



**National Tertiary
Education Union**

Let's aim higher

NTEU Submission on the

Australian Tertiary Education Commission (ATEC)

**In response to the Inquiry held by the Senate Education and
Employment Legislation Committee.**

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Overview

The National Tertiary Education Union (NTEU) represents the industrial and professional rights of over 28,000 members working in Australian higher education and research.

We welcome the opportunity to make a submission to Senate Education and Employment Legislation Committee on the Inquiry into the legislation to establish the Australian Tertiary Education Committee (ATEC).

While the government has introduced two related pieces of legislation, the *Universities Accord (Australian Tertiary Education Commission) Bill 2025* and *Universities Accord (Australian Tertiary Education Commission) (Consequential and Transitional Provisions) Bill 2025*, this submission will primarily address the provisions of the *Universities Accord (Australian Tertiary Education Commission) Bill 2025*.

Scope of the Proposed Legislation

The NTEU notes that the legislation sets out the basic structure of ATEC and the high-level objectives ATEC is to operate under. It also has responsibility for 'Stewardship' of the higher education system, which includes negotiating new mission-based compacts with individual universities and determining numbers of domestic and international students. We understand that ATEC will be tasked with ensuring the government's higher education policy platform is being enacted within the sector, and that the sector has 'capacity and capability' to meet current and future skills and workforce demands. We also note that ATEC will also be involved in promoting a collaborative and coordinated relationship between the Commonwealth, States and Territories, higher education providers, unions, employers and the public.

NTEU Response

Concerns over the Independence of ATEC

The NTEU has advocated for many years for the establishment of an independent authority that would be responsible for the allocation of government funding to public higher education providers. A primary requirement would be that this authority be at arm's length from government in order to ensure the de-politicization of higher education funding. We note that the Universities Accord final report also recommended that ATEC be 'independent statutory authority ... to enable it to provide robust advice and support evidence-based decision making and planning' (p. 234). The NTEU supported this recommendation.

The Explanatory Memorandum for the Bill asserts that 'Formal independence is a foundational element of the ATEC's design.' (pg1). However, we disagree with this statement, as our view is that under this legislation, the ATEC is clearly not independent from government. Instead, it exists an entity aligned with the Department of Education that, when setting its strategic priorities (s 15(4)) must also take into account the minister's priorities. While this does at least in some small measure allow for parliamentary review of ATEC via the minister (and ATEC itself will be subject to Senate estimates), it remains that ATEC's commissioners are all ministerial appointees and all ATEC staff are supported by the Department of Education. ATEC may only hire contractors and consultants with the approval of the Secretary of the Department (s 24).

We note that the legislation does provide some protection against political interference in the work of ATEC, such as stipulating that the minister will not give directions to ATEC in relation to decisions ATEC makes or in relation to 'a higher education provider or a class or classes of higher education providers': (S 71(2)(b) & (c)). The ATEC will also be required to appear before Senate Estimates, which is another avenue for review and accountability on decisions made and actions taken (or not taken). While the Commissioners are appointed by the Minister, they will be required to meet a level of skills, qualifications and experience, and causes for their removal are limited.

While these measures are positive it is nonetheless clear that ATEC is intended to act in accordance with government policy priorities and with reference to the Department of Education.

National Tertiary Education Objective

The Universities Accord Review found that there is no national objective in relation to Australia's tertiary education sector and recommended that this be addressed by Government. The NTEU agreed with the recommendation, with the proviso that the sector should be consulted in the development of the objective.

We note that Section 13 of the bill does set out a 'National Tertiary Education Objective' to which ATEC must have reference when exercising its powers. However, the objective does not directly refer to anything educational, with the objectives stated being to:

- promote a strong, equitable and resilient democracy &
- drive national, economic, and social development and environmental sustainability

The NTEU believes that this objective does not adequately address the character, nature and purpose of higher education; it makes no reference, for example, to the importance of critical inquiry, academic discovery and discourse, institutional independence or even to academic freedom. Instead, the objectives seek to define tertiary education as part of broader Government policy and could apply to virtually any sector.

It is also not clear as to how ATEC would oversee these objectives, other than through the mission-based compacts, noting that the legislation does indicate that ATEC will enforce alignment with the government's national priorities. However, there is a real concern that this requirement may potentially limit the unique missions of public universities.

We note that the legislation does set out education level objectives (Section 3) that are more directly related to tertiary education; however, most of these are still framed in relation to meeting the government's policy objectives, including the Jobs and Skills policy (Section 3(1)(c) and the harmonisation of vocational and higher education (Section 3(1)(f)).

The NTEU also wishes to highlight our strong concerns with the changes proposed under Section 3(1)(b) that would see policy advice on the Higher Education Standards Framework move from the committee of the Higher Education Standards Panel, comprised of current university staff and one student, to ATEC.

This change is also directly related to the Bill's disestablishment of the Higher Education Standards Panel itself.

Changes relating to the Threshold Standards

Currently, the education minister makes the Threshold Standards, which are a legislative instrument under section 58 of the TEQSA Act 2011 and thus disallowable by either the Senate or House of Representatives. Importantly, the minister must consult with various parties and consider their advice before making the standards, which includes the Higher Education Standards Panel, and cannot make a standard unless a draft has been developed by the Panel (Section 58(3) TEQSA Act 2011).

However, the government has proposed the Higher Education Standards Panel (Schedule 1, Item 16 of the Universities Accord (Australian Tertiary Education Commission) (Consequential and Transitional Provisions) Bill 2025) be replaced by ATEC.

The most significant difference between the current and proposed systems for advising on the content of the Threshold Standards lies with the composition of the advisory panel. Currently, most panel members are university staff, with one student also included. This will cease if ATEC takes over, noting that the proposed legislation mandates that the ATEC commissioners must possess 'appropriate independence from all tertiary education providers' (Sections 56(3)(c), 57(3)(d), and 58(3)(b) of the Universities Accord (Australian Tertiary Education Commission) Bill 2025).

Furthermore, the required skill sets for ATEC Commissioners appears to be more relevant to ATECs role in relation to enhanced mission-based compacts rather than the stewardship of the Threshold Standards.

Given that the ATEC legislation also explicitly prohibits current university employees from being employed by ATEC, the NTEU is concerned that the sector's expertise and involvement on the management of the Threshold Standards may be negatively impacted by this change.

We understand that the explanatory memorandum on the Australian Tertiary Education Commission's Bill 2025 suggests the formation of an ATEC advisory committee to advise on the Threshold Standards (p. 26) (established under Section 25(2) of the legislation).

Should the Standards Panel be abolished, the NTEU's strong view is that this committee must not only be established but that ATEC must also ensure its members possess appropriate knowledge and experience, as per section 25(4). We believe this would be best done via the creation of a statutory advisory committee on the Threshold Standards comprising both tertiary education staff and student representation.

Enhanced Mission Based Compacts

The NTEU has previously recommended that the current mission-based compacts that each public university has with the government be revised to better reflect both the individual institution, its funding arrangements and its obligation to provide quality education and

research. We also proposed that these compacts, that we described as public accountability agreements, be established for 3-5 years and incorporate review of targets and key performance measures, including around governance and workforce planning, as part of the agreement.

While the ATEC legislation does focus on enhanced mission-based compacts with a view to funding arrangements, it also is not clear over what the priorities are for these compacts – is it to allow for ‘provider flexibility to pursue their goals and mission’ or is it to meet the Government (via ATEC statement of priorities) policy agenda. From the Union’s interpretation of the legislation, it appears that the mission-based compacts will be expected to meet both of these (potentially separate) agendas.

Another consideration is around the potential politicisation of the compacts, particularly in relation to institutional funding, noting that ATEC is not actually independent of Government. We note that (under Section 15) the substance of mission-based compacts will in keeping with a ministerial statement of short-term and long-term strategic priorities. This contrasts with the current arrangements that regulates funding via specific statutory provisions, usually through legislative instruments that are disallowable by either the Senate or the House of Representatives.

While the NTEU has criticisms of the current arrangements, we note that there is still some measure of parliamentary protection embedded within the current system. Regulatory arrangements are known in advance and a judicial process for appeal and review is theoretically possible should the government’s actions were to exceed its legislated authority. However, under the proposed legislation, the risk of government influence via the Minister’s strategic priorities and/or ATEC’s own priorities, is potentially exacerbated as these are not legislative instruments (see sections 15(6) and 43(8)).

The Union’s concerns over potential diminution of institutional independence are further increased as the legislation states that ATEC is only required to ‘consider’ the institution’s ‘goals, mission, strategic plan, geographic location and local community’ (Section 29(2)(c)). Similarly, ATEC is only required to ‘consider’... ‘the effect (if any) the proposed terms may have on the academic freedom of the provider’ (Section 29(2)e). The failure for ATEC to take into account academic freedom in terms of mission-based compact arrangements is of considerable concern for the NTEU, noting that this includes institutional autonomy in determining course offering, methodology of delivery, and research activities.

We recommend strongly that ATEC be required to take into account and ensure compact arrangements support an institution’s goals, mission, strategic plan, geographic location and local community, and that academic freedom be fully protected within the terms of the compact.

We also believe that compacts should be established with not only these measures in mind, but with the support of the institution’s own community. Negotiations should take into account institutional governance structures that ensure representation of the views of staff and students. Mission-based compacts should exist for 3-5 years, but with annual or 18-month reviews to ensure that the agreements are fit for purpose and the institutions are meeting their obligations in providing quality education, research and meeting community expectations.

ATEC Reporting

The NTEU is supportive of the Bill's provisions on the collation and public reporting of higher education data, including the requirement for an annual State of the Tertiary Sector report (with the first report due in 2026). The NTEU notes that the legislation proposes the ATEC report on:

- Section 42(2)(a): discusses current and emerging trends in the tertiary education system and commentary on proposed changes to address these trends and issues.
- Section 42(2)(b): focuses on progress towards participation and attainment targets set by the Commonwealth.
- Section 42(2)(c): examines progress in improving coordination and collaboration between higher education and vocational education.
- Section 42(2)(d): assesses the extent to which the higher education system meets current student, skills, and knowledge demands and its potential to meet future demands.
- Section 42(2)(f): considers the extent to which higher education promotes long-term innovation and creativity, contributing to skills and workforce development.
- Section 42(2)(e): evaluates the extent to which higher education delivers services in and for regional Australia.
- Section 42(2)(h): focusses on outcomes for equity groups.
- Section 42(2)(g): examines the financial sustainability of the higher education system and the types of higher education providers.
- Section 42(2)(i): provides examples of good practice by a tertiary education provider.

While we support reporting on these matters, the NTEU is concerned that these measures may still not reflect sector wide issues that may impact on the quality of education and research. For example, these provisions may not have been sufficient to uncover the sector wide problem of wage theft that has affected thousands of university workers (with repayments in the hundreds of millions, and still ongoing), nor the impact of the loss of thousands of jobs (and degree offerings) across many institutions in multiple states. These matters do impact on tertiary education, but the provisions listed above would be relatively easy for universities to only report positively on.

Notwithstanding these concerns, we note that ATEC can 'report and publish information in relation to the tertiary education system and higher education providers' (Section 11(g)) as well as 'undertake or coordinate research and data analysis in relation to any of its functions' (Section 11(j)). We therefore still expect ATEC to report on issues and trends that may challenge the narrative given by university managements and to provide robust advice government.

Conclusion

While the NTEU has recommended and supports the establishment of a regulatory authority that has stewardship of higher education funding and sector planning, we are concerned about the lack of independence of the proposed Australian Tertiary Education Commission (ATEC),

as it is aligned with the Department of Education and its commissioners are ministerial appointees.

We also have concerns over whether the National Tertiary Education Objective adequately address the unique nature of higher education and that this may inadvertently limit the missions of public universities and undermine institutional independence.

We are further concerned with the proposed changes to the Threshold Standards and the replacement of the Higher Education Standards Panel by ATEC, which could potentially impact the sector's expertise and involvement.

While the Union's recommendations address some of our concerns, it nonetheless remains that the placement of ATEC within the Department of Education and the prioritisation of ATEC to oversee government policy implementation via its stewardship contradicts the Union's strong preference for the establishment of an independent advisory body to government that also administers sector funding.

RECOMMENDATIONS

The NTEU recommends:

- **establishing a statutory advisory committee on Threshold Standards, comprising tertiary education staff and student representation, if the Standards Panel is abolished.**
- **That ATEC mission-based compacts should support institutional goals, protect academic freedom, and be established with institutional community support, including annual or 18-month reviews.**

While the NTEU supports the Bill's provisions on higher education data reporting we have concern that these measures may not adequately reflect sector-wide issues impacting education and research quality. We therefore recommend that further consultation be undertaken on reporting measures, but at a minimum it should include reporting on tertiary education workforce composition, trends and industrial issues.