

National Code of Practice for Providers of Education and Training Services to Overseas Students

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Part A – The Education Services for Overseas Students framework

1 Promoting Australia’s international education industry

Australia offers a high-quality education experience to international students across all sectors, from schools through to English language and foundation programs, to vocational education and training and higher education.

By providing a fair and accessible system that supports international students, Australia has gained an enviable reputation as a popular study destination. The Education Services for Overseas Students (ESOS) legislation is a robust framework that protects and enhances international students’ experiences in Australia.

International education can transform individuals, widening their intellectual horizons, opening them to new ideas and experiences, and extending their friendships. Their experiences in turn enrich Australian society and life.

The Australian Government acknowledges and values the contribution of international students who come here from all over the world to study, live and work. The social and economic benefits of international education to individuals, institutions and the wider community, both in Australia and in other countries, are well documented. In turn, Australia offers international students an enriching and high quality learning experience in a diverse cultural environment, helping to prepare them for a rewarding future. Australia’s natural assets, relaxed lifestyle and many tourist attractions make us one of the most appealing destinations in the world.

The benefits of international education and training depend on the quality of the services provided to overseas students, and on public confidence in the integrity and quality of the sector.

The reputation and quality of Australia’s international education services underpin long-term benefits for trade and foreign relations and are imperative to growth in trade in education services. The ESOS legislative framework is designed to uphold Australia’s high standards for, and commitment to, international education through a consistent national approach, and to support the integrity of our visa system.

2 An overview of the ESOS legislative framework

The *Education Services for Overseas Students Act 2000* (ESOS Act) and related legislation is designed to protect the interests of students coming to Australia on student visas. The legislation aims to protect and enhance Australia’s reputation for quality education, to provide tuition protection and support the integrity of the student visa program.

The ESOS legislative framework is complemented by the *Migration Act 1958* (Migration Act) and *Migration Regulations 1994*, the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act), the *National Vocational Education and Training Regulator Act 2011* (NVETR Act), and state and territory legislation relevant to the education and training of overseas students.

3 The National Code, its purpose and objectives

Under the ESOS Act, the purpose of the National Code is to set nationally consistent standards and procedures for education providers registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) and for persons who deliver education services on behalf of registered providers. The National Code supports the effective administration of the ESOS legislative framework by the Australian Government and state and territory governments.

The National Code was introduced in 2001 and revised in 2007.

The National Code 2016 replaces the 2007 National Code and takes effect from [date], and comprises the following:

- Standard 1** *Marketing information and practices:* Registered providers must uphold the integrity and reputation of Australia’s education industry by ensuring the marketing of their services is not false or misleading.
- Standard 2** *Enrolment of an overseas student:* Registered providers must recruit responsibly by ensuring students are appropriately qualified for the course for which they seek enrolment, including having the necessary English language proficiency, educational qualifications and work experience. Students must have sufficient information to enable them to make informed decisions about studying with their chosen provider in Australia.
- Standard 3** *Formalisation of enrolment and written agreements:* Registered providers must formalise their enrolment of students through written agreements. The written agreement protects the rights and sets out the responsibilities of each party, as well as the services to be provided, fees payable, and refund policies.
- Standard 4** *Education agents:* Registered providers must ensure that their education agents act ethically, honestly and in the best interests of students, and uphold the reputation of Australia’s international education sector.
- Standard 5** *Younger students:* Registered providers of students aged under 18 must meet legislative or other regulatory requirements relating to child welfare and protection. Providers of these students must give emergency contact information and information on how to report actual or alleged abuse. Where the registered provider has taken on responsibility for the welfare arrangements for a student who is under 18 years of age, the *Migration Regulations 1994* require the provider to ensure the arrangements for younger students are suitable, ongoing and appropriately managed until the student turns 18 years of age.
- Standard 6** *Student support services:* Registered providers must assist overseas students to adjust to study and life in Australia and have appropriate orientation programs that help students to access the information and services they require.

- Standard 7** ***Transfer of students:*** Registered providers must not knowingly enrol a student wishing to transfer from another provider's course prior to the student completing six months of his or her principal course (or for the school sector, until after the first six months of the first registered school sector course), except in certain circumstances.
- Standard 8** ***Student visa requirements:*** Registered providers must safeguard the integrity of Australia's migration laws by supporting students to complete their course within the required duration and fulfil their visa requirements for course attendance and course progress. Standard 8 sets flexible provisions to allow online learning while maintaining appropriate standards for students to comply with student visa conditions.
- Standard 9** ***Deferring, suspending or cancelling the student's enrolment:*** Registered providers must appropriately manage the enrolment of their students and ensure all necessary information about enrolments has been provided to the relevant government department by maintaining updated information in the Provider Registration and International Student Management System (PRISMS) database.
- Standard 10** ***Complaints and appeals:*** Registered providers must ensure students' rights to natural justice are protected through access to a professional, timely, inexpensive and documented complaints and appeals process.
- Standard 11** ***Additional requirements:*** Registered providers must continue to meet the requirements for CRICOS registration and ensure the ESOS agency for the provider approves and has up-to-date information on specific aspects of the provider's operations and any registered courses.

4 Australia's international education quality assurance process

The ESOS legislative framework is administered by a number of agencies across the Commonwealth and states and territories. Their roles are outlined briefly below.

Australian Government

Department of Education and Training

The Australian Government Department of Education and Training is responsible for:

- overarching policy development and administration of the ESOS Act and its associated legislative framework, including the Tuition Protection Service (TPS) framework and management of the Provider Registration and International Student Management System (PRISMS)
- administering ESOS-related charges for cost recovery
- final registration or renewal and compliance monitoring and enforcement decisions (including suspensions and cancellations) as the ESOS agency for schools.

Tuition Protection Service

The Tuition Protection Service (TPS) is a placement and refund service to assist international students whose education providers are unable to fully deliver their course of study. The TPS ensures international students can either:

- complete their studies in another course or with another education provider or
- receive a refund of their unspent tuition fees.

Department of Immigration and Border Protection

The Department of Immigration and Border Protection (Immigration) is responsible for administration of the student visa program under the *Migration Act 1958* and associated legislation. The ESOS framework also plays a role in ensuring providers uphold the integrity of Australia's student visa program through their ongoing contact with students during their stay in Australia. Under subsection 19(2) of the ESOS Act, registered providers are required to notify the Australian Government when students have breached their student visa conditions, such as by failing to maintain satisfactory course attendance or progress. The National Code sets out the course attendance, progress and completion requirements for overseas students that registered providers must monitor and report on.

Australia's quality assurance agencies

The Tertiary Education Quality and Standards Agency (TEQSA) is responsible for quality assurance of higher education providers across Australia. Under the ESOS Act, TEQSA is the ESOS agency for providers of higher education courses.

The Australian Skills Quality Authority (ASQA) is the quality assurance agency responsible for the national regulation of registered training organisations (RTOs) (within the meaning of the NVET Act) in Australia. Under the ESOS Act, ASQA is the ESOS agency for providers of vocational education courses.

Both ASQA and TEQSA have powers to register providers to deliver education and training services to international students, as well as to investigate and instigate enforcement action against registered providers for breaches of the ESOS Act and the National Code.

ASQA and TEQSA also have oversight responsibilities for English Language Intensive Courses for Overseas Students (ELICOS) and foundation programs, except where these courses are delivered in the capacity of a school under the ESOS Act.

State and territory governments

For schools seeking to register to provide education and training to international students, the state, territory and Commonwealth systems are linked through the ESOS framework. Under ESOS, the designated State authority (DSA) is responsible for ESOS related functions in state and territory jurisdictions for school education and for ELICOS, foundation and non-award programs delivered by schools.

The designated State authority makes recommendations to the Australian Government Department of Education and Training to register a school on CRICOS, including any conditions on that registration. State and territories also have their own legislation relating to education

services for international students within the relevant jurisdiction, and may use that legislation to take enforcement action against a registered provider where appropriate and necessary.

5 The effect of the National Code

The National Code sets standards that are intended to meet the needs and expectations of international students who come to Australia, and that satisfy the objectives of the ESOS Act.

The National Code is intended to complement the strong quality assurance frameworks used by government agencies to oversee the Australian education system. Where provisions of the National Code are consistent with provisions under other quality assurance frameworks, in particular those under the TEQSA Act and NVETR Act for providers of higher education and vocational courses, an ESOS agency may deem that the requirements of the National Code are also satisfied.

This approach is consistent with changes to the ESOS Act made in December 2015, which allow ESOS agencies to use information given by education providers for other purposes in assessing their registration or compliance under the ESOS Act.

The National Code is legally enforceable. Breaches of the National Code by CRICOS registered providers can result in action being taken against the provider under Division 1 in Part 6 of the ESOS Act.

Part B – Standards for Providers of Education and Training for Overseas Students

Standard 1

Marketing information and practices

- 1.1 The registered provider must ensure that the marketing and promotion of its services connected with the recruitment of overseas students or intending overseas students, including through an agent (in accordance with Standard 4), is not false or misleading, consistent with Australian Consumer Law.
- 1.2 The registered provider must ensure that any information provided to an overseas student or intending overseas student to encourage that student to enrol with it clearly outlines the student's obligations and entitlements under the ESOS framework, to enable the student to make an informed decision about their course of study.
- 1.3 The registered provider must, in seeking to enter into agreements with overseas students or intending overseas students, accurately identify in the information that it provides:
 - 1.3.1 its association with any other partnering organisations involved in delivery of the course in which the student intends to enrol or may apply to enrol
 - 1.3.2 any work integrated or work-based learning opportunities, either required or optional, as part of the course
 - 1.3.3 prerequisites—including English language proficiency—for entry to the course
 - 1.3.4 any other information relevant to the registered provider, its courses or outcomes associated with those courses.
- 1.4 The registered provider must not:
 - 1.4.1 claim to commit to secure, on the student or intending student's behalf, a migration outcome from undertaking any course offered by that provider
 - 1.4.2 guarantee a successful education assessment outcome for the student or intending student.
- 1.5 The registered provider must include its CRICOS registered name and registration number in any written or online material that it disseminates or makes publicly available for the purposes described in paragraphs 8(1)(b) to (d) of the ESOS Act, which include:
 - 1.5.1 providing or offering to provide a course to an overseas student,
 - 1.5.2 inviting a student to undertake or apply for a course, or
 - 1.5.3 indicating it is able or willing to provide a course to overseas students.
- 1.6 The registered provider must not actively recruit a student where this clearly conflicts with its obligations under Standard 7 (Student transfers).

Standard 2

Enrolment of an overseas student

- 2.1 Prior to offering an overseas student or intending overseas student an enrolment in a course, the registered provider must make available to an overseas student or intending overseas student comprehensive, up-to-date and plain English information on:
 - 2.1.1 the requirements for a student's acceptance into a course, including the minimum level of English language proficiency, educational qualifications or work experience, and course credit if applicable
 - 2.1.2 the course content; modes of study including online and/or work related learning, placements; other community-based learning and collaborative research training arrangements, and assessment requirements
 - 2.1.3 course duration and holiday breaks
 - 2.1.4 the course qualification, award or other outcomes
 - 2.1.5 campus locations and facilities, equipment and learning resources available to students
 - 2.1.6 the details of any arrangements with another provider, person or business who will provide the course or part of the course
 - 2.1.7 fees, including advice on the potential for changes to fees over the duration of a course, and the registered provider's cancellation and refund policies
 - 2.1.8 the grounds on which the student's enrolment may be deferred, suspended or cancelled
 - 2.1.9 the ESOS framework, including official Australian Government material and links to this material online
 - 2.1.10 where relevant, the policy and process the registered provider has in place for approving the accommodation, support and general welfare arrangements for students under the age of 18 (in accordance with Standard 5)
 - 2.1.11 indicative costs of living in Australia.
- 2.2 The registered provider must have and implement a documented policy and process for assessing whether the student's English language proficiency, educational qualifications and work experience is sufficient to enable them to enter the course.
- 2.3 The registered provider must have and implement a documented policy and process for assessing and recording recognition of prior learning (RPL), and granting and recording course credit, if it intends to assess RPL or grant course credit. The decision to assess prior learning or grant course credit must preserve the integrity of the award to which it applies and comply with requirements of the underpinning educational framework of the course.
- 2.4 If the registered provider grants RPL or course credit to a student, the provider must give a record of the decision to the student to sign, and require the student to return the signed record for the provider to retain the record on the student's file for two years after the student ceases to be an accepted student.
- 2.5 If the registered provider grants the student RPL or course credit that reduces the student's course length, the provider must:

- 2.5.1 inform the student of the actual nett course duration following granting of RPL and ensure the confirmation of enrolment (CoE) is issued only for the actual duration of the course
- 2.5.2 report any change in course duration in the Provider Registration and International Student Management System (PRISMS) if RPL or course credit is granted after the student's visa is granted.

Standard 3

Formalisation of enrolment and written agreements

- 3.1 The registered provider must enter into a written agreement with the overseas student or intending overseas student, signed or otherwise accepted by the student, concurrently with or prior to accepting payment of course money. A written agreement may take any form provided it meets the requirements of the ESOS Act and the National Code.
- 3.2 If the overseas student or intending overseas student is under 18 years of age, the written agreement with the student or intending student must be signed or otherwise accepted by the student's parent or legal guardian.
- 3.3 The written agreement must, in plain English:
 - 3.3.1 outline the course or courses in which the student is to be enrolled, the offered modes of study, including potential and compulsory online and/or work related learning, placements, and/or other community-based learning and collaborative research training arrangements
 - 3.3.2 outline any prerequisites necessary to enter the course or courses, including English language requirements
 - 3.3.3 list any conditions imposed on the student's enrolment
 - 3.3.4 list all fees payable by the student for the course, the periods to which those fees relate and payment options (including that the student may choose to pay more than 50 per cent of their fees before their course commences)
 - 3.3.5 provide details of any additional charges the student may incur as a result of having their study outcomes reassessed; deferral of study; late payment of fees; or other circumstances in which additional charges may apply
 - 3.3.6 outline the circumstances in which personal information about the student may be disclosed by the registered provider and the Australian Government or state or territory agencies, including the Tuition Protection Service, and the obligation on the provider to adhere to the Privacy Act
 - 3.3.7 outline, or provide a link to information on, the internal and external complaints and appeals processes, in accordance with standard 10
 - 3.3.8 state that the student is responsible for keeping a copy of the written agreement and receipts of any payments of fees for the course
- 3.4 The registered provider must include in the written agreement the following information, which is to be consistent with the requirements of the ESOS Act, in relation to refunds of course money in the case of student and provider default:
 - 3.4.1 amounts that may or may not be repaid to the student (including any course money collected by education agents on behalf of the registered provider)
 - 3.4.2 processes for claiming a refund
 - 3.4.3 any person who can receive a refund in respect of the student identified in the written agreement, consistent with the ESOS Act
 - 3.4.4 a plain English explanation of what happens in the event of a course not being

- delivered, including the role of the Tuition Protection Service
- 3.4.5 a statement that “This agreement, and the ability of complaints and appeals processes, does not remove the right of the student to take action under the *Australian Consumer Law*”.
- 3.5 The registered provider must include in the written agreement a requirement that the student, while in Australia and studying with that provider, must notify the provider of his or her contact details including:
- 3.5.1 the student’s current residential address, mobile number and email address
- 3.5.2 who to contact in emergency situations
- 3.5.3 any changes to those details, within 7 days of the change.
- 3.6 A registered provider must retain records of all written agreements as well as receipts of payments made by students under the agreement for at least 2 years after the person ceases to be an accepted student.

Standard 4

Education agents

- 4.1 The registered provider must enter into written agreements with formally appointed education agents—namely, education agents who represent or act on behalf of the provider, including by having the capacity to create a legal relationship (such as an agreement that binds the parties) between the provider and a student.
- 4.2 The written agreement must outline:
 - 4.2.1 the responsibilities of the registered provider and the agent, including that the registered provider is responsible at all times for compliance with the National Code
 - 4.2.2 the registered provider’s processes for monitoring the activities of the agent in accordance with the processes outlined in standard 4.3
 - 4.2.3 the corrective action that may be taken by the registered provider if the agent does not comply with its obligations under the agreement
 - 4.2.4 the circumstances and conditions of termination of the registered provider’s agreement with the agent.
- 4.3 The registered provider must have and implement a documented policy and process for monitoring the appropriateness of the activities of the agent in representing the provider, ensuring the agent is giving accurate and up-to-date information on the provider’s services to students.
- 4.4 A registered provider must require its agent to:
 - 4.4.1 declare in writing and take reasonable steps to avoid conflicts of interests
 - 4.4.2 observe appropriate levels of confidentiality and transparency in their dealings with students
 - 4.4.3 act honestly and in good faith, and in the best interests of the student
 - 4.4.4 have appropriate knowledge and understanding of the international education system in Australia, including the code of ethics for agents.
- 4.5 Where the registered provider becomes aware that, or has reason to believe, the agent or an employee or subcontractor of that agent has not complied with the agent’s responsibilities under standards 4.2 and 4.3, the provider must take immediate corrective action to ensure the agent understands and acts on those requirements, and understands the consequences of non-compliance.
- 4.6 Where the registered provider becomes aware that, or has reason to believe, the agent or an employee or subcontractor is engaging in false or misleading recruitment practices, the provider must immediately terminate their relationship with the agent or require the agent to terminate its relationship with the employee or subcontractor who engaged in those practices.
- 4.7 The registered provider must not knowingly accept students from an agent who is also providing migration advice, unless that agent is authorised to do so under the *Migration Act 1958*.

Standard 5

Younger students

- 5.1 Where the registered provider enrolls a student who is under 18 years of age, it must meet any Australian, state or territory legislation or other regulatory requirements relating to child welfare and protection.
- 5.2 Registered providers must ensure students under 18 years of age are given information on:
 - 5.2.1 who to contact in emergency situations, including contact numbers of a nominated staff member and/or service provider to the registered provider
 - 5.2.2 seeking assistance and reporting any incident or allegation involving actual or alleged sexual, physical or other abuse.
- 5.3 Where the registered provider takes on responsibility under the *Migration Regulations 1994* for approving the accommodation, support and general welfare arrangements (but not including guardianship, which is a legal relationship not able to be created or entered into by a provider) for a student who is under 18 years of age, the provider must:
 - 5.3.1 nominate the dates for which the registered provider accepts responsibility for approving the student's accommodation, support and general welfare arrangements and advise Immigration, which is responsible for administering the *Migration Act 1958*, of the dates in the form required by that department
 - 5.3.2 have and implement documented processes for verifying and checking that the student's accommodation is appropriate to the student's age and needs, and adults involved in or providing accommodation and welfare arrangements to the student have any working with children clearances (or equivalent) as required in a state or territory:
 - 5.3.2.1 prior to the accommodation being approved
 - 5.3.2.2 at least every six months thereafter.
 - 5.3.3 have and implement a policy and process for managing critical incidents, including in emergency situations and when welfare arrangements are disrupted
 - 5.3.4 maintain up-to-date records of the student's contact details as outlined in standard 3.5, including the contact details of the student's parent(s), legal guardian or any adult responsible for the student's welfare
 - 5.3.5 advise Immigration in the form required by that department:
 - 5.3.5.1 as soon as practicable if the student has changed his or her welfare and accommodation arrangements
 - 5.3.5.2 as soon as practicable in the event that alternative welfare arrangements need to be made
 - 5.3.5.3 within 24 hours if the registered provider is no longer able to approve the student's welfare arrangements.
 - 5.3.6 have documented policies and processes for selecting, screening and monitoring

any third parties engaged by the provider to organise and assess welfare and accommodation arrangements.

- 5.4 If the registered provider is no longer able to approve the welfare arrangements of a student, the provider must make all reasonable efforts to ensure that the student's parents or legal guardians are notified immediately.
- 5.5 If the registered provider is unable to contact a student and has concerns for the student's welfare, the provider must make all reasonable efforts to locate the student, including notifying the police and any other relevant Commonwealth, state or territory agencies as soon as practicable.
- 5.6 Where standard 5.3 applies and the registered provider suspends or cancels the enrolment of the student, the provider must continue to check the suitability of welfare arrangements for that student until any of the following applies:
 - 5.6.1 the student has alternative welfare arrangements approved by another registered provider
 - 5.6.2 care of the student by a parent or nominated relative is approved by Immigration
 - 5.6.3 the student leaves Australia
 - 5.6.4 the registered provider has notified Immigration under standard 5.3.5 that it is no longer able to approve the student's welfare arrangements or under standard 5.5 that it has taken the required action after not being able to contact the student.
- 5.7 If the registered provider enrolls a student under 18 who has welfare arrangements approved by another provider, the receiving provider must:
 - 5.7.1 negotiate the transfer date for welfare arrangements with the releasing provider to ensure there is no gap
 - 5.7.2 advise the student of their visa obligation to maintain their current welfare arrangements until the transfer date or have alternate welfare arrangements approved or return to their home country until the new approved welfare arrangements take effect.

Standard 6

Student support services

- 6.1 The registered provider must support the overseas student in adjusting to study and life in Australia by giving the student information on or access to an age and culturally appropriate orientation program that provides information about:
 - 6.1.1 support services available to assist students to help them adjust to study and life in Australia
 - 6.1.2 English language and study assistance programs
 - 6.1.3 any relevant legal services
 - 6.1.4 emergency and health services
 - 6.1.5 the registered provider's facilities and resources
 - 6.1.6 complaints and appeals processes
 - 6.1.7 requirements for course attendance and progress, as appropriate
 - 6.1.8 the support services available if their personal or other circumstances are adversely affecting their education in Australia
 - 6.1.9 services students can access for information on their employment rights and conditions, and how to resolve workplace issues, such as through the Fair Work Ombudsman.
- 6.2 The registered provider must give support, advice or relevant information as appropriate to overseas students who request assistance in relation to the services and programs set out in standard 6.1, at no additional cost to the student.
- 6.3 The registered provider must support students to enable them to achieve expected learning outcomes regardless of the student's place of study or the mode of delivery of the course.
- 6.4 The registered provider must facilitate access to learning support services consistent with the requirements of the course, mode of study and the learning needs of overseas student cohorts, including having and implementing documented processes for supporting and maintaining contact with students undertaking online or distance units of study.
- 6.5 The registered provider must designate a member of staff or members of staff to be the official point of contact for students. The student contact officer or officers must have access to up-to-date details of the registered provider's support services.
- 6.6 The registered provider must have sufficient student support personnel to meet the needs of the students enrolled with the registered provider.
- 6.7 The registered provider must ensure its staff members who interact directly with students are aware of the provider's obligations under the ESOS framework and the potential implications for students arising from the exercise of these obligations.
- 6.8 The registered provider must have and implement a documented policy and process for managing critical incidents that could affect the student's ability to undertake or complete a course, such as but not limited to incidents that may cause physical or psychological

harm. The provider must make a record of any critical incident and remedial action taken, and keep this record on the student's file.

6.9 The registered provider must:

6.9.1 take all reasonable steps to provide a safe environment on campus and advise students and staff on actions they can take to enhance their personal security and safety

6.9.2 provide information to overseas students about how to seek assistance for and report an incident that significantly impacts on their wellbeing

6.9.3 provide students with or refer them to (including electronically) general information on safety and awareness relevant to life in Australia.

Standard 7

Student transfers

- 7.1 Registered providers must not knowingly enrol a student seeking to transfer from another provider's course prior to the student completing six months of his or her principal course (or for the school sector, until after the first six months of the first registered school sector course), except where any of the following apply:
- 7.1.1. the releasing provider, or the course in which the student is enrolled, has ceased to be registered
 - 7.1.2. the releasing provider has had a sanction imposed on its registration by the ESOS agency that prevents the student from continuing his or her course at that provider
 - 7.1.3. the releasing provider has agreed to the student's release and recorded the date of effect and reason for release in PRISMS
 - 7.1.4. any government sponsor of the student considers the change to be in the student's best interests and has provided written support for the change.
- 7.2 The registered provider must have and implement a documented policy and process for assessing student transfer requests. The policy must outline:
- 7.2.1. the steps for a student to lodge a written request to transfer
 - 7.2.2. circumstances in which the provider will grant the transfer request because the transfer is in the student's best interests , including but not limited to:
 - 7.2.2.1 the student is unable to achieve satisfactory course progress at the level they are studying, even after the provider has identified and implemented its intervention strategy to assist the student in accordance with standard 8
 - 7.2.2.2 the student has grounds to seek to change course to gain access to broader support through services not offered by their current provider
 - 7.2.2.3 the provider fails to deliver the course as outlined in the written agreement
 - 7.2.2.4 the student can provide evidence that his or her reasonable expectations about their current course are not being met
 - 7.2.2.5 the student can provide evidence that he or she was misled by the provider or an education or migration agent regarding the provider or its course and the course is therefore unsuitable to their needs and/or study objectives
 - 7.2.2.6 an appeal (internal or external) on another matter reasonably results in the student seeking a transfer.
- 7.3 If the student is under 18 years of age:
- 7.3.1. the registered provider must have written confirmation the student's parent or legal guardian supports the transfer

- 7.3.2. where the student is not being cared for in Australia by a parent or suitable nominated relative, the receiving provider must confirm it accepts responsibility for approving the student's accommodation, support and general welfare arrangements in accordance with standard 5 (Younger students).
- 7.4 If a release is granted, the releasing provider must advise the student to contact Immigration to seek advice on whether a new student visa is required.
- 7.5 Where a release is not granted, the student must be provided with written reasons for the refusal and informed of his or her right to appeal the provider's decision in accordance with standard 10.
- 7.6 The provider must maintain records of all requests from students for a release and the assessment of, and decision regarding, the request on the student's file for two years after the student ceases to be an accepted student.

Standard 8

Monitoring course progress and attendance

Providers must monitor student progress

- 8.1 The registered provider must monitor students' course progress and, where applicable, attendance for each course in which the student is enrolled.
- 8.2 The registered provider must monitor the progress of each student to ensure the student is in a position to complete the course within the expected duration specified on the student's Confirmation of Enrolment (CoE).
- 8.3 The registered provider must have and implement documented policies and processes to identify, notify and assist a student at risk of not meeting course progress or attendance requirements where there is evidence from the student's assessment tasks, participation in tuition activities or other indicators of academic progress that the student is at risk of not meeting those requirements.
- 8.4 The registered provider must clearly outline and inform the student before they commence the course of the requirements to achieve satisfactory course progress in each study period.
- 8.5 Where the registered provider identifies a student as not making satisfactory course progress, the provider must notify the student if it intends to report the student for not making satisfactory course progress.

Schools, ELICOS and foundation programs: course progress and attendance requirements

- 8.6 The registered provider of a school, ELICOS or foundation program course must have and implement a documented policy and process for monitoring and recording attendance of the student, specifying:
 - 8.6.1 requirements for achieving satisfactory attendance for the course which at a minimum must be 80 per cent—or higher if specified under state registration or approval frameworks—of the scheduled contact hours
 - 8.6.2 the method for working out minimum attendance under this standard
 - 8.6.3 processes for recording course attendance
 - 8.6.4 details of the registered provider's intervention strategy to identify and assist students at risk of not meeting attendance requirements in sufficient time for those students to meet attendance requirements.
- 8.7 The registered provider must have and implement a documented policy and process for monitoring and recording course progress for the student, specifying:
 - 8.7.1 requirements for achieving satisfactory course progress for the course
 - 8.7.2 processes for recording and assessing course progress
 - 8.7.3 details of the registered provider's intervention strategy to identify and assist students at risk of not meeting course progress requirements in sufficient time for those students to improve their study outcomes.

Higher education: course progress requirements

- 8.8 The registered provider of a higher education course must have and implement a documented policy and process for monitoring and recording course progress for the student, specifying:
- 8.8.1 requirements for achieving satisfactory course progress, including policies that promote and uphold the academic integrity of the registered course, and processes to address misconduct and allegations of misconduct
 - 8.8.2 processes for recording and assessing course progress requirements
 - 8.8.3 processes to identify students at risk of unsatisfactory course progress
 - 8.8.4 details of the registered provider's intervention strategy to assist students at risk of not meeting course progress requirements in sufficient time for those students to improve their study outcomes.

Vocational education and training (VET): course progress and attendance requirements

- 8.9 The registered provider of a VET course as defined in the *National Vocational Education and Training Regulator Act 2011* must have and implement a documented policy and process for assessing course progress that includes:
- 8.9.1 requirements for achieving satisfactory course progress, including policies that promote and uphold the academic integrity of the registered course and meet the training package or accredited course requirements where applicable, and processes to address misconduct and allegations of misconduct
 - 8.9.2 processes for recording and assessing course progress requirements
 - 8.9.3 processes to identify students at risk of unsatisfactory course progress
 - 8.9.4 details of the registered provider's intervention strategy to assist students at risk of not meeting course progress requirements in sufficient time for those students to improve their study outcomes.
- 8.10 The registered provider must have and implement a documented policy and process for monitoring the attendance of students if the requirement to implement and maintain minimum attendance requirements for students is set as a condition of the provider's registration by an ESOS agency.
- 8.11 If an ESOS agency requires a VET provider to monitor student attendance as a condition of registration, the minimum requirement for attendance is 80 per cent of the scheduled contact hours for the course.
- 8.12 If a VET provider is required to monitor student attendance, the provider must include in its policy and process for monitoring attendance details of its intervention strategy to assist students at risk of not meeting course attendance requirements in sufficient time for those students to improve their study outcomes.

Course duration and allowable extensions

- 8.13 The registered provider must not extend the duration of the student's enrolment if the student is unable to complete the course within the expected duration, unless:
- 8.13.1 there are compassionate or compelling circumstances, as assessed by the registered provider on the basis of demonstrable evidence, or
 - 8.13.2 the registered provider has implemented, or is the process of implementing, an intervention strategy for the student because the student is at risk of not meeting course progress requirements in accordance with standard 8.3, or
 - 8.13.3 an approved deferral or suspension of the student's enrolment has occurred under standard 9.
- 8.14 If the registered provider extends the duration of the student's enrolment, the provider must advise the student of any potential impacts on their visa, including the need to contact Immigration to obtain a new visa.

Reporting breaches of visa requirements

- 8.15 Where the registered provider has assessed the student as not meeting course progress or attendance requirements, the provider must:
- 8.15.1 notify the student as soon as practicable that the registered provider intends to report the student for a breach of their visa requirements
 - 8.15.2 inform the student of the reasons for the report
 - 8.15.3 advise the student of their right to appeal and allow 20 working days for the student to lodge an internal appeal in accordance with standard 10
 - 8.15.4 where the breach of course progress or attendance is substantiated and the 20 working days for internal appeal has passed, the registered provider must report the breach in PRISMS in accordance with section 19(2) of the ESOS Act.
- 8.16 The registered provider may decide not to report the student for breaching the attendance requirements if the student is still attending at least 70 per cent of the scheduled course contact hours and, within 20 working days of being notified that the student is to be reported:
- 8.16.1 the student provides genuine evidence demonstrating that compassionate or compelling circumstances apply; and
 - 8.16.2 the student successfully appeals the decision through the registered provider's internal complaints and appeals process.

Modes of delivery

Note: *Online learning uses digital media, technology-based tools and IT networks to deliver a course to a student and does not require the student to attend regular classes or maintain contact hours. For the purposes of the ESOS framework, it is not intended that the provision of online lectures and other asynchronous tuition or resources be defined as online learning. Distance learning is any learning that a student undertakes off campus and does not require a student on a student visa to physically attend regular tuition for the course on campus at the provider's registered location.*

- 8.17 A registered provider must not deliver a course exclusively by distance learning to a student on a student visa.

- 8.18 A registered provider must not deliver more than one-third of the units (or equivalent) of a higher education provider or VET course online to an overseas student as defined in section 5 of the ESOS Act.
- 8.19 For school, ELICOS or foundation programs, any online course components must be in addition to minimum face to face teaching requirements approved by the relevant designated State authority or ESOS agency as part of the registration of the course, if applicable.
- 8.20 The registered provider must take all reasonable steps to support students who may be disadvantaged by:
- 8.20.1 additional costs or other requirements, including for students with special needs, from undertaking online learning
 - 8.20.2 inability to access the resources and community offered by the education institution, or opportunities for engaging with other students while undertaking online learning.

Standard 9

Deferring, suspending or cancelling the student's enrolment

- 9.1 A registered provider must have and implement a documented process for assessing, approving and recording a deferment of the commencement of study or suspension or cancellation of study for an overseas student in accordance with section 19 of the ESOS Act, including maintaining a record on the student's file.
- 9.2 A registered provider may defer or suspend the enrolment of a student if it believes there are compassionate or compelling circumstances (for example, illness where a medical certificate states that the student is unable to attend classes).
- 9.3 A registered provider may suspend or cancel a student's enrolment on the basis of:
 - 9.3.1 misbehaviour by the student
 - 9.3.2 the student's failure to pay an amount he or she was required to pay the registered provider to undertake or continue the course.
- 9.4 If the registered provider initiates a suspension or cancellation of the student's enrolment, before imposing a suspension or cancellation the provider must:
 - 9.4.1 inform the student of that intention and the reasons for doing so, in writing
 - 9.4.2 advise the student that he or she has 20 working days to appeal in accordance with standard 10.
- 9.5 When there is any deferral, suspension or cancellation action taken under this standard, the provider must:
 - 9.5.1 inform the student of the potential impact on his or her student visa
 - 9.5.2 report the change to the student's enrolment under section 19 of the ESOS Act.
- 9.6 The suspension or cancellation of the student's enrolment under standard 9.3 cannot take effect until the internal process of appeal is completed, unless the student's health or wellbeing or the wellbeing of others is likely to be at risk.
- 9.7 Cancellation of a student's enrolment for breach of their visa conditions must align with the process in standard 8.15.

Standard 10

Complaints and appeals

- 10.1 The registered provider must have an internal complaints handling and appeals process, and provide the student with comprehensive and easily accessible information about that process.
- 10.2 The registered provider's internal complaints handling and appeals process must:
 - 10.2.1 respond to any complaint or appeal the student makes regarding the registered provider's dealings with the student or any dealings with the student by any other provider, an agent or a related party the registered provider engages to deliver the student's course
 - 10.2.2 have in place a process for the student to lodge a formal complaint or appeal if the matter cannot be resolved informally
 - 10.2.3 keep a written record of the complaint or appeal on the student's file
 - 10.2.4 commence assessment of the complaint or appeal within 10 working days of its formal lodgment, and finalise its assessment within 20 working days
 - 10.2.5 ensure the student is given an opportunity to formally present his or her case at minimal or no cost to himself or herself and be accompanied and assisted by a support person at any relevant meetings
 - 10.2.6 conduct the assessment of the complaint or appeal in a professional, fair and transparent manner
 - 10.2.7 ensure the student is given a written statement of the outcome of the internal appeal, including the reasons for the outcome
 - 10.2.8 maintain the student's enrolment until the appeal process has concluded.
- 10.3 If the student is not satisfied with the result or conduct of the registered provider's internal complaints handling and appeals process, the provider must advise the student within 10 working days of concluding the internal review of the student's right to access an external appeals process, and provide contact details of the appropriate external appeals body.
- 10.4 If the internal or any external complaints handling or appeal process results in a decision or recommendation in favour of the student, the registered provider must immediately implement the decision or recommendation and/or take the preventive or corrective action required by the decision, and advise the student of that action.

Standard 11

Additional registration requirements

- 11.1 In applying to register a full-time course at a location, a provider must seek approval from the ESOS agency, including through the relevant designated State authority if the provider is a school, for the following:
 - 11.1.1 the course content and duration, modes of study including online and/or work integrated learning, assessment methods and holiday breaks
 - 11.1.2 number of overseas students enrolled at the provider, within the limit or maximum number approved by the ESOS agency for each location
 - 11.1.3 arrangements with other education providers, including partners, in delivering a course or courses to overseas students.
- 11.2 The registered provider must submit to its ESOS agency for approval, including through the relevant designated State authority if the provider is a school, information on any proposed changes to the provider's business activities or operations as outlined in standard 11.1 at least 30 days prior to the time at which those changes are proposed to take effect.
- 11.3 A registered provider must advise the ESOS agency for the provider or relevant designated State authority in writing of:
 - 11.3.1 any prospective changes to the ownership of the registered provider as soon as practicable prior to the change taking effect
 - 11.3.2 any other affiliated organisations registered on CRICOS
 - 11.3.3 any prospective or actual change to the high managerial agents of the registered provider (as defined in section 5 of the ESOS Act) as soon as practicable prior to the change taking effect, or within 10 working days of the change taking effect where the change cannot be determined until it takes effect.
- 11.4 Registered providers who are self-accrediting must undertake an independent external audit during their period of CRICOS registration, at least within 18 months prior to renewal of that registration to inform the re-registration of the provider.