

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Education

Higher Education Support Act 2003

Higher Education Support (Other Grants) Amendment (Suburban University Study Hubs) Guidelines 2024

AUTHORITY

Section 238-10 of the *Higher Education Support Act 2003* (the Act) provides that the Minister may make Other Grants Guidelines to, amongst other things, provide for matters necessary or convenient to be provided in order to carry out or give effect to Part 2-3 of the Act in relation to grants payable under that Part.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations, or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument. The amendments to the *Higher Education Support (Other Grants) Guidelines 2022* (the Principal Instrument) made by the *Higher Education Support (Other Grants) Amendment (Suburban University Study Hubs) Guidelines 2024* (the Amendment Instrument) rely on this provision.

PURPOSE AND OPERATION

The Amendment Instrument amends the Principal Instrument to specify the Suburban University Study Hubs program as a program under which grants are to be paid for the purpose of activities that support open access to higher education across Australia.

The purpose of the Amendment Instrument is to improve access to higher education for underrepresented and disadvantaged students living in outer metropolitan and peri-urban areas of Australia (as defined through a location categorised as one of the Major Cities of Australia under the ABS Remoteness Structure, or Greater Darwin or Greater Hobart under the ABS Greater Capital City Statistical Areas, and a Statistical Level 2 classified as 1 or 2 in the ABS Socio-Economic Indexes for Areas Index of Relative Socio-Economic Advantage and Disadvantage).

The purpose of the new Suburban University Study Hubs program is to provide funding for new facilities to improve tertiary participation, retention, and completion rates by providing dedicated study facilities and convenient wrap-around support targeted at underrepresented and disadvantaged students. This may include:

- infrastructure: study spaces, break out areas, video conferencing facilities, computer facilities, internet access;

- administrative and academic skills support services: writing and research skills development, management of student administrative processes; and
- student support services: pastoral support, study advice, help accessing student services, careers advice.

IMPACT ANALYSIS

The Office of Impact Analysis has advised an Impact Analysis is not required for the amendments relating to the Suburban University Study Hubs Program. (ID: OIA23-05063)

COMMENCEMENT

The Amendment Instrument commences on the day after it is registered on the Federal Register of Legislation.

CONSULTATION

The Department of Education (department) consulted with stakeholders between 3 September and 2 October 2023 to provide their views on the design and implementation of the Suburban University Study Hubs program. A total of 44 submissions were received from a range of stakeholders including universities, local councils, peak bodies, one State Government department and other organisations. Submissions were generally supportive of the new program, noting the importance of supporting students in outer metropolitan areas.

In October 2023, the department undertook an analysis and research project to support the identification of locations that may benefit the most from a Suburban University Study Hub. Select universities, TAFE Directors Australia and State and Territory governments were consulted in roundtables as part of this analysis and research project.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Higher Education Support (Other Grants) Amendment (Suburban University Study Hubs) Guidelines 2024

The *Higher Education Support (Other Grants) Amendment (Suburban University Study Hubs) Guidelines 2024* (the Amendment Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Amendment Instrument amends the *Higher Education Support (Other Grants) Guidelines 2022* (the Principal Instrument) to specify the Suburban University Study Hubs program as a program under which grants are to be paid for the purpose of activities that support open access to higher education across Australia.

The purpose of the Amendment Instrument is to improve access to higher education for underrepresented and disadvantaged students living in outer metropolitan and peri-urban areas of Australia (as defined through a location categorised as one of the Major Cities of Australia under the ABS Remoteness Structure, or Greater Darwin or Greater Hobart under the ABS Greater Capital City Statistical Areas, and a Statistical Level 2 classified as 1 or 2 in the ABS Socio-Economic Indexes for Areas Index of Relative Socio-Economic Advantage and Disadvantage).

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- administrative and academic skills support services: writing and research skills development, management of student administrative processes; and
- student support services: pastoral support, study advice, help accessing student services, careers advice.

Human rights implications

The Amendment Instrument engages the right to education in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Right to education

Article 13(2)(c) of the ICESCR provides that ‘higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education’.

The establishment of the Suburban University Study Hubs program under the Amendment Instrument will increase access to physical infrastructure and in-person administrative and academic skills support for students in outer metropolitan in peri-urban areas, who often have lower levels of university attainment and limited access to significant physical education campuses. The Suburban University Study Hubs program will therefore promote access to, and engagement with, higher education for students who may not otherwise have access to the same opportunities as their peers in different geographical areas. The measures are in furtherance of the objective of Article 13(2), which is to ensure educational institutions and programmes are accessible to everyone, without discrimination, within the jurisdiction of the States party.

Conclusion

The Instrument is compatible with human rights because it supports the right to education.

Minister for Education, the Hon Jason Clare MP

HIGHER EDUCATION SUPPORT (OTHER GRANTS) AMENDMENT (SUBURBAN UNIVERSITY STUDY HUBS) GUIDELINES 2024

EXPLANATION OF PROVISIONS

Section 1: Name

1. This section specifies the name of the instrument as the *Higher Education Support (Other Grants) Amendment (Suburban University Study Hubs) Guidelines 2024* (the Amendment Instrument).

Section 2: Commencement

2. This section provides that the Amendment Instrument commences on the day after it is registered on the Federal Register of Legislation.

Section 3: Authority

3. This section provides that the Amendment Instrument is made under section 238-10 of the *Higher Education Support Act 2003* (the Act).

Section 4: Schedules

4. This is a technical provision that explains that each instrument that is specified in a Schedule to the Amendment Instrument is amended or repealed as set out in the applicable items in the Schedule concerned.

Schedule 1 – Amendments

Higher Education Support (Other Grants) Guidelines 2022

Item 1: Section 4

1. Item 1 inserts new definitions in section 4 of the *Higher Education Support (Other Grants) Guidelines 2022* (the Principal Instrument) to define terms that are used in the new provisions inserted by the Amendment Instrument.
2. Item 1 defines the terms ‘Australian Bureau of Statistics’, ‘ABS Greater Capital City Statistical Areas’ and the ‘ABS Socio-Economic Indexes for Areas Index of Relative Socio-Economic Advantage and Disadvantage’.
3. The definition of ‘ABS Greater Capital City Statistical Areas’ and the ‘ABS Socio-Economic Advantage and Disadvantage’ have been defined to mean documents created by the Australian Bureau of Statistics as in force at the commencement of the Amendment Instrument, and freely available online at [ABS Greater Capital City Statistical Areas](#) and [ABS Socio-Economic Indexes for Areas](#) respectively.
4. The incorporation of these documents in the Principal Instrument is consistent with subparagraph 14(1)(b)(ii) of the *Legislation Act 2003* which permits the incorporation of any matter contained in any other instrument or writing as in force or existing at the time the Amendment Instrument commences.

Item 1: After section 66

5. Item 2 inserts a new Part 9A titled “Grants to support open access to higher education across Australia – Suburban University Study Hubs Program” into the Principal Instrument.
6. New subsection 66A(1) provides that the purpose of the program is to support open access to higher education across Australia, under subitem 11(c) of the table in subsection 41-10(1) of the Act.
7. New subsection 66A(2) sets out the objectives of the Suburban University Study Hubs program. This subsection provides that the objective is to provide financial assistance to bodies corporate in areas of Australia described in paragraph 66B(1)(a), to enable them to establish and maintain Suburban University Study Hubs that support local students.
8. New subsection 66B(1) sets out the specified bodies corporate for the purposes of the Suburban University Study Hubs program. This subsection provides that for the purposes of subitem 11(c) of the table in subsection 41-10(1) of the Act, bodies corporate specified for the purposes of the program include:
 - a. those that the Minister is satisfied at the time the grant is made, have or will have, a physical operational presence in a location categorised as:

- i. one of the Major Cities of Australia under the ABS Remoteness Structure; or Greater Darwin or Greater Hobart under the ABS Greater Capital City Statistical Areas; and
 - ii. a Statistical Area Level 2 classified as Quintile 1 or 2 in the ABS Socio-Economic Indexes for Areas Index of Relative Socio-economic Advantage and Disadvantage;
 - b. those that are registered entities within the meaning of the *Australian Charities and Not-for-profits Commission Act 2012*;
 - c. Table B providers; and
 - d. higher education providers to which the Minister has allocated Commonwealth supported places under section 30-10 of the Act.
9. The term “ABS Remoteness Structure”, referred to at new subsection 66B(1)(a)(i) as above, is defined in the Act, and the current version of this document is included in the Australian Statistical Geography Standard framework, which can be found here: [ASGS Edition 3, Australian Bureau of Statistics](#).
10. The note at new subsection 66B(1) clarifies that Table A providers are also eligible to receive grants under the program (by operation of the Act).
11. New subsection 66B(2) provides that notwithstanding subsection (1), bodies corporate mentioned in paragraph 66B(1)(a) and 66B(1)(b) are only eligible where they are able to satisfy the Minister that the body corporate, and each person who makes, or participates in making, decisions that affect the whole or a substantial part of the body’s affairs, is a fit and proper person within the meaning of the Act, the body corporate is, and is likely to remain, financially viable.
12. New subsection 66B(3) provides that a body corporate is only eligible for a grant under this program if the body corporate has not received funding under the Regional University Study Hubs program in Part 9 of the Principal Instrument, or from a State or Territory government, for the proposed facility.
13. New subsection 66C(1) sets out conditions that apply to the location of a facility funded via a grant under the Suburban University Study Hubs program. This subsection provides that grants must only be used to operate a facility in and provide services from a location categorised as one of the Major Cities of Australia under the ABS Remoteness Structures, or Greater Darwin or Greater Hobart under the ABS Greater Capital City Statistical Areas, and a Statistical Area Level 2 classified as Quintile 1 or 2 in the ABS Socio-Economic Indexes for Areas Index of Relative Socio-economic Advantage and Disadvantage, at the time the grant is made.
14. New subsection 66C(2) provides that grants must be used to establish a new facility to operate as a Suburban University Study Hub (i.e. grant funding cannot be used to fund an existing Study Hub facility).
15. New subsection 66C(3) provides that a recipient of a grant must ensure that the facilities and services provided using the grant primarily support Commonwealth assisted students. The note clarifies that facilities and services described in this

section may be provided to other students undertaking study if there is spare capacity to do so.

16. New subsection 66C(4) sets out how a grant may be used to support students to undertake study. This subsection provides that grants may be used to provide infrastructure and facilities, academic skills support services, administrative support, and other services to support students' learning environment, consistent with requirements set out in Part 2 of the *Higher Education Standards Framework (Threshold Standards) 2021*.
17. New subsection 66C(5) provides that grants may also be used to support forming partnerships with other organisations such as higher education providers, vocational education and training providers, state and local government bodies or local industry bodies to further support student learning and outcomes. The note clarifies that the Minister may impose other conditions that apply to grants under paragraph 41-25(1)(c) of the Act.