

IRU response to the consultation draft of a revised National Code of Practice for Providers of Education and Training to Overseas Students

The [IRU submission](#) to the ESOS framework review in 2014, focused on the need to consider the interaction of ESOS with the newly developed national quality frameworks in higher education and vocational education and training. Our key argument was the need to target ESOS to the requirements specific to international students only. The national frameworks protect both international students and Australian students for the large number of factors relevant to all students.

The final step in the update of ESOS is the revision of The National Code of Practice for Providers of Education and Training to Overseas Students. The National Code is the major instrument for defining the requirements specific to international students.

IRU is disappointed that the proposed changes to the National Code maintain extensive duplication across the separate regulatory frameworks for international and domestic students. It does not sit well against the Government's commitment to pare back regulation to clear, consistent requirements.

The IRU response:

- first addresses the duplication across the Higher Education Standards and the National Code and then,
- on the basis that the revised National Code will be the confirmed along the lines of the current draft indicates:
 - the important improvements included in the draft;
 - areas within the draft that should be amended.

1. Placing ESOS and the National Code within the Australian higher education quality framework

The Higher Education Standards Panel in developing the Higher Education Standards showed how the standards covered most elements in the then National Code. The Table at Attachment One compares the Standard descriptor for the revised National Code (27 pages) against the main elements of the Higher Education Standards Framework (27 pages). It shows that with the exception of proposed Standards 5, 7, and 8, in the National Code that remains considerable overlap.

The revised Code recognises the overlap through its general statement that “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.”

In effect, this says that for Higher Education and any other sector with effective standards that the National Code is largely superfluous.

2. Streamlining the National Code

Despite the IRU argument above it is clear that the Government's intent is to retain a detailed National Code. The following two sections consider the revision to the National Code within that context.

Overall the revision is an improvement that simplifies and updates, with 18 standards consolidated into 11. It includes two notable improvements:

- **Proposed standard 8.19** allows for one third of delivery to be online and removes the requirement of one face to face subject per study period; and
- **Proposed standard 7** allows for providers to use PRISMS to record a student release and the reasons for such on the student's Confirmation of Enrolment (CoE). If this means that a receiving provider cannot issue a CoE until the releasing provider has entered those details, this is an improvement. In addition, this provision should be made available to both CoE Approved and Visa Granted statuses within PRISMS.

The following identifies areas for improvement.

Proposed standard 3, Formalisation of enrolment and written agreements

IRU members raised concerns with the Department of Education on 28 February 2017, on the proposed new procedures requiring written agreements. As drafted these suggest a level of compliance and an administrative burden not currently experienced by universities.

It is important to make information on refund policies and complaints and appeals processes clearly available to the student. To require these to be directly included in the agreement is labour intensive and extend an already challenging text heavy document for students. This kind of specific detail can vary significantly by course and therefore increases the likelihood of human error in preparing the written agreement (especially in the context of a dynamic curriculum design). The information is already captured in the handbook.

Proposed standard 5, Younger students

Universities recognise they have significant responsibilities for any students under 18. The risk is that institutions who only enrol small numbers of minors may elect to exclude these students rather than undertake the work to ensure compliance with the National Code.

Proposed standard 7, Transfer of students

Student transfers have been a long vexed subject. IRU proposes to add 'successful' so that this standard would then read,

*"Registered providers must not knowingly enrol a student seeking to transfer from another provider's course prior to the student **successfully** 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."*

This change would ensure a better balance of allowing students to choose a new provider but on the basis that they have shown their aptitude for study and hence suitability to retain a student visa.

- **Proposed standard 7.1.3** indicates that released status will be recorded in PRISMS rather than by letter. The Department of Education and Training has previously indicated that PRISMS has not been reliable in identifying where students need release letters. It is important that PRISMS be capable of recording this information accurately.

In instances where students have applied for release and not met the criteria, PRISMS should also be amended to be able to record a 'not released' status with the reasons the release was denied. This would reduce the likelihood of student enrolling with another higher education provider despite not being released.

- **Proposed standard 7.2.2.1** requires students to have gone through a provider's intervention strategy and still failed to achieve satisfactory course progress before they can be granted a release. For universities, this can mean two semesters of study which would put the student beyond the stated six-month requirement. This has the effect of preventing university students from being released on academic grounds.

Proposed Standard 8, Student visa requirements

- **The Note on Modes of Delivery**, proposes to provide clarity between distance and online (which is fully or partially proscribed) and other methods of delivery that are a standard part of modern face to face pedagogy (Multi modal or blended learning). We support this but propose that further clarity is required. We suggest replacing the consultation draft text:

“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.” with

“For the purposes of the ESOS framework, it is not intended that the provision of online lectures and other asynchronous *multi-modal or blended learning forms of tuition or resources that supplement regular classes or contact hours* be defined as online learning.”

- **Proposed standards 8.3 and 8.8** provide a level of uncertainty where previously certainty existed. The old “at risk” definition has been removed and in its place the standard now refers to students “*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 indicator of academic progress*”. Requiring a provider to have an intervention plan, is a significant shift from the current Code and has significant resourcing implications for providers, with the intent of the standard requiring providers to intervene and be proactive.
- **Proposed standard 8.16** adds a level of complexity and time that is unnecessary. Under the current provision in the National Code (11.9) providers have a discretion not to report where the student is under the 80% rule without making the students appeal.

Proposed standard 10, complaints and appeals

The period for providers to conclude any complaint or appeal of 20 days from formal lodgement should be extended to 30 days to ensure providers and students are able to work through the issue effectively.

10 March 2017

Table 1. Comparison between National Code Standards and Higher Education Standards Framework

10 March 2017

National Code – Standards for International Students	Higher Education Standards Framework – for all students
<p>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.</p>	<p>7. Representation, Information and Information Management – 7.1 Representation</p>
<p>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.</p>	<p>1. Student participation and attainment - 1.1 Admission - 1.2 Credit and Recognition of prior learning 7. Representation, Information and Information Management - 7.2 Information for Prospective and Current Students</p>
<p>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.</p>	<p>7. Representation, Information and Information Management - 7.2 Information for Prospective and Current Students - 7.3 Information Management</p>
<p>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.</p>	<p>7. Representation, Information and Information Management – 7.1 Representation</p>

<p>Standard 5 - Younger students:</p> <p>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 <i>Migration Regulations 1994</i> require the provider to ensure the arrangements for younger students are suitable, ongoing and appropriately managed until the student turns 18 years of age.</p>	<p>No such coverage within the HE Standards Framework</p>
<p>Standard 6 - Student support services:</p> <p>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.</p>	<p>2. Learning Environment - 2.3 Wellbeing and Safety</p>
<p>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.</p>	<p>No such coverage within the HE Standards Framework</p>
<p>Standard 8 - Student visa requirements:</p> <p>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.</p>	<p>No such coverage within the HE Standards Framework</p>

<p>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.</p>	<p>7. Representation, Information and Information Management - 7.2 Information for Prospective and Current Students</p>
<p>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.</p>	<p>2. Learning Environment - 2.4 Student Grievances and Complaints</p>
<p>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.</p>	<p>5 Institutional Quality Assurance 6 Governance and Accountability</p>