

Australian Catholic University

Feedback to the Tertiary Education Quality and Standards Agency (TEQSA)

Consultation Paper - Interim Statement of Regulatory Expectations: Student Grievance and Complaint Mechanisms

March 2025

Feedback on the Consultation Paper - Interim Statement of Regulatory Expectations: Student Grievance and Complaint Mechanisms

Australian Catholic University (ACU) acknowledges the opportunity to provide feedback to TEQSA's consultation on its draft Interim Statement of Regulatory Expectations: Student Grievance and Complaint Mechanisms (hereafter "draft Interim SRE").

ACU's feedback:

- Questions the scope and validity of the proposed new statement of regulatory expectations (SRE).
- Reiterates the importance of ensuring regulatory activities are risk-based and proportionate.
- Recommends converting the SRE to an interim guidance note in line with TEQSA's usual practices, to avoid adding further complexity to higher education regulation; and that TEQSA undertake another consultation process with the sector once this occurs.

ACU is concerned by the level of prescription in the draft Interim SRE, and seeks clarification from TEQSA on how the SRE relates to the Higher Education Standards Framework (Threshold Standards) 2021 (hereafter "HESF"). Statements of regulatory expectations (SREs), as presented, will only add further complexity to what is already a dense regulatory environment. TEQSA's intention to produce more SREs in the future – including another SRE in 2025 on "compliance with workplace obligations"¹ – will only exacerbate this situation.

While TEQSA's communication circulating the draft Interim SRE to providers for feedback describes it as "new regulatory guidance", the Consultation Paper explicitly distinguishes SREs from TEQSA's usual guidance notes and sector updates. It is stated that SREs are "prescriptive", that they "apply to all providers and are integrated into TEQSA's regulatory processes and approach", and where "TEQSA identifies a greater risk of non-compliance some providers may be expected to meet additional reporting requirements."²

As presented, the draft Interim SRE appears to propose elevating the minimum standards established in the HESF. While TEQSA's role is evidently to ensure providers are complying with the HESF, this does not extend to imposing a rigid, uniform mandate on how providers meet the minimum standards. If TEQSA's intention is to create additional regulation outside the HESF this should be deliberated and progressed transparently via the proper channels and a formal process, to avoid regulatory creep.

TEQSA has itself acknowledged that: "Providers are responsible for managing their own risk and are expected to demonstrate self-assurance consistent with the Threshold Standards."³ This is in line with the principle of university autonomy, and TEQSA's guiding principles of regulatory necessity, risk, and proportionality. The regulatory framework must be fit-for-purpose, easily operationalised, and support sector diversity.

Threshold Standards

The HESF is the "definitive set of requirements for Australian higher education providers."⁴ It is a legislative instrument made by the responsible government minister⁵, the Minister for Education. Reforms to the HESF are typically made further to external independent reviews and informed by wide consultation and expert advice; as occurred when the current instrument (HESF 2021) was

¹ TEQSA. (2025). *TEQSA Submission: Quality of Governance at Australian Higher Education Providers*, p. 11.

² TEQSA. (2025). *Consultation Paper - Interim Statement of Regulatory Expectations: Student Grievance and Complaint Mechanisms*, p. 2.

³ TEQSA, above n. 1, p. 3.

⁴ TEQSA. Contextual Overview of the HES Framework 2021. <https://www.teqsa.gov.au/how-we-regulate/higher-education-standards-framework-2021/contextual-overview>

⁵ *Tertiary Education Quality and Standards Agency Act 2011*, s. 58.

introduced to replace the 2015 HESF. The *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act) stipulates that a Minister must not make a standard under the HESF unless:

- a) a draft of the standard has been developed by the [Higher Education Standards] Panel; and
- (b) the Minister has consulted each of the following about the draft:
 - (i) the Council consisting of the Ministers for the Commonwealth and each State and Territory responsible for higher education;
 - (ii) if the Minister is not also the Research Minister—the Research Minister;
 - (iii) TEQSA.⁶

Any changes to the regulatory and quality assurance requirements for higher education providers ought to be integrated into the HESF, or, if deemed necessary, through legislative reform to TEQSA's powers; following a formal, comprehensive, and transparent process.

TEQSA's Powers and Remit

ACU notes that TEQSA, in its recent submission to the Senate inquiry into the quality of governance at Australian higher education providers, expressed its desire to assume more powers, via legislative reform. Namely, through parliament amending TEQSA's enabling legislation: the TEQSA Act. TEQSA has proposed amendments to give itself more powers with respect to: provider suspension; by establishing more “explicit legislative triggers” with respect to “suspending, cancelling, shortening or imposing conditions on provider registration”; and expanding the basic principles of regulation.

ACU's view is that TEQSA has sufficient powers to fulfil its mandate.⁷ TEQSA's efforts would be better directed to improving its internal processes and efficiencies, and seeking additional resourcing where needed to work proactively to deliver on its functions. The current approach raises concerns regarding the proportionality of regulatory actions for low-risk providers, and the effectiveness of its engagement with the sector.

Nevertheless, if there is a desire to seek additional powers, this ought to be pursued via the proper channels: through transparent discussion with government, higher education stakeholders and the broader public, and independent expert advice; followed by legislative amendment, if deemed appropriate. Statements such as the following which lend to a perception of TEQSA seeking to side-step formal processes are, therefore, of concern:

While TEQSA's enforcement powers and early intervention mechanisms are constrained, and certain governance issues are not explicitly covered by the Threshold Standards, TEQSA is evolving its regulatory approach to enhance sector-wide compliance.

TEQSA has developed statements of regulatory expectations (SREs), to set clearer expectations of providers.⁸

Furthermore, the present Consultation Paper states the draft Interim SRE was “developed by TEQSA following roundtable discussions and other engagements last year”. However, there is no information on which roundtables and engagements are being referenced. Moreover, limited roundtables or similar engagements are insufficient given the significance and potential impact of the SRE.

⁶ *Tertiary Education Quality and Standards Agency Act 2011*, s. 58(3).

⁷ ACU. (2025). *Submission to the Senate Education and Employment Legislation Committee: Inquiry into the Quality and Governance at Australian Higher Education Providers*. <https://www.acu.edu.au/-/media/feature/pagecontent/richtext/about-acu/leadership-and-governance/docs/2025/acu-senate-inquiry-quality-of-governance-australian-heps.pdf?rev=861b2669f62d4ddb8804f8bb6f691dfa&hash=058DF152A340FFE431CECB89B169BE49>

⁸ TEQSA, above n. 1, p. 11.

Fundamentally, there is a need to ensure that higher education regulation and quality assurance mechanisms are geared to ensure providers maintain, in accordance with the HESF, minimum standards in educational provision and their broader activities, while also recognising and fostering diversity in the sector. Equally, it should be recognised that adverse “risk” outcomes are not of themselves evidence of poor performance.

Provisions in the draft Interim SRE

ACU strongly recommends converting the SRE to a guidance note in line with TEQSA’s usual practices.

ACU provides the following feedback on individual provisions and issues raised by the draft Interim SRE. Overall, further to the issues identified above regarding the SRE’s scope and development, ACU is concerned the draft Interim SRE:

- Is too prescriptive and leaves little room for providers to adapt provisions to their individual needs and circumstances;
- Labels several provisions as “Characteristics of good practice” but lists these under a broader heading of “TEQSA’s regulatory expectations” which confuses the regulatory intent;
- Contains some provisions that are too broad for providers to implement and/or have compliance fairly assessed against; and
- Unduly imposes additional (and possibly overlapping) regulation, and administrative burden and associated costs on all providers, despite the assertions around TEQSA adopting a proportionate, risk-based approach to regulation and quality assurance.

It should be ensured that any regulatory expectations are clear, proportionate and adaptable to individual provider settings; and that regulatory compliance is assessed transparently, fairly, and based on the level of risk.

Implementation Timeline

The Consultation Paper states that providers in the Australian University category would be required to “undertake work to review and mature their grievance and complaints mechanisms, to ensure they meet the expectations” by 31 December 2025.

As the proposed interim SRE is currently still in draft form, the appropriateness of this timeline would need to be considered once there is more certainty on its provisions, should TEQSA proceed with an SRE. This should occur once sector feedback is incorporated: ACU recommends TEQSA consult with providers at a later date, and afford some flexibility in the compliance timeline where it is not practically feasible. The timeline should also take into account providers with current or recently completed TEQSA reviews.

Furthermore, it is unclear why non-universities (i.e., “all other providers”) would be afforded more time – to 30 June 2026 – to complete the same compliance work. Evidently, all providers would have to ensure compliance by adapting their processes and deploying additional resources to meet any new SRE requirements. Unless there is a clear rationale that can be articulated for the differentiation, this should be discarded; allowing a longer implementation timeline (subject to further consultation) for all providers.

Provider Policy Compliance

While providers have their own policies and procedures in place to address student grievances, and which are responsive to their individual settings, the draft Interim SRE would appear to require all providers to respond uniformly to demonstrate compliance to TEQSA’s satisfaction. It is imperative that providers are afforded adequate time to review and amend their policies and procedures if any such changes are, in effect, to be mandated by TEQSA. For example, draft provision 3(p) proposes:

Policies explain how the provider responds to complainants with challenging and unacceptable behaviour – including how it distinguishes between normal, challenging and unacceptable behaviour.

While ACU has policies and procedures in place with respect to student grievances and complaints, assuring compliance with the above provision as stipulated would require amendments to ACU policies and procedures, and broader work to support and communicate these changes. This process would likely take several months to complete; requiring consultation and additional resourcing to progress. For example, it is anticipated ACU's policies and procedures relating to student misconduct and student and public complaints, which provide complainants with some information on how the University responds to challenging and unacceptable behaviour, would need to be amended to align with the proposed provision. Furthermore, implementation would entail operational updates to ACU webpages, ACU's "ServiceNow" forms, and complaints/misconduct communication templates. Additional resourcing to facilitate staff training, ongoing monitoring, and reporting would also be required.

Monitoring of Events

Draft provision 3(v) proposes:

Local, domestic and global events are monitored to identify any changes that may impact student wellbeing and safety, or demand for student grievance and complaints. Adjustments are made accordingly to student-facing services, support, grievance and complaint processes.

While the general intent behind this provision is understood, the provision is too broad and needs clear parameters. How does TEQSA propose to measure and assess compliance against this provision? Would this encompass consideration of the geographic location(s) of each provider, their student cohort (including student identification information, where available) etc.? How would providers and TEQSA determine which events warrant special action? What is the appropriate threshold for balancing any compliance activities under this provision with providers' overarching obligations to support all students and promote inclusivity? ACU recommends removing this provision, or alternatively, providing clear guidance on best practice and how TEQSA would propose to assess compliance at the individual provider level. Providers would also require additional resources and support to ensure compliance.

While ACU and other universities monitor events that may impact on students, the imposition of any uniform requirements across all providers requires careful consideration. Services cannot be adjusted without long lead times of planning, and there would likely be significant budgetary and staffing considerations that providers would need to work through.

Student Support and Student Identification Information

Provision 3(w) proposes:

During periods of heightened tensions or stress for students, providers proactively contact identified student groups to offer comprehensive support and ensure any relevant adjustments are made to facilitate access to grievance and complaint mechanisms.

There are inherent challenges raised by this provision. ACU recommends TEQSA discuss these issues with providers in greater depth to better understand the complexities, which would vary by provider, as well as privacy issues that need to be considered. There are practical issues in identifying individual students who have not self-identified to a particular group, as well as budgetary and resourcing constraints that would need to be addressed. Typically, university communications are addressed at cohort level or at a larger scale, rather than to individuals. At a minimum, student consent to contact them on matters of wellbeing, complaints and grievance processes would also be required, as well as amendments to university policies and procedures.

ACU also seeks clarification on the extent to which, if at all, provisions in the draft Interim SRE interact with each other. For example, is it TEQSA's intention that provision in 3(w) should be read in conjunction with provision 3(r):

Staff responsible for handling student grievance and complaints receive appropriate training in:

- i. managing student grievances and complaints, which involve challenging or unacceptable behaviour.*
- ii. trauma-informed and person-centred practice.*
- iii. the specific issues including prejudices, discrimination and conduct that adversely impact or pose a risk to the safety or wellbeing of different student cohorts. This may include but is not limited to people with a disability, First Nations students, international students, students aged under 18, Jewish students (antisemitism), Muslim students (Islamophobia), LGBTIQ+ students, and refugees.*

ACU is concerned by the implications of these provisions. They could result in breaches of student privacy and legislative obligations if they are mandated and narrowly interpreted. For example, at present ACU does not collect information on students in relation to religious affiliation or sexuality. Student identification information with respect to disability and for First Nations students is based on self-identification. It would be unreasonable to expect providers to directly communicate with and/or offer supports to particular student groups or individuals based on the characteristics listed in the draft provision where that information is not available to the provider and/or without ensuring students consent to be contacted. Clarity on what "appropriate" training for staff would constitute under provision 3(r) would also be needed.

If a provision related to non-academic proactive contact with an individual student is accepted, TEQSA should advise providers on how to act within the *Privacy Act 1988* (Cth) and related laws. Providers should not inadvertently find themselves contravening other legislative provisions in pursuit of following TEQSA's SREs. In providing this advice, TEQSA should list and address the risks providers should avoid in complying with any advice from TEQSA.

A further concern the draft Interim Statement and other recent reforms raise more broadly is whether providing students with multiple channels and options through which they can lodge a complaint or seek support could have the counter effect of what is intended, by making the process more confusing for them. It is imperative that TEQSA also gives due consideration to how its proposals would relate to the work of the new National Student Ombudsman and Support for Students Policy requirements, with a view to avoid overlap and streamline complaints channels, mechanisms, resources and reporting.