



Australian Government
Department of Education

Support for students policy

Guidelines consultation paper





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The document must be attributed as the Support for students policy – Guidelines consultation paper.

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Introduction

The Australian Government is opening the door of opportunity for more Australians by acting on the five priority actions of the Australian Universities Accord Interim Report (Interim Report). These changes will make a real difference to access and equity for under-represented groups at Australian universities and higher education institutions.

The Interim Report makes it clear that more jobs will require a tertiary education qualification in the future and that more people from under-represented groups need to participate to meet this need. An important part of achieving this goal is ensuring that people who get into higher education have the best possible chance of success.

Two of the five priority actions require legislative change. On 3 August 2023 the Government introduced the Higher Education Support Amendment (Response to the Australian Universities Accord Interim Report) Bill 2023 (Amendment Bill), into the Australian Parliament. The subject of this consultation paper are the amendments in response to Priority Action 2.

Cease the 50% pass rule, given its poor equity impacts, and require increased reporting on student progress.

The Interim Report shows more than 13,000 students at 27 universities have already been hit by this rule which has disproportionately affected students from First Nations backgrounds, low socioeconomic status, and other under-represented or educationally disadvantaged cohorts.

Comparatively, the 50 per cent pass rule does not include requirements for higher education providers to improve the quality of education or offer other supports to assist students to successfully complete their studies.

As such, the Amendment Bill:

- abolishes the 50 per cent pass rule (introduced as part of the Job-ready Graduates package)
- strengthens accountability and reporting requirements for higher education providers to ensure students are properly supported to study and to pass (*Support for students policy* requirements)
- ensures that higher education providers that fail to meet the new requirements will face compliance action, including possible financial penalties
- provides for the Minister for Education to make changes to the Higher Education Provider Guidelines (the Guidelines) to implement the proposed *Support for students policy* requirements.

Abolishing the 50 per cent pass rule does not seek to lower educational standards or quality. Instead, the new *Support for students policy* will increase provider accountability to identify students at risk and assist all students to succeed. The new requirements will re-enforce the need to assess academic and non-academic suitability, both in the lead up to enrolment and on an ongoing basis.

This consultation paper seeks views on the details to be included in the Guidelines, including any further requirements and associated reporting and compliance arrangements. Input is sought to ensure the Guidelines are practical, have the desired policy impact and support students to study successfully.

Priority Actions to improve student outcomes

The Government response to the remaining four priority actions recommended in the Interim Report also aims to improve student outcomes, particularly for equity cohorts.

The response to Priority Action 1, to create more regional university hubs and establish a similar model for the outer suburbs of our cities, doubles the number of university study hubs.

The Amendment Bill also delivers on Priority Action 3, providing demand-driven funding for all Indigenous students to attend university if they are qualified for admission to the courses.

Priority action 4 extends the Higher Education Continuity Guarantee for another two years to provide funding certainty to universities as the Accord process continues during 2023 and any new funding arrangements are subsequently implemented. Eligible institutions will be required to use any surplus funding from this measure on additional support for equity students.

Priority Action 5 is highly relevant to the new *Support for students policy* requirements. The Government will work with states and territories to strengthen university governance, with a focus on ensuring student and staff safety. A working group, with representatives from States and Territories, has been established to provide advice to Education Ministers on the immediate actions to improve university governance. This work will be informed by policy expertise and leadership in prevention of sexual assault and sexual harassment, as well as direct engagement with higher education institutions, student representatives, victim survivor advocates and others. Advice will be provided to government on measures for action within institutional and residential settings.

Safety on campus is directly related to student success. The *Support for students policy* requirements will be relevant for students experiencing violence or harm and will include a specific requirement for appropriate crisis and critical harm response arrangements. Consideration will be given to the recommendations of the working group once made and may lead to future amendments to the Guidelines which would change *Support for Student policy* requirements.

For more detail on Priority Actions, please go to: [Australian Universities Accord - Department of Education, Australian Government](#).

Proposed legislative changes

The Amendment Bill introduces a requirement on higher education providers to have and comply with a *Support for students policy*.

The policy must describe how a higher education provider identifies students who are at risk of failing their chosen units of study, including proactively identifying disengaged students based on best available data and evidence. The policy must also set out how the higher education provider will support their students to succeed in their courses.

The Amendment Bill also includes requirements that a higher education provider must give the Minister for Education information relating to its *Support for students policy*, compliance with that policy and any other information as specified in the Guidelines.

Further detail can be found at: [Higher Education Support Amendment \(Response to the Australian Universities Accord Interim Report\) Bill 2023 – Parliament of Australia \(aph.gov.au\)](#).

The *Support for students policy* Guidelines amendments

The Amendment Bill includes requirements for a higher education provider to have a *Support for students policy*, which details the support they will provide to their students to assist them in successfully completing their studies.

Additional information regarding what must be included in a Higher Education Provider's *Support for students policy* will be specified in the Guidelines and will be informed by responses to this consultation paper. The Minister for Education will amend the Guidelines following passage of amendments to the *Higher Education Support Act 2003* (HESA).

Higher education providers will need to demonstrate how they will support their students, particularly students who are at risk of not successfully completing their studies.

Financial penalties will be applicable for higher education providers which fail to comply with these requirements.

A quality higher education provider fulfilling existing requirements under law and meeting community and student expectations will likely already have policies in place to support students to succeed.

Current student support measures

Implementing the proposed *Support for students policy* requirements will build on existing legislative requirements, including the *Higher Education Framework (Threshold Standards) 2021* and the *National Code* for overseas students.

Threshold Standards

Higher education providers are registered with the Tertiary Education Quality and Standards Agency (TEQSA) and must comply with the Threshold Standards. The Threshold Standards set out the minimum acceptable requirements for the provision of higher education in or from Australia by higher education providers registered under the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act).

Specific to support for students, the Threshold Standards require higher education providers to:

- provide equivalent opportunities for students to enter and progress through their course of study, irrespective of their educational background, entry pathway, mode or place of study
- have processes that identify students at risk of unsatisfactory progress, and provide specific support for these students
- provide access and information for students about actions and services available to them
- make services available which must include providing access to emergency services, health services, counselling, legal advice, advocacy, accommodation and welfare services.

Further information on the Threshold Standards is at [Higher Education Standards Framework \(Threshold Standards\) 2021 | Tertiary Education Quality and Standards Agency \(teqsa.gov.au\)](https://www.teqsa.gov.au/higher-education-standards-framework-threshold-standards-2021).

The Minister for Education has requested that the Higher Education Standards Panel (HESP) review the application of the Threshold Standards in relation to student support. This includes whether the Threshold Standards sufficiently describe what quality providers should be doing to support student retention; whether universities are appropriately implementing the Threshold Standards; student awareness of supports available to them; and what can be done to improve the Threshold Standards and their implementation.

The Minister for Education also asked HESP to consider whether findings from their 2018 report [Higher Education Standards Panel Final Report - Improving Retention, Completion and Success in Higher Education - Department of Education, Australian Government](#) have been implemented and whether they have made a difference. Recommendations from the earlier report went to better supporting students to make the right choices, supporting students to complete their studies, and accountability and regulation under the Higher Education Standards Framework.

As well as possible changes to the Threshold Standards, the review by HESP might also lead to future amendments to the Guidelines.

National Code for overseas students

Higher education providers who enrol international students must comply with the mandatory [National Code of Practice for Providers of Education and Training to Overseas Students 2018](#) (the Code). These mean that registered providers:

- must offer reasonable support to students to enable them to achieve expected learning outcomes regardless of the student's place of study or the mode of study of the course, at no additional cost
- must provide learning support services consistent with the course requirements, mode of study and the learning needs of overseas student cohorts, including having documented processes for supporting and maintaining contact with students undertaking online or distance units of study
- must take all reasonable steps to provide a safe environment on campus and advise overseas students staff on actions they can take to enhance their personal security and safety.

The new arrangements applying to all students build on the existing Code requirements applying only to overseas students.

Consultation Questions

1. Are there features of the Code that could also be applied to domestic student support and included in the Guidelines?
2. How do we ensure that the Code and the new arrangements work together effectively?

Existing compliance powers

The Department of Education has existing compliance powers, including to investigate complaints, to re-credit a student's HELP balance and remit their student loan in certain circumstances, and to take compliance action against higher education providers that are failing in their obligations or have committed infractions.

Compliance powers can include warnings and voluntary discussions, infringement and compliance notices (including fines), placing conditions on a higher education provider's approval, and suspending or revoking a higher education provider's approval under HESA.

TEQSA can also receive and investigate complaints which concern serious risk to students, or to the quality or reputation of the higher education sector. TEQSA generally applies compliance actions to a higher education provider's registration or re-registration. They can also conduct compliance assessments, issue warnings, infringement and compliance notices (including fines), place conditions on a higher education provider's accreditation, and suspend and cancel a higher education provider's accreditation.

Existing powers under HESA and the TEQSA Acts are available to be used in conjunction with new powers related to *Support for students policy* requirements, including notices and penalties. This is explored later in this paper.

Changes to Higher Education Provider Guidelines

Feedback is invited on what should be included in the Guidelines to ensure that what is proposed will support students to study successfully, and that it is practical, and implementable.

Given the diversity across the higher education sector, it is not expected that there will be a one size fits all response to the minimum policy requirements. The Guidelines have an important role to play in providing more information about what a *Support for students policy* should contain, and information and reporting requirements.

Higher education providers should, as a minimum, develop and apply student entry procedures appropriate to their mission, context and cohort. It should also be standard practice to identify, protect and provide support for vulnerable students and students at risk of failing.

Policy

The Department proposes that the Guidelines will prescribe the following information to be included in the *Support for students policy*, noting that this list is not exhaustive. The policy must include:

Support for Individuals

- how the higher education provider will assess academic and non-academic suitability for continuing study, especially for students who have already triggered alerts
- processes that identify students who are at risk of not successfully completing units of study
- processes to ensure that students are connected to support, and that non-engagement with support triggers escalations before the census date wherever possible
- arrangements to provide non-academic supports for students, such as financial assistance, housing information and mental health supports – this is particularly important as many students struggle due to non-academic issues
- how the higher education provider will provide access to targeted individual literacy, numeracy and other academic supports as required
- a list of circumstances resulting in proactive offers of 'special consideration' and academic adjustment arrangements for students who have experienced or been affected by a significant life event

- innovative provider-driven and evidence-based additional supports such as peer support
- targeted in-course support from academic staff such as check-ins, and flexibility on assessment arrangements
- appropriate crisis and critical harm response arrangements for students.

Institutional Level Requirements

- requirements to ensure that academic and non-academic supports are age and culturally appropriate, including specific arrangements for First Nations students
- assurance mechanisms to ensure that the specified policy is faithfully and fairly implemented and that errors, outliers and opportunities for improvement are identified and escalated
- that sufficient resourcing is available to adequately support all students identified as requiring additional assistance, including how those resources are adjusted to meet demand
- there is access to trained academic development advisors who specialise in identifying the reasons why students struggle and assembling the right response for individual students.

The Guidelines would also prescribe that a *Support for students policy* must:

- be publicly available on the higher education provider’s website, with support options widely communicated to students
- be updated on an annual basis.

3. What other detail should be included in the Guidelines and why?
4. Are the proposed individual student and institutional level requirements practical, and implementable? If not, how could they be improved?
5. Are there examples of best practice, reports and reviews that focus on supporting students to complete their studies, that could be drawn on for the Guidelines?

Reporting

Higher education providers must prepare a report to the Minister periodically on compliance with their *Support for students policy*. The specific reporting requirements will be in the Guidelines and include, but not be limited to:

- the efficacy and effectiveness of the policy
- identified opportunities for improvement of the policy and outcomes
- the frequency of reporting, which could be expected to be periodically, after each census date, twice yearly, annually or at other determined intervals
- providing in the report a link to the policy on the higher education provider’s website
- information on:
 - the numbers of students identified as requiring support, disaggregated by faculty
 - the support provided for identified students
 - the academic progression and outcomes of identified students
 - the academic outcomes of the cohort generally
 - HELP expenditure on failed units of study, per student and overall.

6. What other reporting requirements need to be included to demonstrate compliance with the *Support for students policy* requirements?
7. Is there other information that should be reported, or that could be re-purposed, that would demonstrate compliance, and assist in monitoring and evaluating the outcomes of these Guidelines?

Compliance

Higher education providers compliance with their *Support for students policy*, will be monitored and evaluated by the Department of Education.

Higher education providers must demonstrate that there is a *Support for students policy* in place that meets all of the requirements set out in HESA and the Guidelines, including that the policy:

- has processes to identify students at risk
- outlines the individual and institutional supports available to students
- meets all the requirements in the Guidelines.

Higher education providers must also demonstrate they are complying with their *Support for students policy* and report on compliance, as required in HESA and the Guidelines.

The Department will use a range of mechanisms to monitor compliance, including:

- desktop audits
- complaints from students and others
- information provided by higher education providers as part of compliance reporting
- information provided by higher education providers through the Tertiary Collection of Student Information system.

The Tertiary Collection of Student Information system provides a warning validation when a higher education provider reports the unit outcomes for students who are not successfully completing 50 per cent of their units of study after undertaking a threshold number of units. This information will be used by the Department of Education to review individual higher education provider's student outcomes on a global scale and at an appropriate level of detail.

The Department has existing powers to seek information and investigate potential non-compliance, which can also apply to these requirements.

Non-compliance

The Amendment Bill provides that higher education providers must have a *Support for students policy* that meets the requirements in the Guidelines, comply with the policy, and report on the policy in accordance with section 19-43.

The following examples and scenarios are to aid stakeholder understanding and should not be taken as precedent or limit the options available to the Government at law.

- The Department may find that a higher education provider does not have a *Support for students policy* following a desktop audit or a complaint from a student. This could lead to an infringement notice (using the new civil penalty provision) by the Secretary's delegate and/or a compliance notice being issued by the Minister's delegate. Further action can be taken if the higher education provider continues to not have a *Support for students policy*.
- The Department investigates a complaint that a higher education provider has failed to comply with their policy, and it is proven that this led to a number of students failing. Depending on the nature of the non-compliance, it is open to the Secretary's delegate to issue an infringement notice (using the new civil penalty provision) per student.
- The Department investigates a complaint relating to the higher education provider failing to comply with their policy that leads to students being at risk of failing. Depending on the nature of the non-compliance this may lead to the Secretary's delegate issuing an infringement notice (using the new civil penalty provision) for a single non-compliance, rather than per student. If the provider remedies the situation there may be no need for further action.
- Different situations could escalate to conditions being imposed on the higher education provider's approval under HESA, for example if a systemic problem is identified which is not addressed by the provider.
- The higher education provider may refuse to report as required by the Guidelines, leading to an infringement notice (using the new civil penalty provision) by the Secretary's delegate and/or a compliance notice being issued by the Minister's delegate.

As well as the new civil penalty provision, there are existing compliance powers that can also be used in relation to section 19-43.

The Minister, the Department or TEQSA could take some or all of the actions listed below to address non-compliance, depending on the factual circumstances and severity. Some of these actions could be taken together and some could be sequential. All of them can be used in relation to non-compliance with the proposed amendments and the Guidelines.

Issue an Infringement Notice (contravention of civil penalty provision, for example new s19-43)

The Amendment Bill provides for new civil penalties to be imposed, where the Secretary's delegate can issue an infringement notice consistent with Part 5-8 of HESA (new S19-43(7)). The relevant civil penalty for breach of this provision is 60 penalty units (\$18,780). This civil penalty applies to all of the subsections of new section 19-43, including having, complying with and reporting on the policy, and complying with the Guidelines.

The aim of these penalties is not to affect higher education providers merely because they have students that fail, where they have a compliant policy and have diligently applied it. For example, if twenty students fail due to personal choices, and the university applied its policy diligently, it would not result in a penalty. On the other hand, if ten of those students failed because the higher education provider did not apply measures in their own *Support for students policy* a penalty would apply. The penalty may apply on a per student basis where it is determined that a higher education provider is non-compliant with regard to individual students.

Request for Information (section 19-70)

In the event that the Department has been advised, or has identified that there is an indication of non-compliance, the Minister (or the delegate) may issue a Request for Information. The Request for Information can ask for any information relevant to the potential non-compliance.

For example, if it is in relation to a student complaint the Department can request information on what supports have been put in place for a particular student or cohort of students. This is to enable a decision-maker in the Department to form a view as to whether this is, or is likely to have been, non-compliant.

Publish outcomes

Where a higher education provider fails to be compliant, the Department will consider publishing outcomes against the *Support for students policy*.

For example, that the higher education provider has been non-compliant against the policy and the reasons for the non-compliance. The Department could also consider publishing student outcome data for all higher education providers.

Compliance Notice (section 19-82)

Where non-compliance has been determined, the Minister (or their delegate) may issue a Compliance Notice that details the identified incident. A Compliance Notice places an obligation on a higher education provider to remedy the non-compliance in the manner prescribed by the Notice and within a specified timeframe.

For example, if the policy is not publicly available as specified in the Guidelines the Department could request that the higher education provider advise on why it was not publicly available and require it to be made publicly available by a certain date.

Conditions on Approval (section 16-60)

The Minister (or their delegate) can impose conditions on a higher education provider's approval under HESA.

For example, a higher education provider can be subject to additional monitoring such as providing additional reporting information to the Department on an ongoing basis. Alternatively, the number of students, units or courses entitled to FEE-HELP assistance could be restricted.

Suspension (section 22-30) and Revocation of Approval (subdivision 22-B)

Suspension or revocation of HESA approval is at the extreme end of serious non-compliance, that may reflect other issues with a higher education provider. These actions would be expected to be taken as a last resort with regard to the *Support for students policy* requirements. It could be considered if the Minister (or their delegate) is satisfied that the higher education provider has breached the quality and accountability requirements and it is appropriate to take this action. This would normally only occur where a higher education provider has failed to respond appropriately to previous compliance action.

8. What needs to be taken into account in the Department's approach to non-compliance?

Implementation

While the Amendments are planned to commence from Royal Assent, higher education providers will be given time to implement their *Support for students* policies.

Preparing and publishing *Support for student policies* is expected to be straightforward for most higher education providers.

Higher education providers would already have processes for identifying students at risk. In submissions and representations in the Accord process many higher education providers have indicated that they have supports available to support students to successfully complete units.

Until the Guidelines are in effect, given existing policies, providers are expected to have a policies in place that meets the minimum requirements in the Amendment Bill.

Higher education providers will be expected to meet the requirements of the Guidelines by the start of the 2024 academic year, to support new and returning students.

9. What practical considerations need to be taken into account in implementing the Guidelines?
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Feedback Opportunities

The Department welcomes feedback on the policy directions presented in this paper and any other ideas in respect of support for students policies in the higher education sector. Stakeholder input is requested to ensure what is proposed will support students to study successfully, is practical, and implementable.

In particular, the Department is seeking feedback on:

- any other detail that should be included in the Guidelines
- practical issues associated with implementation.

Feedback could include existing best practice, reports and reviews that focus on supporting students to complete their studies.

Written submissions can be provided by 15 September 2023 as instructed on the [Department's website](#).

The Department proposes to publish submissions. Please indicate in your response whether you agree to the submission being published.