



Australian Government

Tertiary Education Quality and Standards Agency

TEQSA submission: Parliamentary Joint Committee on Human Rights Inquiry into Antisemitism at Australian Universities

December 2024

TEQSA

The Tertiary Education Quality and Standards Agency (TEQSA) welcomes the opportunity to contribute to the Parliamentary Joint Committee on Human Rights Inquiry into Antisemitism at Australian universities.

As Australia's national higher education regulator, TEQSA is committed to ensuring that registered higher education providers (providers) meet their obligations under the *Higher Education Standards Framework (Threshold Standards) 2021* (Threshold Standards). The Threshold Standards include provisions for supporting and upholding the wellbeing and safety of all students and staff. Recognising that the rise in antisemitism in Australia is a deeply concerning issue that threatens to undermine the wellbeing and safety of students and staff, TEQSA has proactively sought to address and mitigate risks related to antisemitism in alignment with our legislated remit and regulatory framework.

TEQSA's response to the recent rise in antisemitism in the context of student protests and encampments has focused on directly engaging providers and offering guidance to ensure they are meeting their obligations under the Threshold Standards. We have also directly engaged students and other stakeholders to better understand their experiences and inform our future guidance.

This submission provides an overview of the agency's response to the incidents occurring at Australian universities and outlines our plans for future action to strengthen social cohesion in the sector. We begin by providing an overview of the legislative framework and options that structure our regulatory activity in the context of antisemitism.

TEQSA's role in regulating higher education relevant to antisemitism

TEQSA's regulatory approach

TEQSA is established under the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act) as the national regulatory and quality assurance agency for higher education. TEQSA's regulatory approach is determined by the TEQSA Act and the legislated principles of necessity, risk and proportionality. Providers are responsible for managing their own risk and are expected to demonstrate self-assurance consistent with the expectations set out in the Threshold Standards. In addition to cyclical re-registration assessments, TEQSA monitors providers based on insights from the providers' assessed risk profile, environmental scanning of providers' activities, complaints and emerging sector risks.

TEQSA's regulatory approach focuses on ensuring providers meet their obligations under the Threshold Standards, which set minimum requirements for entering and operating within Australia's higher education sector. Recognising the diversity of providers across the sector, these standards emphasise high-level principles over detailed prescriptive measures.

While the Threshold Standards do not explicitly reference antisemitism, Domain 6 of the Threshold Standards require providers to:

- comply with all relevant Commonwealth, state, and territory legislation applicable to their operations
- ensure institutional policies and procedures appropriately enact those legislative obligations.

In addressing antisemitism, providers must adhere to relevant equal opportunity, anti-discrimination, and anti-vilification legislation while fostering an environment free from all forms of racism and discrimination. The Threshold Standards also include clear expectations around wellbeing, safety, diversity and equity, requiring providers to proactively mitigate risks, such as antisemitism. The Threshold Standards require providers to:

- maintain safe, inclusive, and supportive environments for all students and staff
- offer student support services that are informed by the needs of student cohorts
- foster the wellbeing of students and staff while protecting academic freedom and freedom of speech.

Appendix 1 sets out the full list of Threshold Standards relevant to antisemitism and racism more broadly.

To meet their obligations, providers must consider all relevant forms of racism and discrimination, including antisemitism. It is incumbent upon providers to possess a clear understanding of antisemitism and have policies and procedures appropriate to protect students and staff from harm.

When considering antisemitism, TEQSA does not have the authority to:

- make a legal determination about whether providers are operating in accordance with anti-vilification laws
- make findings about individuals' compliance with anti-discrimination or public safety laws.

TEQSA's legislated responsibility is to seek evidence-based assurances from providers that they have appropriate governance structures, policies and procedures in place to meet the expectations set out in the Threshold Standards.

TEQSA's regulatory options

When TEQSA is concerned that a provider may not be meeting the Threshold Standards, TEQSA may request relevant information from the provider as part of a compliance process, in accordance with the agency's [compliance and enforcement policy](#).

Depending on the circumstances and nature of the concern, TEQSA may then seek assurance from the provider that they are responding adequately to an issue, taking corrective action, or undertaking review and improvement activities to better manage the risks.

In cases where a provider's response is insufficient, or if there is a lack of corrective action, TEQSA may impose administrative sanctions upon the provider, including:

- imposing conditions on their registration
- shortening their registration period
- cancelling their registration.

TEQSA may apply for financial penalties if a provider breaches a condition of registration.¹

1. Sections 113 and 117, [TEQSA Act](#).

TEQSA's actions to address antisemitism

TEQSA recognises that since 7 October 2023, risks to student and staff wellbeing associated with protest activity and the occurrence of antisemitism on Australian university campuses have increased. Accordingly, TEQSA has proactively monitored the sector to understand and mitigate risks to student and staff wellbeing and safety.

Summary of TEQSA's actions

Since 7 October 2023, TEQSA's key actions have included:

- collecting complaints data from universities to monitor risks and inform regulatory actions
- establishing a Regulatory Response Group (RRG) to coordinate TEQSA's monitoring, guidance and engagement activities in response to protest activities and associated risks on university campuses
- directly engaging providers experiencing heightened risks and seeking assurances from those providers about how they are managing those risks
- directly engaging students, university leaders, peak bodies and other government agencies and officers to understand the experience of antisemitism and approaches to mitigating it
- issuing sector alerts and interim advice to assist providers to improve their policies and practices
- monitoring and reviewing complaints and seeking assurance from providers that complaints are being addressed appropriately
- supporting and engaging with the Department of Education's initiatives, including the Race Discrimination Commissioner's Respect at Uni study, the establishment of the National Student Ombudsman, and the development of new University Governance Principles and Recommendations.

Data collection for regulatory oversight

On 11 October 2023, the Minister for Education wrote to all Australian universities highlighting the risks to student and staff wellbeing arising from protests related to the Middle East conflict. The Minister's letter requested information about how universities were managing these risks. This information was shared with TEQSA.

TEQSA received minimal complaints or concerns directly from affected students or staff. Therefore, to understand the scale of the problem, TEQSA's RRG requested and received complaints data from all universities. Given the variations in the scope of complaints reported between universities, the insights gained from this data were limited. However, it allowed TEQSA to understand, for instance, that encampments were not always correlated with the number of complaints at a university. It also provided insight into the relationship between formal complaints data and informal feedback received from student bodies. The latter indicated that complaints data under-represented the concerns of students.

This data collection enabled TEQSA to appropriately direct its resources to monitoring the sector and provide targeted guidance.

Establishment of the Regulatory Response Group (RRG)

Formed in April 2024 in response to a rapid escalation in protest activity, the RRG coordinates TEQSA's ongoing monitoring of protests on campus and has engaged directly with Australian universities where protest activities or encampments were active.

The RRG membership includes TEQSA's:

- Acting Chief Commissioner
- Chief Executive Officer
- Executive Director of Regulatory Operations
- Director of Sector Risk and Compliance
- Director of the Higher Education Integrity Unit
- General Counsel
- Director of Policy, Research and Engagement.

The RRG was instrumental in TEQSA's initial coordination and delivery of the regulatory actions detailed below. The group's composition of senior leaders highlights TEQSA's concerns about the risks associated with protests and antisemitism on campus, and TEQSA's aim to adopt a whole-of-organisation approach to managing these risks.

TEQSA's engagement with individual providers

Members of TEQSA's RRG engaged directly with providers affected by protests, encampments, or instances of antisemitism to understand their approaches and strategies for responding to these issues.

TEQSA observed the following risk mitigation strategies in use:

- the establishment of special critical incident or strategic crisis groups led by the Vice-Chancellor, Deputy Vice-Chancellor or other relevant executive
- engagement with relevant state police for discrete incidents and proactive engagement for issues such as protests and encampments
- revising policies and procedures to ensure:
 - > student and staff safety on campus, such as managing external actors on campus
 - > adequate academic support, such as through special consideration policies.
- identifying ways to support safety on campus, such as by establishing safe spaces or security escorts.

Where TEQSA does not have assurance that a provider has appropriate policies and procedures in place, the agency continues to carefully determine its regulatory response.

TEQSA's engagement with students

TEQSA's regulatory guidance is informed by engaging with a wide range of stakeholders, including student groups, peak bodies and other government agencies and officers. TEQSA is particularly interested in the student experience to understand the effectiveness of providers' implementation of policies and procedures.

To this end, TEQSA has, in May, June, August, September and November 2024, met with student groups, including:

- the Australasian Union of Jewish Students (AUJS)
- the National Union of Students (NUS)
- the Council of Australian Postgraduate Associations (CAPA).

As a result of these (ongoing) engagements, TEQSA is developing a deeper understanding of students' experiences and perspectives regarding key policies and procedures intended to mitigate risks to wellbeing and safety. These include policies and procedures concerning:

- grievances and complaints processes
- staff training to support the needs of student cohorts
- education and training to support academic freedom and freedom of speech.

TEQSA's future regulatory guidance will be informed by further engagement with student groups such as AUJS, NUS and CAPA. Meetings are currently being organised for January 2025.

TEQSA's engagement with the sector and other stakeholders

TEQSA has engaged with a variety of stakeholders to understand the challenges providers encountered, outline its regulatory expectations, and provide guidance.

- In May, June, August and October 2024, TEQSA wrote to providers to remind them of their obligations regarding student wellbeing and freedom of speech. This correspondence set clear expectations for institutional governance and student safety.
 - > TEQSA's letter on 9 May (Appendix 2):
 - requested that providers begin submitting fortnightly complaints data
 - stressed obligations for universities and their governing bodies to maintain the safety and wellbeing of staff and students.
 - > TEQSA's letter on 5 June (Appendix 3):
 - updated universities on TEQSA's work to understand and monitor their responses to the ongoing protests
 - identified 4 areas where continued focus was required from universities.
 - > TEQSA's letter on 7 August (Appendix 4):
 - updated universities on TEQSA's monitoring of how they were assuring wellbeing and safety, freedom of speech and academic freedom
 - provided guidance to assist institutions to manage risks as students return to campus.
 - > TEQSA letter on 4 October (Appendix 5):
 - noted the evidence provided to Parliament by students and the Special Envoy to Combat Antisemitism regarding an increase in unacceptable incidents of hate speech and vilification
 - urged providers to ensure they have mechanisms in place to respond to and mitigate risks to student safety, as outlined in TEQSA's interim sector update (Appendix 6)
 - highlighted that 2 key issues to have emerged from TEQSA's work is dissatisfaction with complaints procedures and a lack of timely and trauma-informed academic support and adjustment.

- In August 2024, TEQSA consolidated and published on its website advice previously delivered to providers in letters as an interim sector update (Appendix 6). (See [Interim sector update: Regulatory expectations of providers to assure safety and wellbeing on campus in relation to student protests](#)).
- TEQSA requested information from specific providers about significant issues identified through environmental scanning. The agency sought assurance that these providers had appropriate policies and procedures in place to mitigate risks and ensure compliance with the Threshold Standards.
- TEQSA has organised 3 roundtable events:
 - > On 31 October 2024, TEQSA met with the Minister for Education, university Vice-Chancellors or their delegates, Ms Jillian Segal AO (Special Envoy to Combat Antisemitism in Australia), Mr Giridharan Sivaraman (Race Discrimination Commissioner), and representatives from the (at the time proposed) National Student Ombudsman. Mr Aftab Malik (Special Envoy to Combat Islamophobia) was an apology ([a summary of the meeting is available on TEQSA's website](#)).
 - > On 15 November 2024, TEQSA met with representatives from 14 universities who experienced recent protest activity on their campuses. This roundtable focused on how university leadership teams were managing issues related to protests and encampments. Attendees discussed and identified key learnings and actions to mitigate risks to student and staff wellbeing and safety ([a summary of the meeting is available on TEQSA's website](#)).
 - > In February 2025, TEQSA plans to meet the same parties present at the 31 October 2024 roundtable for a follow-up meeting.
- TEQSA intends to write to providers prior to the 2025 academic year. The letter will articulate TEQSA's expectations of the sector and outline the agency's regulatory priorities in preparation for the commencement of the 2025 academic year (see preliminary recommendations below).

Preliminary findings and recommendations

TEQSA acted with agility in responding to issues arising from the protests and encampments on university campuses. Through monitoring, engagement, and compliance activities, TEQSA continues to work proactively with providers to identify and address areas of concern. The agency is now focused on driving system-wide improvements across the sector by developing targeted guidance and resources.

The preliminary findings and recommendations in this section reflect TEQSA's ongoing assessment of risks, informed by current engagement and compliance activities. As TEQSA continues its work, these findings will evolve to ensure they effectively address emerging risks and priorities.

Preliminary findings

TEQSA's work during and following the protests and encampments led to the following preliminary findings:

1. Limitations of some universities' foundational documents

Some universities' Acts of establishment, statutes and bylaws appeared to constrain their ability to:

- a. respond to protests and encampments
- b. limit access to campus and set expectations for use of public land
- c. respond to unacceptable behaviour, including antisemitism.

2. Policies and procedures

Some universities' policies and procedures were not fit for purpose for:

- a. responding to protest activity, encampments and occupation of buildings
- b. responding to the types of antisemitism, bullying, harassment and threatening behaviour observed on campuses.

3. Liaison with state police

TEQSA observed that universities that maintained a close operational liaison with state police were better able to prepare for protests, manage escalations and respond effectively when issues arose.

4. Timely processes for addressing unacceptable conduct

Universities that established timely processes to determine unacceptable behaviour appear to have had the most success in maintaining a safe environment for students and staff. Effective approaches generally involved a small, local leadership team that met regularly and made decisions based on individual reports or complaints about alleged misconduct and concerns about slogans, images or statements.

5. Measures to support the safety of Jewish students

Universities implemented a range of measures to foster safety for Jewish students. These included restricted access to safe rooms, making libraries or other facilities accessible only via swipe card, advertising alternative routes around campus, and telling students to consider not coming on to campus. While intended to protect students and foster safety, these measures had unintended consequences. Some Jewish students felt the actions highlighted their differences, reinforced exclusion and undermined their sense of belonging on campus.

6. Challenges with complaints processes

Universities with active protests and encampments received large numbers of general concerns, and specific complaints about antisemitism. Some students faced significant challenges when engaging with complaint processes, including:

- a. difficulty accessing the complaints system
- b. fear of being identified if they lodged a complaint.

Some students suggested that lack of transparency in complaints processes or outcomes contributed to a lack of trust in those processes. The National Student Ombudsman service will provide an important avenue for students to complain when they are not satisfied with university complaint handling.

7. Difficulties accessing academic adjustments

Students affected by trauma, anxiety or other impacts due to events in the Middle East or directly as a result of the protests, reported difficulties accessing or navigating processes to receive academic adjustments. Clear, responsive processes are essential to ensure affected students can continue studies without disadvantage and to support their wellbeing.

Preliminary recommendations

TEQSA's preliminary recommendations to the Committee are:

1. Legislative amendments

- a. State and Territory Ministers work with universities to review and amend Acts, statutes and bylaws as needed, to ensure future protest activities can be managed effectively.

2. Universities (under oversight from TEQSA)

- a. Universities review and as necessary amend their policies and procedures relevant to responding to protest activities, encampments and occupation of buildings.
- b. Universities review their arrangements for responding to protests, violence and other unlawful behaviour, in liaison with state police.
- c. Universities review and as necessary amend their misconduct policies and procedures to ensure they are fit for purpose for responding to the types of antisemitism, bullying, harassment and threatening behaviour observed on campuses.
- d. Universities develop mechanisms and expertise to enable timely and effective decision making about conduct, statements, images and slogans that may be unacceptable. Effective decision making needs to be considered in relation to definitions of antisemitism, policies, such as civility and freedom of speech policies, staff and student codes of conduct and, misconduct procedures.
- e. Universities engage with Jewish students to understand the impact of antisemitism, and any unintended consequences of existing or proposed support measures.
- f. Universities publicly report aggregate complaints data, analysis and outcomes and any improvement actions taken.
- g. Senior and front-line staff receive training and support in trauma-informed and student-centred engagement to effectively respond to antisemitic conduct and its impact. Staff should receive specific training in antisemitism in addition to training relevant to the experience of other cohorts in their university who may experience discrimination and trauma.

3. TEQSA

- a. TEQSA continues consulting with students, providers, the Special Envoy to Combat Antisemitism and other relevant stakeholders to inform the agency's future work to ensure wellbeing and safety for all students and staff.
- b. TEQSA delivers Statements of Regulatory Expectations on student grievances and complaints processes and academic adjustment to ensure these processes become student centred, trauma informed, effective, timely and informed by the needs of student cohorts.
- c. TEQSA develops guidance to assist providers to improve their policies and procedures around key areas requiring improvement, including managing external actors on campus, student and staff codes of conduct, academic freedom and freedom of speech, and the monitoring, review and improvement of institutional policies and procedures.

Appendix 1 – Threshold Standards relevant to antisemitism

Threshold Standards

Section 2.2 Diversity and equity

- Institutional policies, practices and approaches to teaching and learning are designed to accommodate student diversity, including the under-representation and/or disadvantage experienced by identified groups, and create equivalent opportunities for academic success regardless of students' backgrounds (Standard 2.2.1).

Section 2.3 Wellbeing and safety

- All students are advised of the actions they can take, the staff they may contact and the support services that are accessible if their personal circumstances are having an adverse effect on their education (Standard 2.3.1).
- Timely, accurate advice on access to personal support services is available, including for access to emergency services, health services, counselling, legal advice, advocacy, and accommodation and welfare services (Standard 2.3.2).
- A safe environment is promoted and fostered, including by advising students and staff on actions they can take to enhance safety and security on campus and online (Standard 2.3.4).
- There is a critical-incident policy, with readily accessible procedures that cover immediate actions to be taken in the event of a critical incident and any follow ups required (Standard 2.3.5).

Section 2.4 Student grievances and complaints

- Current and prospective students have access to mechanisms that are capable of resolving grievances about any aspect of their experience with the higher education provider, its agents or related parties (Standard 2.4.1).
- There are policies and processes that deliver timely resolution of formal complaints and appeals against academic and administrative decisions without charge, or at reasonable cost to students and these are applied consistently, fairly and without reprisal (Standard 2.4.2).
- Institutional complaints-handling and appeals processes for formal complaints include provision for confidentiality, independent professional advice, advocacy and other support for the complaint or appellant, with provision for review by an appropriate third party (Standard 2.4.3).
- Decisions about formal complaints and appeals are recorded and the student concerned is informed in writing of the outcome and the reasons, and of further avenues of appeal where they exist and where the student could benefit (Standard 2.4.4).

Section 6.1 Corporate governance

- The governing body attends to governance functions and processes diligently and effectively, including defining roles and delegating authority as is necessary for effective governance, policy development and management; and monitoring the implementation of those delegations (Standard 6.1.3b).
- The governing body takes steps to develop and maintain an institutional environment in which freedom of speech and academic freedom are upheld and protected, students and staff are treated equitably, the wellbeing of students and staff is fostered, informed decision making by students is supported and students have opportunities to participate in the deliberative and decision making processes of the higher education provider (Standard 6.1.4).

Section 6.2 Corporate monitoring and accountability

- The provider is able to demonstrate, and the corporate governing body assures itself, that the provider is operating effectively and sustainably, including:
 - > the governing body and the entity comply with the requirements of the legislation under which the provider is established, recognised or incorporated, any other legislative requirements and the entity's constitution or equivalent (Standard 6.2.1a)
 - > risks to higher education operations have been identified and material risks are being managed and mitigated effectively (Standard 6.2.1e)
 - > the occurrence and nature of formal complaints, allegations of misconduct, breaches of academic or research integrity and critical incidents are monitored and action is taken to address underlying causes (Standard 6.2.1j)
 - > lapses in compliance with the Higher Education Standards Framework are identified and monitored, and prompt corrective action is taken (Standard 6.2.1k).

Appendix 2 – Letter to providers, 9 May

Title

Name

Position

Organisation

Address (email or postal)

Dear Title Family-Name,

Subject: Protecting student and staff safety and wellbeing at Australian universities

As you know, the ongoing conflict in the Middle East is continuing to impact many Australians, including students and staff within our universities. Throughout this conflict, Australians have engaged in a variety of protest actions, most of these peaceful.

In recent weeks we have seen protest activities escalate on some campuses. The management of these activities by providers so far has been characterised by responding to the presence of protests, with clear communication around institutional policies, procedures and support services. This communication has emphasised efforts to minimise operational disruptions, ensuring student safety and messages highlighting that behaviour that vilifies or incites hatred towards Jewish or Muslim people will not be tolerated and will be the subject of action.

Anecdotally, TEQSA is also aware of some incidents within universities where there has been behaviour and acts of symbolism that risk falling outside the French Model Code's definition of academic freedom and freedom of speech, due to these being against the law or risking harm to students and staff. We are also aware of reports that students and staff are concerned about their safety due to people who are not part of the university community coming on to campus to engage in protest activity. There have also been reports of protester actions within tutorial and other learning environments, which have resulted in students feeling intimidated and unsafe.

We take this opportunity to stress the obligations universities and their governing bodies have under the *Higher Education Standards Framework (Threshold Standards) 2021*, for student and staff safety and wellbeing. Standard 2.3 encompasses organisational responsibilities for safeguarding and supporting the wellbeing and safety of students and staff, while Standard 6.1.4 applies to the governing body taking steps to maintain an institutional environment where the wellbeing of students and staff is fostered.

It is therefore critical that universities ensure they have the appropriate measures in place to:

- remove materials that breach Australian law or conflict with institutional policies, from university property. This includes removal from physical property and digital platforms
- take appropriate action against students and staff whose conduct breaches institutional policies – this includes behaviour as part of organised protest activity and language that goes beyond what is acceptable in academic discussion in learning settings
- support students and staff who have concerns for their safety and security on campus, and that information on how to access this support is routinely shared, and the effectiveness of these supports is regularly reviewed
- identify and support at-risk students, through measures such as special consideration or other academic supports to ensure students can continue their studies

- address the specific needs and institutional obligations in relation to any students aged under 18
- have effective relationships with law enforcement and proactive approaches to ensure that any risks to student and staff safety are identified, shared and acted upon
- ensure institutional policies and procedures are fairly and consistently applied and any cases where action is taken are transparently reported in line with organisational policy, and
- take appropriate action against people from outside the university community who may engage in behaviour in breach of institutional standards while on university property or when using university-owned digital platforms.

TEQSA is continuing to monitor this whole issue, including compliance with Standards 2.3 and 6.1.3 and free speech undertakings within universities.

In addition to our engagement directly with affected universities, we are asking that all Australian universities provide the following information by **Wednesday 15 May 2024 and updates fortnightly thereafter**, to assist us in understanding any emerging sector risks. It will also assist us to report, in aggregate, action being taken to apply relevant policies:

- the number of complaints about specific instances of student or staff conduct, relating to freedom of speech or protest action, or related allegations of misconduct in relation to the Middle East conflict
- the number of complaints being assessed or investigated by your university related to the previous point
- the number of student or staff misconduct cases that are in progress or have been finalised.

This information can be shared with TEQSA using this template, which can be returned via email to Director, Sector Risk and Compliance. In addition to this request, institutions should continue to make use of the Material Change Notification process.

If you would like to discuss any of these issues, please feel free to contact TEQSA CEO Dr Mary Russell or Acting Executive Director of Regulatory Operations [REDACTED].

Professor Peter Coaldrake AO
Chief Commissioner, TEQSA

Dr Mary Russell
Chief Executive Officer, TEQSA

9 May 2024

Appendix 3 – Letter to providers, 5 June

Title

Name

Position

Organisation

Address (email or postal)

Dear Title Family-Name,

Subject: Update regarding campus protests relating to the Middle East conflict

I am writing to update you on TEQSA's work to understand and monitor universities' responses to ongoing protests about the conflict in the Middle East.

In our letter of 10 May 2024, we highlighted the student and staff safety and wellbeing obligations that universities and their governing bodies have under the *Higher Education Standards Framework (Threshold Standards) 2021*. Standard 2.3 encompasses organisational responsibilities for safeguarding and supporting the wellbeing and safety of students and staff, while Standard 6.1.4 applies to the governing body taking steps to maintain an institutional environment where the wellbeing of students and staff is fostered.

Since that letter, we have spoken with senior staff in all universities that are managing ongoing protests and encampments. I thank Vice-Chancellors and other senior university staff for making time during this period to share details of local issues and responses. It has assisted our work to have real-time information and to be able to discuss directly, any concerns we have.

To date, TEQSA has observed a high level of senior leadership oversight and engagement in response to the protests. A focus on de-escalation of conflict is being reported, with TEQSA noting accounts of written communication and direct engagement with students to set expectations for peaceful protest and reinforce that behaviour vilifying or inciting hatred towards Jewish or Muslim people will not be tolerated and will be the subject of action.

As this issue continues to evolve, TEQSA has identified the following areas where a continued focus is required.

Academic support and adjustment

It is clear many students are significantly affected by the conflict in the Middle East, some quite directly and others by public commentary and statements and actions during protests. Some universities have put in place special arrangements for at-risk students to receive support. TEQSA encourages all universities to give special attention to making sure that processes for academic adjustment are fit for the current circumstances, and that thought be given to how impacted students are supported next semester. This should include making sure that processes for lodging requests for special consideration, as well as consideration of these requests are embedded with trauma-informed principles.

Safety of teaching and learning spaces

While it has been longstanding custom for students to announce details of protests at the start of classes in many universities, this has been problematic given the charged and often personalised nature of these events. Feedback to TEQSA from student groups and some

public reports indicate that people entering classrooms to put positions on protests and on the conflict are engaging in behaviour that is disruptive and intimidating to many, and that particular efforts are needed to ensure learning and teaching spaces are safe for all. Universities should take advantage of the semester break to carefully consider these matters, including university freedom of speech and academic freedom policies ahead of the resumption of classes next semester. This consideration should include the need for further advice and training for staff and communication with students.

Presence of outside parties on campuses

One common theme TEQSA has identified is the complexity in legal provisions for dealing with occupation of university grounds and disbanding protests, and how these vary greatly. Constraints in identifying and responding to protesters who are not students or staff of the university has been a complicating issue for consideration needs to be given to managing building access, the use of student and staff ID cards, and making use of appropriate legal avenues to remove people that are not part of the university community who are engaging in behaviour that poses a risk to the safety and wellbeing of students and staff.

Ensuring complaint and support mechanisms are accessible

While we note that more than 220 concerns or complaints related to this issue are being considered by universities, there needs to be a continued focus on ensuring students and staff are aware of complaint and support processes. We have heard from some student representatives that their members do not feel safe making specific complaints. Universities should ensure these processes are trauma informed and should continue to highlight the ways staff and students can make complaints and access support. Measures for maintaining confidentiality during complaints processes should be considered.

TEQSA will make another request for data about universities' responses to ongoing protest activity, after which we expect to conclude this aspect of our monitoring. This request will be due on 12 June 2024. Where there is an identified need to continue specific reporting from universities, we will assess this on a case-by-case basis or as broader circumstances continue to evolve.

In the meantime, please don't hesitate to contact [REDACTED] Director, Sector Risk and Compliance with any queries. If you would like to speak more generally about TEQSA's requests or response on these issues, please do not hesitate to contact Mary directly.

Ms Adrienne Nieuwenhuis
Acting Chief Commissioner, TEQSA

Dr Mary Russell
Chief Executive Officer, TEQSA

5 June 2024

Appendix 4 – Letter to providers, 7 August

Title

Name

Position

Organisation

Address (email or postal)

Dear Title Family-Name,

Continuing to assure wellbeing and safety, freedom of speech and academic freedom

We are writing to update you on TEQSA's continuing monitoring of how Australian universities are assuring wellbeing and safety, freedom of speech and academic freedom following the increase in protest activity related to the Middle East conflict observed between April – June 2024.

We again thank you for cooperating with our request for information relating to complaints and concerns within your university stemming from the conflict. Our early analysis of the information has given TEQSA some confidence that most institutions are focused on ensuring these concerns are dealt with appropriately and in accordance with institutional policies.

While the mid-year break has seen fewer people active within universities, and therefore a major reduction in protest activities and tensions within online and campus environments, TEQSA continues to have concerns about risks to students and staff as teaching resumes and activity within universities increases. We understand this is a concern shared by a number of institutions.

In the coming days, TEQSA will publish a sector update on our website that summarises our expectations previously communicated with you on 10 May and 5 June 2024 in relation to the Higher Education Standards Framework (Threshold Standards) 2021. Our aim is to make it easier for providers to understand their obligations in accordance with the standards by consolidating information that has previously been shared with you.

However, given the need for continued vigilance, we also wanted to share the below points with you to assist your institution with managing these risks as students return.

Post-action reviews

TEQSA expects institutions will have used the opportunity offered by the break to undertake a review of actions taken in response to increased community and campus tensions relating to the conflict.

Such reviews should include, but not be limited to:

- the effectiveness of institutional policies and procedures, such as misconduct procedures, freedom of speech and academic freedom policies, academic support
- the opportunity to review and update documents such as student charters to communicate expectations of respectful engagement and exercising freedom of speech
- addressing any identified gaps in policies and procedures or legal frameworks. For example, one area of focus identified by several institutions has been whether statutes/by-laws regarding the use of university land meet contemporary expectations

- effectiveness of critical incident management structures and relationships with outside agencies, such as police, and effectiveness of institutional security
- effectiveness of governance decision-making and oversight
- training and support for staff to respond to disruption to learning environments both on-campus and online
- effectiveness and oversight of concerns regarding student and staff safety.

Protecting wellbeing and safety

In addition to ensuring your student and staff conduct charters/policies are up-to-date and reflective of your university community's expectations, and misconduct policies are consistently and fairly applied, TEQSA expects institutions will maintain a focus on wellbeing and safety. These themes were noted in the CEO Update during the TEQSA Talks webinar last month – [a recording is available on our website](#).

Actions by universities should include, but not be limited to:

- educating students and training staff about expectations for acceptable engagement and expression of views, including in learning and teaching spaces
- ensuring academic support is available for students whose wellbeing has been impacted by the conflict or associated protest activity
- engaging with student groups on campus to ensure any protest activities are respectful and in keeping with university policies
- sharing information about student conduct policies, expectations and how to access support through student communications and other communication channels
- ensuring hate speech and symbols are promptly removed from university property, including online spaces
- being aware of who is accessing the campus and ensuring security arrangements are appropriate to mitigate any identified risks.

Upholding freedom of speech and academic freedom

Last semester's protest activity presented a major test of changes to university freedom of speech and academic freedom policies following the development of the French Model code in 2019.

TEQSA expects that universities will evaluate the effectiveness and operation of their policies relating to freedom of speech and academic freedom and make any required adjustments. Additionally, TEQSA expects universities to actively consider how they work to assure their governing bodies that students and staff understand the content of the relevant policies and how they intersect with the law in relation to anti-discrimination and hate speech that may be applicable on campuses (and online).

TEQSA's approach going forward

As part of our ongoing engagement with students and providers, we will also be seeking examples of good practice that can be shared to support institutions in responding to these ongoing risks. If you believe there are examples of good practice or learnings from your institution that you wish to share with TEQSA, please email [REDACTED].

Longer term, TEQSA is planning engage with providers, students and government as part of a project to explore how social cohesion principles can be embedded within university

environments and learning experiences. TEQSA is in the early stages of planning this work, and we look forward to further engaging with the sector about this in the coming weeks and months.

If you have any questions, or wish to speak with TEQSA regarding any issues relating to social cohesion or protest activity within your institution, please contact [REDACTED], Acting Executive Director, Regulatory Operations.

Our monitoring of this situation is ongoing, and we will continue to engage with higher education providers where we have questions or concerns.

Kind regards,

Ms Adrienne Nieuwenhuis
Acting Chief Commissioner, TEQSA

Dr Mary Russell
Chief Executive Officer, TEQSA

7 August 2024

Appendix 5 – Letter to providers, 4 October

Title Name

Position

Organisation

Address (email)

Dear Title Family-Name,

Subject: Continuing to assure social cohesion in higher education

As we all know, the Middle East conflict and ensuing protests in Australia have had a tremendous impact on students and staff across Australia's higher education sector.

TEQSA is aware that many of these issues have been centred in our universities, and this is where the bulk of our regulatory response has been directed to date.

However, it is important that all higher education providers give attention to mitigating the risks posed to student and staff wellbeing and safety, freedom of speech and academic freedom.

Regardless of whether you are a large university or a small provider, chances are you will have students and staff who are at risk of being subject to hate speech or experiencing distress due to the impact of this conflict on their family and friends.

We have heard very clear evidence provided to the Parliament by students and the Special Envoy to Combat Antisemitism, about incidents of hate speech and vilification increasing dramatically over the past year and causing harm to students and staff within higher education in this country.

This is unacceptable. Unfortunately, the risk of such behaviours remains high as the conflict continues.

It is therefore critical for governing bodies and the executives of higher education providers to ensure they have in place appropriate processes for identifying, responding to and mitigating these risks, as outlined in our [recent interim sector update](#).

We take this opportunity to remind you that many of the underlying tensions and impacts of the conflict continue, even though the situation with protests and encampments has changed. We expect all higher education providers to continue actively reviewing and responding to issues that may be adversely impacting students and staff. This expectation is consistent with your obligations under the *Higher Education Standards Framework (Threshold Standards) 2021*.

Future work by TEQSA

In our letter to universities on 7 August 2024 we emphasised the need for institutions to review and learn from the experiences of protests and the impacts on students this year. We expect this will highlight the need to improve incident responses, but also respond to the need for systemic improvements. Amongst the key issues that have emerged during our regulatory work on these issues is dissatisfaction with current processes for students and staff to make complaints to their university.

Students have also told us that processes for seeking academic support and adjustments are not accessible, timely and trauma informed. These are key areas where systemic improvements in processes are needed to respond to the recent experiences of students and staff.

TEQSA has already begun work on organising roundtable discussions with students and universities to address this and other issues, with a view to quickly developing updated best practice guidance and regulatory expectations for the sector.

These roundtables will be independently facilitated and invitations will be going out shortly. We will of course, share the outcomes as this work progresses.

Kind regards,

Adrienne Nieuwenhuis
Acting Chief Commissioner

Dr Mary Russell
CEO

4 October 2024

Appendix 6 – Interim sector update, 23 August

Interim sector update: Regulatory expectations of providers to assure safety and wellbeing on campus in relation to student protests

August 2024

TEQSA reminds all registered higher education providers and their governing bodies of the obligations they have under the Higher Education Standards Framework (Threshold Standards) 2021 to assure student and staff wellbeing and safety, freedom of speech and academic freedom. The ongoing conflict in the Middle East is impacting many Australians, including students and staff within higher education institutions, and protest activities have escalated on some university campuses. It is important that all providers are prepared so they can manage and respond to these activities, and other student protests related to any cause or purpose, in ways that ensure they are meeting the Threshold Standards.

Key points

When responding to student protest activity, providers will consider the following parts of the Threshold Standards:

- Standard 2.3 encompasses organisational responsibilities for safeguarding and supporting the wellbeing and safety of students and staff.
- Standard 6.1.4 applies to the governing body taking steps to maintain an institutional environment where the wellbeing of students and staff is fostered, and freedom and speech and academic freedom are upheld and protected.

Providers

To manage and respond to the risks associated with student protest activity related to any cause or purpose, and to ensure providers continue meeting the Threshold Standards, TEQSA expects that providers will take the following measures:

Institutional policies and processes

In keeping with the requirements of the Threshold Standards, providers should clearly communicate institutional policies and procedures on topics such as academic support, freedom of speech and academic freedom, student and staff conduct, and misconduct. These policies and procedures should be up-to-date and applied consistently and fairly.

Information about student conduct policies, expectations and how to access support will be shared through communications to students and other communication channels. Policies and processes will be reviewed regularly to ensure their effectiveness, and any identified gaps in policies and procedures or legal frameworks will be addressed promptly.

Academic support and adjustment

Providers will give additional focus to identifying and supporting at-risk students. Currently, this includes those whose wellbeing has been significantly affected by the conflict in the Middle East or associated protest activity. Measures will include ensuring processes for academic adjustment are fit for the current circumstances and embedded with trauma-informed principles, and putting in place other academic supports to ensure students can continue their studies.

Ensuring a safe campus, including teaching and learning spaces

Providers will ensure materials that breach Australian law or conflict with institutional policies, including hate speech and symbols, are promptly removed from institutional property, including removal from both physical property and digital platforms.

Students and staff who have concerns for their safety and security on campus should be supported. Information on how to access the available supports should be shared routinely, and the effectiveness of supports regularly reviewed. The governing body of the provider will have appropriate oversight of concerns regarding student and staff safety.

Providers should have effective critical incident management structures and institutional security arrangements. This includes relationships with outside agencies, such as police, and proactive approaches to ensure any risks to student and staff safety are identified, shared and acted upon. As appropriate to the circumstances, efforts should be made to engage with student groups on campus to ensure any protest activities are respectful and in keeping with providers' policies.

Particular attention will be paid to ensuring teaching and learning spaces are safe for all. While it has been a longstanding custom in some universities for students to announce details of protests at the start of classes, this has been problematic given the charged and often personalised nature of events related to the Middle East. Recent feedback to TEQSA indicates that people entering classrooms to voice positions on protests and on the conflict are engaging in behaviour that is disruptive and intimidating to many. Policies related to freedom of speech and academic freedom should be carefully considered in light of these concerns. Educating students about expectations for acceptable engagement and expression of views, as well as training and support for staff to respond to disruptions to learning environments both on-campus and online, will be important measures.

Ensuring complaint and support mechanisms are accessible

Providers will have a continued focus on ensuring students and staff are aware of complaint and support processes. TEQSA has received feedback that some students do not feel safe making specific complaints. Providers should ensure their complaint processes are trauma informed and continue to highlight the ways staff and students can make complaints and access support. Measures for maintaining confidentiality during complaints processes should be considered.

Taking appropriate action in response to inappropriate conduct

Providers are expected to apply their institutional policies to students and staff whose conduct may be in breach of those policies – this includes behaviour as part of organised protest activity and language or conduct in learning settings that goes beyond what is acceptable in academic discussion. Providers will ensure institutional policies and procedures are fairly and consistently applied and any cases where action is taken are transparently reported in line with organisational policy.

Providers may take appropriate action to respond to people from outside the provider's community, whose actions pose a risk to a provider's property, digital environments, learning and teaching spaces or the safety and wellbeing of students or staff. TEQSA is aware that there can be complexity in legal provisions for dealing with occupation of an institution's grounds and disbanding protests, and these can vary between providers. Providers should give ongoing consideration to managing building access, the use of student and staff ID cards, and making use of appropriate legal avenues to remove people that are not part of the provider's community who are engaging in behaviour that poses a risk to the safety and wellbeing of students and staff.

Upholding freedom of speech and academic freedom

Providers will evaluate the effectiveness and operation of their policies relating to freedom of speech and academic freedom and make any required adjustments. Protest activity in the first half of 2024 presented a major test of changes to provider freedom of speech and academic freedom policies following the development of the French Model code in 2019.

Additionally, providers will actively consider how they work to assure their governing bodies that students and staff understand the content of the relevant policies and how they intersect with the law in relation to anti-discrimination and hate speech that may be applicable on-campus and online.

Good practice

TEQSA aims to develop a range of good practice resources and guidance to support providers in managing the ongoing risks associated with student protest activity and assure the wellbeing and safety of students and staff, as well as freedom of speech and academic freedom. Resources will be published on our website as they are developed.

TEQSA recognises that this is an evolving issue for higher education providers, and will continue to monitor and update our advice. As part of this work, we welcome feedback, including examples of good practice within the sector. You can provide feedback to us at: policyandresearch@teqsa.gov.au.

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