

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	SUPPORT	
<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.	SUPPORT	

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	<p>1.1 Consistent with Australian Consumer Law – Providers may need to ensure Agent contracts are updated. Providers and agents should be aware of fines under ACL (risk to be factored in). It is important that this requirement is cross-referenced in Standard 4 as well. ISANA recommends that this be an additional clause in 4.2:</p> <p><i>The written agreement must outline:</i></p> <p><i>4.2.2 (new) the responsibilities of the agent in providing accurate and not misleading information consistent with Australian Consumer Law (in accordance with Standard 1)</i></p>
<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. 	SUPPORT	<p>It is important that prospective students are aware that they might need to undertake compulsory WIL in rural/remote areas and/or away from intended place of residence, and make appropriate financial allowances for this very plausible eventuality. ISANA recommends that this information requirement also requires providers to include the range of locations for these opportunities.</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	

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. 	SUPPORT	While this may be onerous for providers regarding assessment requirements, it is important for students to be advised early into the process that for some courses they will need to be in Australia from January to December due to WIL requirements (e.g. Nursing).
<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. 	SUPPORT	
<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. 	SUPPORT	This should be written in Plain English to ensure details are not left out when trying to include all required information especially when trying to explain course content and qualifications.
<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	<p>2.4 Refer to ESOS definition of an accepted student to mean from the time CoE issued.</p> <p>2.4 Student to sign for credit – suggest change requirement for the student to sign to include electronic acknowledgement. ISANA notes that Student File implies one central point. We suggest a change back to Student Record.</p> <p>2.5 RPL doesn't always reduce net duration of a course only study load – this may cause uncertainty for both provider and student. This distinction must be noted in the enrolment information provided to the student.</p>

Standard 3 – Formalisation of enrolment and written agreements

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>
Written agreements must include more detailed information about students' enrolment.	SUPPORT	<p>3.1 All information into offer letter – this may be an onerous requirement as it can lead to an enormous document which also requires the student's signature. Also, if changes/updates are made it all needs to be resent and signed. However, having all the information immediately to hand when signing is a good thing and the 'how to' is a question for provider's procedures.</p> <p>3.3 Plain English –Providers need to refer to all necessary documents in the written agreement.</p> <p>3.3 Suggest amending 'the written agreement must outline or provide a link to information in plain English'</p>
Providers must require students must keep their personal and contact information up to date.	SUPPORT	<p>Suggested rewording: <i>"providers must require students to keep their..."</i></p> <p>Not all overseas students necessarily have a mobile number, recommend change to phone number or phone contact</p>
<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. 	<p>SUPPORT</p>	<p>4.4.1 Conflicts of Interest needs to be defined. It is unclear whether the conflict of interest is only being viewed as being with the provider or with the student eg. Agent persuading students to attend/change to a certain provider due to commissions they receive?</p> <p>Suggest new standard 4.6 be expanded to include examples (or include in explanatory statement) of 'false or misleading conduct' such as those provided in the old standard 4.3a-c. That is the registered provider not accept students from an education agent if it knows or reasonably suspects the education agent to be: recruiting students where there is a conflict with standard 7 transfer between registered providers; facilitating enrolment of a student believing the student won't comply with conditions of visa; using PRISMS to create CoEs for other than bona fide students.</p>
<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. 		<p>The Agent Code of Ethics (ACE) launched in October 2016 has not been formally endorsed by all providers or their peak bodies. There are a few issues with the ACE requiring clarification. Recommend deleting "<i>the code of ethics</i>" reference from Standard 4.4.4 and replacing it with "<i>the Principles listed in the London Statement</i>". The London Statement has been endorsed by all peak bodies and the Australian Government.</p> <p>It is further recommended that providers include compliance to relevant codes in provider-agent agreements and that these requirements are also made known to students.</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 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. 	Do Not Support	<p>Standard 4.7 may be interpreted as a permanent agent suspension. Current wording does not cater for corrective action to be applied to individual agent staff as per Standard 4.2.3.</p> <p>Recommend that Standard 4.7 be deleted, and a new Standard 4.4.5 inserted as per the following: <i>“not provide migration advice, unless that agent is authorised to do so under the Migration Act 1958.”</i></p>

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	<p>5.1 Suggest wording be amended to: <i>‘any Australian, state or territory legislation where the provider operates’</i>. Otherwise some operators may be required to comply with laws of states and territories they have no presence in which may not be the intention of this amendment.</p>
<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	<p>New – report any incident of allegation involving abuse. Providers to include in operational procedures and have clear guidelines on how students are to be made aware of this.</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 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. 	SUPPORT	<p>5.3.2 There are potentially different interpretations of this standard. Needs clarification. Does this mean providers have to check this themselves and repeat every 6 months? Can this be outsourced? A cross-reference to 5.3.6 would be useful.</p> <p>What does 'checking' involve – Does this mean visiting the premises in person?</p> <p>To avoid uncertainty about the interpretation of this standard and the place of accommodation inspections, the explanatory guide should include a statement that the "documented process for providers "should outline any circumstances when an accommodation inspection might be required'.</p>
<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. 	SUPPORT	<p>Does this mean only the contracted homestay providers must be checked or does it include all adults over 18 residing in the property while the overseas student is there? Does 'involved' mean simply living there even though they are not actually involved in any service provision to the student? These are important practical distinctions. ISANA recommends clarification.</p>
<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	<p>This section currently lacks any provision specifically for ensuring the health and wellbeing of younger students with a disability. Suggest adding a clause or clauses specifying how students with disabilities will be supported, and who is responsible for doing this.</p>
<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	<p>The responsibility for the student needs to be clarified; is the provider accountable until other arrangements are in place? This would be necessary and should be added to the amendment. Otherwise the implication is that the provider is in the position to cancel the student's visa.</p>

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<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. 	<p style="text-align: center;">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"> 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. 	<p>SUPPORT</p>	<p>While ISANA supports the principle that there is no gap in welfare arrangements for Under 18 students, there are several issues that require consideration.</p> <p>ISANA notes that in many cases, it may be difficult for the receiving provider to meet these obligations when the student is not coming from a feeder college. For example, when the student is coming from another provider - let's say a VTAC student who has just finished VCE. They finish studying at their school in late Nov or early Dec and will not know where they are studying until they receive and accept an offer in January. At the time of making an offer, the potential receiving provider would have no idea what existing welfare arrangements are in place. It would make more sense for the school to negotiate the transfer of welfare arrangements because they know what arrangements are currently in place and can easily liaise with the student regarding where they are going to study. PRISMS needs some updating to help us manage gaps. At this stage, we only know when there is a clash in welfare arrangements, we do not know if there is a gap.</p> <p>In these scenarios, it is unreasonable for the receiving provider to take welfare responsibility for 6 weeks or more prior to the commencement of the course. Perhaps there should be an addition to this standard that if under 18 students have a significant gap between courses, they should be required to return home.</p> <p>In addition, this should be amended to change the responsibility for transfer date to the sending provider as they are aware of their student's plans for further study. If the sending provider does not contact the receiving provider, the student must return home until their new CAAW arrangement takes effect.</p> <p>In the situation where the student changes providers but continues to live in same Homestay arrangements, it is unclear who is responsible? Does the new provider need to make separate arrangement with the Homestay? How does this impact the original</p>

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<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. 	<p>SUPPORT</p>	<p>ISANA supports this amendment in principle. We would however like to draw attention to the practical execution of this amendment.</p> <p>It is unrealistic to expect the receiving provider to negotiate welfare details with the releasing provider or to expect that the receiving provider will commence welfare arrangements earlier than anticipated; often prior to the student officially accepting their offer.</p> <p>For students transitioning from secondary to tertiary studies in Australia or from one provider to another, it is the releasing provider not the receiving provider who will have information about whether the student will remain in Australia during the gap period (often November-February) or whether the student will return home. Normally welfare arrangements for these students will cease at the end of the academic year and new arrangements will not be entered until shortly before the study period with the new provider commences.</p> <p><u>Proposed re-wording of standard 5.7:</u></p> <p>“5.7 If the registered provider enrolls a student under 18 who has welfare arrangements approved by another provider or whose welfare arrangements have recently ceased, and if the student is remaining in Australia during the gap period, the releasing provider must</p> <p>5.7.1 negotiate the transfer date for welfare arrangements with the receiving provider to ensure there is no gap</p> <p>5.7.2 advise the student of their visa obligations 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 arrangements take place”</p>

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Standard 5 – General Comment		There is still the ongoing issue of DIBP- approved arrangements. Since DIBP does not monitor these arrangements, it is left to the provider to step in and assist the student when the student, usually belatedly, informs the institution that they are no longer in the care of their nominated relative. Relatives on a Guardian Visa should be required to travel with the student unless they have a letter of release from the student's institution (i.e. an alternative arrangement has been agreed to).
<ul style="list-style-type: none"> 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..... 	DO NOT SUPPORT 5.3	<p>The National Code is silent on the obligations of DIBP for similar U 18 students. A high percentage of all U18 approvals are for students staying with a parent, guardian or nominated relative. For students in this category, DIBP assesses the welfare obligation at the time of student visa application assessment. There is no obligation in the code for DIBP to undertake (or facilitate or record through a provider) an accommodation check every 6 months to ensure that students are maintaining arrangements.</p> <p>An equivalent clause to standard 5.3.2 should be introduced into the code. If this is not possible because the National Code is for 'providers' then it is proposed that DIBP build into their Procedures Advice Manual (PAM) a requirement to have a like policy and procedure for checking and verifying accommodation every 6 months to ensure the student is continuing to live with their parent, guardian or nominated relative.</p>

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	<p>6.5 – Add requirement for providers to nominate staff member/s specific titles and relevant contact details to be official point of contact, not just give a Unit name.</p> <p>ISANA notes that for international students, support services are referred by different names in their respective home countries. By providing a staff position title, role descriptor and contact details students will be able to seek assistance from the appropriate staff members for their needs.</p>
<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	
<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	<p>Recommend that this clause also includes a responsibility for providers to ensure that students are aware of who to contact in the event of a critical incident. Providers are often unable to meet their CI obligations as they are not contacted by the students. This would link to 6.9</p>
<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>
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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. 	<p>SUPPORT</p>	<p>ISANA supports this amendment in principle but notes that there are issues that require clarification.</p> <p>For students studying a higher education diploma or foundation year preceded by an English language course, it is common for these students to require a release letter up to 18 months into their study because they have not yet commenced their principal course. Requiring a Release even after a student has undertaken 12 months of study at a provider is unnecessarily restrictive.</p> <p><u>Proposed re-wording of standard 7.1:</u> "Registered 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</p> <ul style="list-style-type: none"> for the school sector, until after the first six months of the first registered school sector course or for higher education until after the first 12 months of the student's preliminary course or courses except where any of the following applies:" <p>This proposed amendment no longer requires a valid Letter of Offer from the Provider to whom the student is transferring – suggest keeping this as a requirement.</p> <p>There are welfare concerns if the student says they are transferring but don't re-enrol elsewhere – what is the effect on the student's visa?</p> <p>It is not necessarily good for the student when they could ask on compassionate and compelling grounds to transfer but are in fact eg. homesick, so the real issue isn't addressed and could in fact be exacerbated.</p>

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<ul style="list-style-type: none"> Transfer requests from the student must be in writing. 	<p align="center">SUPPORT</p>	
<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 student's best interests; and reasonable grounds for refusal of the request. 	<p align="center">SUPPORT</p>	<p>Provider may have a policy that says under no circumstances will a Transfer be granted; or limit it to one or two very detailed circumstances under compassionate and compelling. Such policies may be challenged by students, whose reasons do not appear to comply with policy. The proposed amendments state that policy grant the transfer in the student's best interest. It is important that this intention is stated in the opening 7.2 before the example circumstances.</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 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>SUPPORT</p>	<p>7.2 The 'student's best interest' test is broad and open to argument and conflicting, subjective interpretations. Is this helpful to the student? ISANA suggests including a requirement that specialised professional support for students be deployed to determine 'best interest' and assist student make decisions.</p> <p>For example, If a student says they are suffering financial hardship, ie. no work, lost money (spent, gambled – just none left), family business burnt down and only way to solve it is to move to Syd/Melb to live with family. Is it in the student's best interest to transfer in first 6 months. It is possible they are going to worse conditions both in accommodation, paid work and unpaid obligations to family when moving.</p> <p>This can be considered under Compassionate and Compelling circumstances despite requirement under DIBP for student to demonstrate funds to support themselves.</p> <p>7.2.2.4 Students enter into a written agreement. Should this clause reference the agreement rather than some 'unspecified new criterion such as 'reasonable expectations' which is vague and can be anything not covered by the various Standards?</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>	

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 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 contact Immigration to seek advice on whether a new student visa is required. 	SUPPORT	
<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	ISANA supports this amendment. However, it is to be noted that if a Release is not supported, a student could withdraw and enrol elsewhere as it is the Letter of Release which prevents another provider enrolling them, thus making Standard 7 redundant.
<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	
<ul style="list-style-type: none"> Standard 7 – general comment 		If students are recruited in an ethical manner, provided the information to make an informed decision, the condition of enrolment is set out in the written agreement and agents are managed in accordance with standard 4, there is no need for standard 7. However, it remains in place because of concern about course hopping and the actions of unethical agents. ISANA asks that if Standard 7 remains, providers address more diligently the issues of unethical behaviour. The sector needs to address this issue without disadvantaging students and their right to consumer protection.

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. 	<p>SUPPORT</p>	
<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. 	<p>SUPPORT</p>	<p>Students need to be informed from the onset that the assessment processes in their intended provider might be very different to those of their home provider, and that there is a real possibility of failing a subject, in which case they need to be aware of the financial implications associated with unsatisfactory performance.</p>
<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. 	<p>SUPPORT</p>	

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. 	DO NOT SUPPORT	Reporting the breach in PRISMS means automatically cancelling a student's CoE. There may be acceptable reasons to allow the student to continue studying.
<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. 	SUPPORT	
<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 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 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"> • 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>SUPPORT</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. 	SUPPORT	<p>Suggested rewording:</p> <p><i>“providers may not extend the duration of ..., unless...”</i></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. 	SUPPORT	

Reporting breaches of visa 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"> • 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>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>SUPPORT</p>	<p>It is not clear standard 8.16 refers to VET providers only, although it is mentioned in the Summary of changes to the draft National Code.</p> <p>Amended wording: The registered VET provider may decide not to report the student for breaching ...</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.	SUPPORT	

<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. 	<p>DO NOT SUPPORT</p>	<p>There are complex issues in this standard which have not been satisfactorily resolved. There are many welfare issues around all this including lack of engagement with staff and services.</p> <p>Previously a student could not do more than 25% of their total course online; now it is the Course must not be delivered with more than one-third of the units (or equivalent) online (retained to meet post study work rights). There is no requirement for a student to enrol in at least one ON campus unit each compulsory study period.</p> <p>This could lead to a scenario where a student applies, enrolls but never comes to a provider as they select all online units in first teaching period and live elsewhere. Second teaching period they can then transfer under compassionate and compelling circumstances eg. all my friends are in Syd/Melb; my accommodation is established, my family, my job etc...</p> <p>ISANA acknowledges that there are circumstances where a student should have the flexibility of solely enrolling in online units in a semester. For example, where the student is off campus in a provider approved WIL/placement such as nursing student placements in a rural or remote area. The alternative is to allow unrestricted online enrolment up to one-third of the total units (8.18) under certain conditions that must be stated. This would then place responsibility on the provider to monitor the student's enrolment and their mode of study in each compulsory study period. It would also link logically to 8.20 where the provider has responsibility for supporting the student.</p>
<ul style="list-style-type: none"> Higher education and VET providers must not deliver more than one-third of a student's course online. 	<p>SUPPORT</p>	

<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	This seems contradictory re 'opportunities to engage with other students' as these opportunities will be less if students study mainly by online. ISANA refers the Department to an earlier comment on amendments to 8.18.
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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. 	SUPPORT	

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. 	DO NOT SUPPORT	<p>It is impractical to require all complaints and appeals to be resolved within 20 working days. This is particularly critical when appeals are held at the end of the academic calendar year. Specified outcome time of 20 working days may lead to rushed, less considered decisions.</p> <p>Proposed re wording: ‘... if due to unforeseen circumstances a complaint or appeal cannot be finalised within 20 working days, the student is to be advised of the status of the matter so that the student is kept fully informed of progress’</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>	<p>Assessment methods – terminology is inconsistent with ‘assessment requirements’ used in Standard 2.</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 WITH CLARIFICATION</p>	<p>Standard 11.1.1 states that in applying to register a full-time course at a location, a provider must seek approval from the ESOS agency, ... the following:</p> <ul style="list-style-type: none"> - ... assessment methods and holiday breaks. <p>We believe that material course changes would be notified to the ESOS agency or TEQSA in relation to higher education courses according to its Material Changes Notification Policy. However, the current Policy does not give assessment methods specifically as a reason to notify TEQSA of a course change. ‘Holiday breaks’ should be separated out to refer to the ‘school sector’ only.</p>
<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. 	<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"> 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:

- In reference to the revised Standard 5.7, to facilitate the gaining providers' awareness of student welfare arrangements; information about the student's previous welfare arrangements, the dates of those arrangements, name of provider and the U18 contact person at that provider should be made available in PRISMS.
- In reference to removal of existing standard 7.3(a) "provided a letter from another registered provider confirming that a valid enrolment offer has been made". Will the PRISMS development allow the receiving provider to confirm that a valid enrolment offer has been made?
- Although definitions and acronyms are embedded in the revised National Code, it would be useful to include an Appendix with those definitions and acronyms outlined.

Page 6 – Tuition Protection Service

<p>Current wording: <i>"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 students can either:</i></p> <ul style="list-style-type: none"> <i>Complete their studies in another course or with another education provider or</i> 	<p>Query: The circumstances in which actions that the TPS can take are limited. What recourse do international students have if an education provider is able to fully deliver the course, but not within the expected timeframe, e.g. if a work placement cannot be provided until the next semester/term/year due to lack of availability?</p>
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- *Receive a refund of their unspent tuition fees.”*

Section 4 – Education Agents

<p>4.1 Current wording:</p> <p><i>“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.”</i></p>	<p>Suggested rewording:</p> <p><i>“Agreements between the registered provider and education agents must be formalised in writing.”</i></p> <p>Perhaps move the definition of an education agent to a note or glossary</p>
<p>4.4 Current wording</p> <p><i>“4.4 – A registered provider must require its agent to:</i></p> <p style="padding-left: 40px;"><i>4.4.1 Declare in writing and take reasonable steps to avoid conflicts of interest”</i></p>	<p>Suggested rewording:</p> <p><i>“4.4 – A registered provider must require its agent to:</i></p> <p style="padding-left: 40px;"><i>4.4.1 Declare in writing to the registered provider any conflicts of interest if and when they arise</i></p> <p style="padding-left: 40px;"><i>4.4.2 Take reasonable steps to avoid conflicts of interest</i></p>
<p>4.4.3 Current wording</p> <p><i>“4.4.3 – Act honestly and in good faith, and in the best interests of the student”</i></p>	<p>Suggested rewording:</p> <p><i>“4.4.3 – Act honestly and in good faith, and in the best interests of the student or prospective student”</i></p>

Standard 6 – Student Support Services

Section 6.3

<p>6.3 Current wording:</p> <p><i>“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.”</i></p>	<p>The current wording is unclear as to the nature of the support that should be provided here. The phrase “enable them to achieve expected learning outcomes” means it could be interpreted as meaning that the provider must provide students <u>with as much support as is needed</u> for them to pass their</p>
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course.

Suggested rewording:

“6.3 – The registered provider must take reasonable steps to support students to achieve expected learning outcomes regardless of the student’s place of study or the mode of delivery of the course.”