# Guidance note: *Representation*

 (June 2025)

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| Providers should note that Guidance Notes are intended to provide guidance only. The definitive instruments for regulatory purposes remain the TEQSA Act and the Higher Education Standards Framework as amended from time to time. |

## What does Representation encompass?

In the context of the *Higher Education Standards Framework (Threshold Standards) 2021* (Threshold Standards), representation refers to a provider’s obligations to ensure:

* representations of its educational offerings and charges are accurate
* information for current and prospective students about a course of study and its outcomes is not misleading.

The primary obligations regarding representation are found in section 7.1 of the Threshold Standards.

The purpose of section 7.1 is to ensure providers:

* (and their agents or other parties acting on its behalf) accurately portray the institution or their educational offerings and charges
* take prompt corrective action in the event or likelihood of misrepresentation or unethical conduct occurring on its behalf
* protect students from making decisions about their higher education based on incorrect or misleading information.

Overall, the intention of the section is to reduce the risk of students not understanding what they are agreeing to when choosing a course of study.

While issues of staff qualifications and research standing are relevant to representations, they are addressed in their own guidance notes:

* [Staffing](https://www.teqsa.gov.au/guides-resources/resources/guidance-notes/guidance-note-staffing)
* [Research requirements for Australian universities](https://www.teqsa.gov.au/guides-resources/resources/guidance-notes/guidance-note-research-requirements-australian-universities)
* [Research and research training](https://www.teqsa.gov.au/guides-resources/resources/guidance-notes/guidance-note-research-and-research-training)

The following information is not dealt with in this guidance note, other than in a cursory manner:

* student grievances and complaints, covered by section 2.4 of the Threshold Standards. General information about dispute resolution mechanisms relating to higher education providers and its agents is included in the Student Grievances and Complaints Guidance note (revision under development)
* information providers give prospective and current students, covered by section 7.2 of the Threshold Standards. This information is discussed in the Information for Prospective and Current Students Guidance note (for consultation).

## What TEQSA will look for

TEQSA considers the Threshold Standards in the context of representations, among which most notably are:

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| **Part A: Standards for HE Providers** | **Key considerations** |
| 1.1: Admission | * admissions policies, requirements and procedures are well documented. Documentation is presented in an easily understood manner to students to ensure they are aware of their rights and obligations, as well as those of their provider.
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| 1.5.9: Qualifications and Certification | * entities offering or conferring higher education courses protected under the Australian Qualifications Framework (AQF) are registered higher education providers.
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| 2.4: Student Grievances and Complaints  | * students have access to effective and fair complaints resolution and appeals processes with their provider, its agents and related parties.
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| 6.2.1: Corporate Monitoring and Accountability | * corporate governing bodies ensure compliance with existing legislation, including Australian Consumer Law.
* risks to higher education operations are identified and material risks are managed and mitigated, including monitoring of agents and third-parties.
* qualifications are awarded legitimately.
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| 7.1: Representation  | * information about educational offerings and charges, and outcomes associated with the course of study is accurate and not misleading.
* representations about course accreditation, whether by TEQSA or through professional accreditation, are accurate and courses are not described as accredited until accreditation has been obtained.
* representations about units eligible for course credit are specified and the terms are defined.
* there are formal contracts in place that bind agents or other parties to performance measures that are monitored, and prompt corrective action is taken when unethical conduct occurs.
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| 7.2: Information for Prospective and Current Students  | * accurate information is publicly available and accessible to allow students to make informed decisions about educational offerings.
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### Obligations of providers offering education to overseas students

Where it applies to a provider, TEQSA considers the [*National Code of Practice for Providers of Education and Training to Overseas Students 2018*](https://www.legislation.gov.au/Details/F2017L01182)(National Code) and the [*Education Services for Overseas Students Act 2000*](https://www.legislation.gov.au/Details/C2022C00066)(ESOS Act). TEQSA does so in its role as the ESOS agency for registered higher education providers.

Sections of the National Code relevant to representations are:

* **1.1** – the marketing and promotion of a provider’s courses is not false or misleading.
* **1.2** –providers must not provide false or misleading information when seeking to enter into written agreementswith overseas students.
* **1.3** –providers must not claim to commit to secure for a migration outcome for students who undertake a course of study with the provider.
* **3.1** – providers should not mislead prospective overseas students about the contents of the written agreement, especially regarding tuition and non-tuition fees
* **4.4** –providers must take immediate corrective action if it becomes aware, or has reason to believe, an agent, or the agent’s employee or subcontractor, has not complied with their responsibilities under the National Code.
* **4.5** – agents of a provider, their employees and subcontractors have obligations to not engage in false or misleading recruitment practices and act in good faith. Providers are to take corrective action when it becomes aware or has reason to believe these obligations have not been complied with.

### The TEQSA Act

TEQSA also considers obligations under the [*Tertiary Education Quality and Standards Agency Act 2011*](https://www.legislation.gov.au/Details/C2022C00004) (TEQSA Act). The most relevant sections to representations are:

* section 105, which makes it an offence for a higher education provider to offer a regulated higher education award if it is unregulated.
* section 106, which makes it an offence for a higher education provider to represent itself as being able to offer a higher education award when it is unregulated.

### False or misleading representations

Under section 7.1 of the Threshold Standards, a provider must ensure all its educational offerings and charges, whether directly or through one of its agents or other parties, is accurate and not misleading.

These requirements are complemented by those imposed on providers by [Australian Consumer Law (ACL).](https://www.legislation.gov.au/Details/C2022C00365/Html/Volume_3#_Toc122366475) Under the ACL it is unlawful for a provider to:

* make false or misleading representations
* engage in misleading conduct in trade and commerce.

A misleading representation is a claim or representation likely to create a false impression of the price, value, or quality of goods or services. Representations can either be explicitly communicated (express) or implied.

For up to date information about obligations under the ACL, including information about express and implied representations, refer to the [Australian Competition and Consumer Commission](https://www.accc.gov.au/publications/advertising-and-selling-guide/advertising-and-selling-guide/avoid-misleading-or-deceptive-claims-or-conduct/misleading-or-deceptive-conduct#:~:text=It%20is%20illegal%20for%20a,a%20result%20of%20your%20conduct.) (ACCC) or state-based equivalent.

To limit the risk of making false or misleading representations, a diligent provider will:

* implement proportionate processes or procedures to ensure significant or large-scale representations are given adequate scrutiny before being shared with students
* ensure staff and agents are aware of and have access to reasonable information to make representations on behalf of the provider. What is reasonable information will depend on context. For example, staff responsible for giving students information about course costs should be aware of, and be able to access, the latest information about the cost of the provider’s courses
* favour plain English communication so all students, including those from diverse backgrounds and those with English as a second language, are less likely to be unintentionally misled by the provider’s representations
* monitor for instances of inaccurate or misleading representations and use this to inform improvements proportionate to situation.

### Providers’ responsibility for representations made by its agents

To ensure students are not disadvantaged by the representations of a provider’s agents, standard 7.1.4 of the Threshold Standards places obligations on providers to:

* enter formal contractual relationships with agents, or any other party who represents them (including but not limited to sub-agents). These contracts should contain provisions about how the provider will require the agent or other party conduct themselves, represent the provider and represent the provider’s educational offerings
* monitor the performance of agents and other parties. This can include, but is not limited to monitoring claims by students about being misled by an agent or other party and surveying students about their experiences with agents or third-parties
* take prompt corrective action where there is information to suggest an agent, or other party is engaging in misrepresentations or unethical conduct. This may include ending contractual relationships with an agent or other party.

### Representing microcredentials

A microcredential as defined in the [National Microcredentials Framework](https://www.education.gov.au/higher-education-publications/resources/national-microcredentials-framework) is a ‘certification of assessed learning or competence…less than an AQF award qualification, that is additional, alternate, complementary to or a component part of an AQF award qualification’.

TEQSA’s regulatory remit for microcredentials includes, but is not limited to:

* the offering and conferring of higher education awards based solely on a student’s completion of microcredentials as opposed to the completion of a course of study (section 107 TEQSA Act),
* courses of study wholly made up of microcredentials, which result in the conferral of a higher education award that is not accredited by TEQSA or by a provider with self-accrediting authority
* the accuracy of representations to students about a provider’s microcredentials bearing credit toward a course at AQF level 5 or greater.

TEQSA expects providers not to mislead students when representing microcredentials. In particular, providers should not represent that a microcredential:

* is accredited by TEQSA or another accrediting body if it is not
* leads to a credit toward, or admission to, a course of study if it does not
* leads to a regulated higher education award, for example by naming a microcredential a ‘semi-Diploma of Business’ or representing the microcredential as like an AQF award.

## Identified issues

Within the context of the Threshold Standards, TEQSA has identified a range of issues regarding representations that indicate potential risks to students. These include, but are not limited to:

* Misleading claims about educational offerings and charges
	+ claiming a course is accredited by TEQSA or a professional accreditation body when it does not hold accreditation, or is still undertaking the relevant assessment
	+ making false claims about being able to guarantee migration outcomes and/or visas to students for studying with the provider
	+ claiming to be in a certain percentage of education providers, e.g., the ‘top 1% of higher education providers’, in a particular field, in contrast to existing data or without any reliable data to make this claim
	+ claiming students will achieve specified learning outcomes via a course when the specific learning outcomes do not form part of the course
	+ making false claims about course credit and its transferability to another provider
	+ incorrectly representing the costs of a course, regardless of whether it was unintentional
	+ making false claims about the career outcomes of its graduates
	+ failing to give students additional information about a course in circumstances where it would be reasonable to do so. For example, not telling a student that a legal studies course will not enable them to practice as a lawyer despite the student telling the provider this is why they want to do the course.
* Representations of agents or other parties acting on behalf of the provider
	+ lack of clear or enforceable contractual arrangements with agents or third-parties about how the agent or third-party should represent the provider or conduct themselves
	+ lack of monitoring, and/or process for monitoring concerns about agents' or third-parties’ conduct and representations
	+ lack of monitoring of student engagement and progression for students coming through these pathways
	+ maintaining arrangements with agents and third-parties who have a history of misrepresentation.

## Related resources

* Guidance note: Student Grievances and Complaints (revision under development)
* Guidance note: Information for Prospective and Current Students (for consultation)
* Guidance note: Information Management (for consultation)
* Guidance note: Monitoring, Review and Improvement (under development)
* [ACCC: Advertising and selling guide – Misleading or deceptive conduct](https://www.accc.gov.au/publications/advertising-and-selling-guide/advertising-and-selling-guide/avoid-misleading-or-deceptive-claims-or-conduct/misleading-or-deceptive-conduct#:~:text=It%20is%20illegal%20for%20a,a%20result%20of%20your%20conduct.)
* [Australian Consumer Law Website](https://consumer.gov.au/resources-and-guides)
* [National Microcredentials Framework](https://www.education.gov.au/higher-education-publications/resources/national-microcredentials-framework)
* [*Tertiary Education Quality and Standards Agency Act 2011*](https://www.legislation.gov.au/Details/C2022C00004) (TEQSA Act).

| **Version #** | **Date** | **Key changes** |
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