

Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026

Submission No: 023

Submission By: National Tertiary Education Union - Queensland Division

Publication: Making the submission and your name public

NATIONAL TERTIARY EDUCATION UNION

Queensland Division

Justice, Integrity and Community Safety Committee

FIGHTING ANTISEMITISM AND KEEPING GUNS OUT OF THE HANDS OF TERRORISTS AND CRIMINALS AMENDMENT BILL 2026

17 February 2026

Executive Summary

The National Tertiary Education Union Queensland Division (NTEU) makes this submission to express profound concern about the impact of sections 52C and 52DA of the *Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026* on academic freedom, teaching, learning, and research in Queensland's universities.

The NTEU strongly condemns all forms of antisemitism and other forms of racism, and supports robust measures to protect all members of the community from genuine harassment and discrimination. However, we submit that the proposed amendments to sections 52C and 52DA of the Criminal Code in the Bill as currently drafted represent an unacceptable attack on academic freedom. As currently drafted these laws put NTEU members and all university staff at risk of prosecution or employer disciplinary action for the conduct of their normal duties of teaching, research and scholarly discourse – this risk will have a chilling effect on academic freedom that is unacceptable in a modern liberal society.

1. Introduction

The National Tertiary Education Union is the union for all higher education and research employees in Australia. The NTEU represents over 28,000 members working in universities, including academic staff, general staff, and casual employees. In Queensland, the NTEU represents thousands of university workers across all Queensland universities.

This submission addresses Clause 7 of the Bill which amends sections 52C and 52DA regarding prohibited expressions. The NTEU takes no position in this submission on other provisions relating to firearms, weapons, or other matters.

Sections 52C and 52DA create new criminal offences related to "prescribed phrases." Section 52C prohibits the public distribution, publication, display, or

recitation of any phrase prescribed by regulation if done in a way that might reasonably be expected to cause a member of the public to feel menaced, harassed, or offended. Section 52C empowers the Queensland Attorney-General to prescribe phrases by regulation.

Our focus is the grave threat these provisions pose to:

1. The employment security and professional rights of university staff
2. Academic freedom
3. The quality of higher education and research in Queensland

2. Chilling Effects on Teaching, Learning, and Research

2.1 The Potential Criminalisation of Academic Discourse

Sections 52C and 52DA don't just prohibit hateful conduct as intended—they potentially chill entire fields of academic inquiry.

NTEU notes that under 52DA (2) a person is exempted from conviction if they have a “reasonable excuse” to use a prohibited phrase, including for “genuine” educational” purposes.

While this appears to protect university staff, it provides nowhere near sufficient certainty or protection.

2.2. Post-hoc determination: you only find out after being charged

The 'reasonable excuse' is a defence, not an immunity. This means:

1. Academics can still be arrested, charged, and prosecuted
2. They only discover whether their work qualifies as a 'reasonable excuse' after defending themselves in criminal court
3. They bear the burden and expense of mounting a legal defence
4. They suffer the reputational damage of criminal charges regardless of outcome
5. The process itself therefore becomes the punishment

Individual staff cannot 100% know in advance whether their work will be deemed 'genuine' and 'educational' constituting a 'reasonable excuse.' This legal uncertainty is fatal to academic freedom.

Faced with even a small risk of criminal prosecution, rational university staff will avoid any material that might be questioned:

- Why risk assigning a reading that contains prescribed phrases, even if you believe it's genuinely educational, when you can assign something safer?
- Why supervise a PhD on the history of the Abrahamic religions and their importance to Western culture when a student seminar or presentation might lead to complaints?
- Why teach courses on Middle Eastern politics when every lecture creates prosecution risk?
- Why remain in Queensland academia when other states don't have these risks?

This is how censorship works in practice: **the existence of criminal liability, even with a defence, suppresses far more academic speech than prosecutors ever charge.**

3. Employment Consequences of the Bill

Even if criminal charges are never laid, complaints alone can destroy careers:

- **Universities will have to investigate complaints:** creating stress and reputational damage for staff and institutions
- **Employers will have to judge the legality of speech:** even prior to police taking action or the court's findings, the employer will have to respond to a complaint. In politically charged situations this creates risks for both employers and employees
- **Casual staff will be immediately dismissed:** universities won't need to wait for courts to determine if the 'reasonable excuse' defence applies
- **Permanent staff may face disciplinary action:** even if never criminally charged an employer can use suspicion of unlawful behaviour to launch disciplinary proceedings
- **Promotion and tenure decisions will be affected:** by any controversy or student complaint
- **Institutional risk-aversion will drive censorship:** universities will prohibit teaching content pre-emptively to avoid complaints

Example under the proposed bill: A Queensland journalism lecturer assigns a reading containing a prescribed phrase. A student who interprets this usage as non-genuine complains. Police investigate. The lecturer is charged. They must hire a lawyer, prepare a defence, appear in court, and argue their teaching was 'genuine' and 'educational' constituting a 'reasonable excuse.' Even if acquitted, their reputation is damaged, their employment may be terminated by the employer on the basis that they are facing criminal charges, and other academics see what happens to those who teach in the proscribed areas, chilling academic activity.

3.1. The disproportionate impact on casual staff

NTEU estimates that at least half of university teaching is done by employees engaged under “casual” contracts, who can be dismissed at no notice for no stated reason and with little recourse under the Fair Work Act. For them the 'reasonable excuse' defence is meaningless:

- Casual staff can be dismissed immediately upon complaint—no need to wait for criminal proceedings
- Universities will terminate contracts pre-emptively to avoid institutional liability
- Casual staff have no job security to weather an investigation
- Even if the 'reasonable excuse' defence would succeed in court, their career is already damaged or over
- Therefore: the defence protects against conviction, not against prosecution or dismissal

4. Academic Freedom is Protected Under Federal Law

Academic freedom is not merely a professional courtesy—it is a legal right protected under federal legislation and Enterprise Agreements.

Section 19-115 of the *Higher Education Support Act 2003* (HESA) requires that, as a condition of receiving Commonwealth funding, all Australian universities must have a policy that upholds free intellectual inquiry in learning, teaching and research.

Specifically, HESA mandates that university policies must:

- Affirm that academic staff have freedom in their teaching, research and public commentary
- Protect academic staff from institutional censorship
- Enable academics to express unpopular or controversial views

University Enterprise Agreements also include explicit defence of academic freedom. This legislation risks being used to undermine lawfully negotiated agreements that were negotiated by Queensland universities in recognition of the importance of academic freedom to university functions.

Universities cannot fulfill their social function—advancing knowledge, fostering critical thinking, challenging orthodoxy, and serving the public good—without robust protection for academic freedom.

5. Recommendations

The NTEU urges the Justice, Integrity and Community Safety Committee to recommend an amendment at a minimum that would create explicit immunity for Queensland's academics.

If the Bill genuinely intended to protect academic freedom, it would provide **immunity, not merely a defence**. This would mean academics could not be charged in the first place. The current 'reasonable excuse' defence means they can be charged, investigated, prosecuted, and must defend themselves—even if ultimately successful.

The difference between immunity and defence is the difference between academic freedom and academic precarity.

Proposed Amendment to the Bill, insert at the end of Clause 7:

"Sections 52C and 52DA do not apply to conduct that occurs bona fide in the course of good faith:

- (a) academic teaching at an accredited higher education institution;*
- (b) academic or scholarly research or publication;*
- (c) critical analysis, commentary, or scholarship on political rhetoric, movements, ideologies, or current affairs"*

Making this amendment will provide clarity and certainty to Queensland's university staff – protecting academic freedom in this state.