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| Policy Number | AC18 |
| Approving Authority | Board of Directors |
| Date Implemented | February 25 |
| Current Version | 1.0 |
| Date of Review | January 27 |
| Contact Officer | Director of Learning & Innovation |
| Related Policies, Procedures and Documents | NIDA Student Charter (incorporating the NIDA Code of Conduct) NIDA Anti-Discrimination, Bullying and Harassment Policy Staff Code of Conduct Research Integrity Policy Research and Scholarship Policy Misconduct Policy – Students Non-Academic Grievance and Appeals Policy Equity and Inclusion Policy |

1. PURPOSE




- 1.1. The Australian Constitution does not expressly protect the freedom of expression, but Australia is a signatory to the International Covenant on Civil and Political Rights which does include the right to hold opinions without interference and the right to freedom of expression¹ The High Court has held that the freedom of expression with regards to political discussion is an implied constitutional right. However, the right does not extend more generally to cases where political issues are not involved. Arts Law advocates for the right to freedom of expression to be recognised so as to protect artistic expression and foster cultural growth in Australia².
- 1.2. This policy:
- Frames NIDA's definition of academic and artistic freedom, and
 - Asserts NIDA's governing body's developing and maintaining an environment in which academic and artistic freedom is upheld and protected, and
 - Ensures that at NIDA academic and artistic freedom is not unnecessarily burdened by restrictions other than those posed by law, or as set out in this policy.

¹ International Covenant on Civil and Political Rights (Article 19): found online at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

² Arts Law Guidance on Freedom Expression, Found online at: <https://www.artslaw.com.au/information-sheet/limitations-on-freedom-of-expression/>

2. SCOPE OF POLICY

2.1 This policy applies to:

| Undergraduate Courses (BFAs) | Postgraduate Courses (MFAs) | Vocational Courses |
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2.2 This policy applies to all staff and students of NIDA as well as the NIDA Board of Directors, its committees, decision making bodies and their officers, the Student Council of NIDA (SCON) and visiting speakers.

2.3 The Academic Board is responsible for advising the Board of Directors and the Executive on measures to safeguard academic and artistic freedom.

2.4 The Director Learning and Innovation is responsible for:

- a. Ensuring the accessibility of this policy for staff and students.
- b. Implementation of this policy.

3. PRINCIPLES

3.1 NIDA respectfully acknowledges the learning and artistic cultures of Australia's First Nations People on whose land NIDA stands, and as a place of scholarship, research and creative practice affirms its institutional responsibility and commitment to informed and respectful academic and artistic freedom.

3.2 NIDA is committed to building a community and culture of diversity, respect, and inclusion, embedding these into all aspects of the institution's activities and operations. This means the right to hold and to express diverse opinions.

3.3 Academic and artistic freedom is necessary for the development of new ideas, scholarly discourse, debate and for challenging existing knowledge. Academic and artistic freedom recognises that people are entitled to respectfully express their ideas and opinions and will be protected and encouraged to support research, learning and innovation. These principles apply to all academic and artistic activities in which people express their views both inside and outside NIDA.

3.4 Staff and students at NIDA should expect to be able to exercise academic and artistic freedom of expression and should not be disadvantaged or subjected to less favourable treatment by NIDA for doing so.

3.5 NIDA policy developers will make reference to the requirements of this policy in the drafting, review or amendment of any non-statutory policies.

4. POLICY

Academic and Artistic Freedom

4.1 Every member of NIDA staff and every student enjoy academic and artistic freedom and are able to conduct/undertake research, engage in learning and teaching and practice, communicate and publish subject only to prohibitions, restrictions or conditions imposed by:

- a. Law;
- b. The reasonable regulations required to fulfil NIDA's obligations for teaching and research and creative activities;

- c. The reasonable regulations required to fulfil NIDA's obligations to foster the wellbeing of students and staff, and;
- d. The reasonable regulations required to enable NIDA's to fulfil its legal duties to all community members.

4.2 Within the frame of conditions and restrictions stated in clause 4.1, NIDA staff, students and visitors have the right, without fear of harassment, intimidation, or unfair treatment to:

- a. Engage in critical and free inquiry in an environment of respect for and engagement with divergent opinions, unrestricted by institutional censorship;
- b. Research and publish and practice;
- c. Challenge accepted ideas, engage in public debates and express opinions, including unpopular or controversial opinions about issues and ideas;
- d. Encourage intellectually rigorous and open debate in all forums, adhering to the standards of scholarship, and avoid actions that may inhibit academic and artistic freedom and expression;
- e. Engage in an appropriate form in decision-making processes relevant to their field of expertise and area of responsibility within NIDA;
- f. Join professional and representative bodies, including unions and student societies, and engage in community service;
- g. Engage in public debates in a private or individual capacity and;
- h. In the case of staff, teach, assess and develop curricula within agreed Learning and Innovation processes.

4.3 NIDA staff and students have responsibilities to:

- a. Uphold academic standards, including academic integrity, rigour in the construction of arguments, and the appropriate use of evidence;
- b. Be accountable when they participate in dialogue and public discourse;
- c. Develop relationships based on trust, respect and mutual understanding and responsibility and undertake discourse reasonably, with declarations of conflicts of interest where appropriate;
- d. Prepare statements to explain contentious works and
- e. Educate themselves on the safe use of content and actively promote such practices to students and audiences, and;
- f. Consider when speaking in public whether or not it is appropriate to link their comments to their role or relationship with NIDA.

4.4 NIDA has an institutional responsibility to:

- a. Wherever possible, prevent or minimise the impact of inappropriate pressures on staff and students, whether political, cultural, economic, or ideological, from restricting their academic and artistic freedom;
- b. Prioritise academic and artistic freedom principles at the forefront in conceiving and implementing its governance policy frameworks and administrative processes;
- c. Contribute positively to an environment of freedom of academic and artistic inquiry, discourse, teaching, research, publication, and practice for all its staff and students, and;
- d. Ensure that, subject to the limitations in 4.1, the use of academic and artistic freedom by academic staff or students, will not constitute misconduct or attract any penalty or adverse action. Nor will NIDA disadvantage or subject its staff and students to less favourable treatment for exercising their right to academic and artistic freedom, including no threats to the security of employment for its staff, regardless of the nature of that employment.

4.5 The freedoms described in clause 4.3 do not remove or change NIDA's authority to determine:

- a. Its academic courses, and how they are taught, and;
- b. Its research activities, and how they are conducted.

4.6 NIDA may take fair and reasonable measures to ensure that all prospective students have an opportunity to be fully informed of the content of their courses.

- 4.7 NIDA's duty does not extend to protecting any person from feeling offended, shocked or insulted as a result of an exercising of freedom of lawful expression.
- 4.8 Academic staff are not required to withhold content solely on the ground that it may offend or shock any student however staff must comply with any policies and rules supportive of NIDA's obligation to develop and support the wellbeing of staff and students.

Freedom of Speech

- 4.9 Every member of staff and every student at NIDA, including officers, enjoys freedom of lawful speech at NIDA subject only to prohibitions, restrictions or conditions imposed by:
- a. Law;
 - b. the reasonable regulations required to fulfil NIDA's obligations for teaching and research activities;
 - c. the right and freedom of others to express themselves and to hear and receive information and opinions;
 - d. the reasonable regulations required to fulfil NIDA's obligations to foster the wellbeing of students and staff, and;
 - e. the reasonable regulations required to enable NIDA to fulfil its legal duties to all community members.
- 4.10 Freedom of Speech must be employed lawfully. For example, it must not:
- a. be defamatory; or
 - b. involve racial vilification or any involve other form of discrimination solely on the ground of race, colour, sex, language, religion or social origin; or
 - c. wrongly reveal confidential information, personal information, or proprietary information; or
 - d. involve intentionally menacing, harassing or being offensive;
 - e. be treasonous;
 - f. incite violence.
- 4.11 NIDA's responsibility for the safety and wellbeing of staff and students includes:
- a. taking reasonable and proportional action so that no one is subjected to speech which a reasonable person would conclude was both intended and likely to humiliate or intimidate;
 - b. upholding the law and NIDA policies which prohibit discrimination on the basis of race, colour, gender, sexuality, religion, and political belief; and
 - c. ensuring that no one is the target of threatening or intimidating behaviour as a result of exercising Freedom of Speech.
- 4.12 Subject to the limitations in clause 4.6, 4.7 and 4.8 a person's lawful speech at NIDA (whether physical or virtual) will not constitute misconduct or attract any penalty or other adverse action because of its content.

Obligations to Foster the wellbeing of Student and Staff

- 4.13 NIDA's duty (excluding the duty to protect any person from feeling offended, shocked or insulted as a result of exercising freedom of lawful expression) to:
- a. ensure that no staff or student suffers unfair disadvantage or unfair adverse discrimination on any basis recognised at law including race, gender, sexuality, religion and political belief in line with the Equity, Inclusion Policy;
 - b. ensure that no staff or student is subject to threatening or intimidating behaviour by another person or people on account of anything they have said or proposed to say in exercising their freedom of speech, and;
 - c. support 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 people and which is intended to have either or both of those effects.

Third Party Arrangements

- 4.14 In undertaking a collaboration or making a contractual arrangement with a third party, and in accepting donations from third parties subject to conditions, NIDA must 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 NIDA students and staff engaged in activities supported by or involving these collaborations or arrangements.
- 4.15 NIDA has the right and responsibility to:
- a. determine the terms and conditions on which it allows invited speakers to speak at NIDA;
 - b. refuse permission to any invited visiting speaker to speak where the content of the speech is, or is likely to be, unlawful or impede NIDA's ability to fulfil its duty to advance the wellbeing of staff and students;
 - c. refuse permission to any visiting speaker to speak where the content of the speech involves, or is likely to involve, the advancement of theories or propositions that purport to be based on scholarship or research, but which fall below the academic and research standards to such a degree that it poses a risk to NIDA's character as an institution of higher learning.

Breaches of policy

- 4.11 Staff who experience intimidation or harassment when exercising academic and or artistic freedom are encouraged to seek advice and make a report in line with either the Grievance Resolution Policy (Staff) or the Whistleblower Policy (Staff)
- 4.12 Students who experience intimidation or harassment when exercising academic and or artistic freedom are encouraged to seek advice and make a report in line with the Academic Appeals Policy and Procedures (Students)
- 4.13 Work or language that breaches the restrictions imposed by the law or this policy law will be managed in accordance with the policies that most align with the breach in addition to the relevant staff or student misconduct policies.

5. DEFINITIONS

| Term | Definition |
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| Academic Freedom | Means: <ul style="list-style-type: none">a. freedom of academic staff to teach, discuss and research, and to disseminate and publish the results of their research, without restriction by institutional policy, but subject to appropriate scholarly standards aligned with NIDA's standing as an institution of higher learningb. 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 researchc. freedom of academic staff and students to express their opinions in relation to the higher education provider in which they work or are enrolled free from institutional censorship or sanctiond. freedom of academic staff to participate in professional or representative academic bodies, including unionse. freedom of students to participate in student societies and associationsf. the rights of the higher education provider in relation to the choice of academic courses and offerings, how they are taught and the choices of research activities and how they are conducted. |
| Artistic Freedom | The freedom of academic staff and students to engage in artistic or creative activity that is part of the research, teaching or presentations authorised by NIDA or presented under its auspices which contributes to the development or expression of creative and artistic ideas and expression." |
| Academic Staff | Any person employed by NIDA to teach and or carry out research |
| Student | Any person enrolled in an accredited course at NIDA who was enrolled in an accredited course at the time the complaint relates to. |
| Visiting speaker | Any person who is an invited visiting speaker (whether physical or virtual). |

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| Work | Includes: assessments, performances, made objects and garments, essays, reports, speeches, devised work, scripts, lectures, tutorials |
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6. CHANGE HISTORY

| Date | Change Description | Reason for Change | Author | Version |
|---------------|--------------------|-------------------|-------------------------|---------|
| February 2025 | New Policy | External Review | Learning and Innovation | 1.0 |

7. CONSULTATION/BENCHMARKING

Benchmarked against policies and practice from a number of higher education providers and other sources.
Relevant policy documents from the following are gratefully acknowledged:

- Sydney University
- Melbourne University
- Macquarie University
- Arts Law Centre of Australia
- University of Technology Sydney

Consultation: Research and Scholarship Committee

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| Legislation and Regulatory Frameworks | Higher Education Standards Framework (Threshold Standards) 2021 – Standard 6.1.4 Higher Education Support Act 2003 |
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