



Feedback on the proposed amendments to the  
Higher Education Standards Framework  
(Threshold Standards) 2015 (the Standards).

Submission presented by 2019 NUS National President Desiree Cai

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## Introduction

The National Union of Students (NUS) welcomes the opportunity to present feedback to the Higher Education Standards Panel regarding proposed amendments to the Higher Education Standards Framework (Threshold Standards) 2015 (the Standards). The proposed amendments are one outcome of the Hon Robert French's Review of Freedom of Speech in Higher Education.

NUS was founded in 1987 to represent all post-secondary students across Australia, including vocational, higher education, international and domestic students. The membership of NUS consists of affiliated campus organisations across Australia. In many cases, our affiliate organisations administer several clubs and activities across their campus that represent a wide and diverse range of political views and ideas. Earlier this year, NUS provided a written submission to the Review of Freedom of Speech in Higher Education.

NUS will highlight the concerns that we have about the potential knock-on effects of the amendment which replaces the term "freedom of intellectual inquiry" with "freedom of speech and academic freedom". In this submission, we will suggest alternate wording for the amendment to legislation to address these concerns.

Given the context of the initial review into freedom of speech on campus, where the issue of freedom of speech at university was highly politicised, NUS is not convinced of the need for this legislative change. As we highlighted in our previous submission to the French Review of Freedom of Speech in Higher Education, Australian universities, students and student organisations in Australia have managed to strike a balance in protecting free speech and open discourse at universities<sup>1</sup>. Moreover, the final report of the review found that the existence of a freedom of speech crisis at universities was questionable<sup>2</sup>. We are concerned that while this legislation enshrines freedom of speech, it subsequently waters down the focus on intellectual pursuits based on rigour and evidence within universities, and may have negative effects on the protection of student and staff welfare on campus.

NUS' original submission to the Review stated that we felt the Standards had adequately ensured the protection of freedom of intellectual inquiry, but we could also see room for clarification within the Standards of how to judge this. We also recommended that any changes to the Standards be made in consultation with students, and include provisions to protect freedom of speech in the form of protest. These proposed amendments do not further clarify

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<sup>1</sup> National Union of Students (2018) Submission to the Review of Freedom of Speech in Higher Education.

[https://melbourne-systems.s3.amazonaws.com/asset/file/5c3eb6a633f79878620005be/NUS\\_Submission\\_to\\_French\\_Review.pdf](https://melbourne-systems.s3.amazonaws.com/asset/file/5c3eb6a633f79878620005be/NUS_Submission_to_French_Review.pdf)

<sup>2</sup> French, R.S. *Report of the Independent Review into Freedom of Speech in Australian Higher Education Providers* (2019) <https://docs.education.gov.au/node/52661>

freedom of intellectual inquiry within the standards, and add a highly politicised and widely interpreted term “freedom of speech” into the standards. Therefore, NUS believes the Standards do not require these particular proposed amendments.

**Recommendation 1: NUS recommends that the Higher Education Framework Standards are not amended as proposed.**

## Concerns about amendments to the Standards

NUS believes that any amendment to the Higher Education Standards must be made with the purpose of universities in mind. Universities are important spaces to build knowledge and ideas within our society. NUS affirms Universities Australia’s statement: “Australian Universities foster vigorous debate and encourage and contest of ideas in a respectful, professional and courteous manner”.<sup>3</sup> Alongside this, as reflected in the Standards currently, universities are institutions which uphold intellectual inquiry, which have an important role to play in ensuring rigour and truth in knowledge within our society.<sup>4</sup>

The issue of academic integrity, rigour and quality is one that is constantly discussed and prioritised within universities and the higher education sector. At university, students and academics are expected to uphold a high standard of academic integrity, their arguments made with proof and evidence. Most recently, government and sector support for academic integrity can be seen in the interest in tackling contract cheating at universities.<sup>5</sup>

NUS is concerned that an absolute commitment to “freedom of speech” may create an obligation for universities to give all speakers and ideas a platform- even those that do not uphold standards of academic rigour, or even basic standards of fact or truth.

While our first recommendation is for the Standards to remain unamended, should this be impossible, NUS echoes the call in the Council of Australian Postgraduate Students (CAPA) submission to this same review- that the term “freedom of speech” be replaced by “freedom of political speech”, defined as the protection of speech concerning political or government matters.<sup>6</sup>

**Recommendation 2: NUS recommends that if the Standards are amended, the phrase “freedom of speech” is replaced by “freedom of political speech”.**

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<sup>3</sup> Universities Australia, *University Leaders Reaffirm Longstanding Commitment to Founding Ideals*, 07 Nov 2018.

[https://www.universitiesaustralia.edu.au/Media-and-Events/media-releases/University-leaders-reaffirm-longstanding-commitment-to-founding-ideals#.XDMu\\_lwzZPY](https://www.universitiesaustralia.edu.au/Media-and-Events/media-releases/University-leaders-reaffirm-longstanding-commitment-to-founding-ideals#.XDMu_lwzZPY)

<sup>4</sup> McCamish, T, *Where has Demand Driven our Universities?* September 2016

<https://www.themonthly.com.au/issue/2016/september/1472652000/thornton-mccamish/thinking-caps>

<sup>5</sup> Department of Education, *Tackling Contract Cheating (2018)*

<https://www.education.gov.au/tackling-contract-cheating>

<sup>6</sup> Barendt, E 2005, *Freedom of Speech*. Oxford: Oxford University Press. p162.

Another concern with the proposed amendments is the potential for conflict between the promotion of freedom of speech, and the principle to promote student and staff wellbeing at universities. NUS is weary that general discussions about freedom of speech often conflate “freedom of speech” with the right to proliferate baseless hate speech, racism, homophobia and bigotry.<sup>7</sup> Enabling freedom of speech on campuses can not be used as a cover to allow speakers to engage in hate speech that is damaging to the welfare of students and staff at university. With this in mind, policies and decisions of universities relating to freedom of speech must be carefully considered, in order to ensure that student and staff welfare is protected.

**Recommendation 3: NUS echoes the recommendation of CAPA that the standards are amended as follows, in which the wording is changed to signify the importance of student and staff wellbeing:**

The governing body takes steps to develop and maintain an institutional environment in which students and staff are treated equitably, the wellbeing of students and staff is fostered, freedom of political speech and academic freedom is upheld and protected, 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.

**Recommendation 4: NUS recommends that the Department of Education encourage universities to consult with students and staff when implementing policy to ensure the best interests for student and staff wellbeing.**

## Additional considerations

Alongside symbolic legislative change, additional measures must be taken to ensure universities are able to foster vigorous debate on campus in a safe and productive way. In our initial submission to the review, NUS highlighted the impact of funding cuts in constraining the financial capacity for universities to facilitate freedom of speech on campus- including protests on campus.<sup>8</sup>

An increased capacity to facilitate vigorous debate at university campuses is not possible without an increase to the funding of universities. At the commencement of the original review

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<sup>7</sup> Gill, M, *The Guardian*, “Free Speech isn’t under threat. It just suits bigots and boors to suggest so”, 23 June 2019.

<https://www.theguardian.com/commentisfree/2019/jun/23/free-speech-is-not-under-threat-it-suits-bigots-and-boors-to-suggest-so>

<sup>8</sup> National Union of Students (2018) Submission to the Review of Freedom of Speech in Higher Education.

[https://melbourne-systems.s3.amazonaws.com/asset/file/5c3eb6a633f79878620005be/NUS\\_Submission\\_to\\_French\\_Review.pdf](https://melbourne-systems.s3.amazonaws.com/asset/file/5c3eb6a633f79878620005be/NUS_Submission_to_French_Review.pdf)

into freedom of speech, there was an alarming suggestion that protesters pay to express their freedom of speech by paying for security costs of events that may spark debate.<sup>9</sup> While this suggestion was clearly incompatible with the mission of ensuring freedom of speech at universities, it does point to an issue that there is a lack of funding, or incentive for universities to fund infrastructure and activities that help facilitate debate on campus.

***Recommendation 5: NUS recommends that the Department of Education facilitate a significant boost in funding to higher education in Australia to better facilitate free speech and academic freedom.***

## Conclusion

This submission has highlighted the lack of need for amendment of the Higher Education Standards Framework to enshrine “freedom of speech” within it. NUS has outlined how this particular amendment to the Standards may produce more harm for the wellbeing of students and staff on campus, and provides no further clarity on how to measure, or increase the proliferation of freedom of intellectual inquiry, academic freedom or free speech on campus.

NUS believes that the proposed amendment is a vague and symbolic change that does not add any real capacity for universities to enshrine freedom of speech on campus any more than they are currently able to. Should amendments to the Standards be made regardless, this submission has suggested alternative wording for the amendment.

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<sup>9</sup> Koziol, M “You protest, you pay: Education Minister’s bid to bolster free speech at universities”, *The Australian*, 22 September 2018.