



Australian Government
Department of Education

Higher Education Support Amendment (Response to the Australian Universities Accord Interim Report) Bill 2023

Submission from the Department of Education to
the Senate Standing Committee on Education and
Employment



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Introduction

The Department of Education (Department) welcomes the opportunity to respond to the invitation to provide a submission to the Senate Education and Employment Legislation Committee report on the Higher Education Support Amendment (Response to the Australian Universities Accord Interim Report) Bill 2023 (the Bill).

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 enrolled in higher education have the best possible chance of success.

Two of the five priority actions require legislative change.

Priority Action 2: Cease the 50% pass rule, given its poor equity impacts, and require increased reporting on student progress.

Priority Action 3: Ensure that all First Nations students are eligible for a funded place at university, by extending demand driven funding to metropolitan First Nations students.

In response, the Bill amends the *Higher Education Support Act 2003* (HESA) to remove the requirement that students must pass 50 per cent of the units they study to remain eligible for a Commonwealth supported place and FEE-HELP assistance. This removes a measure that disproportionately prevents students from under-represented groups from continuing their studies.

The existing 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. The Bill inserts a new requirement (*Support for students policy* requirements) that higher education providers must have, and comply with, a policy that addresses the support higher education providers will provide to their students to assist them to successfully complete the units of study in which they are enrolled. The amendments will:

- strengthen accountability and reporting requirements for higher education providers to ensure students are properly supported to study and to pass
- ensure that higher education providers that fail to meet the new requirements will face compliance action, including possible financial penalties
- provide 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.

The Department released a consultation paper on 16 August 2023 on the Guidelines, which can be found at: [Consultation Paper on 'Support for students policy' requirements - Department of Education, Australian Government](#). Submissions close 15 September 2023.

The Bill also amends HESA to allow all First Nations students (known as 'Indigenous students' in HESA), including First Nations students living in metropolitan areas, to be eligible for Commonwealth supported places in demand driven higher education courses.

This means all First Nations people in Australia will be guaranteed a Commonwealth supported place at a Table A university of their choice (for bachelor level courses other than medicine), when accepted into their chosen course of study.

Further detail explaining the rationale for the Bill can be found in the Second Reading Speech and Explanatory Memorandum at: [Higher Education Support Amendment \(Response to the Australian Universities Accord Interim Report\) Bill 2023 – Parliament of Australia \(aph.gov.au\)](#).

The role of the Department of Education

The Department of Education is the Australian Government department with primary responsibility for administering higher education funding and policy.

HESA, proposed to be amended by the Bill, is the primary legislation governing higher education funding.

Through HESA, the Department administers the Commonwealth Grant Scheme (CGS) and the Higher Education Loan Program (HELP). Together, these programs provide the largest proportion of Australian Government funding to higher education providers, and the vast majority of Australian domestic higher education students receive Commonwealth assistance through at least one of these programs.

The Government currently provides funding for higher education providers to cover teaching and learning costs (including partial subsidies to eligible students through the Commonwealth Grant Scheme), student engagement and support, and research functions.

The Department would be responsible for implementing the proposed amendments.

The Australian Universities Accord

The objective of the Accord is to devise recommendations and performance targets that will improve the quality, accessibility, affordability and sustainability of higher education, in order to achieve long term security and prosperity for the sector and the nation.

The Interim Report was released on 19 July 2023 and outlines a vision for the future of Australia's higher education system.

The Report reflects extensive engagement with a wide range of stakeholders. As well as the five recommendations for priority action, the report raises considerations for further discussion to inform the Review's Final Report.

The Interim Report can be found at: [Australian Universities Accord Interim Report - Department of Education, Australian Government](#).

Implementing priority action 2

Current 50 per cent pass rate requirements

The current pass rate requirements were applied to students studying at independent higher education providers and private universities from 1 January 2018. The requirements were extended to cover commencing students at public universities from 1 January 2022 as part of the Job-ready Graduates Package.

The 50 per cent pass rate requirement was introduced to prevent students that were not succeeding in their studies from accruing large HELP debts. Students will continue to be limited in how much HELP assistance they can access due to the HELP loan limit, which is unchanged by this Bill.

Currently, students must maintain a pass rate of at least 50 per cent of the units of study in their course to maintain access to Commonwealth assistance, in the form of a Commonwealth supported place (CSP) and/or a HELP loan. Those who cannot do so must pay the cost of their course upfront, transfer to another course, or withdraw from study.

Reasons for removing the pass rate rule

Consultation by the Accord Panel, including in a large number of submissions, raised concerns about the 50 per cent pass rate rule and their impact on under-represented groups in particular.

These submissions reported that the pass rate rule is overly punitive and have had a disproportionately negative effect on students from disadvantaged backgrounds.

The Interim Report shows more than 13,000 students at 27 universities have already been subject to this rule which has disproportionately affected students from First Nations backgrounds, low socioeconomic status, and other under-represented or educationally disadvantaged cohorts. Based on feedback to the Accord Panel, the effect has been that many at-risk students have withdrawn from higher education entirely.

For these reasons, the Accord Panel recommended abolishing the pass rate measures and instead strengthening the accountability and reporting requirements on providers.

Amendments to introduce *Support for students policy* requirements

The Bill introduces a *Support for students policy* requirement on higher education providers to strengthen the accountability and reporting requirements on providers.

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 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 Higher Education Provider Guidelines (the Guidelines) (to be amended following passage of the Bill).

Existing powers under HESA and the Tertiary Education Quality and Standards Agency (TEQSA) Act are available to be used in conjunction with new powers related to *Support for students policy* requirements. These are covered in more detail in the Consultation paper on the *Support for students policy* requirements

The Bill also provides for civil penalties in relation to failure to have a *Support for students policy*, comply with *Support for students policy* requirements, report on and provide other required information. Civil penalties are not intended to be applied if a student fails and the higher education provider has a policy and it is diligently applied.

Providers must demonstrate that there is a *Support for students policy* in place that meets 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.

Consultation has commenced with the higher education sector and other interested stakeholders on the content of the Guidelines. Subject to the passage of the Bill, these requirements will be set out in more detail in the Higher Education Provider Guidelines.

The consultation process closes on 15 September 2023 and where stakeholders agree their submissions can be made publicly available, the department will publish as they are received.

Implementing priority action 3

Current demand-driven funding

‘Demand-driven’ university funding for all students was in place between 2012 and 2017, when the Commonwealth provided funding for every domestic bachelor degree student admitted to a public university, without restriction as to course (excepting medicine) or numbers of students. During this period, total university enrolments increased by 6 per cent. In 2017, the Commonwealth returned to the ‘supply-driven’ system.

Introducing demand-driven funding to boost higher education participation by First Nations students in regional and remote areas was a recommendation of the National Regional, Rural and Remote Tertiary Education Strategy final report (Naphthine Review).

The Naphthine Review highlighted the increased challenges and very low higher education participation rates for First Nations students in regional, remote and rural areas. Key Finding 16 of that review noted ‘limited scope within current university funding controls to increase participation in higher education by students from equity groups, including First Nations students’.

Demand driven funding for First Nations students from regional and remote areas in their bachelor course study (excluding medicine) at Table A universities was implemented in 2021.

Since the introduction of demand-driven funding for First Nations students in regional and remote areas, their participation in higher education has increased Australia-wide. Between 2022 and 2023, national data recorded a 1.5 per cent increase in equivalent full-time student load (EFTSL) estimates for bachelor-level regional and remote Indigenous students.

Reasons for extending demand-driven funding to all First Nations students

The Accord Panel reports it is essential to remove constraints on First Nations participation in higher education.

In the Accord Interim report, the Accord Panel comments ‘This positive initiative removes one crucial barrier to higher education for First Nations people. Extending this measure to all First Nations people, regardless of where they live will, the Review believes, have a positive effect’¹ and that ‘participation in higher education is a pathway to success for First Nations families and increased capacity for their communities.’²

Stronger growth in First Nations tertiary access and attainment is needed to support the meeting the Closing the Gap tertiary education target (increase the proportion of First Nations people aged 25-34 years who have completed a tertiary qualification (Cert III and above) to 70 per cent by 2031).

Only 43 per cent of First Nations Australians aged 25-34 have a tertiary qualification (Certificate III and above) compared with 73 per cent of non-First Nations Australians in 2021 (ABS Census of Population and Housing). Although First Nations participation in higher education is increasing, it remains around 40 per cent below population parity.³

First Nations people increasingly live in urban areas. According to the Australian Bureau of Statistics, since the 1996 Census, the proportion of First Nations people living in urban areas has increased from 73 to 79 per cent.⁴ The amendment addresses the geographical disparity in First Nations students’ eligibility for demand-driven CSP.

Demand-driven funding has been shown to increase university participation rates. By 2034, based on the Interim Report findings, this amendment could result in funding for an estimated additional over 5,000 places for First Nations students.⁵

¹ Australian Universities Accord Panel, Interim Report, p. 71.

² Australian Universities Accord Panel, Interim Report, p. 35.

³ Australian Universities Accord Panel, Interim Report, p. 32; Department of Education, Higher Education Statistics –Student Data – 2021 Section 11 Equity groups [data set], education.gov.au, 2023, accessed 16 August 2023.

⁴ ABS Census of Population and Housing, 2016.

⁵ Australian Universities Accord Panel, Interim Report, p. 71.

Amendments so all First Nations students are eligible for demand driven CSPs

The Bill aims to increase enrolment numbers of all First Nations Australian undergraduate students. It builds on other programs that support success and completion at university.

The amendments in Part 1 of Schedule 1 will mean, from 2024, the Commonwealth will provide funding on a demand driven basis for all First Nations students to enrol in bachelor and bachelor honours level courses (other than medicine) at a Table A provider (as listed in section 16-15 of HESA).

First Nations people remain underrepresented in universities, comprising 2 per cent of the domestic undergraduate student population in 2021, despite making up 3.8 per cent of the total Australian population at the 2021 Census.

The introduction of demand driven funding for all First Nations students from 2024 guarantees a fully funded university place for First Nations people accepted into a bachelor-level course. This positive initiative removes one crucial barrier to higher education for First Nations people.

There is clear demand for higher education from First Nations students, with the number of First Nations people commencing a bachelor degree more than doubling since 2008 to 5,687 in 2021. In 2021, full-time equivalent enrolments by First Nations students in metropolitan areas grew by six per cent. Departmental forecasts suggest that this measure could double the number of First Nations students at university in a decade. This will have a positive impact on First Nations' student participation rates and will lead to a significant increase in First Nations people with higher education qualifications over time.

A planned review in 2026 will assess this measures effectiveness, consistent with the Government's broader higher education equity strategy.

Commencement of the amendments

If they are passed by the Parliament:

- The 50 per cent pass rule and the *Support for Student* requirements in the Bill will take effect from Royal Assent.
- The Consultation paper on the *Support for Student* requirements proposed to be included in the Higher Education Provider Guidelines indicates that the remaining requirements would be applied from 1 January 2024, to allow providers time to implement.
- Demand driven for all First Nations students will be implemented through university funding agreements from 2024. This will coincide with the new academic year.