliate or intimidate other persons and which is intended to have either or both of those effects.
  - does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another.
- **Unlawful** means in contravention of a prohibition or restriction or condition imposed by law.

4. Explanatory Statement and Principles

4.1. Explanatory Statement

SPI is committed to ensuring, enshrining and enabling academic freedom and free speech. To achieve this goal, SPI has adopted the principles, where possible, of the voluntary French Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers in the creation of freedom of speech and academic freedom policies. This includes careful consideration and incorporation of such principles, to ensure that SPI's freedom of speech and academic freedom policies align with that of the Model Code. This extends to the interpretation of relevant SPI documents, policies and procedures, as well as in the exercise of discretion and independent judgements. In addition to formally adopting the Model Code, all reasonable efforts have been made by SPI to comply with the recommendations and suggestions set out in the Review of Adoption of the Model Code on Freedom of Speech and Academic Freedom in Higher Education. Such efforts and considerations have been made to ensure that the freedoms of speech and academic inquiry are well established and protected by SPI.

The adoption of such principles and the Model Code are not to be interpreted as an undermining of SPI institutional or operational autonomy. SPI reserves the right to depart from the principles of the Model Code, having provided reasonable explanations for doing so. The principles of the French Model Code

are to be considered in conjunction with SPI's priorities, principles and values. Additionally, any power or discretion conferred on SPI under any contract or workplace agreement shall be exercised, so far as it is consistent with the terms of that contract or workplace agreement, in accordance with the Principles of this Code.

SPI is responsible for the protection of the aforementioned rights as well as the creation and maintenance of a culture that encourages and facilitates open, fair and honest academic inquiry. This includes protection from penalisation for the expression of views that do not align with those expressed publicly by SPI.

4.2. Principles on Freedom of Speech and Academic Freedom

4.2.1. Every member of the staff and every student at the Institute enjoys the freedom of speech exercised on Institute land or in connection with the Institute subject only to restraints or burdens imposed by:

- law.
- the reasonable and proportionate regulation of conduct necessary to the discharge of the Institute's teaching and research activities.
- the right and freedom of others to express themselves and to hear and receive information and opinions.
- the reasonable and proportionate regulation of conduct to enable the Institute to fulfil its duty to foster the wellbeing of students and staff.
- the reasonable and proportionate regulation of conduct necessary to enable the Institute to give effect to its legal duties including its duties to visitors to the Institute.

4.2.2. Subject to reasonable and proportionate regulation of the kind referred to in the previous Principle, a person's lawful speech on the Institute's land or in or in connection with Institute activity shall not constitute misconduct nor attract any penalty or other adverse action by reference only to its content; nor shall the freedom of academic staff to make lawful public comment on any issue in their personal capacities be subject to the constraint imposed by reason of their employment by the Institute.

4.2.3. Every member of the academic staff and every student enjoys academic freedom subject only to prohibitions, restrictions or conditions:

- imposed by law.
- imposed by the reasonable and proportionate regulation necessary to the discharge of the Institute's teaching and research activities.
- imposed by the reasonable and proportionate regulation necessary to discharge the Institute's duty to foster the wellbeing of students and staff.
- imposed by the reasonable and proportionate regulation to enable the Institute to give effect to its legal duties.
- imposed by the Institute by way of its reasonable requirements as to the courses to be delivered and the content and means of their delivery.

4.2.4. The exercise by a member of the academic staff or a student of academic freedom, subject to the above limitations, shall not constitute misconduct nor attract any penalty or other adverse action.

4.2.5. In entering into affiliation, collaborative or contractual arrangements with third parties and in accepting donations from third parties subject to conditions, the Institute shall take all reasonable steps to minimise the restrictions or burdens imposed by such arrangements or

conditions on the freedom of speech or academic freedom of any member of the academic staff or students carrying on research or study under such arrangements or subject to such conditions.

4.2.6. The Institute has the right and responsibility to determine the terms and conditions upon which it shall permit external visiting speakers and invited visiting speakers to speak on Institute land and use Institute facilities and in so doing may:

a) require the person or persons organising the event to comply with the Institute's booking procedures and to provide information relevant to the conduct of any event, and any public safety and security issues.
b) distinguish between invited visiting speakers and external visiting speakers in framing any such requirements and conditions.
c) refuse permission to any invited visiting speaker or external visiting speaker to speak on Institute land or at Institute facilities where the content of the speech is or is likely to:
    (i) be unlawful; or
    (ii) prejudice the fulfilment by the Institute of its duty to foster the wellbeing of staff and students.
d) refuse permission to any external visiting speaker to speak on Institute land or at Institute facilities where the content of the speech is or is likely to involve the advancement of theories or propositions which purport to be based on scholarship or research, but which fall below scholarly standards to such an extent as to be detrimental to the Institute's character as an institution of higher learning.
e) require a person or persons seeking permission for the use of Institute land or facilities for any external visiting speaker to contribute in whole or in part to the cost of providing security and other measures in the interests of public safety and order in connection with the event at which the external visiting speaker is to speak.

4.2.7. Subject to the preceding Principles the Institute shall not refuse permission for the use of its land or facilities by an external visiting speaker or invited visiting speaker nor attach conditions to its permission, solely on the basis of the content of the proposed speech by the visitor.

4.2.8. Consistently with this Code, the Institute may take reasonable and proportionate steps to ensure that all prospective students in any of its courses have an opportunity to be fully informed of the content of those courses. Academic staff must comply with any policies and rules supportive of the Institute's duty to foster the wellbeing of staff and students. They are not precluded from including content solely on the ground that it may offend or shock any student or class of students.

5. Violations, Complaints and Conduct

Though they are encouraged to exercise their speech and academic freedoms, SPI staff and students are expected to comply with relevant SPI policies and codes of conduct, as well as applicable Commonwealth or state laws. Additionally, SPI staff and students who violate the limitations to the freedoms of speech and academic freedoms outlined above are subject to the same penalties as violations of SPI policy.

Complaints or disagreements regarding SPI freedom of speech and academic freedom policy are to be resolved through the appropriate conflict resolution procedures as outlined in the relevant SPI staff and student complaint and grievance resolution policy and procedure.

Though all reasonable efforts have been made to ensure consistency and alignment, should a conflict arise with another SPI policy, code or rule, this document prevails. Note that the definitions included in this document are valid and intended for use solely within this document.

6. Roles and Responsibilities

The Chair of the Academic Board is responsible for the maintenance, implementation and annual review of the SPI's Freedom of Speech and Academic Freedom Policy.

As part of the implementation of this policy, the Academic Board is responsible for the continuous reinforcement of SPI's commitment to freedom of speech and academic freedom by ensuring that staff and students are provided with information outlining their freedoms during induction and discussion regarding such freedoms are facilitated, should they arise, during meetings. Additionally, the Academic Board is responsible for ensuring that SPI policies are in alignment with the French Model Code and the SPI Freedom of Speech and Academic Freedom Policy.

As per Recommendation 4 of the Australian Government's Response to the Walker Review, the SPI Governing Council is responsible for the preparation of an attestation statement regarding freedom of speech and academic freedoms at SPI and then seek approval from the Board of Directors for the inclusion in the annual report and/or on website.

All staff and students are expected to familiarise themselves with the SPI Freedom of Speech and Academic Freedom Policy, as well as other relevant materials provided to them upon being reaffirmed at the induction to ensure that they are aware of their rights and freedoms.

Notes

Related legislation:

Higher Education Standards Framework (Threshold Standards) 2021

Related documents:

SPI Staff Recruitment, Review and Development Policy
SPI Academic Integrity Policy and Procedure
SPI Staff and Affiliates Code of Conduct Policy
SPI Student Code of Conduct
SPI Staff Complaint and Grievance Resolution Policy and Procedure
SPI Student Complaint and Grievance Resolution Policy and Procedure
A Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers (French Model Code)
Review of the Adoption of the Model Code on Freedom of Speech and Academic Freedom (Sally Walker)
Australian Government Response (to the Walker Review of Adoption of the Model Code on Freedom of Speech and Academic Freedom in Higher Education)
TEQSA Guidance Notes: Academic Governance

Amendment History:

Version No.	Approved by	Effective date	Amendments
1.0	Academic Board	26/08/2021	New Policy
1.1	Governing Council	14/08/2023	Approval authority changed from the Academic Board to the Governing Council.