

Feedback Form

Proposed revisions to the Accreditation Standards for Australian Law Courses

ABOUT YOU

Name/organisation: **AustLII Foundation Limited**

YOUR FEEDBACK

Consultation Question 1: Do you support the drafting of the proposed revisions set out in the Draft Revised Standards? We are interested in the reasons for your view and suggestions for improved drafting.

Please provide your feedback below:

1.1	Online delivery of law courses Refer to Draft Revised Standards: - New clause 4.1 (The delivery of the law course) - Ancillary adjustments to clause 4.6 (Teaching of the law course and active learning) for synchronous online learning - Clause 2.1 adjusted and new definitions for “online”, “delivery mode”, “in-person” and “synchronous online learning” - Clause 2.1 deletion of the “face-to-face” definition <u>Background</u> AustLII has been operating since 1995 and is the largest provider of free access legal information in Australia. It was originally developed as an academic research resource and provides a fundamental service for all Australian law schools and universities generally. AustLII is used for research by legal academics, research students and undergraduates as well as being a vital resource for legal education generally. In 2024, AustLII received over 450 million requests from over 10 million distinct internet addresses. On a daily basis, AustLII responds to over 1.2 million requests. Of this number, it is estimated that around 30% of traffic comes from the higher education sector. <u>Proposed addition to the Draft Standard</u> We write with regard to the proposed changes to Clause 4.6 (Teaching of the law course and active learning). We note that the current standard requires law schools to provide students with access to legal resources. As a result of this standard, law schools, through their university libraries, routinely subscribe to resources provided by commercial publishers. We propose a revision to the Draft Standard that would enable and encourage universities to financially support open access resources that they heavily rely on, such as AustLII. We propose the following (changes are indicated in bold): <i>4.6(b)(iv) The law school enables each student to have ready access to legal information resources, in paper or in electronic form, including both commercial and open-access resources;</i> Add: <i>4.6(b)(vi) The law school through its host institution provides fair and ongoing financial contributions to support essential legal information infrastructure, including</i>
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	<i>open-access resources such as AustLII, that materially underpin legal education and legal research. Such contributions should reflect the law school's reliance on these resources in its curriculum, research and scholarly activities.</i> <u>Context</u> AustLII operates as a charity. In order to sustain the service, AustLII has to raise funds from all of its stakeholders and users, which includes approximately \$1.25 million per year from the higher education sector. AustLII needs the support of all Australian universities to make an annual contribution that reflects their reliance on the service for their teaching and research. Australian university libraries currently spend very significant amounts on subscriptions to the main commercial legal services, via traditional subscription publication models. AustLII needs to be included in the allocation of library funding in the same way that subscriptions are paid to the main commercial legal services because it is the most important and largest provider of legal research services to Australian university library users. In 2021, AustLII entered into a co-operative funding arrangement with the Council of Australian University Libraries (CAUL) which recognises AustLII as an essential open access information resource for academic teaching and research in law, as well as the many other university disciplines. The arrangement with CAUL is based on a subscription-like contribution using an agreed EFTSL-based CAUL formula to spread the cost equitably between Australian university libraries. The funding arrangement that has been implemented with CAUL, with the support of Council of Australian Law Deans (CALD), is based on seeking an annual contribution from the higher education sector of \$1.25 million. A number of universities now support AustLII through this mechanism either by contributions from the university library, the law school or a combination of both. However, contributions still fall well short of the amount required to ensure the sustainability of AustLII. In September 2024 the Board of CAUL issued a position statement on Open Access. Among the many valuable points made is that “community-driven and scholar-led routes to open access, or 'diamond' open access, play a critical role in making scholarly outputs openly accessible, and these require investment in terms of infrastructure and support.” Given that AustLII has always operated as a ‘post-transformative’ open access publisher appropriate funding for AustLII to support teaching and research in law and all the other disciplines that need access to legal information, needs to be made available. For AustLII to continue, it is necessary that all universities contribute a fair and reasonable amount.
1.2	Teaching hours, active learning and student engagement Refer to Draft Revised Standards: • Revisions to clauses 4.5 (Content of the law course) and 4.6 (Teaching the law course) • Clause 2.1 new definitions for “delivery mode” and “teaching method”, as well as for “active learning” and “direct interaction” Given the proposed changes to the delivery of legal education via online means, it is even more important that AustLII, a free, open and anonymous platform that makes legal information available to all the community, is supported by the legal education system.
1.3	Invigilated assessments Refer to Draft Revised Standards: • Revisions to clause 4.7 (Assessing understanding and competence), • Clause 2.1 new definitions for “assessment method” and “invigilation” We have no comments on this issue.

1.4	Intensives and block learning models Refer to Draft Revised Standards: Revisions to clause 4.3 (The duration of the law course) We have no comments on this issue.
1.5	Other minor revisions Refer to Draft Revised Standards: - Clause 2.1 new definitions for “law course” and “unit” and accompanying revisions - Updates to the definition of “prescribed areas of knowledge” at clause 2.1 and elsewhere to include statutory interpretation AustLII maintains the most extensive resources, including extrinsic aids, and tools such as the ‘Noteup’ function, to facilitate statutory interpretation.

Consultation Question 2: Do you agree with the proposed transitional period for the final Revised Standards? If not, why not?

Please provide your feedback below:

2	Transitional period We have no comments on this issue.
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Consultation Question 3: Do you have any other comments in relation to this work that you would like to provide to the Committees?

Please provide your feedback below:

3	Other comments AustLII’s importance to Australia AustLII is critically important to Australia, supporting the operation of the legal system, ensuring access to justice, providing critical research infrastructure, supporting good public policy, the economy and society and helping to promote Australia’s international leadership. Importance of an efficient and effective legal system AustLII provides essential free access to information which forms part of the Australian legal system. The legal system underpins all aspects of the Australian economy and society. Improved access to the law and increased capacity to research and understand it will impact upon: - the Australian economy, - the social structures and well-being of all Australians, and - Australian responses to critical national and international challenges. AustLII benefits the national economy and is important for maintaining the rule of law and the administration of justice across Australia. The comprehensive free access to online legal information that is provided is vital for the legal profession, courts and tribunals, business and industry, the education sector, and the community generally. Because of the authoritative status of primary legal information (legislation, case law, treaties, etc.), effective and efficient access to the law is essential to the operation of all aspects of the economy and society.
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AustLII provides free and anonymous access via the internet to a near comprehensive collection of primary and secondary public legal information.

Access to justice

In a society based on the rule of law, citizens must have the right to be able to access the law for free. Citizens are bound by the law and have private and public rights under the law, and so for the rule of law to be effective they must be able to know what the law is, and what it means. Free access to legal information is a human right. AustLII provides free access to public legal information to everyone, irrespective of their means. This supports the effective functioning of the rule of law and provides essential legal information that is necessary for all Australians.

National research infrastructure

Free access to legal information is critical national research infrastructure. AustLII provides a comprehensive national collection of legal information to enable effective free and anonymous access to law for all the community. It maintains extensive data provision agreements with government, courts, educational institutions, and businesses, with jurisdictional breadth and historical depth. It provides an integrated framework of primary and secondary content, with tools and services to support the legal information and research needs of the many different communities who access its resources. Much of this content is only available on AustLII or are principally accessed via the AustLII service. AustLII annually receives over 450 million requests for pages (over 1.2 million per day) from over 10 million distinct hosts. The service includes over 1,000 databases, the contents of which are interconnected by more than 150 million hypertext links. It publishes the decisions and judgments of over 200 active courts and tribunals, together with historical decisions from over 100 more.

Supporting good public policy

AustLII supports free-access policies and opposes monopolistic practices in relation to legal information. Free access to legal information is necessary for the rule of law and democracy to function effectively. These interests need an advocate, because public and commercial bodies do not always support, or even recognise, free access and other public interests in legal information. AustLII works to expand the scope and quality of legal information available for free access and to advocate for good public policies in this area.

International leadership

AustLII supports Australia's international interests helping promote and protect international rules, improve access to justice and enhance the rule of law around the world. AustLII is an acknowledged international leader of effective access to law. AustLII pioneered the concept of free access to comprehensive legal information via the Internet from 1995. AustLII jointly operates the New Zealand Legal Information Institute (NZLII) and the Pacific Islands Legal Information Institute (PacLII) in cooperation with local partners and gives technical support to many other LIIs in the common law world. AustLII is the model for free access to law globally.

Future growth and technological change

New sources of legal information continue to be created by governments and courts, including decisions of new courts and tribunals, and additional data continues to flow into AustLII's 1,000+ existing databases, in ever-increasing volumes. More generally, the nature of what access to law means is changing and expanding, and the users of legal information expect to receive it (and are capable of using it) in more sophisticated forms. With recent improvements in data science, AustLII needs to respond to demands for new uses of its data sets (both existing and expanding). In particular, the development of Large Language Models (LLM) and associated generative AI technologies require major development work to apply these to Australian law. AustLII is ideally placed to undertake this work, as it has the most comprehensive collection of Australian legal documents. Significant benefits to Australia could follow by making Australia-specific applications of these technologies available to the whole Australian public.

Governments are also exploring the concept of machine-consumable legislation, regulation, and policy, and looking at how to approach creating and delivering better, machine-

	consumable rules. AustLII conducts research in this space and provides a set of tools and concepts with which to build Rules as Code (RaC) applications involving substantial legislative texts, or collections of texts such as FinTech and RegTech. It can also be extended to other types of rules such as codes of practice, business rules, industrial awards, and standards. AustLII continues to do its essential work and to respond to significant changes in technologies and the overall environment.
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