Universities Australia's response to the Department of Education's consultation on the Higher Education Support Commencing Student Instrument 2026

Universities Australia (UA) provides this response to the consultation on the Higher Education Support Commencing Student Instrument 2026 (the instrument), one of several instruments that support implementation of the *Universities Accord (Opening the Doors of Opportunity) Act 2026.*

The success of the Australian Universities Accord (Accord) reforms will depend on translating their policy objectives into clear, practical and workable arrangements for universities. The definition of a commencing student is one such detail, with important implications for how universities manage student places, support pathways into higher education and deliver on the Accord's equity ambitions.

UA's principal recommendation is to retain existing TCSI definitions of commencing student for 2027 and transition to a revised definition from 2028, following further consultation with the sector. Our members have raised significant concerns about the timing of the proposed changes and the administrative and operational challenges associated with their implementation. Additional consultation would help identify unintended consequences and give universities sufficient time to incorporate new requirements into their systems, policies and processes.

The function of the instrument is to support adjustments for places provided in excess of allocation under sections 33-38 to 33-39of the *Higher Education Support Act 2003*. The core policy consideration for the instrument is ensuring Managed Growth Funding does not miscategorise students as commencing students within a university's commencing student cap, inadvertently denying new students a place at a university. The definition also has implications for Needs-based Funding (NBF), which are addressed below.

There are multiple definitions of commencing student in higher education, each serving specific purposes. UA suggests a principle-based approach when defining terms that serve multiple purposes. Two guiding principles in this context include university autonomy and clarity of policy intention.

Recommendations

UA recommends that the Department:

1. Retain existing TCSI definitions of commencing student for 2027, with a revised definition to take effect from 2028 following further consultation and sufficient implementation time.

2. Adopt a principles-based approach to defining commencing students and other key terms across Accord-related policy instruments, ensuring definitions are fit-for-purpose, consistent with policy objectives and respectful of university autonomy.
3. Revise the instrument and explanatory statement to clearly articulate the intended policy outcomes, particularly the need to distinguish genuinely commencing students from those continuing their studies, changing courses or progressing through established pathways.
4. Amend the proposed definition to avoid unintended consequences for student access and progression, including by:
    a. recognising progression from sub-bachelor qualifications to bachelor degrees at the same provider without counting students as new commencements
    b. removing the ambiguous requirement for a 'substantial proportion' of completed units to be eligible for credit
    c. extending the re-admission period from three to five years, and
    d. recognising universities' existing policies and processes for determining commencement status, consistent with agreed policy principles.
5. Avoid automatically extending the definition to other policy instruments, including needs-based funding, without assessing whether it is appropriate to their distinct objectives and consulting the sector.

A principle-based approach to defining key terms, including commencing student

UA recommends that the Department adopt a principles-based approach to defining key terms across Accord-related policy instruments. Indicative principles should recognise the principle of university autonomy as self-accrediting institutions and ensuring clarity of policy objectives to inform the implementation across universities.

Commencing students are defined in different ways across policy instruments. This is legitimate given the policy intentions of each instrument vary. UA cautions against applying or integrating the proposed definition of commencing student to other policy instruments without first assessing the suitability of the definition to the specific circumstances.

UA notes that conventions around the use of defined terms in legislation are codified (Office of Parliamentary Counsel Drafting Direction No. 1.6). Consistent with this guidance, commencing student is a defined term for the purposes of calculating place allocation for transitioning (over-enrolled) Table A providers (Subdivision 33-C of the *Higher Education Support Act 2003*). The definition legitimately aims to exclude continuing students (including those transferring between courses) from a university's commencing load allocation. It does so however with complex and prescriptive wording that could be simplified.

The explanatory statement signals that the definition of commencing student will be extended to allocation of NBF. Current NBF guidelines do not anchor commencing students as a defined term (*Higher Education Support (Other Grants) Guidelines 2022).* Guidance for NBF has adopted a wider

and simpler definition of commencing student (Needs Based-Funding Guidance). Whilst UA anticipates there will be opportunities to provide feedback on NBF design in the near future, UA notes the support students from equity groups require is not restricted to their commencing status.

Commencing student status also features in policies mediating overseas students (e.g. Ministerial Direction 115), and reporting requirements (e.g. TCSI data elements E534 and E489, and guidance on commencing students (https://www.tcsisupport.gov.au/support/Commencing-Student).

UA recommends that the Department assess the suitability of definitions against the policy objectives of each instrument, rather than seeking uniformity where different definitions serve legitimate purposes.

UA would welcome the opportunity to work with the Department to develop principles for defining key terms across Accord-related policy instruments. The multiple meanings of 'commencing student' are likely to be mirrored in other terms as the Accord reform agenda is implemented.

Defining commencing students in a Universities Accord and university autonomy context

The definition of commencing student has specific and time-bound relevance for transition arrangements for universities that are currently overenrolled. Misrecognition of a student's commencing status in place allocation calculations will limit the availability of commencing places in ways that are inconsistent with Accord's policy objectives.

UA recommends that the instrument and explanatory statement clearly establish the intended policy outcomes and ensure the definition supports, rather than inadvertently constrains, universities' ability to deliver them.

Specific examples where the instrument is potentially at odds with Accord objectives include:

- Under the current definition stackable qualifications in higher education pathways will be counted as multiple commencements across sub-bachelor and bachelors degrees, undermining progress towards a more joined-up tertiary system.
- Students from equity groups are more likely to make use of pathways from lower to higher AQF awards. Counting these students as multiple commencements may also undermine progress towards Accord equity objectives.
- Should the definition be applied to NBF, a narrower definition of commencing students will limit the support available to students from equity backgrounds should they transfer between courses.
- Should the definition maintain ambiguous credit related references to 'substantial proportion of the units of study' there are risks that divergent approaches will undermine efforts to more seamless credit transfer. The regulation should contain a clear statement about how 'substantial' is defined: either by including a definition in the regulation itself or making it clear that universities have flexibility (within appropriate, defined limits) here.

Recommended improvements to the instrument

UA recommends that the Department revise the instrument to better reflect the Accord's policy objectives, minimise administrative complexity and respect institutional autonomy.

1. Clear establish the policy intent and scope of the instrument.

The instrument and explanatory statement should explicitly link the definition of commencing student to the relevant legislative provisions and policy objectives. This would reduce the risk of the definition becoming a default reference point for other policy instruments where it may not be fit for purpose.

UA recommends simplifying the instrument by introducing an overarching principle that captures its intended purpose and reduces reliance on prescriptive exclusions. The following principle, supported by UA members and reflected in other submissions, provides a possible basis:

> *A student's commencing status reflects the beginning of their formal engagement with a provider. This status recognises that students may progress through a structured series of courses and awards, and may transfer to courses with the provider that are better suited to their learning needs and preferences. A student's commencing status is not determined by differences or changes to a provider's course architecture, administrative course identifiers, curriculum restructuring, or provider configuration.*

2. Retain existing arrangements for 2027 and amend the proposed definition

If the Department determines that the current structure of the instrument should be retained, UA recommends the following changes:

a. Defer implementation until 2028, maintaining existing TCSI definitions for 2027 allocation processes to allow sufficient time for further consultation and implementation. Simply reference that the completed learning is eligible for credit rather than specifying 'substantial proportion' of units.
b. Ensure that higher education pathways through sub-bachelor study are supported through a definition of 'commencing student' that excludes those progressing to Bachelors degree from a sub-Bachelor course at the provider.
c. Better enable the re-admission of students who may have disengaged from the system, by extending the time frame for re-admission from three years to five years.

3. Recognise institutional autonomy

The instrument should explicitly recognise that universities maintain policies and processes for managing student commencement, progression, course transfers and re-admission.

These arrangements should be respected where they are consistent with agreed policy principles, allowing universities to respond to their students' needs and deliver their distinct educational missions without unnecessary regulatory prescription.

4. Consider a simpler definition aligned with existing systems

UA also recommends that the Department consider alternative wording that distinguishes between a student's first entry to a provider and their subsequent re-entry, consistent with the principles-based approach and existing reporting systems. A potential approach would be:

- First entry: A student is commencing when they first undertake eligible study at the provider in an award course, with at least one unit of study having passed census. The Institutional Commencement Date would be derived from the earliest E600 (Unit of Study Commencement Date) associated with an eligible census-confirmed enrolment.
- Re-entry: A student is commencing again when they return following a defined period without unit of study enrolment at the provider, or potentially when commencing a course at a different qualification level, depending on the policy intent.

This approach would provide a clearer basis for identifying commencing students while better aligning the instrument with universities' existing systems and processes.

UA encourages the Department to work closely with the sector to refine the definition before implementation, ensuring that the final arrangements are practical, proportionate and consistent with the Accord's broader objectives of expanding opportunity and participation in higher education.