INDEPENDENT HIGHER EDUCATION AUSTRALIA

IHEA SUBMISSION

TERTIARY EDUCATION QUALITY AND STANDARDS AGENCY CONSULTATION PAPER: STATEMENT OF REGULATORY EXPECTATIONS: ADOPTING A DEFINITION OF ISLAMOPHOBIA

12 October 2026

IHEA Submission

Tertiary Education Quality and Standards Agency Consultation Paper: Statement of Regulatory Expectations: Adopting a Definition of Islamophobia

Independent Higher Education Australia (IHEA) welcomes the opportunity to respond to Tertiary Education Quality and Standards Agency Consultation Paper: Statement of Regulatory Expectations: Adopting a Definition of Islamophobia, for which submissions are due by 5pm (AEDT) on 12 October 2026.

Introduction

The new Standard 6.4.1, which was introduced through the 2026 amendments to the Higher Education Standards Framework (Threshold Standards) 2021, will apply to all higher education providers from 1 January 2027. The Standard requires providers to develop and maintain a safe and inclusive institutional environment for staff, students and visitors that prevents and responds to racism and other discriminatory conduct, including by:

a. having definitions of racism and specific forms of racism relevant to a provider's higher education operations, including racism towards Aboriginal and Torres Strait Islander peoples, antisemitism, Islamophobia and any other forms of racial discrimination and vilification which are specific to the needs of the provider's community.

The draft SRE on adopting a definition of Islamophobia is broadly similar in structure and regulatory approach to TEQSA's draft SRE on adopting a definition of antisemitism, consultation on which closed on 17 September 2026. While each SRE addresses the distinct form and context of racism to which it relates, both establish broadly comparable expectations around governance and accountability, consultation and engagement, implementation, and monitoring, review and improvement.

IHEA has therefore taken a broadly consistent approach in responding to the two consultations, while addressing the Islamophobia–specific matters raised in the current SRE. Accordingly, IHEA's broader recommendations concerning proportionality, regulatory certainty, governance, implementation and monitoring are consistent with those made in its response to the antisemitism SRE. IHEA also recommends that TEQSA maintain consistency between the two SREs wherever the underlying regulatory expectations are common, while recognising the distinct context of each form of racism.

IHEA notes that the Islamophobia and antisemitism SREs form the first phase of TEQSA's guidance ahead of the commencement of the new standards on 1 January 2027. TEQSA intends to release final versions of both SREs in October 2026 and is separately working with First Nations leaders, students and staff to develop guidance on adopting a definition of racism towards Aboriginal and Torres Strait Islander peoples, with the timing to be guided by that collaboration.

TEQSA's second phase of guidance will address implementation, embedding, monitoring and oversight of a whole–of–institution approach to preventing and responding to racism and other discriminatory conduct. While the consultation paper does not specify a release date for Phase 2, its description of Phase 1 as the guidance being released prior to 1 January 2027 indicates that the more detailed Phase 2 guidance is likely to follow commencement of the new standards. IHEA considers it important that providers have sufficient visibility of TEQSA's implementation expectations before the new requirements take effect.

In implementing this new requirement, IHEA considers that the Statement of Regulatory Expectations (SRE) should provide clear and predictable regulatory expectations, while allowing providers to adopt approaches that are proportionate to their size, structure, community and risk profile.

This is particularly important for small and specialist independent higher education providers. Such providers should be expected to achieve the same substantive outcomes in relation to student and staff safety and inclusion but should not be expected to replicate the governance structures, staffing or administrative processes

of large, research–intensive universities where their existing arrangements can achieve the required outcomes.

Governance and accountability

Governing bodies have responsibilities for approving the provider's approach, considering relevant risks and potential impacts, overseeing implementation and ensuring appropriate resources are available, and the application of these expectations through the SRE should be proportionate to the provider's size, structure, complexity and risk profile.

The diversity of the higher education sector means that governance arrangements will vary considerably. A small independent private provider may have a relatively simple governance structure, with responsibilities for academic governance, student matters, risk and compliance distributed across a small number of existing bodies and senior staff. This does not, of itself, mean that its governance arrangements are less effective.

IHEA therefore recommends that TEQSA assess whether a provider has effective governance and accountability arrangements, rather than whether it has established particular committees, positions or documentation processes.

Providers should be able to use existing governance mechanisms, including governing body and academic governance processes, to oversee the adoption and implementation of a definition.

Similarly, the expectation to retain records of risk analyses, consultation and advice should not result in a requirement for extensive bespoke documentation. Existing minutes, risk registers, policy records and governance papers should be sufficient where they demonstrate appropriate consideration and decision making.

Definition of Islamophobia

IHEA supports the SRE's approach of allowing providers to develop or adopt a definition that is relevant to their institutional context. The SRE states that TEQSA will not prescribe which definition a provider must adopt. It recommends that providers engage with advice released by Australia's Special Envoy to Combat Islamophobia, The Challenges of Defining Islamophobia, and consider whether existing definitions are suitable for the context and culture of the institution, including definitions supported by Muslim organisations whose work includes preventing and responding to Islamophobia or anti–Muslim hate.

The Special Envoy's guidance is itself non–prescriptive. It states that there is no universally agreed definition of Islamophobia and does not adopt or propose a single formal working definition. Instead, it provides contextual guidance and example definitions drawn from Muslim, academic and government sources to assist providers with their own definitional work rather than provide a ready made definition.

IHEA considers that preserving provider choice is important. The draft SRE identifies relevant characteristics for providers to consider when selecting or developing a definition, including whether it is conduct–focused, directed to equal participation and safety, legally compatible and operationally usable, with appropriate safeguards. The final SRE should make clear that TEQSA will assess a provider–developed or alternative definition against these characteristics, and any other criteria expressly identified in the SRE, rather than against any preferred external definition. This would provide greater regulatory certainty while preserving the provider choice expressly contemplated by the SRE.

The SRE permits a provider to adopt an existing definition or develop an alternative definition appropriate to its institutional context. In doing so, the governing body is expected to document its consideration of relevant risk analysis, consultation, evidence and advice, including its rationale for adopting or rejecting a particular definition. IHEA considers that TEQSA should clarify the evidentiary expectations in these circumstances and ensure that they do not create a de facto regulatory preference for particular existing definitions where the SRE expressly preserves provider choice. This would assist providers to understand what is required for compliance while retaining flexibility to select or develop a definition appropriate to their institutional context.

The definition must also be capable of practical application. Providers should be able to use it consistently in

complaints, student conduct, staff conduct and other relevant processes without the definition itself becoming a substitute for fair assessment of individual circumstances.

The SRE recognises the need to safeguard academic freedom, lawful expression, procedural fairness and viewpoint neutrality. These safeguards will be particularly important where Islamophobia and related forms of racism and discrimination arise in the context of teaching, research, political discussion or student activism.

Consultation and engagement

The draft SRE emphasises safe and inclusive consultation, confidentiality, diverse participation and transparency about how feedback has been considered. Any consultation undertaken by providers should be proportionate to the provider and its community.

There should not be an expectation that every provider must establish a large or highly formal consultation process. In a small provider, direct engagement with students and staff may be more meaningful and effective than replicating the representative structures of a large university.

Providers may, where appropriate, draw on existing expertise and resources, including through collaboration with other providers. The SRE should not create an expectation that providers obtain costly external specialist advice, particularly where this would impose a disproportionate financial or administrative burden on smaller providers.

While consultation should inform the provider's decision making, it should not create an expectation that consensus must be reached among those consulted.

Consideration of implementation

The SRE provides a focus on implementation, including integration into relevant policies and processes, training, complaints handling, leadership messaging and appropriate decision–making arrangements. However, the sequencing of TEQSA's guidance presents a significant implementation issue, given that the new Standard 6.4.1 commences on 1 January 2027.

TEQSA identifies the current SREs as the first phase of guidance being released prior to commencement, while Phase 2 will provide further guidance on implementation, embedding, monitoring and oversight. Although no release date is specified for Phase 2, this sequencing creates the prospect that providers may need to commence implementation before the full Phase 2 guidance is available.

This is particularly problematic for smaller providers. A large university may have dedicated policy, legal, governance, student safety and training resources that enable it to respond to regulatory uncertainty and subsequently modify its arrangements. A small provider may have only a small number of staff performing multiple functions. Requiring those providers to undertake significant policy development and then potentially revisit that work following the release of Phase 2 guidance would impose a disproportionate burden.

IHEA therefore recommends that TEQSA either publish Phase 2 guidance before 1 January 2027 or establish a clear minimum implementation baseline for that date.

At a minimum, TEQSA should confirm that:

- Phase 2 guidance will not introduce new substantive obligations beyond the Threshold Standards.
- Providers will be assessed having regard to the guidance and expectations reasonably available to them at the relevant time.
- Providers will be given reasonable time to respond to any material new guidance.
- Providers will not be expected to repeat consultation or governance processes solely because further guidance is subsequently published.

This is particularly important because TEQSA states that the new requirements will be incorporated into its regulatory activities and that it may seek evidence of demonstrable progress towards compliance.

The final SRE should also make clear that adopting and applying a definition of Islamophobia does not, of itself,

require a provider to establish a dedicated Islamophobia position, committee or standalone system. Providers should be able to use existing roles, governance arrangements and complaints processes where these can effectively perform the required functions. For example, responsibility for considering or resolving complex matters involving the application of the provider's definition could be assigned to an appropriately trained existing senior staff member or academic leader, with external expertise obtained where necessary.

Similarly, training should be proportionate and targeted to those who need it. Providers should be able to integrate relevant material into existing staff and student induction, professional development and governance training.

There is also a risk that uncertainty about the implementation of Standard 6.4.1 could lead providers to adopt overly restrictive approaches to avoid regulatory risk. This could potentially affect academic freedom, freedom of speech and legitimate debate.

IHEA recommends that TEQSA provide practical implementation resources, including examples and templates tailored to a provider's size, structure and risk profile.

Multi–campus and transnational providers may also need flexibility in implementing a definition consistently across different institutional and jurisdictional contexts. The final SRE should recognise that implementation arrangements may appropriately vary between locations, provided the provider maintains effective oversight and achieves the substantive requirements of the Threshold Standards.

Monitoring, review and improvement

The draft SRE identifies factors including safety and wellbeing, inclusion, changing contexts, consistency, timeliness, proportionality, fairness, freedom of speech and academic freedom. However, monitoring and review should be proportionate and evidence based.

Providers should be able to incorporate monitoring into existing quality assurance, risk management and governance processes rather than establishing a separate monitoring framework.

A review should be informed by evidence, including complaints and incidents, identified risks, changes in the provider's community, changes in relevant law or emerging issues. A periodic review should be proportionate to the evidence and circumstances. A provider should not be required to reconsider an established definition or undertake extensive additional consultation simply because a predetermined review date has been reached where there is no evidence of a problem.

The timing of TEQSA's guidance should also be taken into account. If Phase 2 guidance is issued after 1 January 2027, providers should have a reasonable opportunity to consider its implications before being expected to make changes. The subsequent review of the SRE itself, which TEQSA states will occur by 31 December 2027, should likewise not create shifting compliance expectations during the first year of implementation.

Any material changes to the SRE should be subject to appropriate consultation and implementation arrangements.

Conclusion

In the final SRE, TEQSA should provide greater regulatory certainty and recognise the diversity of the higher education sector. The draft appropriately allows providers to develop or adopt a definition relevant to their institutional context and identifies characteristics to be considered in doing so. The final SRE should clarify that TEQSA will assess a provider developed definition against those characteristics, and any other criteria expressly identified in the SRE, rather than against any preferred external definition.

The sequencing of Phase 1 and Phase 2 guidance also requires clarification. TEQSA identifies Phase 1 as guidance being released before 1 January 2027 but does not specify when Phase 2 will be released. Providers should have sufficient visibility of TEQSA's implementation expectations and reasonable time to respond to subsequently issued guidance.

For small and specialist independent providers, proportionality is particularly important. The same substantive protections should apply across the sector, but providers should be able to achieve those outcomes through governance, staffing, consultation, training and monitoring arrangements appropriate to their circumstances.

IHEA therefore recommends that the final SRE provide:

- Confirmation that TEQSA will assess a provider–developed definition against the characteristics, and any other criteria expressly identified in the SRE, rather than against any preferred external definition.
- Consistency between the Islamophobia and antisemitism SREs wherever the underlying regulatory expectations are common.
- Proportionate expectations for small and specialist providers.
- Clear safeguards for academic freedom, lawful expression and procedural fairness.
- Clear identification of the minimum implementation expectations applying from 1 January 2027.
- Publication of Phase 2 guidance before commencement, wherever practicable.
- No assessment against new expectations introduced through subsequently issued guidance without first providing providers with reasonable time to respond.
- Appropriate transition arrangements where further guidance materially affects implementation.
- Practical implementation resources, including examples and templates, for smaller providers.

This approach would support the objectives of Standard 6.4.1 while providing greater certainty, proportionality and consistency across a diverse higher education sector.

Who We Are

Independent Higher Education Australia Ltd. (IHEA) is a peak body established in 2001 to represent Australian independent (private sector) higher education institutions. Our membership spans independent universities, University Colleges and other institutes of higher education that are registered with the national higher education regulator, TEQSA, as well as associate members seeking registration.

There is a long tradition of independent higher education providers in Australia, with the first provider created as early as 1815, only 27 years after the first British settlement in Sydney in 1788. In total, five independent providers were established between 1815 and 1845, before the establishment of Australia's first public university. The fifth of these was St James College, which was created in 1845. The founders of St James College were then involved in creating Moore College in 1856 and remarkably Moore College, a University College, still exists and is Australia's longest continuously operating independent higher education provider.

Our Vision is that: students, domestic and international, have open and equitable access to world class independent higher education in Australia, built on the foundations of equity, choice and diversity.

Our Mission is to represent independent higher education and promote recognition and respect of independent providers as they contribute to Australian education, the Australian economy and to society in general. We achieve this by promoting continuous improvement of academic and quality standards within member institutions, by advocating equity for their staff and students and by delivering services that further strengthen independent providers' reputations as innovative, sustainable and responsive to the needs of industry and other relevant stakeholders in both higher education and vocational education and training. IHEA's commitment is to excellence, productivity and growth in independent higher education being delivered through a trusted Australian education system underpinned by equity, choice and diversity.

IHEA members have different missions, scales and course offerings across the full AQF range (Diplomas to Doctorates). IHEA has 94 members, which rises to over 120 if providers' constituent colleges and subsidiaries are included.

IHEA's 93 members comprise:

- Five private Universities (Australian University of Theology, Avondale University, Bond University, Torrens University and University of Divinity).
- Six University Colleges (ACAP University College, Australian University College of Divinity, Alphacrucis University College, Excelsia University College, Moore Theological College and SAE University College).
- Seventy–nine not–for–profit and for–profit institutions of higher education (which includes twelve full or partially self–accrediting institutes); and related corporate entities.
- Three corporate owners of higher education providers.

IHEA members teach approximately 74 percent of the students in the independent sector (i.e., more than 140,000 students) and educate students in a range of disciplines, including law, agricultural science, architecture, business, accounting, tourism and hospitality, education, health sciences, theology, creative arts, information technology, human services and social sciences.

IHEA holds a unique position in higher education as a representative peak body of higher education providers. Membership in IHEA is only open to providers registered, or seeking registration, with the Australian regulator – TEQSA. However, some IHEA members are dual– and multi–sector providers who also deliver VET and/or English Language Intensive Courses for Overseas Students (ELICOS) courses.

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IHEA Member Institutions

IHEA INDEPENDENT HIGHER EDUCATION AUSTRALIA

Universities

- Australian University of Theology
- Avondale University
- Bond University
- Torrens University Australia
- University of Divinity

University Colleges

- ACAP University College
- Alphacrucis University College
- Australian University College of Divinity
- Excelsia University College
- Moore Theological College
- SAE University College

Institutes of Higher Education

- Academies Australasia Polytechnic
- Academy of Interactive Technology
- Acknowledge Education
- Adelaide Central School of Art
- AIBI Higher Education
- AIM Business School
- Australasian Academy of Higher Education
- Australasian College of Health and Wellness
- Australian Chiropractic College
- Australian College of Christian Studies
- Australian College of Nursing
- The Australian College of Physical Education
- Australian Data and Cyber Institute
- The Australian Institute of Music
- Barton Business School
- Campion College Australia
- Central Institute of Technology and Innovation
- Christian Heritage College
- CIHE Australia
- COLLARTS
- The College of Law
- Eastern College Australia
- Education Centre of Australia
  - Asia Pacific International College
  - ECA College of Health Sciences
  - Higher Education Leadership Institute
- Endeavour College of Natural Health
- EQUALS International
- Fairmont College Australia
- Gateway Business College
- Governance Institute of Australia
- Holmes Institute
- IBC Education
- iCareers Institute
- ICHM
- Ikon Institute of Australia
- International College of Management, Sydney
- International School of Global Leaders
- JMC Academy
- Kaplan Business School
- Kaplan Higher Education
- King's Own Institute
- Laurus Higher Education
- LCI Melbourne
- Le Cordon Bleu Australia
- Leaders Institute
- Lyons College
- Marcus Oldham College
- MIECAT
- Morling College
- Nan Tien Institute
- National Institute of Organisation Dynamics Australia
- Navitas
  - Curtin College
  - Edith Cowan College
  - Eynesbury College
  - Deakin College
  - La Trobe College Australia
  - Griffith College
  - SAIBT
  - SIBT
  - Western Sydney University International College
- Nova Higher Education
- Photography Studies College
- Polytechnic Institute Australia
- Russo Business School
- Sheridan Institute of Higher Education
- Skyline Higher Education Australia
- S P Jain School of Global Management
- Stanley College
- Sydney Institute of Higher Education
- Sydney International School of Technology and Commerce
- Sydney Met
- Southern Academy of Higher Education
- Tabor College
- The Tax Institute Higher Education
- Torrens University Australia
  - Think: Colleges
- Universal Business School Sydney
- Universal Higher Education
- UoW College
- UTS College
- Wentworth Institute

Economic contribution of independent higher education

IHEA INDEPENDENT HIGHER EDUCATION AUSTRALIA

NineSquared

Key Findings.

Independent higher education is an important contributor to Australia's economic activity.

The sector contributes

$8.2 billion

to Australia's GDP

196,000 students

61% International*

39% Domestic*

*Shares based on EFTSL

For every **$3** the sector directly contributes to GDP, it supports around **$1** of additional value added elsewhere in the economy

Contributes

$3.0 billion

in government tax revenue

International students contribute

$7.6 billion

to Australia's GDP

Increases output by

$14.0 billion

Supports

18,906 FTEs

across the economy

Contributes

$13.1 billion

to total incomes

The sector contributes to the Australian economy through several major impact channels:

- institutional spending
- international student living expenses
- expenditure of visiting friends and family
- net increase in student labour supply
- graduate labour productivity uplift
- research driven productivity uplift