

Submission on proposed changes to the National Code of Practice for Providers of Education and Training to Overseas Students 2007

Overview

PROPOSED AMENDMENTS	SUPPORT / Do NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Parts A, B and C of the 2007 National Code have been streamlined to: <ul style="list-style-type: none"> ○ provide an overview of the ESOS framework ○ summarise the role of the National Code and its purpose ○ outline the quality assurance arrangements and roles of other relevant Commonwealth agencies 	<p>SUPPORT</p> <p>Though clarity is sought – see comment.</p>	<p>Navitas supports the streamlining of Parts A, B and C of the 2007 National Code.</p> <p>However, we note that in the re-drafting Part A, Section 9 and 9.1 – a statement which recognises the importance of collaboration and shared responsibility between governments and providers in maintaining enhancing Australia’s international reputation – has not been carried over. Navitas would support the inclusion of maintaining this explicit statement in the revised National Code:</p> <p><i>‘9. Collaboration and shared responsibility between governments and providers</i></p> <p><i>9.1. The Australian Government, state and territory governments and providers share responsibility for maintaining and enhancing Australia’s international reputation as a destination for high quality education and training for overseas students. Enhancement of quality, consumer protection and integrity of the student visa program are achieved through collaboration between all government agencies and the international education and training industry and through inter-sectoral collaboration.’</i></p>
<ul style="list-style-type: none"> • Some part C and D requirements in the 2007 National Code have been moved to standard 11 as requirements for providers. • The standards are now in part B. 	<p>SUPPORT</p>	

Standard 1 – Marketing information and practices

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Clarifies that providers must not engage in false or misleading marketing practices, consistent with Australian Consumer Law. 	SUPPORT	
<ul style="list-style-type: none"> Marketing material must accurately identify the provider's association with any other providers, work-based or work-integrated learning opportunities, and prerequisites including English language. 	DO NOT SUPPORT Would support, pending refinement of the related proposed Standard 1.3.2	<p>Navitas supports the proposed Standard 1, with the exception of the proposed Standard 1.3.2.</p> <p>Standard 1.3.2 needs further refinement to ensure its desired outcome can be achieved with clarity, fairness and proportionately.</p> <p>The proposed Standard 1.3.2 requires that 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' including, 'any work integrated or work-based learning opportunities, either required or optional, as part of the course'.</p> <p>As drafted, Standard 1.3.2 does not make clear the type, nature and level of specificity of information that is required to be provided. It is thus is open to interpretation and needs refinement.</p>
<ul style="list-style-type: none"> Specific provisions prevent a provider from undertaking to or guaranteeing that it can secure a migration or successful education assessment outcome. 	SUPPORT	<p>Navitas supports proposed Standard 1.4.1 that a provider must not 'claim to commit to secure, on the student or intending student's behalf, a migration outcome from undertaking any course offered by that provider'.</p> <p>However, we seek clarification from the Department as to whether a statement such as 'this course enables you to apply for a post-study work visa' would be in breach of this Standard.</p>

Standard 2 – Enrolment of an overseas student

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Clarifies that a provider must inform a student before they enrol about; course content, modes of study (including online and/or work related learning placements) and assessment requirements. 	<p>DO NOT SUPPORT</p> <p>Would support pending slight amendment and clarification</p>	<p>Firstly, Navitas proposes that the word 'general' be inserted in front of the phrase 'assessment requirements'. For it is unrealistic to include reference to every piece of assessment in every unit of study that makes up a program of study.</p> <p>Secondly, related to the above, greater clarity is required about the level of detail required. For example, will it be sufficient to include in a letter of offer a hyperlink to the website that outlines the course of study?</p>
<ul style="list-style-type: none"> Requires providers to give information about the policy and process for approving welfare and accommodation arrangements for students under 18 where relevant. 	<p>SUPPORT</p>	
<ul style="list-style-type: none"> Requires registered providers to have and implement a documented policy and process for assessing English language proficiency, educational qualifications and work experience are sufficient to undertake the course. 	<p>DO NOT SUPPORT</p> <p>Would support, pending refinement of the related proposed Standards 2.1.2, 2.1.3, 2.2 and 2.4</p>	<p>Navitas supports the proposed Standard 2, with the exception of the proposed Standards 2.1.2, 2.1.3, 2.2 and 2.4. These require further refinement to ensure they can be enacted with clarity, fairness and proportionately.</p> <p>2.1.2</p> <p>This Standard proposes a changed requirement on providers to provide information on assessment requirements as opposed to assessment methods as is currently required in the NC2007 at Standard 2.1b.</p> <p>The concepts of 'assessment requirements' and 'assessment methods' are quite different. It would be onerous and limiting on curriculum innovation if providers were required to provide detailed information on course 'assessment requirements' to prospective students. The current requirement of providing information on assessment methods (e.g. whether course has assignments, examinations, work simulated assessments, work placement, etc.) is reasonable and should continue in place of the proposed revision.</p> <p>2.1.3</p> <p>As drafted, this standard introduces the concept of 'holiday</p>

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
		<p>breaks', an expression that is open to interpretation. For clarity, suggest reframe to refer instead to course duration and compulsory study periods and study breaks.</p> <p>2.2 As drafted, this standard creates a requirement on providers to assess 'whether a student's English language proficiency, educational qualifications <i>and</i> work experience is sufficient to enable them to enter the course'.</p> <p>The use of the word 'and' is problematic for both providers and students. This is because while all students will be expected to have the requisite level of English, course eligibility may be assessed on <u>both or either</u> educational qualifications and work experience.</p> <p>We suggest that the Standard be re-worded or re-structured to take account of this point.</p> <p>2.4 As drafted, this Standard creates a requirement on providers to give a record of the decision to grant a student RPL or Course Credit to the student to sign and return to the provider, for retention on the student's file for two years after the student ceases to be an accepted student.</p> <p>It thus appears to replicate the intent of the outcome focused proposed Standards at 2.5 and 2.5.1.</p> <p>It also appears to create unnecessary red tape in the process of granting credit to an applicant/student.</p> <p>Specifically, the credit transfer principles and processes set out in the Australian Qualifications Framework (AQF) make clear that all prospective students should be informed of the availability of potential credit as part of any offer for admission. They also make</p>

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
		<p>clear that credit/RPL considerations are triggered by the applicant making an RPL/Credit application to the provider or by any related formalised credit transfer arrangement in place applicable to the course applicant.</p> <p>Thus, the proposed Standard 2.4, in requiring a provider to request an applicant to reaffirm that they still desire to be granted their prior sought and deemed entitled course credit/RPL, seems to be an unnecessary duplicate sign-off burden for the applicant/student.</p>
<ul style="list-style-type: none"> • Incorporates the requirements relating to course credit, previously in standard 12. • Adds that course credit or recognition of prior learning (RPL) must preserve the integrity of the award to which it applies. 	SUPPORT	

Standard 3 – Formalisation of enrolment and written agreements

PROPOSED AMENDMENTS	SUPPORT / Do NOT SUPPORT	COMMENTS
<ul style="list-style-type: none"> Written agreements must include more detailed information about students' enrolment. 	<p>Do NOT SUPPORT</p>	<p><i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i></p> <p>Navitas, while supporting in principle the provision of information to prospective students, has a number of concerns regarding the proposed Standard 3.</p> <p>Firstly, proposed Standard 3.1 appears to have been amended from the previously proposed wording of Standard 3.1 by deleting the red highlighted text below:</p> <p><i>3.1 'The registered provider must enter into a written agreement with the overseas student or intending overseas student, signed or otherwise accepted (including by conduct, such as paying fees) by the student, concurrently with or prior to accepting payment of fees. A written agreement may take any form provided it meets the requirements of the ESOS Act and this National Code'.</i></p> <p>Navitas strongly recommends the reinstatement of the red text above into Standard 3.1.</p> <p>Secondly, the proposed Standard 3.3.1 duplicates the requirements in proposed Standard 2. Requiring course content to be outlined on the written agreement is repetitive and overly prescriptive since Standard 2.1.2 requires that the course content must be made available to students prior to offering them enrolment in a course. This level of detail in the written agreements might also distract a student attention away from key points in the agreement such as the fees they will be charged and the terms and conditions of the agreement.</p> <p>Thirdly, it would be beneficial to define the term 'course money' in the proposed Standards to make it clearer what this refers to now that the definition of 'course money' is no longer defined under Section 7 of the ESOS Act. For example, is 'course money' referring to tuition fees as defined under Section 7 of the ESOS Act or does it extend to other optional fees or charges that a student may incur during their studies?</p>
<ul style="list-style-type: none"> Providers must require students must keep their personal and contact information up to date. 	<p>SUPPORT</p>	

PROPOSED AMENDMENTS	SUPPORT / Do NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> The provider must retain records of the written agreement and receipts of payments by the student for at least 2 years after the person ceases to be an accepted student. 	SUPPORT	

Standard 4 – Education agents

PROPOSED AMENDMENTS	SUPPORT / Do NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Clarifies that providers must ensure the agent has up to date and accurate information, does not engage in false or misleading conduct, declares in writing and takes reasonable steps to avoid conflicts of interest, observes appropriate levels of confidentiality and transparency in dealing with students, and acts honestly and in good faith. 	SUPPORT	
<ul style="list-style-type: none"> Clarifies the provider must ensure the agent has appropriate knowledge and understanding of the international education system in Australia, including the code of ethics. 	Do NOT SUPPORT Would support, pending refinement of the related proposed Standard 4.4.4	Navitas, while supportive of the Standard overall, believes that the meaning of the 'international education system in Australia' in proposed Standard 4.4.4 is ill defined. It is unclear how a provider would ensure that an agent has appropriate knowledge and understanding of the international education system in Australia at a level deemed satisfactory to abide by the National Code. This requires further clarification.

Standard 5 – Younger students

PROPOSED AMENDMENTS	SUPPORT / Do NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Providers enrolling students under 18 must meet any Australian, state or territory legislation or other regulatory requirements relating to child welfare and protection. 	SUPPORT	
<ul style="list-style-type: none"> Requires providers to give information to students under 18 about who to contact in emergency situations. 	SUPPORT	
<ul style="list-style-type: none"> Requires providers to give information on how a student under 18 can seek assistance and report any incident or allegation involving abuse. 	SUPPORT	
<ul style="list-style-type: none"> Providers with responsibility for a student's welfare must check initially and least every six months thereafter that the student's accommodation is appropriate to the student's age and needs. 	Do NOT SUPPORT Would support with the amendment noted in the comments	Navitas proposes replacing the word 'check' with the word 'confirm'.
<ul style="list-style-type: none"> Adults involved in or providing accommodation must have any Working with Children clearances (or equivalent) as required in a state or territory. 	Do NOT SUPPORT Would support with the amendment to Standard 5.3.2 noted in the comments	Navitas proposes waiving this requirement in the instance where the adult providing the accommodation is an immediate relative, as defined in the Act.
<ul style="list-style-type: none"> Requires a policy and process for managing critical incidents, including in emergency situations and when welfare arrangements are disrupted. 	SUPPORT	Navitas notes that there needs to be further consideration by the Department of Immigration and Border Protection to address the situation where an under 18 student arrives with a parent as their guardian but the parent then leaves Australia without notifying the provider, leaving the student unsupervised.

PROPOSED AMENDMENTS	SUPPORT / Do NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Where a provider is no longer able to approve welfare arrangements, all reasonable steps must be taken to notify the student's parent or legal guardian immediately. 	SUPPORT	
<ul style="list-style-type: none"> Providers must have documented processes for selecting, screening and monitoring any third parties engaged by the provider to organise and assess welfare and accommodation arrangements. 	SUPPORT	
<ul style="list-style-type: none"> If a provider enrolls a student under 18 who has welfare arrangements approved by another provider, the receiving provider must negotiate the transfer date for welfare arrangements to ensure there is no gap. 	SUPPORT	
<ul style="list-style-type: none"> The provider must advise the student of their visa obligation to maintain their current welfare arrangements until the transfer date or have alternative welfare arrangements approved or return to their home country until the new arrangements take effect. 	Do NOT SUPPORT Would support with the amendment noted in the comments	Navitas proposes that the word 'advise' be replaced with 'inform'. We therefore suggest the alternative wording in red: <i>5.7.2 inform 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.</i>

Standard 6 – Student support services

PROPOSED AMENDMENTS	SUPPORT / Do NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Requires providers to give information to students regarding a range of support services, including relating to English language, health, legal services, complaints and appeals avenues, and employment assistance (including resolving workplace issues). 	SUPPORT	
<ul style="list-style-type: none"> Requires the provider to facilitate access to learning support services, including for different modes of study such as online or distance. 	SUPPORT	

PROPOSED AMENDMENTS	SUPPORT / Do NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Clarifies that providers must have in place a documented policy and process to manage critical incidents that could affect a student undertaking or completing the course. (Note: standard 5 requires a critical incident policy and process more specific to the needs of students under 18.) 	SUPPORT	
<ul style="list-style-type: none"> Providers must take all reasonable steps to provide a safe environment on campus and give overseas students information about how to seek assistance for and report an incident that significantly impacts on their wellbeing. 	SUPPORT	

Standard 7 – Student transfers

PROPOSED AMENDMENTS	SUPPORT / Do NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Providers must not knowingly enrol a student wishing to transfer from another provider’s course prior to the student completing six months of their principal course, or for the school sector, until after the first six months of the first registered school sector course. 	Do NOT SUPPORT Would support with the amendment noted in the comments	Navitas suggests that the National Code include a specific requirement that ‘where a release from another provider is required, the written agreement must include the requirement for a Letter of Release to be obtained’ as a condition of enrolment. This is unless the original provider supports the release of the student prior to reaching six months of study, recognising the needs of students are unique and varied. Additionally, as part of PRISMS redevelopment work, we suggest consideration of the need for a receiving provider to view date and reason if the student was cancelled within first six months. This will ensure the receiving provider is aware that a letter of release for transfer is not required.
<ul style="list-style-type: none"> Transfer requests from the student must be in writing. 	SUPPORT	
<ul style="list-style-type: none"> The provider must have and implement a documented policy and process for assessing student transfer requests, which must outline circumstances in which the provider will grant a transfer because it is in the 	SUPPORT	

<p>student's best interests; and reasonable grounds for refusal of the request.</p>		
<ul style="list-style-type: none"> The standard contains additional guidance for providers about circumstances in which they should grant a transfer because it is in the student's best interests. 	<p>DO NOT SUPPORT</p> <p>Would support with the amendment to Standard 7.2 noted in the comments</p>	<p>Greater guidance on circumstances in which to grant transfer requests is valuable for providers.</p> <p>However, Navitas believes the prescriptive nature of Standard 7.2.2 means it is challenging to see any circumstances under which a provider may be able to refuse a transfer.</p> <p>Indeed, the proposed list of possible circumstances risks providing too much guidance for students on how to exploit the transfer provision and therefore have the unintended consequence of encouraging course-hopping. In particular, 7.2.2.1 and 7.2.2.2 are considered to be at high risk of exploitation if specifically listed, and more appropriately covered within the proposed words in 7.2.2 – <i>Because the transfer is in the student's best interests.</i></p> <p>Further, under 7.2.2.1, a student may be deemed unable to achieve satisfactory course progress due to the student not attending classes. The provider may meet all its obligations under Standard 8 (Monitoring course progress and attendance), but under 7.2.2.1, the student would still be eligible for a transfer. It seems unreasonable to expect a provider to have to grant the student a transfer under these circumstances.</p> <p>Navitas recommends firstly that 7.2.2.1 be deleted, or at least prefaced with: 'After demonstrating compliance with all attendance, study, assessment and any other course requirements'</p> <p>Secondly, that 7.2.2.2 be deleted as any provider can propose to offer 'broader support' than currently being provided. This clause is too vague to be included in the Code.</p> <p>Finally, in 7.2.2.3 the words 'the student can provide evidence' be inserted in front of 'that the provider has failed to deliver the course as outlined in the written agreement'.</p>
<ul style="list-style-type: none"> If a student requesting a transfer is under 18, written confirmation of agreement of a parent or legal guardian is required. 	<p>SUPPORT</p>	
<ul style="list-style-type: none"> Where a provider agrees to a student's release the date of effect and reason for release must be recorded in PRISMS and the provider must advise the student to 	<p>SUPPORT</p>	<p>Navitas supports and welcomes the proposal to record dates and reasons for release in PRISMS, making the information viewable</p>

contact Immigration to seek advice on whether a new student visa is required.		by the receiving provider, which will streamline current processes for letters of release.
<ul style="list-style-type: none"> If release is not to be granted, the provider must give to the student the reasons for refusal in writing. 	SUPPORT	
<ul style="list-style-type: none"> The provider must maintain records of all requests for transfer, assessment and decision on the student's file for two years after the student ceases to be an accepted student. 	SUPPORT	

Standard 8 – Monitoring course progress and attendance
Providers must monitor student progress

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> All providers must monitor students' progress, as satisfactory course progress is a student visa requirement. Some sectors require providers to also monitor attendance. 	SUPPORT	
<ul style="list-style-type: none"> Providers must clearly outline and inform the student before they commence their course of the requirement to achieve satisfactory course progress in each study period. 	SUPPORT	
<ul style="list-style-type: none"> Providers must have documented policies and processes to identify, notify and assist a student at risk of not meeting course progress (or attendance requirements if applicable) where evidence from the student's assessment tasks, participation or other indicators of academic progress indicate the student is at risk of not meeting requirements. 	SUPPORT	

Schools, ELICOS and foundation programs

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> School, ELICOS and foundation programmes require both course progress and attendance monitoring. The requirement for attendance is 80% of the scheduled contact hours for the course, or higher if specified under state registration or approval frameworks. 	SUPPORT	
<ul style="list-style-type: none"> School, ELICOS and foundation program providers must have a documented policy and process for monitoring and recording students' attendance. 		
<ul style="list-style-type: none"> Higher education providers must have and implement a documented policy and process for monitoring and recording course progress, specifying requirements for achieving satisfactory progress, the provider's processes and policies to uphold academic integrity, assessment of progress, identification of students at risk of not meeting requirements and details of the provider's intervention strategy. 	SUPPORT	

VET programs

<p>PROPOSED AMENDMENTS</p>	<p>SUPPORT / DO NOT SUPPORT</p>	<p>COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i></p>
<ul style="list-style-type: none"> • VET providers must have and implement a documented policy and process for assessing course progress, specifying requirements for achieving satisfactory process and policies to uphold academic integrity, assessment of progress, identification of students at risk of not meeting requirements and details of the provider’s intervention strategy. 	<p>SUPPORT</p>	
<ul style="list-style-type: none"> • A VET provider must have and implement a documented policy and process for monitoring students’ attendance if the ESOS agency requires that provider to monitor attendance as well as course progress. This requirement in the National Code replaces previous arrangements split between the National Code and Course Progress Guidelines that applied to VET. • If the ESOS agency imposes attendance monitoring as a requirement for a VET provider, the minimum requirement for attendance is 80% of the scheduled contact hours for the course. • If the VET provider is required to monitor attendance of students, the provider must have an intervention strategy for students at risk of not meeting attendance requirements. 	<p>DO NOT SUPPORT</p> <p>Would support with the amendments noted in the comments</p>	<p>Navitas recommends that the standards requires some clarification and consistency of approach regarding the percentage of attendance. For at various points it is 70 per cent, 80 per cent or one-third of 70 per cent. Navitas endorses the level of 70 per cent.</p>

Course duration and allowable extensions

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Providers must continue to not extend the duration of a student’s enrolment if the student is unable to complete the course within the expected duration, unless: <ul style="list-style-type: none"> ○ compassionate and compelling circumstances apply ○ the provider has implemented, or is implementing, an intervention strategy to assist the student to meet course progress (or attendance, if applicable) requirements ○ there is an approved deferral or suspension of the student’s enrolment under standard 9. 	<p>SUPPORT</p>	
<ul style="list-style-type: none"> • If a student’s enrolment is extended, the provider must advise the student of any potential impacts on their visa. 	<p>DO NOT SUPPORT</p> <p>Would support with the amendment to Standard 8.14 noted in the comments</p>	<p>Navitas acknowledges and supports students being able to access and understand information about their visa obligations. However, Navitas has concerns over a provider giving visa advice. We propose the following alternative wording in red:</p> <p><i>If the registered provider extends the duration of the student's enrolment, the provider must inform the student of the need to seek advice relating to any potential impacts on their visa, including the need to contact Immigration to obtain a new visa.</i></p>

Reporting breaches of visa requirements

<p style="text-align: center;">PROPOSED AMENDMENTS</p>	<p style="text-align: center;">SUPPORT / DO NOT SUPPORT</p>	<p style="text-align: center;">COMMENTS</p> <p><i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i></p>
<ul style="list-style-type: none"> • Providers must continue to report students who do not meet course progress (attendance requirements if applicable) and notify the student: <ul style="list-style-type: none"> ○ that the provider intends to report them ○ inform the student of the reasons ○ advise the student they can appeal ○ report the breach in PRISMS in accordance with s19(2) of the ESOS Act 	<p style="text-align: center;">SUPPORT</p>	
<ul style="list-style-type: none"> • A provider may decide not to report a student for breaching attendance requirements if the student provides genuine evidence of compassionate or compelling circumstances, is still attending at least 70 per cent of course contact hours and appeals the decision successfully 	<p style="text-align: center;">DO NOT SUPPORT</p> <p>Would support with the amendment noted in the comments</p>	<p>Navitas suggests the following wording: 'A provider may decide not to report a student for breaching attendance requirements if the student provides genuine evidence of compassionate or compelling circumstances, appeals the decision successfully and is still attending at least 70 per cent of course contact hours.'</p>

Online learning

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
----------------------------	-------------------------------------	--

<ul style="list-style-type: none"> Online and distance learning are defined in the standard. 	<p>Do NOT SUPPORT</p> <p>Would support with the amendment to the Standard noted in the comments</p>	<p>Navitas believes that the drafting in this section confuses concepts. We believe that greater differentiation between online learning and distance learning will help clarify intention.</p> <p>We assume the objective is to limit the amount of distance learning in a particular course. Distance learning is defined as non-face-to-face learning, no matter how it is delivered, that is, by technology or via paper-based instruction. While online learning is defined as learning assisted by technology (digital learning) that is increasingly used in both campus in face-to-face situations and distance learning.</p> <p>We suggest the following alternative words marked in red:</p> <p><i>Note – Distance learning is any learning that a student undertakes off campus that does not require a student to physically attend regular tuition for the course on campus at the provider’s registered location.</i></p> <p><i>For the purposes of the ESOS framework, it is not intended that the provision of lectures, asynchronous tuition, resources or any other material by means of online technology be considered to be distance learning.</i></p> <p><i>A registered provider must not deliver a course exclusively by distance learning to a student on a student visa.</i></p> <p><i>A registered provider must not deliver more than one-third of the units (or equivalent) of a higher education provider or VET course by distance learning to an overseas student as defined in section 5 of the ESOS Act.</i></p> <p><i>For school, ELICOS or foundation programs, any distance learning 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.</i></p>
---	--	---

		<p>8.1 The registered provider must take all reasonable steps to support students who may be disadvantaged by:</p> <p>8.1.1 additional costs or other requirements, including for students with special needs, from undertaking <i>distance learning</i></p> <p>8.1.2 inability to access the resources and community offered by the education institution, or opportunities for engaging with other students while undertaking <i>distance learning</i>.</p>
<ul style="list-style-type: none"> The 2007 National Code requirement that providers must not enrol a student exclusively in distance or online learning in any compulsory study period has been removed. 	SUPPORT	
<ul style="list-style-type: none"> Higher education and VET providers must not deliver more than one-third of a student's course online. 	SUPPORT	
<ul style="list-style-type: none"> Providers must take all reasonable steps to prevent students being disadvantaged by additional costs or requirements associated with online learning or by an inability to access the resources and community of the education institution, or opportunities to engage with other students. 	SUPPORT	

Standard 9 – Deferring, suspending or cancelling the student's enrolment

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS
		<i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Standard 9 now relates to deferring, suspending or cancelling the student's enrolment (previously standard 13). It clarifies the current requirements but makes no significant changes to policy from the 2007 version. 	DO NOT SUPPORT	<p>Standard 13 currently allows providers not to continue providing learning opportunities throughout the 20 working days.</p> <p>This provision is essential for ELICOS providers particularly when the student's enrolment has been suspended due to non-payment of fees. It is unreasonable for a provider to have to provide tuition if the student has failed to pay for the service.</p>

Standard 10 – Complaints and appeals

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Assessment of an internal complaint or appeal must be finalised within 20 working days. 	<p>DO NOT SUPPORT</p> <p>Would support with the amendment to the Standard noted in the comments</p>	<p>Firstly, Navitas recommends the following additional text in red be inserted into 10.2.4:</p> <p><i>'Commence assessment of the complaint or appeal within 10 working days of its formal lodgement, and finalise its assessment within 20 working days of commencing assessment.'</i></p>

Standard 11 – Additional requirements

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Standard 11 creates new provisions for additional registration requirements, many of which were previously in Part C of the 2007 version of the National Code relating to 'registration authorities'. Registration authorities are replaced by ESOS agencies by amendments to the ESOS Act passed in December 2015. 	<p>SUPPORT</p>	
<ul style="list-style-type: none"> Providers must seek approval from the ESOS agency, including through the relevant designated State authority if the provider is a school, for proposed: <ul style="list-style-type: none"> course content and duration number of overseas students enrolled within the limit approved by the ESOS agency arrangements with other education providers (partnerships). Providers must also seek approval from their ESOS agency for any proposed changes to the above during their period of registration under the ESOS Act. 	<p>SUPPORT</p>	

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Providers must advise their ESOS agency, including through the relevant designated State authority if the provider is a school, in writing of: <ul style="list-style-type: none"> ○ any other affiliated organisations registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) ○ any changes to high managerial agents or ownership of their organisation. 	SUPPORT	
<ul style="list-style-type: none"> • Self-accrediting providers must undertake an independent external audit during their period of registration, at least within 18 months prior to renewal of registration, allowing the outcomes to be used for registration renewal. 	SUPPORT	

Other comments

Please list any other comments here:

Nil.

Submitted by Navitas Limited
 Level 8, Brookfield Place,
 125 St Georges Terrace,
 Perth WA 6000 Australia

Contact: Helen Zimmerman, Chief Corporate Affairs Officer

(helen.zimmerman@navitas.com)

10 March 2017