



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

National Code of Practice for Providers of Education and Training to Overseas Students 2018

Overview

An overseas student's enrolment can be deferred, suspended or cancelled. This may be initiated by either the overseas student for compassionate and compelling circumstances, or the registered provider for an overseas student's breach of visa conditions, failure to pay fees, misbehaviour, or other condition listed in a registered provider's policy.

Registered providers must manage the enrolment of overseas students and maintain up-to-date enrolment information in the Provider Registration and International Student Management System (PRISMS) database.

Registered providers must:

- have a documented process for assessing, approving and recording a deferment, suspension or cancellation of study
- notify the overseas student in writing of the intention to suspend or cancel their enrolment
- tell the overseas student to seek advice from the Department of Home Affairs on the potential impact on their visa if enrolment has been deferred, suspended or cancelled
- not let a suspension or cancellation take effect until the overseas student has been given a chance to complete an internal appeals process, unless their health or wellbeing, or the wellbeing of others, is likely to be at risk.

Key Requirements

Deferral, suspension or cancellation

Registered providers must maintain a record of any decisions to defer or suspend an overseas student's enrolment. Registered providers that defer or suspend an overseas student's enrolment must notify the Department of Education and Training through PRISMS.

The Department of Home Affairs is notified of a student whose course has been deferred, suspended or cancelled through PRISMS. An international student's visa would not be cancelled if the deferral is for compassionate or compelling reasons. If a registered provider defers or suspends a student's studies for compassionate or compelling reasons, the registered provider should ensure the student visa holder has a valid CoE in PRISMS with a start date that reflects the student's intended date of return to studies. There is no maximum period for a deferral under compassionate or compelling reasons, but the deferral must be assessed in accordance with the registered providers' policies and procedures.

An international student's visa may be cancelled if the deferral or suspension:

- is due to the conduct of the student
- is for reasons other than compassionate or compelling circumstances
- the compassionate or compelling circumstances which warranted the deferral or suspension of studies cease to exist
- is based on fraudulent evidence or documents given to the registered provider.

Effect on Confirmation of Enrolment (CoE)

Registered providers must tell overseas students that deferring, suspending or cancelling their enrolment on any grounds may affect their student visa.

Under this standard of the National Code, there are three possible outcomes for an overseas student's CoE:

1. The registered provider notifies the Department of Education and Training through PRISMS that they are deferring or suspending an overseas student's enrolment for a period **without affecting the end date of the CoE**. There will be no change to the CoE on PRISMS – the overseas student will still be listed as studying. However, the notice of deferment or suspension will be recorded in PRISMS.
2. The registered provider notifies the Department of Education and Training through PRISMS that they are deferring or suspending an overseas student's enrolment for a period which **will affect the end date of the CoE**. PRISMS will cancel the original CoE and immediately offer the registered provider the opportunity to create a new CoE with a more appropriate end date. If the registered provider does not know when the overseas student will return, it can choose not to create a new CoE at that point, but to wait until the overseas student has notified the registered provider of the intended date of return before creating a new CoE.

3. The registered provider notifies the Department of Education and Training through PRISMS that it wishes to **permanently cancel (terminate)** the overseas student's enrolment. Once this process is complete, the overseas student's CoE status will be listed as 'cancelled'. If the overseas student is under the age of 18, the cancellation of a CoE does not cancel a Confirmation of Appropriate Accommodation and Welfare (CAAW), and the registered provider is still responsible for welfare arrangements until one of the conditions of Standard 5.6 are met.

Regardless of the reason, if an overseas student's enrolment is deferred or suspended the period of suspension of enrolment (as entered in PRISMS) should not be included in attendance monitoring calculations.

Student-initiated deferrals, suspensions or cancellations of their enrolment

Registered providers are able to defer or suspend the enrolment of an overseas student if there are compassionate or compelling circumstances. Registered providers must assess the deferral of commencement of study or suspension of study for the overseas student in accordance with the registered provider's documented procedures for assessing and approving changes to enrolment.

'Compassionate or compelling' circumstances are generally those beyond the control of the overseas student and which have an impact upon the overseas student's course progress or wellbeing. These could include, but are not limited to:

- serious illness or injury, where a medical certificate states that the overseas student was unable to attend classes;
- bereavement of close family members such as parents or grandparents (where possible a death certificate should be provided);
- major political upheaval or natural disaster in the home country requiring emergency travel and this has impacted on the overseas student's studies;
- a traumatic experience, which could include:
 - involvement in, or witnessing of a serious accident; or
 - witnessing or being the victim of a serious crime, and this has impacted on the overseas student (these cases should be supported by police or psychologists' reports)
- where the registered provider was unable to offer a pre-requisite unit, or the overseas student has failed a prerequisite unit and therefore faces a shortage of relevant units for which they are eligible to enrol.

These are only some examples of what may be considered compassionate or compelling circumstances.

Registered providers should outline what is considered compassionate or compelling circumstances in their own policies and use their professional judgement to assess each case on its individual merits. When determining whether compassionate or compelling circumstances exist, registered providers should consider documentary evidence provided to support the claim, and should keep copies of these documents in the overseas student's file.

Provider-initiated deferrals, suspensions or cancellations of enrolment

Registered providers may suspend or cancel an overseas student's enrolment on the basis of, but not limited to:

- misbehaviour by the overseas student;
- the overseas student's failure to pay the required amount to undertake or continue the course as stated in the written agreement; or
- a breach of course progress or attendance requirements by the overseas student.

For any deferral, suspension or cancellation of enrolment initiated by the registered provider, the overseas student must be given a notice of intention to report and 20 working days to access the registered provider's internal complaints and appeals process. This applies even if an overseas student's misbehaviour is grounds for immediate expulsion, unless the overseas student's health or wellbeing, or the wellbeing of others, is likely to be at risk (as outlined below).

Generally, a registered provider may proceed with the deferral, suspension, or cancellation after the internal complaints handling and appeals process has been completed – for example, in cases of misbehaviour and non-payment. The only time a registered provider needs to wait for both the internal and external complaints handling and appeals processes to be completed is for course progress and/or attendance breaches.

The overseas student does not have to be given the opportunity to appeal a provider-initiated deferral, suspension or cancellation of enrolment when the overseas student's health or wellbeing, or the wellbeing of others, is likely to be at risk. The registered provider must keep evidence to support this.

This may include, but is not limited to when the overseas student:

- refuses to maintain approved care arrangements, if they are under 18 years of age;
- is missing;
- has medical concerns, severe depression or psychological issues which lead the provider to fear for the overseas student's wellbeing;
- has engaged or threatens to engage in behaviour that is reasonably believed to endanger the overseas student or others; or
- is at risk of committing a criminal offence.

Disclaimer

The Department of Education and Training provides general information and assistance to registered providers and overseas students on the National Code and the *Education Services for Overseas Students Act 2000*.

However, such information or assistance should not be relied on as legal advice or as a substitute for legal advice. Overseas students and education providers should seek independent legal advice as appropriate.

Standard 9: Deferring, suspending or cancels the overseas student's enrolment

The National Code fact sheets are designed to give registered providers practical guidance in day to day operations. Registered providers should note that compliance will be measured against the requirements of the National Code, not against the fact sheets.