

Ref: N4-11-20 - 27 August 2025

Senator Marielle Smith
Chair, Senate Standing Committee on Education & Employment
PO Box 6100 – The Senate
Parliament of Australia
CANBERRA ACT 2600

Dear Senator Smith,

Re: Submission to the Senate Inquiry: Quality of Governance at Australian Higher Education Providers

The Independent Tertiary Education Council Australia (ITECA) welcomes the opportunity to contribute to the Inquiry by the *Senate Standing Committee on Education and Employment* into the *Quality of Governance at Australian Higher Education Providers*.

As Australia's peak body representing independent tertiary education providers, ITECA strongly supports initiatives that seek to enhance the integrity across the sector. Noting that its most important role is to ensure the delivery of quality education, we urge the Inquiry to consider very cautiously any proposals to expand the powers of the Tertiary Education Quality and Standards Agency (TEQSA) with respect to governance requirements of independent institutions.

Support for enhanced integrity

ITECA recognises that strong governance frameworks are fundamental to the reputation, integrity and success of Australian higher education. Continuous improvement in governance is essential to meeting evolving community, student, and stakeholder expectations, and ITECA welcomes the Inquiry's focus in this area.

While ITECA endorses efforts to raise governance standards and strengthen frameworks that underpin integrity across all providers, we highlight that ITECA members and independent institutions more broadly, already operate under a comprehensive set of governance standards. These include standards overseen by TEQSA for domestic higher education as well as for institutions registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS).

Beyond this, all independent institutions are required to meet strict standards established in Commonwealth and / or state and territory laws that apply to private corporate entities. As such, we urge the Committee to avoid unnecessary expansion of TEQSA's regulatory powers over the independent sector as it risks creating regulatory confusion and complexity, duplicating obligations and detracting from core educational goals.

Governance requirements for independent Higher Education Providers

Independent institutions regulated by TEQSA are already subject to high benchmark requirements explicitly outlined in the Higher Education Standards Framework. These include:

- *Clearly defined and documented constitutions or charters:* Providers must establish governance structures that specify duties, accountabilities, and decision-making responsibilities.
- *Governing body composition and expertise:* The governing body must demonstrate a relevant mix of skills and experience, with external members providing independent oversight.
- *Academic governance:* Providers are compelled to establish academic boards or councils, ensuring that teaching, research, course development, and academic integrity are subject to rigorous scrutiny.
- *Risk and compliance frameworks:* Financial, operational, and reputational risks must be proactively managed and subject to periodic review.
- *Regular independent reviews:* Governance and academic quality are subject to ongoing self-assessment and periodic external, independent review, including audits by TEQSA and other relevant bodies.
- *Continuous compliance:* Providers face ongoing monitoring from TEQSA. This goes beyond simply registration or initial accreditation, but throughout their operational lifecycle—with requirements to evidence compliance and quality consistently.

Dual Sector Regulation

Approximately 62 percent of Australian tertiary institutions delivering higher education and skills training are independent institutions.

In addition to requirements set out in the Higher Education Standards Framework, these institutions must also meet regulatory requirements established in the National Vocational Education and Training Regulator Act and associated frameworks including the Outcomes Standards for RTOs 2025.

Corporate Regulatory Standards

In addition to sector-specific regulation by TEQSA, independent higher education institutions are governed by key Australian corporate and compliance frameworks, including:

- *Corporations Act 2001*: Sets out legal requirements for registration, financial reporting, record-keeping, director duties, and company operations.
- *Australian Securities and Investments Commission (ASIC)*: Oversees compliance with corporate financial and operational requirements, including director conduct, reporting standards, and audits.
- *Australian Competition and Consumer Commission (ACCC)*: Monitors provider compliance with fair trading and consumer protections relevant to tertiary education.
- *Employment and workplace regulations*: Providers must adhere to workplace law, health and safety standards, and relevant codes of practice.
- *Australian Charities and Not-for-Profits Governance Standards* - Providers operating as charities or not-for-profits must comply with the Australian Charities and Not-for-profits Commission's requirements, including registration, annual reporting, governance, and demonstrating that resources are used effectively in pursuit of charitable objectives, ensuring transparency and accountability for public benefit.
- *Industry and professional standards*: Many providers must also adhere to nationally recognised industry standards and accreditation requirements set by professional bodies (eg. nursing), which regulate qualifications, accreditation, professional practice, and ongoing compliance for graduates entering regulated professions.

This layered and often duplicative approach means independent higher education institutions operate under a robust regulatory and governance framework that ensures both educational and corporate good practice.

Expanding TEQSA's powers in relation to provider governance

When considering the adequacy of TEQSA's powers to perform its role in identifying and addressing corporate governance issues at Australia higher education institutions, ITECA urges the Committee to consider those powers that already exist under TEQSA's remit, other laws overseen or regulated by the Department of Education, the National Student Ombudsman and the broader corporate regulatory system to address many of the areas under consideration in this Inquiry.

Indeed, it is ITECA's view that TEQSA's statutory remit should remain focused on quality assurance, educational standards, and academic outcomes rather than replicating corporate law and regulation already administered by other agencies which have been established for those purposes. ITECA does not support regulatory creep into the independent sector.

It would be concerning for ITECA if, for example, any further regulatory encroachment were to reduce the capacity for institutions, particularly those smaller, innovative independent institutions to respond flexibly to sector or market demands, ultimately limiting diversity and student choice.

In addition, layering new regulatory powers over existing requirements runs the risk of creating inefficiencies, confusing accountability requirements, and detracting resources from quality educational delivery.

ITECA supports the importance of maintaining high standards. It is however, crucial that regulation remains proportional, risk-based, and does not stifle the ability of independent institutions to innovate and compete by continuing to place students at the centre of their focus.

Recommendations

ITECA reaffirms its commitment to improving sector integrity and standards of governance but notes again that any regulatory enhancements should be targeted, proportional, and clearly aligned with advancing quality outcomes, not simply increasing the compliance burden for its own sake.

As such, ITECA recommends that:

- The Committee should support ongoing initiatives to improve governance but avoid unnecessary expansion or duplication of TEQSA's regulatory powers.
- Recognise existing requirements already imposed on independent institutions, both by TEQSA and broader corporate and business regulators, and ensure any recommended reforms remain targeted and based on evidence from independent institutions.
- Prioritise regulatory reform that enhances quality outcomes for students while reducing administrative complexity for institutions.
- Ensure TEQSA retains a clear, quality-focused mandate, collaborating with other regulators to avoid overlap.

ITECA remains available to assist the Committee, drawing on the deep expertise of our members and a shared vision for a diverse, high-quality tertiary education sector that delivers genuinely world-class outcomes. In this context, we would welcome the opportunity to provide evidence before any hearing of the Committee.

Yours sincerely

Felix Pirie
Chief Executive