



NTEU Submission on the

## **Universities Accord (National Student Ombudsman) Bill 2024 [Provisions]**

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

Dr Terri MacDonald, Director of NTEU Public Policy and Strategic Research

Mr Kieran McCarron, Policy Officer, NTEU Public Policy and Strategic Research

Date: Oct 1 2024

## Overview

The National Tertiary Education Union (NTEU) represents the industrial and professional rights of over 27,000 members working in Australian higher education and research.

We welcome the opportunity to make a submission to Senate Education and Employment Legislation Committee's inquiry into the Universities Accord (National Student Ombudsman) Bill 2024 [Provisions].

The NTEU notes that the effect of the proposed Bill would be to establish a national ombudsman for the higher education sector. Students enrolled in both public and private providers would have access to the ombudsman which would act as the primary escalated complaints body for higher education students.

If passed, the legislation would establish the National Student Ombudsman as a new function of the Commonwealth Ombudsman and would commence operation by February 2025.

## NTEU Response

The NTEU has long supported the idea of a national, independent student ombudsman, proposing the establishment of such an entity in numerous submissions over many years. Most recently, the Union recommended a new national student ombudsman to the Universities Accord review, which was ultimately also supported by the review panel in its final report in February 2024.

The Union's support for a national student ombudsman drew from the introduction of Voluntary Student Unionism (VSU) in the early 2000's, which led to the disappearance (or absorption by universities) of many independent student advocacy services operated by student organisations.

We are also aware that students enrolled with private higher education providers usually do not have access to independent student advocacy services, other than the general state ombudsman services.

Importantly, the National Student Ombudsman will be part of the new regulatory framework related to the proposed new code to address gender-based violence and sexual harassment in universities, the *National Higher Education Code to Prevent and Respond to Gender-based Violence* (National Code).

The NTEU has campaigned for action to address the deeply ingrained problem of sexual harassment, sexism and gender-based violence in universities for many years and has been involved in the consultations on the new National Code. We anticipate reviewing its establishing legislation soon.

The NTEU notes that both the proposed National Student Ombudsman legislation and the associated [model overview](#) indicate the nature of complaints the ombudsman will be able to receive, how it will handle those complaints, and how it will work with providers and regulators to promote best practice in the higher education sector.

The model overview states<sup>1</sup>:

*There will be some complaints about the actions of higher education providers the National Student Ombudsman will not be able to investigate. This includes complaints about:*

- *Actions that rely on academic judgement (such as the grade a student has received).*
  - *The National Student Ombudsman will be able to investigate the policies and procedures that guide academic decisions and whether the provider has followed these. It will also be able to consider a range of other academic matters that do not rely on academic judgement, for example, matters such as granting of special consideration and reasonable adjustments.*
- *Actions relating to a VET course.*
  - *Students complaining about VET related matters can contact the National Training Complaints Hotline online or by calling 13 38 73 to have their complaint referred to the most appropriate body.*
- *Actions relating to employment.*
  - *Staff may access existing complaints mechanisms under the Fair Work Act 2009 as well as new Respect at Work and positive duty obligations under the Sex Discrimination Act 1984.*

*Where a complaint relates in part to an action the National Student Ombudsman can't consider, it will still be able to consider the remainder of the complaint.*

While the model overview and legislation both outline exemptions around complaints directly related to actions that rely on academic judgement, we note that there has been concern expressed in the sector that the student ombudsman may inadvertently create an scenario whereby students could seek to influence academic assessment through the threat of complaint, or that some academics may seek to avoid complaints by giving more favourable grades.

We note that the student ombudsman already in place for international students does not appear to have influenced academic assessment (indeed, the NTEU's experience is that any pressure in relation to academic assessment has been institutional).

However, to ensure that the National Student Ombudsman is both functioning as intended and to address any unanticipated outcomes (as well as deal with any additional issues that would be appropriate for referral to the Ombudsman), the **NTEU recommends that there be a parliamentary review of the operation of the National Student Ombudsman and its supporting legislation in 3 years' time from its establishment.**

**We further recommend that at this time the Government look to including VET students under the authority of the National Student Ombudsman (assuming that this coverage has not already been extended sooner).**

---

<sup>1</sup> (Department of Education, 2024)

## RECOMMENDATIONS

The NTEU supports the proposed legislation to establish a National Student Ombudsman, with a further commitment by Government to a parliamentary review of the operation of the National Student Ombudsman and its supporting legislation in 3 years' time from its establishment.

We further recommend that at this time the Government look to including VET students under the authority of the National Student Ombudsman (assuming that this coverage has not already been extended sooner).

## References

Department of Education, 2024. *National Student Ombudsman Model Overview*. [Online] Available at: <https://www.education.gov.au/national-student-ombudsman/resources/national-student-ombudsman-model-overview>