

## **EXPLANATORY STATEMENT**

**Issued by the authority of the Minister for Education**

***Higher Education Support Act 2003***

***Higher Education Support (Other Grants) Amendment (National Priorities Pool Program) 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 (National Priorities Pool Program) Guidelines 2024* (the Amendment Instrument) rely on this provision.

### **PURPOSE AND OPERATION**

The Amendment Instrument amends the Principal Instrument to specify the Australian Human Rights Commission (AHRC) as a body corporate that is eligible to receive a grant under the National Priorities Pool Program.

This will facilitate the AHRC receiving a grant to conduct the *Respect at Uni: Study into antisemitism, Islamophobia, racism, and the experience of First Nations People* study (the Study). The Study responds to a recommendation 33 of the Australian Universities Accord which identified the need to address a range of systemic barriers experienced by educationally disadvantaged cohorts, to ensure they can participate on the same basis as their peers.

The Study will achieve the objective of ensuring equality of opportunity in higher education by examining the prevalence and impact of racism in universities and developing recommendations to ensure a safe environment for students and staff. The study will consult with students, stakeholder groups and education providers in affected equity cohorts. The Commissioner will establish a reference group of respected leaders from the Jewish community, Muslim community, First Nations Australians and culturally and linguistically diverse (CALD) communities with experience studying, working in, and leading universities.

## **IMPACT ANALYSIS**

The Office of Impact Analysis has advised no Impact Analysis is required as the Amendment Instrument is unlikely to have more than a minor regulatory impact (OIA24-07658).

## **COMMENCEMENT**

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

## **CONSULTATION**

The Australian University Accord Panel (Accord Panel) conducted a year long review of the Australian higher education system. The Accord Final Report, released on 25 February 2024, made 47 recommendations to strengthen the future of Australian higher education system, and improve outcomes for students, staff and communities. This Accord Panel consulted extensively with students, staff, institutions, community groups and subject matter experts and governments. This included specific consultation with under-represented and educationally disadvantaged students and staff, as well as higher education leaders and equity practitioners.

Two specialised targeted projects were undertaken to support work to examine systemic barriers to the full participation and success of students from underrepresented backgrounds. This included the *Targeted Review of Student Equity in Higher Education Programs* and *System Level Policy Levers Centring the Voices of Harder to Reach Under-Represented and Disadvantaged Cohorts*. The final reports from these projects informed this grant to the AHRC to undertake the Study and are publicly available on the Department of Education website.

Australian Government agencies, including the Attorney General's Department, Department of Home Affairs, National Indigenous Australians Agency and the AHRC has also been consulted on the design of the Study.

## 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 (National Priorities Pool Program)  
Guidelines 2024

The *Higher Education Support (Other Grants) Amendment (National Priorities Pool Program) 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 Australian Human Rights Commission (AHRC) as a body corporate that is eligible to receive a grant under the National Priorities Pool Program.

This will facilitate the AHRC receiving a grant to conduct the *Respect at Uni: Study into antisemitism, Islamophobia, racism, and the experience of First Nations People study* (the Study). The Study responds to a recommendation 33 of the Australian Universities Accord which identified the need to address a range of systemic barriers experienced by educationally disadvantaged cohorts, to ensure they can participate on the same basis as their peers.

The Study will achieve the objective of ensuring equality of opportunity in higher education by examining the prevalence and impact of racism in universities and developing recommendations to ensure a safe environment for students and staff. The study will consult with students, stakeholder groups and education providers in affected equity cohorts. The Race Discrimination Commissioner will establish a reference group of respected leaders from the Jewish community, Muslim community, First Nations Australians and culturally and linguistically diverse (CALD) communities with experience studying, working in, and leading universities.

### 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) 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 Amendment Instrument amends the Principal Instrument to specify the AHRC as a body corporate that is eligible to receive a grant under the National Priorities Pool Program. This engages the right to education by facilitating the AHRC to conduct the study with the aim of ensuring all Australians no matter their background, have equality and equity of opportunity in higher education, including the ability to access and participate on the same basis as their peers.

**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 (NATIONAL PRIORITIES POOL PROGRAM) GUIDELINES 2024

## EXPLANATION OF PROVISIONS

### Section 1: Name

1. This is a formal provision specifying the name of the *Higher Education Support (Other Grants) Amendment (National Priorities Pool Program) Guidelines 2024* (the Amendment Instrument).

### Section 2: Commencement

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

### Section 3: Authority

3. This provision 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 the instrument that is specified in a Schedule to the Amendment Instrument, being the *Higher Education Support (Other Grants) Guidelines 2022* (the Principal 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

5. Item 1 amends subsection 14(2) to provide that it is an objective of the National Priorities Pool Program to provide grants to higher education providers and specified bodies corporate. This is to facilitate a grant being provided to the Australian Human Rights Commission (AHRC) under the program.

#### Items 2 and 3

6. Items 2 and 3 make minor technical changes to paragraphs 14(2)(b) and (c) to facilitate the change being made in item 4 to insert new paragraph 14(2)(d).

#### Item 4

7. Item 4 inserts a new paragraph 14(2)(d). This new paragraph sets out that it is an objective of the National Priorities Pool Program to provide grants that are designed to address barriers to education including through embedding inclusive education, universal design for teaching and learning and improved cultural safety.
8. This will ensure that grants may be provided under the program with the objective of ensuring that people from educationally disadvantaged cohorts, including but not

limited to, persons from a low socioeconomic background, persons from regional areas and remote areas, Indigenous persons, and persons with disability can access and participate in education on the same basis as students not from those cohorts.

#### Item 5

9. Item 5 repeals the existing section 15, which provides that there are no specified bodies corporate for the purposes of the National Priorities Pool Program, and replaces it with a new item 15, which specifies that the AHRC is a body corporate eligible to receive grants under the National Priorities Pool Program. The note under this section confirms that Table A providers are already eligible, under section 41-10 of the Act, to receive a grant under the program.