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NTEU Submission to the

Senate Education, Employment and Workplace Relations Committee

Inquiry into the Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009

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The National Tertiary Education Union (NTEU) represents approximately 25,000 members employed in Australia's higher education sector, including professional and technical staff employed in student organisations and campus service organisations.

The Union welcomes this opportunity to present its views to the Committee in relation to the Higher Education Legislation Amendment (Student Services and Amenities, and other Measures) Bill 2009. Although the Bill incorporates other measures, NTEU's comments are primarily in relation to the elements of the legislation that concern the provision of student services, amenities and student representation.

NTEU strongly supports the following statement from the Federal Government's 2008 *Summary Report into the Impact of Voluntary Student Unionism on Services, Amenities and Representation for Australian University Students*:

*The Australian Government is committed to providing young people with a dedicated suite of youth-focussed policies. Part of this commitment is ensuring that university students have access to the amenities and services they need, including child care, health care, counselling and sporting facilities, as well as independent and democratic student representative bodies.*¹

NTEU welcomes this commitment and the underlying principle that for university education to be comprehensive there must also be present a dynamic campus culture that will support students and facilitate their broader education experience. Sadly, this culture has declined significantly as a result of the anti-student organisation legislation (so-called Voluntary Student Unionism (VSU) legislation) imposed on the sector by the previous Government.

The Bill's primary objective to re-establish quality student services and advocacy support is both necessary and urgent. Recent research conducted by sector groups, including the National Union of Students (NUS), the Council of Australian Postgraduate Associations (CAPA), the Association of Campus University and TAFE Managers (ACUMA), Australian Universities Sport (AUS) and Universities Australia, together with NTEU's own analysis, shows that student services and staffing has significantly decreased (or disappeared completely) at almost every institution as a result of VSU.

ACUMA's latest survey² noted that as of February 2008, more than 1,000 jobs have been lost in the student services area, with an overall reduction in employment of 30%. The report also noted that by the end of 2007, 261 Union services nationally that had been shut down or reduced included areas such as funding for Orientation, clubs, childcare and assistance to international students, with another 50 sporting and 27 union services nationally under pressure and potentially threatened with discontinuation.

VSU has also had a devastating impact on student representation and activism. The Federal Government's 2008 *Summary Report into the Impact of Voluntary Student Unionism on Services, Amenities and Representation for Australian University Students* specifically noted that most submissions indicated the capacity for student advocacy and democratic student representation had been significantly reduced since VSU. Indeed, a number of submissions indicated that student representative bodies had been lost or merged since the introduction of VSU, with some institutions noting significant difficulties in finding students to take on representative roles on university bodies.

¹ DEWRR, *Summary Report into the Impact of Voluntary Student Unionism on Services, Amenities and Representation for Australian University Students*, April 2008, Canberra, pg 1 (<http://www.unistudent.com.au/home/documents/VSU%20report.pdf>)

² ACUMA & Australian University Sport, *2007 VSU Impact Study, Second Draft Release of Research Report*, February 2008, Milton, Queensland, pg 11 (http://www.acuma.org.au/Media/downloads/80_16200849022522_82.pdf)

These anecdotal evidence provided in these submissions last year is supported recent research conducted by NUS³ showing a substantial number of student organisation to have been completely disbanded and replaced by university run bodies and/or commercially run entities. Others have been forced into amalgamations or have been substantially restructured, with student representative bodies reduced and moved to 'advisory' positions. The overall result for students is less than satisfactory. Students now have less of a voice in their institution and education, are paying higher fees via user-pays structures, and for the most part have access to fewer non-academic student services.

NTEU believes strongly that any legislation or regulation relating to student services and advocacy support must also establish and protect independent and democratic student representation. The Union supports Minister Ellis's statement in her second reading of the Bill, which called for universities to ensure that the views of students are taken into account in institutional decision making via democratic student representation and processes⁴. While the majority of universities would support the Minister's counsel, NTEU believes the only way to guarantee that all students would have access to democratic and independent representation is for these rights to be enacted via binding provisions (be it legislative, regulatory or a funding requirement).

NTEU notes that the legislation states such provisions may be made within the proposed Guidelines (the *National Student Representation and Advocacy Protocols*) and makes general suggestions as to the content of these provisions. While the Union notes that much of the details to be covered by the Guidelines are yet to be considered, we are concerned that the Bill does not make mention of *independent and democratic* student representation and advocacy, that student support services need only be *basic* in order to meet Government requirements, and that these provisions *may* be applied.

A further concern relates to the specific clause (*new subsection 19-67 (3)*) that prevents the Guidelines from requiring a provider to fund an organisation of students, or of students and other persons. While the Union notes the Government does not wish to return compulsory student unionism to campuses, and the majority of universities are likely to *choose* to fund their student body, it remains that this clause places student organisations in a precarious position. NTEU maintains that genuine independence of a student representative body can only be guaranteed through access to funding over which it has some discretion. In terms of the provisions of this Bill, NTEU believes the bulk of such discretionary funds should be sourced from the Student Services and Amenities Fees (SSAF), with the proviso that the disbursement of these funds would be in keeping with the provisions set in the associated Guidelines and Protocols.

The Union's concern over independence is reinforced by the fact that the imposition of VSU saw a number of institutions establish their own advocacy and representative structures (sometimes to the detriment of the existing student representative body). While a number of institutions argue that such structures are operated at "arms length", concerns remain over possible conflicts of interest within such a framework, and as such NTEU does not view such arrangements as appropriate mechanisms for ensuing independent advocacy student representation. However, under this clause, an institution may decide not to fund a student-run organisation and use the SSAF to support their own institution-run advocacy and welfare services and student representation. Furthermore, NTEU notes that while the legislation states that a higher education provider must not spend any SSAF fees for purposes other than what is specified in the *Student Services and Amenities Fee Guidelines*, there are no restrictions as to who this funding is to go to.

³ NUS, *Submission to the Senate Education, Employment and Workplace Relations Committee Inquiry into Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures Bill 2009)* February 2009, Melbourne. Pg 44 - 46

⁴ Ms Kate Ellis, Minister for Sport and Youth Affairs, *Second Reading Speech Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009*, 11 Feb 2009, pg 3.

Should a university deem it desirable to do so, *clause 19.67(3)* also has the potential to restrict SSAF funding on a broader scale, including its use in the payment of fees to national student representative organisations such as CAPA and NUS. Organisations such as these play an important role in Australia's higher education sector, enabling students to have a public voice around issues relating to student representation, advocacy, equitable access to universities, HECS fees, student income support, quality of learning and teaching and promoting engagement with the sector. The legislation should not allow institutions sole discretion to decide whether SSAF funding can be used in the payment of membership of these organisations. Each independently elected student representative organisation should be free to decide whether joining such a body is in the best interests of its students.

For similar reasons, NTEU seeks clarification as to the purpose of clause (4) under proposed *Section 19-67*, which appears to remove the *Student Services, Amenities, Representation and Advocacy Guidelines* from compliance requirements for higher education providers (as defined under table 1 of the *Higher Education Support Act (HESA) 2003*). However, NTEU notes that the *Student Services, Amenities, Representation and Advocacy Guidelines*, specify that:

*Higher education providers (HEPs) that receive funding under the Commonwealth Grant Scheme will be required to satisfy the Guidelines which detail the **National Access to Services Benchmarks**, relating to the provision of information on and access to student support services of a non-academic nature and the **National Student Representation and Advocacy Protocols**, relating to mechanisms for opportunities for student representation and access to advocacy services.*

It would therefore appear that the *National Access to Services Benchmarks* found within the *Student Services, Amenities, Representation and Advocacy Guidelines* require institutions that receive Commonwealth Grant Scheme (CGS) funding to satisfy these Guidelines, yet the legislation that creates these Guidelines allows them to be removed from compliance measures within the HESA.

NTEU advises the Committee that should the intention of clause (4) be to permit institutions the option of not fulfilling the requirements for student representation and advocacy as specified under the Guidelines, NTEU opposes this clause.

RECOMMENDATIONS

With reference to the issues noted in this submission, NTEU makes the following recommendations:

Recommendation 1:

In order to ensure that student representation and advocacy is genuinely independent NTEU recommends that:

- a) Each institution must have democratically elected student representative organisation/s, elected by and from all currently enrolled students of that institution;
- b) That any such student representative organisation has access to sufficient resources and funding, sourced from but not restricted to, Student Services and Amenities Fees (SSAF) funding, to carry out its mission of independent advocacy and student representation;
- c) That these principles are enshrined in the legislative instrument.

Recommendation 2:

That Section 19-67(2) be changed from:

“The Student Services, Amenities, Representation and Advocacy Guidelines *may provide for*”

and be altered to read:

“The Student Services, Amenities, Representation and Advocacy Guidelines *will establish*”

Furthermore, that clause c of Section 19-67(2) be amended to read:

“(c) requirements relating to the representation and advocacy of the interests of students *enshrined by the notion of a democratically elected and independent student body.*”

Recommendation 3:

That Section 19-67(3) be omitted from the Bill.

Recommendation 4:

That clarification be given on the purposes of Section 19-67(4) of the Bill. If the intention of this clause is to allow higher education providers the option of not complying with the *Student Services, Amenities, Representation and Advocacy Guidelines*, NTEU does not support this clause and recommends its omission.

Recommendation 5:

There should be a clear and transparent process of sector consultation for the on-going establishment of the Guidelines, Benchmarks and Protocols relating to the Bill.