

Stakeholder consultation on proposed free speech amendments to the Higher Education Support Act 2003 (HESA)

The Report of the Independent Review of Freedom of Speech in Australian Higher Education Providers (the French Review) recommended minor amendments to the Higher Education Support Act 2003 (HESA) and the Higher Education Standards Framework, in order to bring their language around freedom of speech and academic freedom into alignment with the Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers, which the review proposed.

The full report is available at: <https://docs.education.gov.au/node/52661>. The recommendations relating to HESA are set out on pages 226-227 of the report. Those relating to the Standards are set out on page 228 of the report.

The Higher Education Standards Panel in October 2019 advised the Minister for Education that it supported amending the Standards in line with the recommendation, providing the complementary amendments to HESA were also made, with one minor grammatical change.

The proposed HESA amendments are set out below.

If you wish to provide comment on the proposed amendments to HESA, please **email your feedback** to HigherEd@education.gov.au by close of business Monday 24 February 2020.

Proposed HESA amendments

1. Section 2-1 (a)(iv) of the HESA be amended to read:

2-1 Objects of this Act

The objects of this Act are:

(a) to support a higher education system that:

(iv) promotes and protects ~~free intellectual inquiry~~ **freedom of speech and academic freedom** in learning, teaching and research.

2. Introduction of a definition of 'academic freedom' in the Dictionary in Schedule 1 as follows: "Academic freedom", for the purposes of this Act and the *Tertiary Education Quality and Standards Agency Act* (TEQSA Act) and any standards made under that Act, comprises the following elements:
 - 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, without constraint imposed by reason of their employment by the university, to make lawful public comment on any issue in their personal capacities;
 - The freedom of academic staff to participate in professional or representative academic bodies;
 - The freedom of students to participate in student societies and associations; and

- 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.
3. Section 19-115 of the HESA be amended to read:

19-115 Provider to have policy upholding ~~free intellectual inquiry~~ freedom of speech and academic freedom

A higher education provider that is a Table A provider or a Table B provider must have a policy that upholds ~~free intellectual inquiry~~ freedom of speech and academic freedom in relation to learning, teaching and research.