

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Education

Higher Education Support Act 2003

***Higher Education Support (Other Grants) Amendment (Disability Support Fund) Guidelines
2026***

AUTHORITY

Section 238-10 of the *Higher Education Support Act 2003* (the Act) provides that the Minister may make Other Grants Guidelines to, amongst other things, provide for matters necessary or convenient to be provided in order to carry out or give effect to Part 2-3 of the Act in relation to grants payable under that Part.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations, or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument. The amendments to the *Higher Education Support (Other Grants) Guidelines 2022* (the Principal Instrument) made by the *Higher Education Support (Other Grants) Amendment (Disability Support Fund) Guidelines 2026* (the Amendment Instrument) rely on this provision.

PURPOSE AND OPERATION

The Amendment Instrument amends the Principal Instrument to make amendments to the Disability Support Fund (DSF), a program specified in Division 1 in Part 3 of the Principal Instrument.

The amendments impose extra conditions of eligibility that Table A providers must meet in order to be eligible to receive grants under the DSF program, further conditions on Table A providers on how their grant under the program can be used, and more detailed conditions about reporting on the Table A providers' use of the grant.

The amendments build upon the Australian Government's 2024-25 Mid-Year Economic and Fiscal Outlook commitment to significantly increase the total amount of funding available for eligible providers under the DSF. The amendments require that providers must set up a disability governance committee and implement strategies that ensure that the Table A provider takes action in relation to improving the lived experience of people with disability, in order to receive a DSF grant. This includes a requirement that the disability governance committee provide advice to the Table A provider on the use of the grants under the DSF. This is important to ensure that Table A providers receive advice about the use of grants under the DSF that considers and is aligned with the needs of people with disability.

The amendments provide for the use of a proportion of the enrolments-based grant amount of the DSF to facilitate the work of the disability governance committee. This will assist in enabling the disability governance committee to effectively and efficiently carry out its functions as set out in the committee's terms of reference, as well as ensure students with disability, especially students with disability enrolled at Table A providers with geographically dispersed campuses, are able to participate in the disability governance committee by off-setting the costs of transportation associated with attending meetings of the committee.

The amendments require the publication of important information to a Table A provider's website including the members and terms of reference of the disability governance committee, the disability education inclusion strategy and the disability workforce inclusion strategy. This ensures stakeholders, including students and staff with disability, are aware of and can learn and inquire about the work of the disability governance committee, as well as the disability educational and workforce inclusion strategies of a Table A provider.

The amendments also clarify requirements for reporting to the Minister on the use of grants under the DSF by eligible Table A providers.

COMMENCEMENT

The Amendment Instrument commences on 1 July 2026.

CONSULTATION

The Department of Education (the department) undertook targeted consultation with higher education and disability stakeholders on the amendments.

The department consulted on the amendments with the Higher Education Disability Roundtable in August 2025. The Higher Education Disability Roundtable is a forum convened and chaired by the department and consists of senior disability and equity stakeholders, university staff and students with disability, disability practitioners, and representatives from Disability Representative Organisations, the Australian Human Rights Commission, Universities Australia, and the National Union of Students. The Higher Education Disability Roundtable supported the amendments.

The department consulted on the amendments with disability practitioners and managers at eligible providers in August 2025, as well as with peak bodies representing eligible providers in August, September and October 2025 (these being Australian Technology Network of Universities, Innovative Research Universities, Regional Universities Network and Universities Australia). There was broad support for inclusive and responsive institutional governance arrangements as well as enhanced accountability and transparency. Some stakeholders expressed concerns in relation to the timing of the changes to the eligibility conditions for the DSF, the practical implications for student participation in the disability governance committee, training for members of the disability governance committee, and

the need to support institutional flexibility in meeting the new eligibility conditions for the DSF.

In response to the consultation, the amendments incorporate:

- A delayed commencement date along with clarification that the amendments that impose new requirements on Table A providers will only apply to grants made from the 2027 grant year. This recognises the importance of ensuring eligible Table A providers have sufficient time to plan and implement the institutional changes needed to meet the new extra conditions of eligibility and conditions imposed on the DSF grants.
- The use of a proportion of the enrolments-based grant amount of the DSF to facilitate the work of the disability governance committee. This recognises calls from stakeholders for the need to support Table A providers to manage the costs associated with establishing and maintaining a disability governance committee, while ensuring the use of grants under the DSF continue to promote equality of opportunity for students with disability.
- Clarification that the disability education inclusion strategy and the disability workforce inclusion strategy may be discrete strategy documents or incorporated in other strategy documents, such as but not limited to, a disability action plan. This minimises the burden on eligible providers by limiting the need to replace or redesign existing disability related strategies which meet the new extra conditions of eligibility for the DSF.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Higher Education Support (Other Grants) Amendment (Disability Support Fund) Guidelines 2026

The *Higher Education Support (Other Grants) Amendment (Disability Support Fund) Guidelines 2026* (the Amendment Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Amendment Instrument amends the *Higher Education Support (Other Grants) Guidelines 2022* (the Principal Instrument) to make amendments to the Disability Support Fund (DSF), a program specified in Division 1 in Part 3 of the Principal Instrument.

The amendments impose extra conditions of eligibility that Table A providers must meet in order to be eligible to receive grants under the DSF program, further conditions on Table A providers on how their grant under the program can be used, and more detailed conditions about reporting on their use of the grant.

The amendments build upon the Australian Government's 2024-25 Mid-Year Economic and Fiscal Outlook commitment to significantly increase the total amount of funding available for eligible providers under the DSF. The amendments require that Table A providers set up a disability governance committee and implement strategies that ensure the Table A provider takes action in relation to improving the lived experience of people with disability, in order to receive a DSF grant. This includes a requirement that the disability governance committee provide advice to the Table A provider on the use of the grants under the DSF. This is important to ensure that Table A providers receive advice about the use of grants under the DSF that considers and is aligned with the needs of people with disability.

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The amendments require the publication of important information on a Table A provider's website including the members and terms of reference of the disability governance committee, the disability education inclusion strategy and the disability workforce inclusion strategy. This ensures stakeholders, including students and staff with disability, are aware of

and can learn and inquire about the work of the disability governance committee, as well as the disability educational and workforce inclusion strategies of a Table A provider.

The amendments also clarify requirements for reporting to the Minister on the use of grants under the Disability Support Fund by eligible providers.

Human rights implications

The Amendment Instrument engages the rights of people with disability to education in Article 24 of the *Convention of the Rights of Persons with Disabilities* (CRPD).

Article 24 of the CRPD provides State Parties must ensure the realisation of the right of persons with disabilities to education through an inclusive education system at all levels, including tertiary education, for all students, including people with disabilities, without discrimination and on equal terms with others.

Article 24 also sets out the aims of an inclusive education system as being to promote the full development of human potential and sense of dignity and self-worth, by strengthening respect for human rights, fundamental freedoms, and diversity, to foster the personality, talents and creativity of people with disabilities, as well as their mental and physical abilities, to their fullest potential and to enable people with disabilities to participate effectively in society.

The Amendment Instrument supports the rights of people with disabilities as it amends the Principal Instrument to impose extra conditions of eligibility that require that providers who wish to receive a grant under the Disability Support Fund have a disability governance committee, disability inclusion strategy and disability workforce inclusion strategy. These new conditions are intended to improve access to higher education for people with disability at the provider, addressing the needs of students with disability at the provider, and improving the provider's knowledge and skills in disability relevant practices.

Conclusion

The Amendment Instrument is compatible with human rights because it supports rights of people with disability to education.

Minister for Education, the Hon Jason Clare MP

HIGHER EDUCATION SUPPORT (OTHER GRANTS) AMENDMENT (DISABILITY SUPPORT FUND) GUIDELINES 2026

EXPLANATION OF PROVISIONS

Section 1: Name

1. This section specifies the name of the instrument as the *Higher Education Support (Other Grants) Amendment (Disability Support Fund) Guidelines 2026* (the Amendment Instrument).

Section 2: Commencement

2. This section provides that the Amendment Instrument commences on 1 July 2026.

Section 3: Authority

3. This section provides that the Amendment Instrument is made under section 238-10 of the *Higher Education Support Act 2003* (the Act).

Section 4: Schedules

4. This is a technical provision that explains that that the *Higher Education Support (Other Grants) Guidelines 2022* (the Principal Instrument), as specified in the Schedule to the Amendment Instrument is amended as set out in the applicable items in the Schedule, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Higher Education Support (Other Grants) Guidelines 2022

Item 1: After section 6C

1. Item 1 inserts new section 6D after existing section 6C.
2. New subsection 6D(1) provides that the amendments made by the Amendment Instrument, apart from amendments made by items 4 and 5 in Schedule 1 of the Amendment Instrument, only apply in relation to grants made under the Disability Support Fund program from the 2027 grant year.
3. New subsection 6D(2) provides that amendments made by items 4 and 5 in Schedule 1 of the Amendment Instrument apply in relation to grants made under the Disability Support Fund program from the 2026 grant year. Applying these changes to 2026 grants is beneficial to providers as more students at a provider could fall within the definition of a 'student with disability and high cost needs' as the provider only needs to have spent more than \$5,000 on that student instead of \$5,205.

Item 2: Section 37

4. Item 2 repeals current section 37, and substitutes a new section 37. This new section 37 specifies the extra conditions of eligibility that Table A providers must satisfy in order to receive a grant under the Disability Support Fund.
5. Paragraph 37(a) requires that providers have a disability governance committee that satisfies the requirements in subsection 37A(1), and publish information about that committee as outlined in subsection 37A(2).
6. Paragraph 37(b) requires that providers have a disability education inclusion strategy that meets the requirements in subsection 37B(1), and comply with the requirements in subsections 37B(2) and (3) in relation to that strategy.
7. Paragraph 37(c) requires that providers have a disability workforce inclusion strategy that meets the requirements in subsection 37C(1), and comply with the requirements in subsections 37C(2) and (3) in relation to that strategy.

Item 3: After section 37

8. Item 3 inserts new sections 37A, 37B and 37C after section 37, to specify further requirements about the disability governance committee, disability education inclusion strategy and disability workforce inclusion strategy that providers must have in order to be eligible for grants under Disability Support Fund under section 37.
9. Subsection 37A(1) imposes requirements about the disability governance committee, including about the membership of the committee, the appointment of members, the relationship between the committee and the provider, the terms of reference of the committee and the responsibilities of the committee.

10. Subsection 37A(2) provides that the provider must publish the terms of reference of the committee and the membership of the committee, on the provider's website.
11. Subsection 37B(1) imposes requirements about the disability education inclusion strategy, including about the drafting of the strategy, matters that the strategy must address, and the key performance indicators that assess the provider's performance in achieving the activities outlined in the strategy. The note to the subsection provides that the key performance indicators may include quantitative or qualitative indicators, or could be a combination of the two.
12. Subsection 37B(2) provides that the provider must have a process to monitor progress against the key performance indicators, and take action to correct underperformance against the key performance indicators.
13. Subsection 37B(3) provides that the provider must publish an up-to-date copy of the disability education inclusion strategy on the provider's website.
14. Subsection 37B(4) provides that, for the avoidance of doubt, a provider's disability education inclusion strategy may form part of another document of the provider.
15. Subsection 37B(5) provides that if a provider's disability education inclusion strategy forms part of another document, the provider must clearly identify which parts of that document constitute its disability education inclusion strategy on the provider's website, when the provider publishes a copy of the strategy as required under subsection 37B(3).
16. Subsection 37C(1) imposes requirements on providers to have a disability workforce inclusion strategy with certain characteristics, including the drafting of the strategy, matters that the strategy must address and the key performance indicators that assess the provider's performance in achieving the activities outlined in the strategy. The note to the subsection provides that the key performance indicators may include quantitative or qualitative indicators, or a combination of the two.
17. Subsection 37C(2) provides that the provider must have a process to monitor progress against the key performance indicators, and take action to correct underperformance against the key performance indicators.
18. Subsection 37C(3) provides that the provider must publish an up-to-date copy of the disability workforce inclusion strategy on the provider's website.
19. Subsection 37C(4) provides that, for the avoidance of doubt, a provider's disability workforce inclusion strategy may form part of another document of the provider.
20. Subsection 37C(5) provides that if a provider's disability workforce inclusion strategy forms part of another document, the provider must clearly identify which parts of that document constitute its disability workforce inclusion strategy on the provider's website, when the provider publishes a copy of the strategy as required under subsection 37C(3).

Items 4 and 5: Paragraph 39(5)(a) and section 40

21. Items 4 and 5 amend paragraph 39(5)(a) and section 40 to provide that the amount mentioned in paragraph 39(5)(a) is \$5,000 and not to be indexed. The amount mentioned in paragraph 39(5)(a) is the minimum value of the educational support and equipment that a higher education provider must provide to a domestic student

related to their disability in a calendar year, in order for the student to meet the definition of a 'student with disability and high cost needs'.

22. This change is beneficial to providers as it simplifies the criteria used to determine if a student meets the definition of a 'student with disability and high cost needs' by keeping the amount that the provider needs to spend on the student as a fixed amount, and in turn, reduces the administrative burden on providers in relation to determining if a student meets the definition of a 'student with disability and high cost needs'. This will also allow providers to support more students with disability and high cost needs as more students at a provider could fall within the definition of a 'student with disability and high cost needs' as the provider only needs to have spent more than \$5,000 on that student instead of \$5,205.

Item 6: Subsection 41(2)

23. Item 6 repeals and substitutes subsection 41(2) in the Principal Instrument.
24. Subsection 41(2) imposes a condition on how grant funds under the program must be used. Item 4 repeals and replaces subsection 41(2) to add a new way in which grant funds under the program can be used, and provides that grant funds under the program can also be spent to support the work of the disability governance committee referred to in section 37A.

Item 7: After subsection 41(2)

25. Item 7 inserts new subsection 41(2A) after subsection 41(2).
26. Subsection 41(2A) imposes a new condition that requires that the provider only use their enrolment-based grant amount to fund the activities in paragraph 41(2)(g) (i.e. the new condition inserted in item 4 that allows the provider to spend grant funds to support the work of the disability governance committee). Subsection 41(2A) also provides that the provider must not spend more than 10 per cent of their enrolment-based grant amount for a year on those activities.

Item 8: Before subsection 41(7)

27. This item inserts a new subheading titled 'Reporting' before subsection 41(7). This clarifies that the conditions imposed in subsections 41(7) and new subsections 41(8) to (10) (inserted by item 7) all relate to reporting.

Item 9: After subsection 41(7)

28. This item inserts new subsections 41(8) to (10) that impose further conditions on grant recipients in relation to reporting on the use of their grant.
29. Subsection 41(8) provides that on or before 1 May of each year, providers must give the department a performance report and an acquittal report in relation to the activities funded by the grant during the calendar year before the report is provided.
30. Subsection 41(9) provides that, for the purposes of subsection (8), the performance report must be in the format required by the Minister under subsection 41-25(2) of the Act, and must at a minimum include information about how the provider satisfied the conditions that applied to the grant, and a statement by either the chair

of the disability governance committee, the chief executive officer (or equivalent) at the provider, or an authorised officer of the provider, confirming that the provider met and continues to meet the conditions that apply to the grant.

31. Subsection 41(10) provides that, for the purposes of subsection (8), the acquittal report must be in the format required by the Minister under subsection 41-25(2) of the Act, and must at a minimum, include information on each activity funded in full or in part by the grant, the value of grant funding for each activity, and the value of any unspent grant funding.