

Organisation/Name:

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

### Overview

| <b>PROPOSED AMENDMENTS</b>   | <b>SUPPORT /<br/>DO NOT SUPPORT</b> | <b>COMMENTS</b><br><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"><li>• Parts A, B and C of the 2007 National Code have been streamlined to:<ul style="list-style-type: none"><li>○ provide an overview of the ESOS framework</li><li>○ summarise the role of the National Code and its purpose</li><li>○ outline the quality assurance arrangements and roles of other relevant Commonwealth agencies</li></ul></li></ul> | Support                             |  |
| <ul style="list-style-type: none"><li>• Some part C and D requirements in the 2007 National Code have been moved to Standard 11 as requirements for providers.</li><li>• The standards are now in part B.</li></ul>  | Support                             |  |

## Standard 1 – Marketing information and practices

| PROPOSED AMENDMENTS  | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>Clarifies that providers must not engage in false or misleading marketing practices, consistent with Australian Consumer Law.</li> </ul>  | Support                     |   |
| <ul style="list-style-type: none"> <li>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.</li> </ul> | Support                     |   |
| <ul style="list-style-type: none"> <li>Specific provisions prevent a provider from undertaking to or guaranteeing that it can secure a migration or successful education assessment outcome.</li> </ul>  | Support                     |   |

## Standard 2 – Enrolment of an overseas student

| PROPOSED AMENDMENTS   | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>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.</li> </ul> | Support                     | Can clarification be sought as to when this information needs to be supplied and to what level? This could be substantial or not depending on what is required. |
| <ul style="list-style-type: none"> <li>Requires providers to give information about the policy and process for approving welfare and accommodation arrangements for students under 18 where relevant.</li> </ul>                                  | Support                     |   |

| PROPOSED AMENDMENTS   | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>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.</li> </ul>    | Support                     |   |
| <ul style="list-style-type: none"> <li>Incorporates the requirements relating to course credit, previously in standard 12.</li> <li>Adds that course credit or recognition of prior learning (RPL) must preserve the integrity of the award to which it applies.</li> </ul> | Support                     |   |

### Standard 3 – Formalisation of enrolment and written agreements

| PROPOSED AMENDMENTS   | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i> |
|---|-----------------------------|---|
| Written agreements must include more detailed information about students' enrolment.  | Support                     |   |
| Providers must require students must keep their personal and contact information up to date.  | Support                     |   |
| <ul style="list-style-type: none"> <li>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.</li> </ul> | Support                     |   |

## Standard 4 – Education agents

| PROPOSED AMENDMENTS   | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>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.</li> </ul> | Support                     |   |
| <ul style="list-style-type: none"> <li>Clarifies the provider must ensure the agent has appropriate knowledge and understanding of the international education system in Australia, including the code of ethics.</li> </ul>  | Support                     |   |

## Standard 5 – Younger students

| PROPOSED AMENDMENTS   | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>Providers enrolling students under 18 must meet any Australian, state or territory legislation or other regulatory requirements relating to child welfare and protection.</li> </ul> | Support                     |   |
| <ul style="list-style-type: none"> <li>Requires providers to give information to students under 18 about who to contact in emergency situations.</li> </ul>   | Support                     |   |

| <p style="text-align: center;"><b>PROPOSED AMENDMENTS</b></p>  | <p style="text-align: center;"><b>SUPPORT /<br/>DO NOT SUPPORT</b></p> | <p style="text-align: center;"><b>COMMENTS</b><br/><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"> <li>Requires providers to give information on how a student under 18 can seek assistance and report any incident or allegation involving abuse.</li> </ul>  | <p style="text-align: center;">Support</p>                             |  |
| <ul style="list-style-type: none"> <li>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.</li> </ul> | <p style="text-align: center;">Support</p>                             | <p>But believe a yearly visit is sufficient. Monitoring is an ongoing process.</p>   |
| <ul style="list-style-type: none"> <li>Adults involved in or providing accommodation must have any Working with Children clearances (or equivalent) as required in a state or territory.</li> </ul>  | <p style="text-align: center;">Support</p>                             |  |
| <ul style="list-style-type: none"> <li>Requires a policy and process for managing critical incidents, including in emergency situations and when welfare arrangements are disrupted.</li> </ul>  | <p style="text-align: center;">Support</p>                             |  |
| <ul style="list-style-type: none"> <li>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.</li> </ul>                             | <p style="text-align: center;">Support</p>                             |  |
| <ul style="list-style-type: none"> <li>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.</li> </ul>        | <p style="text-align: center;">Support</p>                             |  |

| PROPOSED AMENDMENTS  | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>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.</li> </ul>  | Support                     |   |
| <ul style="list-style-type: none"> <li>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.</li> </ul> | Support                     |   |

### Standard 6 – Student support services

| PROPOSED AMENDMENTS   | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>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).</li> </ul> | Support                     | We understand “employment assistance (including resolving workplace issues).” to mean advising students of avenues to pursue such as Fair Work Australia when they feel that they are being treated unfairly in their workplace. |
| <ul style="list-style-type: none"> <li>Requires the provider to facilitate access to learning support services, including for different modes of study such as online or distance.</li> </ul>   | Support                     |  |

| PROPOSED AMENDMENTS  | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>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.)</li> </ul> | Support                     |   |
| <ul style="list-style-type: none"> <li>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.</li> </ul>   | Support                     |   |

### Standard 7 – Student transfers

| PROPOSED AMENDMENTS  | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>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.</li> </ul> | Support                     | It is important that rogue institutions who are flouting this rule to have a release letter are brought to task. There has been too much unethical behaviour where a cancelled CoE ( eg perhaps issued when a student indicates they are returning overseas) is deemed to be the equivalent of a release letter and is then accepted by a receiving institution. |
| <ul style="list-style-type: none"> <li>Transfer requests from the student must be in writing.</li> </ul>   | Support                     |  |

| PROPOSED AMENDMENTS  | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>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 student's best interests; and reasonable grounds for refusal of the request.</li> </ul> | Support                     |  |
| <ul style="list-style-type: none"> <li>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.</li> </ul>   | Support                     |  |
| <ul style="list-style-type: none"> <li>If a student requesting a transfer is under 18, written confirmation of agreement of a parent or legal guardian is required.</li> </ul>   | Support                     |  |
| <ul style="list-style-type: none"> <li>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 Immigration to seek advice on whether a new student visa is required.</li> </ul>   | Support                     | When assessing whether a particular release is in the student's best interests we consider the receiving institution and the course. An approved release request is given on that basis. How can we be sure that a student will go to that course and institution and not go to something that we do not believe is in the student's best interests? |
| <ul style="list-style-type: none"> <li>If release is not to be granted, the provider must give to the student the reasons for refusal in writing.</li> </ul>   | Support                     |  |
| <ul style="list-style-type: none"> <li>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.</li> </ul>   | Support                     |  |

## Standard 8 – Monitoring course progress and attendance

### Providers must monitor student progress

| PROPOSED AMENDMENTS  | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>All providers must monitor students' progress, as satisfactory course progress is a student visa requirement. Some sectors require providers to also monitor attendance.</li> </ul>   | Support                     | But if all studies in a given study period eg in a diploma course can be on-line how will this affect calculation, monitoring and reporting on attendance. |
| <ul style="list-style-type: none"> <li>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.</li> </ul>   | Support                     |  |
| <ul style="list-style-type: none"> <li>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.</li> </ul> | Support                     |  |

## Schools, ELICOS and foundation programs

| PROPOSED AMENDMENTS   | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>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.</li> </ul>   | Do not support              | 80% attendance requirement is fine BUT we believe that if over 70% institutions can consider the individual case and allow the student to continue their studies |
| <ul style="list-style-type: none"> <li>School, ELICOS and foundation program providers must have a documented policy and process for monitoring and recording students' attendance.</li> </ul>  | Support                     |  |
| <ul style="list-style-type: none"> <li>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.</li> </ul> | Support                     |  |

## VET programs

| <p style="text-align: center;"><b>PROPOSED AMENDMENTS</b></p>  | <p style="text-align: center;"><b>SUPPORT /<br/>DO NOT SUPPORT</b></p> | <p style="text-align: center;"><b>COMMENTS</b></p> <p style="text-align: center;"><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"> <li>• 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.</li> </ul>   | <p style="text-align: center;">N/A</p>                                 |   |
| <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul> | <p style="text-align: center;">N/A</p>                                 |   |

### Course duration and allowable extensions

| <p style="text-align: center;"><b>PROPOSED AMENDMENTS</b></p>   | <p style="text-align: center;"><b>SUPPORT /<br/>DO NOT SUPPORT</b></p> | <p style="text-align: center;"><b>COMMENTS</b><br/><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"> <li>• 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"> <li>○ compassionate and compelling circumstances apply</li> <li>○ the provider has implemented, or is implementing, an intervention strategy to assist the student to meet course progress (or attendance, if applicable) requirements</li> <li>○ there is an approved deferral or suspension of the student’s enrolment under standard 9.</li> </ul> </li> </ul> | <p style="text-align: center;">Support</p>                             |  |
| <ul style="list-style-type: none"> <li>• If a student’s enrolment is extended, the provider must advise the student of any potential impacts on their visa.</li> </ul>  | <p style="text-align: center;">Support</p>                             |  |

## Reporting breaches of visa requirements

| <p><b>PROPOSED AMENDMENTS</b></p>   | <p><b>SUPPORT /<br/>DO NOT SUPPORT</b></p> | <p><b>COMMENTS</b><br/><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"> <li>• 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"> <li>○ that the provider intends to report them</li> <li>○ inform the student of the reasons</li> <li>○ advise the student they can appeal</li> <li>○ report the breach in PRISMS in accordance with s19(2) of the ESOS Act</li> </ul> </li> </ul> | <p>Support</p>                             |  |
| <ul style="list-style-type: none"> <li>• 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</li> </ul>  | <p>Support</p>                             |  |

## Online learning

| <b>PROPOSED AMENDMENTS</b>  | <b>SUPPORT /<br/>DO NOT SUPPORT</b> | <b>COMMENTS</b><br><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"> <li>Online and distance learning are defined in the standard.</li> </ul>   |                                     |  |
| <ul style="list-style-type: none"> <li>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.</li> </ul>  | Support                             | But if all studies in a given study period eg in a diploma course can be on-line how will this affect calculation, monitoring and reporting on attendance. How will receiving institutions interpret attendance information from institutions where there have only been on-line studies for a given study period? |
| <ul style="list-style-type: none"> <li>Higher education and VET providers must not deliver more than one-third of a student's course online.</li> </ul>   | Support                             |  |
| <ul style="list-style-type: none"> <li>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.</li> </ul> | Support                             |  |

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

| PROPOSED AMENDMENTS   | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>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.</li> </ul> | Support                     |   |

### Standard 10 – Complaints and appeals

| PROPOSED AMENDMENTS   | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>Assessment of an internal complaint or appeal must be finalised within 20 working days.</li> </ul> | Support                     |   |

### Standard 11 – Additional requirements

| PROPOSED AMENDMENTS   | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>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.</li> </ul> | Support                     |   |

| PROPOSED AMENDMENTS  | SUPPORT /<br>DO NOT SUPPORT | COMMENTS<br><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"> <li>• 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"> <li>○ course content and duration</li> <li>○ number of overseas students enrolled within the limit approved by the ESOS agency</li> <li>○ arrangements with other education providers (partnerships).</li> </ul> </li> <li>• 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.</li> </ul> | Support                     | The comment “arrangements with other education providers (partnerships)” is very broad and could cover a wide range of partnerships e.g. offshore. Can guidance/advice be sort as to what the intent of this is? |
| <ul style="list-style-type: none"> <li>• 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"> <li>○ any other affiliated organisations registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS)</li> <li>○ any changes to high managerial agents or ownership of their organisation.</li> </ul> </li> </ul>   | Support                     |  |
| <ul style="list-style-type: none"> <li>• 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.</li> </ul>  | Support                     |  |

## Other comments

Please list any other comments here:

**Standard 3** - Regarding the requirements stated 3.1 – 3.3 that need to be included in the written agreement, can they be included in the form of a weblink to direct students where to obtain the information?

### **Standard 6 – Student support services**

Standard 6 clarifies providers must take all reasonable steps to provide a safe environment on campus.

It requires providers to have in place a documented policy and process to manage critical incidents that could affect a student undertaking or completing the course.

Providers must also give information to students regarding a range of support services, including relating to English language, health, legal services, complaints and appeals avenues, online learning and employment assistance.

We understand that “employment assistance (including resolving workplace issues).” to mean advising students of avenues to pursue such as Fair Work Australia when they feel that they are being treated unfairly in their workplace. Please confirm that employment assistance does not include assistance in finding employment.

### **Standard 6.4 Only on-line studies for any given study period:**

1. If a student is allowed to undertake all on-line studies for any given study period how will this impact on calculation, monitoring and reporting on attendance?

2. How will a receiving institution understand attendance in the above situation?

### **Standard 7 Release Letters:**

1. When a release letter is requested the receiving institution the course and the student’s circumstances and reasoning for the change are all considered. If a student is given a release to transfer to a particular institution what guarantee is there that the student will go that institution rather than one that we might have considered as not being in the student’s best interests?

2. Will the proposed new PRISMS functionality allow the giving institution to enter details of the course and institution that has been approved in the release letter request so that only the approved receiving institution can see that approval has been given or will any institution see that a release letter has been approved (but not the details of the approved course and institution) and then be able to take the student?

3. Will the new PRISMS functionality do away with the need for a release letter altogether? IF so will something be available to the student... maybe some kind of pro-forma coming out of PRISMS?

4. Will the proposed PRISMS functionality help in preventing unscrupulous institutions from treating a cancelled CoE as the equivalent of a RELEASE letter?