

16 September 2026

Submission To Consultation - Statement of Regulatory Expectations: Adopting a Definition of Antisemitism

*A response to the Tertiary Education Quality and Standards Agency's (TEQSA)
September 2026 consultation paper.*

Submitted to: consultation@teqsa.gov.au

In response to the deadline of Thursday, 17 September 2026

Introduction:

The Australia Palestine Advocacy Network (APAN) welcomes the opportunity to respond to this consultation. We focus our comments on the "Definition of antisemitism" and "Governance and accountability" sections of TEQSA's draft Statement of Regulatory Expectations (SRE).

TEQSA's draft Statement of Regulatory Expectations asks providers to assess candidate definitions of antisemitism against specific quality criteria: whether a definition is conduct-focused, directed to equal participation and safety, legally compatible, operationally usable, and accompanied by safeguards for academic freedom, lawful expression, procedural fairness and viewpoint neutrality.

We submit that the definitions most tertiary educational institutions are being pushed toward - Universities Australia (UA) and International Holocaust Remembrance Alliance (IHRA) definitions of antisemitism - are divisive, destructive to academic and intellectual freedom, promote anti-Palestinian racism against Palestinians and our allies, and likely to worsen antisemitism. These definitions also fail several of the specific quality criteria noted above, as evidenced before Australian courts, formal legal opinions, and assessments of the United Nations and major human rights organisations.

We propose an alternative and more reliable approach to addressing anti-racism, built on the Australian Human Rights Commissions' National Anti-Racism Framework¹, that would satisfy TEQSA's own criteria. The National Anti-Racism Framework provides a roadmap for

¹ National Anti-Racism Framework. 2024. "National Anti-Racism Framework | Australian Human Rights Commission." Humanrights.Gov.Au. 2024.
<https://humanrights.gov.au/resource-hub/race/anti-racism-framework>

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governments, business and community organisations to address all forms of racism in Australia, with 63 recommendations for a whole of society approach to address racism, proposing reforms across seven sectors, including the education sector.

About APAN:

The Australia Palestine Advocacy Network (APAN) is a member-based organisation formed in May 2011 to provide a national voice to the many thousands of Australians who are concerned about Israel's continuing human rights abuses against Palestinians, and the continuing effects of genocide, ethnic cleansing, dispossession and displacement.

APAN's membership base is diverse, taking in grassroots human rights groups, Palestinian and Jewish groups, aid and development agencies, and unions. Individual members come from a variety of backgrounds, including religious leaders, academics, lawyers, former politicians, diplomats and public servants, teachers, medical professionals, and many others.

Our activities and campaigns range from advocacy and political lobbying to community organising, youth training and media engagement, all of it aimed at building greater understanding amongst all Australians – including policy-makers – about the ongoing occupation that Palestinians face and what can be done about it.

First and foremost, we acknowledge the connected struggle and strength of First Nations community here, and the genocide, dispossession and ongoing harm perpetrated against them as part of the colonising project on this continent. Our fight for Palestinian self-determination, equality, justice and rights from the river to the sea is also a struggle for First Nations recognition, rights, culture and self-determination on what was, and always will be, Aboriginal land.

Our movement for Palestinian freedom and justice is founded on principles of equality and human rights. Discrimination in any form is incompatible with our pursuit of justice for Palestinians. We stand in solidarity with our Jewish friends in condemning and combatting antisemitism just as we denounce anti-Palestinian racism, Islamophobia and any other forms of racism, all the while upholding the right of Palestinians to self-determination and freedom.

IHRA and UA Definitions of Antisemitism Attack Academic Freedoms:

The draft SRE does not stipulate which definition of antisemitism a provider should adopt. It does, however, set out clear quality criteria a provider's governing body is expected to weigh, including whether a candidate definition is conduct-focused, directed to equal participation and

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safety, legally compatible, operationally usable, and accompanied by safeguards for academic freedom, lawful expression, procedural fairness and viewpoint neutrality (Expectation 4b). And whilst this may be considered a sound and workable test, the IHRA and UA definitions of antisemitism do not meet these criteria:

Operationally usable: In a formal legal opinion on the IHRA definition, international human rights lawyer Geoffrey Robertson AO QC issued a formal legal opinion in August 2018 stating that the IHRA definition is "not fit for any purpose" and that universities seeking to adopt said definition are "well advised not to adopt this confusing and litigation-prone definition."² In another formal legal opinion, barrister Hugh Tomlinson QC concluded that the imprecision of the IHRA definition produces "a lack of consistency in its application and a chilling effect on public bodies which, in the absence of definitional clarity, may seek to sanction or prohibit any conduct which has been labelled by third parties as antisemitic without applying any clear criterion of assessment."³ As such, a definition that different decision makers within tertiary educational institutions may apply varied conclusions, use cases, and/or incidents on the same facts are, by principle, operationally unviable.

Safeguards for academic freedom, lawful expression, and viewpoint neutrality: All forms of bigotry and discrimination must be addressed wherever they occur. We are alarmed that both the UA and IHRA definitions of antisemitism conflate legitimate criticism of Israel, or the political ideology of Zionism, with discrimination against Jewish identity. In October 2022, Independent Jewish Voices produced a comprehensive analysis that concluded the IHRA definition "represents an unprecedented attempt to frame criticism of the State of Israel or of the political ideology of Zionism as 'antisemitism'."⁴ In a similar analysis, Associate Professor Jumana Bayeh provided a detailed opinion on the UA definition of antisemitism, stating "in its vague 'tropes, stereotypes, assumptions' the definition has managed to not only muddy more than clarify, but also remove Israel from the scrutiny that every state should be subject to — especially in a space of higher education."⁵

² Geoffrey Robertson AO QC. 2018. "Anti-Semitism: The IHRA Definition and Its Consequences for Freedom of Expression." Palestine Return Centre. August 31, 2018.

https://prc.org.uk/upload/library/files/Anti-Semitism_Opinion_03.09.18eds.pdf

³ Hugh Tomlinson QC. 2017. "In the Matter of the Adoption of the IHRA Working Definition of Antisemitism" <https://freespeechonisrael.org.uk/wp-content/uploads/2017/03/TomlinsonGuidanceIHRA.pdf>

⁴ IJV Canada. 2022. "Report: Unveiling the Chilly Climate - The Suppression of Speech on Palestine in Canada." Independent Jewish Voices Canada.

<https://www.ijvcanada.org/report-unveiling-the-chilly-climate-the-suppression-of-speech-on-palestine-in-canada/>

⁵ Jumana Bayeh. 2025. "Silencing Palestine: Universities Australia and the New Definition of Antisemitism". Overland Literary Journal. March 31, 2025.

<https://overland.org.au/2025/03/silencing-palestine-universities-australia-and-the-new-definition-of-antsemitism/>

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This conflation risks making both antisemitism and anti-Palestinian racism on campus more prevalent and more acute. To add, Universities Australia (UA) and its 39 member universities have repeatedly reaffirmed their commitment to academic freedom and freedom of expression, underscoring these principles as foundational to the higher education sector's mission. All 39 member universities have adopted the UA's 2018 statement on freedom of expression⁶, which declares:

"Universities have a special role as institutions dedicated to free, open and critical expression across the full scope of human knowledge and endeavour. Central to this role is the freedom of staff and students to teach, research, debate and learn independent of external political circumstance and pressure."

For universities to uphold their role as bastions of knowledge and critical thought, they must resist the erosion of academic freedom under the guise of combating antisemitism. Instead, they should foster an environment that supports diverse viewpoints, embraces rigorous debate, and addresses all forms of racism with a comprehensive, intersectional approach. By doing so, universities can ensure they remain true to their foundational principles of inquiry and inclusivity, contributing meaningfully to the pursuit of justice and understanding in a complex world.

Legally compatible: In July 2025, a Federal Court of Australia judgement by Racial Discrimination Act. Justice Angus Stewart held that "the ordinary, reasonable listener would understand that not all Jews are Zionists or support the actions of Israel in Gaza and that disparagement of Zionism constitutes disparagement of a philosophy or ideology and not a race or ethnic group."⁷ More recently, in August 2026, NSW Supreme Court Justice Desmond Fagan considered the IHRA definition directly and found its core text "so verbose and imprecise that it could not realistically be attributed to the ordinary, reasonably informed member of the Australian public", and that it was "detached from the reality of the common usage and understanding of antisemitism in this country."⁸ As such, the IHRA and UA definitions of antisemitism - definitions that two Australian courts have found to be detached from ordinary usage and are unable to distinguish between protected political expression as ratified by Australia under the International Covenant on Civil and Political Rights from racial vilification or discrimination, is in this sense not legally compatible under the TEQSA SRE criterion.

⁶ "University Leaders Reaffirm Longstanding Commitment To Founding Ideals". Universities Australia. May 20, 2019.

<https://universitiesaustralia.edu.au/media-item/university-leaders-reaffirm-longstanding-commitment-to-founding-ideals/>

⁷ Wertheim v Haddad [2025] FCA 720 [2025], Federal Court of Australia (Stewart J, 1 July 2025)

<https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2025/2025fca0720>

⁸ State of New South Wales v Farhat (final) [2026] NSWSC 985 (Fagan J, 17 August 2026):

<https://www.caselaw.nsw.gov.au/decision/1a00e6b4787e30be37fd7ccd>

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These concerns are not only confined to Australian law, or to critics of the IHRA and UA definitions, but are also supported by international organisations and human rights bodies. In 2023, Amnesty International, alongside 103 organisations, called on the United Nations not to endorse or adopt the IHRA definition of antisemitism, as it would “pose serious risks for Palestinians’ human rights, and for the right to freedom of expression globally.”⁹ At the United Nations, Special Rapporteur E. Tendayi Achiume found in a 2022 report to the General Assembly that the IHRA working definition and its illustrative examples “are wielded to prevent or suppress legitimate criticisms of the State of Israel, a State that must, like any other in the system, be accountable for human rights violations that it perpetrates”.¹⁰

We submit that racism in all forms is indeed a serious problem. The Racial Discrimination Act works to account for this. The IHRA and UA definitions of antisemitism, among other proposed definitions, are not grounded in contemporary anti-racism scholarship or practice. In fact, they go against current research and evidence-based best practice, making the necessary work of eliminating racism - such as the Australian Human Rights Commission’s National Anti-Racism Framework - more difficult.

Anti-Palestinian Racism in Australian Universities:

In November 2025, APAN launched the Anti-Palestinian Racism Project and National Register to record incidents of anti-Palestinian racism, and its impact on members of the Palestinian community and allies in this country. As part of this work, we developed a thorough guideline and description of anti-Palestinian racism which refers to conduct, policies, or institutional practices that, by intent or effect, produce unequal, exclusionary, or harmful outcomes for Palestinians, Palestinian Australians, or those perceived as Palestinian. It also impacts those that support and/or advocate for human rights, justice and liberation/freedom for the Palestinian people (‘allies’).¹¹ Anti-Palestinian Racism silences, excludes, erases, stereotypes, defames or dehumanises Palestinians and/or their narratives.¹²

⁹ “UN Must Respect Human Rights While Combatting Antisemitism.” 2023. Amnesty International. <https://www.amnesty.org/en/latest/news/2023/04/global-un-must-respect-human-rights-while-combatting-antisemitism/>

¹⁰ OHCHR. 2022. “A/77/512: Combating Glorification of Nazism, Neo - Nazism and Other Practices That Contribute to Fuelling Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance - Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, E. Tendayi Achiume.” OHCHR. October 7, 2022. <https://www.ohchr.org/en/documents/thematic-reports/a77512-combating-glorification-nazism-neo-nazism-and-other-practices>

¹¹ “Anti-Palestinian Racism Preliminary Report April 2026.” Australia Palestine Advocacy Network. April 30, 2026. https://apan.org.au/wp-content/uploads/APR_Interim-Report_v1.pdf

¹² Arab-Canadian Lawyers Association, “Anti-Palestinian Racism: Naming, Framing and Manifestations,” April 2022, p.4.

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Prior to, and since the launch of the Anti-Palestinian Racism register, we have witnessed a growing trend in the past 36 months of subjective feelings of discomfort or unease being wrongly equated with objective threats to physical safety, often leading to false accusations of antisemitism within the university setting.

These accusations often mask underlying anti-Palestinian racism, primarily because definitions of antisemitism - including the IHRA, UA, Nexus Definition, and Jerusalem Declaration on Antisemitism (JDA) - are all instruments of anti-Palestinian racism and must be opposed. They all demonstrate and entrench anti-Palestinian racism by: asserting that it is racist to criticise Zionism and/or Israel; elevating concerns about antisemitism above concerns about other forms of racism; erasing Palestinian political and cultural knowledge and insight; acting as tools for Nakba denial and denial of Palestinian self-determination; providing a mechanism to surveil and punish people for speaking truthfully about Palestine, Palestinians, Zionism and Israel; and suppressing protest rights and political advocacy.

If a definition of antisemitism is to be adopted, then we recommend a dictionary definition. Standard dictionary definitions are the only definitions of antisemitism that were not created in order to further entrench anti-Palestinian racism. One such definition includes the Oxford Reference.¹³

<https://static1.squarespace.com/static/61db30d12e169a5c45950345/t/627dcf83fa17ad41ff217964/1652412292220/Anti-Palestinian+Racism-+Naming%2C+Framing+and+Manifestations.pdf>

¹³ "Anti-Semitism." 2024. Oxford Reference. 2024.

<https://www.oxfordreference.com/display/10.1093/oi/authority.20110803095417471>