



EMMANUEL ANGLICAN COLLEGE  
*Learning ~ Living ~ Leading*

*National Code 2018 -  
Standards  
for  
Delivery of Courses to  
Overseas Students*

*CRICOS Provider Code: 02449F*



This appendix has been prepared to provide information for Administration and Teaching staff about The National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code 2018).

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## **STANDARD 1 - Marketing information and practices**

- 1.1 *The registered provider must ensure that the marketing and promotion of its courses and education services in connection with the recruitment of overseas students or intending overseas students, including through an education agent (in accordance with Standard 4), is not false or misleading, and is consistent with Australian Consumer Law.*
- 1.2 *The registered provider must, in seeking to enter into written agreements with overseas students or intending overseas students, not provide any false or misleading information on:*
  - 1.2.1 its association with any other persons or organisations the registered provider has arrangements with for the delivery of the course in which the student intends to enrol or may apply to enrol
  - 1.2.2 any work-based training a student is required to undertake as part of the course
  - 1.2.3 prerequisites—including English language proficiency—for entry to the course
  - 1.2.4 any other information relevant to the registered provider, its courses or outcomes associated with those courses.
- 1.3 *The registered provider must not:*
  - 1.3.1 claim to commit to secure for, or on the student or intending student's behalf, a migration outcome from undertaking any course offered by the registered provider
  - 1.3.2 guarantee a successful education assessment outcome for the student or intending student.
- 1.4 *The registered provider must include its CRICOS registered name and registration number in any written or online material that it disseminates or makes publicly available for the purposes of:*
  - 1.4.1 providing or offering to provide a course to an overseas student
  - 1.4.2 inviting a student to undertake or apply for a course, or
  - 1.4.3 indicating it is able or willing to provide a course to overseas students.
- 1.5 *The registered provider must not actively recruit a student where this conflicts with its obligations under Standard 7 (Overseas student transfers).*



## **STANDARD 2 – *Recruitment of an overseas student***

- 2.1 *Prior to accepting an overseas student or intending overseas student for enrolment in a course, the registered provider must make comprehensive, current and plain English information available to the overseas student or intending overseas student on:*
- 2.1.1 the requirements for an overseas student’s acceptance into a course, including the minimum level of English language proficiency, educational qualifications or work experience required, and course credit if applicable
  - 2.1.2 the CRICOS course code, course content, modes of study for the course including compulsory online and/or work-based training, placements, other community-based learning and collaborative research training arrangements, and assessment methods
  - 2.1.3 course duration and holiday breaks
  - 2.1.4 the course qualification, award or other outcomes
  - 2.1.5 campus locations and facilities, equipment and learning resources available to students
  - 2.1.6 the details of any arrangements with another provider, person or business who will provide the course or part of the course
  - 2.1.7 indicative tuition and non-tuition fees, including advice on the potential for changes to fees over the duration of a course, and the registered provider’s cancellation and refund policies
  - 2.1.8 the grounds on which the overseas student’s enrolment may be deferred, suspended or cancelled
  - 2.1.9 the ESOS framework, including official Australian Government material or links to this material online
  - 2.1.10 where relevant, the policy and process the registered provider has in place for approving the accommodation, support and general welfare arrangements for younger overseas students (in accordance with Standard 5)
  - 2.1.11 accommodation options and indicative costs of living in Australia.
- 2.2 *The registered provider must have and implement a documented policy and process for assessing whether the overseas student’s English language proficiency, educational qualifications or work experience is sufficient to enable them to enter the course.*
- 2.3 *The registered provider must have and implement a documented policy and process for assessing and recording recognition of prior learning (RPL), and granting and recording course credit, if it intends to assess RPL or grant course credit. The decision to assess prior learning or grant course credit must preserve the integrity of the award to which it applies and comply with requirements of the underpinning educational framework of the course.*
- 2.4 *If the registered provider grants RPL or course credit to an overseas student, the registered provider must give a written record of the decision to the overseas student to accept and retain the written record of acceptance for two years after the overseas student ceases to be an accepted student.*
- 2.5 *If the registered provider grants the overseas student RPL or course credit that reduces the overseas student’s course length, the provider must:*
- 2.5.1 inform the student of the reduced course duration following granting of RPL and ensure the confirmation of enrolment (CoE) is issued only for the reduced duration of the course
  - 2.5.2 report any change in course duration in PRISMS if RPL or course credit is granted after the overseas student’s visa is granted.



### **STANDARD 3 - Formalisation of enrolment**

- 3.1 *The registered provider must enter into a written agreement with the overseas student or intending overseas student, signed or otherwise accepted by the student, concurrently with or prior to accepting payment of tuition fees or non-tuition fees. A written agreement may take any form provided it meets the requirements of the ESOS Act and the National Code.*
- 3.2 *If the overseas student or intending overseas student is under 18 years of age, the written agreement with the overseas student or intending overseas student must be signed or otherwise accepted by the student's parent or legal guardian.*
- 3.3 *In addition to all requirements in the ESOS Act, the written agreement must, in plain English:*
- 3.3.1 outline the course or courses in which the student is to be enrolled, the expected course start date, the location(s) at which the course will be delivered, the offered modes of study for the course, including compulsory online and/or work-based training, placements, and/or other community-based learning and/or collaborative research training arrangements
  - 3.3.2 outline any prerequisites necessary to enter the course or courses, including English language requirements
  - 3.3.3 list any conditions imposed on the student's enrolment
  - 3.3.4 list all tuition fees payable by the student for the course, the periods to which those tuition fees relate and payment options (including, if permitted under the ESOS Act, that the student may choose to pay more than 50 per cent of their tuition fees before their course commences)
  - 3.3.5 provide details of any non-tuition fees the student may incur, including as a result of having their study outcomes reassessed, deferral of study, fees for late payment of tuition fees, or other circumstances in which additional fees may apply
  - 3.3.6 set out the circumstances in which personal information about the student may be disclosed by the registered provider, the Commonwealth including the TPS, or state or territory agencies, in accordance with the *Privacy Act 1988*
  - 3.3.7 outline the registered provider's internal and external complaints and appeals processes, in accordance with Standard 10 (Complaints and appeals)
  - 3.3.8 state that the student is responsible for keeping a copy of the written agreement as supplied by the registered provider, and receipts of any payments of tuition fees or non-tuition fees
  - 3.3.9 only use links to provide supplementary material.
- 3.4 *The registered provider must include in the written agreement the following information, which is to be consistent with the requirements of the ESOS Act, in relation to refunds of tuition fees and non-tuition fees in the case of student default and provider default:*
- 3.4.1 amounts that may or may not be repaid to the overseas student (including any tuition and non-tuition fees collected by education agents on behalf of the registered provider)
  - 3.4.2 processes for claiming a refund
  - 3.4.3 the specified person(s), other than the overseas student, who can receive a refund in respect of the overseas student identified in the written agreement, consistent with the ESOS Act



- 3.4.4 a plain English explanation of what happens in the event of a course not being delivered, including the role of the TPS
- 3.4.5 a statement that “This written agreement, and the right to make complaints and seek appeals of decisions and action under various processes, does not affect the rights of the student to take action under the *Australian Consumer Law* if the *Australian Consumer Law* applies”.
- 3.5 *The registered provider must include in the written agreement a requirement that the overseas student or intending overseas student, while in Australia and studying with that provider, must notify the registered provider of his or her contact details including:*
  - 3.5.1 the student’s current residential address, mobile number (if any) and email address (if any)
  - 3.5.2 who to contact in emergency situations
  - 3.5.3 any changes to those details, within 7 days of the change.
- 3.6 *The registered provider must retain records of all written agreements as well as receipts of payments made by students under the written agreement for at least 2 years after the person ceases to be an accepted student.*



## **STANDARD 4 – Education Agents**

- 4.1 *The registered provider must enter into a written agreement with each education agent it engages to formally represent it, and enter and maintain the education agent's details in PRISMS.*
- 4.2 *The written agreement must outline:*
- 4.2.1 the responsibilities of the registered provider, including that the registered provider is responsible at all times for compliance with the ESOS Act and National Code 2018
  - 4.2.2 the registered provider's requirements of the agent in representing the registered provider as outlined in Standard 4.3
  - 4.2.3 the registered provider's processes for monitoring the activities of the education agent in representing the provider, and ensuring the education agent is giving students accurate and up-to-date information on the registered provider's services
  - 4.2.4 the corrective action that may be taken by the registered provider if the education agent does not comply with its obligations under the written agreement including providing for corrective action outlined in Standard 4.4
  - 4.2.5 the registered provider's grounds for termination of the registered provider's written agreement with the education agent, including providing for termination in the circumstances outlined in Standard 4.5
  - 4.2.6 the circumstances under which information about the education agent may be disclosed by the registered provider and the Commonwealth or state or territory agencies.
- 4.3 *A registered provider must require its education agent to:*
- 4.3.1 declare in writing and take reasonable steps to avoid conflicts of interests with its duties as an education agent of the registered provider
  - 4.3.2 observe appropriate levels of confidentiality and transparency in their dealings with overseas students or intending overseas students
  - 4.3.3 act honestly and in good faith, and in the best interests of the student
  - 4.3.4 have appropriate knowledge and understanding of the international education system in Australia, including the Australian International Education and Training Agent Code of Ethics.
- 4.4 *Where the registered provider becomes aware that, or has reason to believe, the education agent or an employee or subcontractor of that education agent has not complied with the education agent's responsibilities under standards 4.2 and 4.3, the registered provider must take immediate corrective action.*
- 4.5 *Where the registered provider becomes aware, or has reason to believe, that the education agent or an employee or subcontractor of the education agent is engaging in false or misleading recruitment practices, the registered provider must immediately terminate its relationship with the education agent, or require the education agent to terminate its relationship with the employee or subcontractor who engaged in those practices.*
- 4.6 *The registered provider must not accept students from an education agent if it knows or reasonably suspects the education agent to be:*
- 4.6.1 providing migration advice, unless that education agent is authorised to do so under the Migration Act



- 4.6.2 engaged in, or to have previously engaged in, dishonest recruitment practices, including the deliberate attempt to recruit a student where this clearly conflicts with the obligations of registered providers under Standard 7 (Overseas student transfers)
- 4.6.3 facilitating the enrolment of a student who the education agent believes will not comply with the conditions of his or her visa
- 4.6.4 using PRISMS to create CoEs for other than bona fide students.



## **STANDARD 5 - Younger overseas students**

- 5.1 *Where the registered provider enrolls a student who is under 18 years of age, it must meet the Commonwealth, state or territory legislation or other regulatory requirements relating to child welfare and protection appropriate to the jurisdiction(s) in which it operates.*
- 5.2 *Registered providers must ensure students under 18 years of age are given age-and culturally-appropriate information on:*
- 5.2.1 *who to contact in emergency situations, including contact numbers of a nominated staff member and/or service provider to the registered provider*
  - 5.2.2 *seeking assistance and reporting any incident or allegation involving actual or alleged sexual, physical or other abuse.*
- 5.3 *Where the registered provider takes on responsibility under the Migration Regulations 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 registered provider) for a student who is under 18 years of age, the registered provider must:*
- 5.3.1 *nominate the dates for which the registered provider accepts responsibility for approving the student's accommodation, support and general welfare arrangements and advise Immigration, which is responsible for administering the Migration Regulations, of the dates in the form required by that department*
  - 5.3.2 *ensure any adults involved in or providing accommodation and welfare arrangements to the student have all working with children clearances (or equivalent) appropriate to the jurisdiction(s) in which the registered provider operates*
  - 5.3.3 *have and implement documented processes for verifying that the student's accommodation is appropriate to the student's age and needs:*
    - 5.3.3.1 *prior to the accommodation being approved*
    - 5.3.3.2 *at least every six months thereafter.*
  - 5.3.4 *include as part of their policy and processes for critical incidents under Standard 6 (Overseas student support services), a process for managing emergency situations and when welfare arrangements are disrupted for students under 18 years of age*
  - 5.3.5 *maintain up-to-date records of the student's contact details as outlined in Standard 3.5, including the contact details of the student's parent(s), legal guardian or any adult responsible for the student's welfare*
  - 5.3.6 *advise Immigration in the form required by that department:*
    - 5.3.6.1 *as soon as practicable if the student will be cared for by a parent or nominated relative approved by Immigration and a Confirmation of Appropriate Accommodation and Welfare (CAAW) is no longer required*
    - 5.3.6.2 *within 24 hours if the registered provider is no longer able to approve the student's welfare arrangements*
  - 5.3.7 *have documented policies and processes for selecting, screening and monitoring any third parties engaged by the registered provider to organise and assess welfare and accommodation arrangements.*
- 5.4 *If the registered provider is no longer able to approve the welfare arrangements of a student, the registered provider must make all reasonable efforts to ensure that the student's parents or legal guardians are notified immediately.*
- 5.5 *If the registered provider is unable to contact a student and has concerns for the student's welfare, the registered provider must make all reasonable efforts to locate the student, including notifying the police and any other relevant Commonwealth, state or territory agencies as soon as practicable.*



- 5.6 *Where Standard 5.3 applies and the registered provider suspends or cancels the enrolment of the overseas student, the registered provider must continue to approve the welfare arrangements for that student until any of the following applies:*
- 5.6.1 the student has alternative welfare arrangements approved by another registered provider
  - 5.6.2 care of the student by a parent or nominated relative is approved by Immigration
  - 5.6.3 the student leaves Australia
  - 5.6.4 the registered provider has notified Immigration under Standard 5.3.6 that it is no longer able to approve the student's welfare arrangements or under Standard 5.5 that it has taken the required action after not being able to contact the student.
- 5.7 *If the registered provider enrolls a student under 18 years of age who has welfare arrangements approved by another registered provider, the receiving registered provider must:*
- 5.7.1 negotiate the transfer date for welfare arrangements with the releasing registered provider to ensure there is no gap
  - 5.7.2 inform the student of their visa obligation to maintain their current welfare arrangements until the transfer date, or have alternate welfare arrangements approved or return to their home country until the new approved welfare arrangements take effect.



## **STANDARD 6 - *Student support services***

- 6.1 *The registered provider must support the overseas student in adjusting to study and life in Australia by giving the overseas student information on or access to an age and culturally appropriate orientation program that provides information about:*
- 6.1.1 support services available to assist overseas students to help them adjust to study and life in Australia
  - 6.1.2 English language and study assistance programs
  - 6.1.3 any relevant legal services
  - 6.1.4 emergency and health services
  - 6.1.5 the registered provider's facilities and resources
  - 6.1.6 complaints and appeals processes as outlined in Standard 10 (Complaints and appeals)
  - 6.1.7 requirements for course attendance and progress, as appropriate
  - 6.1.8 the support services available to assist students with general or personal circumstances that are adversely affecting their education in Australia
  - 6.1.9 services students can access for information on their employment rights and conditions, and how to resolve workplace issues, such as through the Fair Work Ombudsman.
- 6.2 *The registered provider must give relevant information or provide referrals as appropriate to overseas students who request assistance in relation to the services and programs set out in Standard 6.1, at no additional cost to the overseas student.*
- 6.3 *The registered provider must offer reasonable support to overseas students to enable them to achieve expected learning outcomes regardless of the overseas student's place of study or the mode of study of the course, at no additional cost to the overseas student.*
- 6.4 *The registered provider must facilitate access to learning support services consistent with the requirements of the course, mode of study and the learning needs of overseas student cohorts, including having and implementing documented processes for supporting and maintaining contact with overseas students undertaking online or distance units of study.*
- 6.5 *The registered provider must designate a member or members of its staff to be the official point of contact for overseas students. The student contact officer or officers must have access to up-to-date details of the registered provider's support services.*
- 6.6 *The registered provider must have sufficient student support personnel to meet the needs of the overseas students enrolled with the registered provider.*
- 6.7 *The registered provider must ensure its staff members who interact directly with overseas students are aware of the registered provider's obligations under the ESOS framework and the potential implications for overseas students arising from the exercise of these obligations.*
- 6.8 *The registered provider must have and implement a documented policy and process for managing critical incidents that could affect the overseas student's ability to undertake or complete a course, such as but not limited to incidents that may cause physical or psychological harm. The registered provider must maintain a written record of any critical incident and remedial action taken by the registered provider for at least two years after the overseas student ceases to be an accepted student.*



6.9 *The registered provider must:*

- 6.9.1 take all reasonable steps to provide a safe environment on campus and advise overseas students and staff on actions they can take to enhance their personal security and safety
- 6.9.2 provide information to overseas students about how to seek assistance for and report an incident that significantly impacts on their wellbeing, including critical incidents
- 6.9.3 provide overseas students with or refer them to (including electronically) general information on safety and awareness relevant to life in Australia.



## **STANDARD 7- Overseas student transfers**

- 7.1 *Registered providers must not knowingly enrol an overseas student seeking to transfer from another registered provider's course prior to the overseas 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 where any of the following apply:*
- 7.1.1 the releasing registered provider, or the course in which the overseas student is enrolled, has ceased to be registered
  - 7.1.2 the releasing registered provider has had a sanction imposed on its registration by the ESOS agency that prevents the overseas student from continuing his or her course at that registered provider
  - 7.1.3 the releasing registered provider has agreed to the overseas student's release and recorded the date of effect and reason for release in PRISMS
  - 7.1.4 any government sponsor of the overseas student considers the change to be in the overseas student's best interests and has provided written support for the change.
- 7.2 *For the purposes of Standard 7.1.3, the registered provider must have and implement a documented policy and process for assessing overseas student transfer requests prior to the overseas 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). The policy must be made available to staff and overseas students, and outline:*
- 7.2.1 the steps for an overseas student to lodge a written request to transfer, including that they must provide a valid enrolment offer from another registered provider
  - 7.2.2 circumstances in which the registered provider will grant the transfer request because the transfer is in the overseas student's best interests, including but not limited to where the registered provider has assessed that:
    - 7.2.2.1 the overseas student will be reported because they are unable to achieve satisfactory course progress at the level they are studying, even after engaging with that registered provider's intervention strategy to assist the overseas student in accordance with Standard 8 (Overseas student visa requirements)
    - 7.2.2.2 there is evidence of compassionate or compelling circumstances
    - 7.2.2.3 the registered provider fails to deliver the course as outlined in the written agreement
    - 7.2.2.4 there is evidence that the overseas student's reasonable expectations about their current course are not being met
    - 7.2.2.5 there is evidence that the overseas student was misled by the registered provider or an education or migration agent regarding the registered provider or its course and the course is therefore unsuitable to their needs and/or study objectives
    - 7.2.2.6 an appeal (internal or external) on another matter results in a decision or recommendation to release the overseas student.
  - 7.2.3 the circumstances which the registered provider considers as reasonable grounds to refuse the transfer
  - 7.2.4 a reasonable timeframe for assessing and replying to the overseas student's transfer request having regard to the restriction period.
- 7.3 *If the overseas student is under 18 years of age:*



- 7.3.1 the registered provider must have written confirmation the overseas student's parent or legal guardian supports the transfer
- 7.3.2 where the overseas student is not being cared for in Australia by a parent or suitable nominated relative, the receiving provider must confirm it accepts responsibility for approving the student's accommodation, support and general welfare arrangements in accordance with Standard 5 (Younger overseas students).
- 7.4 *If a release is granted, it must be at no cost to the overseas student and the releasing registered provider must advise the overseas student to contact Immigration to seek advice on whether a new student visa is required.*
- 7.5 *If the registered provider intends to refuse the transfer request, they must inform the overseas student in writing of:*
  - 7.5.1 the reasons for the refusal
  - 7.5.2 the overseas student's right to access the provider's complaints and appeals process, in accordance with Standard 10 (Complaints and appeals), within 20 working days.
- 7.6 *The registered provider must not finalise the student's refusal status in PRISMS until the appeal finds in favour of the registered provider, or the overseas student has chosen not to access the complaints and appeals processes within the 20 working day period, or the overseas student withdraws from the process.*
- 7.7 *The registered provider must maintain records of all requests from overseas students for a release and the assessment of, and decision regarding, the request for two years after the overseas student ceases to be an accepted student.*



## **STANDARD 8 – Overseas student visa requirements**

### *Monitoring overseas student progress, attendance and course duration*

- 8.1 *The registered provider must monitor overseas students' course progress and, where applicable, attendance for each course in which the overseas student is enrolled.*
- 8.2 *The expected duration of study specified in the overseas student's CoE must not exceed the CRICOS registered duration.*
- 8.3 *The registered provider must monitor the progress of each overseas student to ensure the overseas student is in a position to complete the course within the expected duration specified on the overseas student's CoE.*
- 8.4 *The registered provider must have and implement documented policies and processes to identify, notify and assist an overseas student at risk of not meeting course progress or attendance requirements where there is evidence from the overseas student's assessment tasks, participation in tuition activities or other indicators of academic progress that the overseas student is at risk of not meeting those requirements.*
- 8.5 *The registered provider must clearly outline and inform the overseas student before they commence the course of the requirements to achieve satisfactory course progress and, where applicable, attendance in each study period.*

### *Schools, ELICOS and Foundation Programs: course progress and attendance requirements*

- 8.6 *The registered provider of a school, ELICOS or Foundation Program course must have and implement a documented policy and process for monitoring and recording attendance of the overseas student, specifying:*
  - 8.6.1 requirements for achieving satisfactory attendance for the course which at a minimum must be 80 per cent—or higher if specified under state or territory legislation or other regulatory requirements—of the scheduled contact hours
  - 8.6.2 the method for working out minimum attendance under this standard
  - 8.6.3 processes for recording course attendance
  - 8.6.4 details of the registered provider's intervention strategy to identify, notify and assist overseas students who have been absent for more than five consecutive days without approval, or who are at risk of not meeting attendance requirements before the overseas student's attendance drops below 80 per cent
  - 8.6.5 processes for determining the point at which the overseas student has failed to meet satisfactory course attendance.
- 8.7 *The registered provider must have and implement a documented policy and process for monitoring and recording course progress for the overseas student, specifying:*
  - 8.7.1 requirements for achieving satisfactory course progress for the course
  - 8.7.2 processes for recording and assessing course progress
  - 8.7.3 details of the registered provider's intervention strategy to identify, notify and assist students at risk of not meeting course progress requirements in sufficient time for those students to achieve satisfactory course progress
  - 8.7.4 processes for determining the point at which the student has failed to meet satisfactory course progress.



*Higher education: course progress requirements*

- 8.8 *The registered provider of a higher education course must have and implement a documented policy and process for monitoring and recording course progress for the overseas student, specifying:*
- 8.8.1 requirements for achieving satisfactory course progress, including policies that promote and uphold the academic integrity of the registered course, and processes to address misconduct and allegations of misconduct
  - 8.8.2 processes for recording and assessing course progress requirements
  - 8.8.3 processes to identify overseas students at risk of unsatisfactory course progress
  - 8.8.4 details of the registered provider's intervention strategy to assist overseas students at risk of not meeting course progress requirements in sufficient time for those overseas students to achieve satisfactory course progress
  - 8.8.5 processes for determining the point at which the overseas student has failed to meet satisfactory course progress.

*Vocational education and training (VET): course progress and attendance requirements*

- 8.9 *The registered provider of a VET course as defined in the NVETR Act must have and implement a documented policy and process for assessing course progress that includes:*
- 8.9.1 requirements for achieving satisfactory course progress, including policies that promote and uphold the academic integrity of the registered course and meet the training package or accredited course requirements where applicable, and processes to address misconduct and allegations of misconduct
  - 8.9.2 processes for recording and assessing course progress requirements
  - 8.9.3 processes to identify overseas students at risk of unsatisfactory course progress
  - 8.9.4 details of the registered provider's intervention strategy to assist overseas students at risk of not meeting course progress requirements in sufficient time for those overseas students to achieve satisfactory course progress
  - 8.9.5 processes for determining the point at which the overseas student has failed to meet satisfactory course progress.
- 8.10 *The registered provider must have and implement a documented policy and process for monitoring the attendance of overseas students if the requirement to implement and maintain minimum attendance requirements for overseas students is set as a condition of the provider's registration by an ESOS agency.*
- 8.11 *If an ESOS agency requires a VET provider to monitor overseas student attendance as a condition of registration, the minimum requirement for attendance is 80 per cent of the scheduled contact hours for the course.*
- 8.12 *If an ESOS agency requires a VET provider to monitor overseas student attendance, the registered provider must have and implement a documented policy and process for monitoring and recording attendance of the overseas student, specifying:*
- 8.12.1 the method for working out minimum attendance under this standard
  - 8.12.2 processes for recording course attendance
  - 8.12.3 details of the registered provider's intervention strategy to identify, notify and assist overseas students who have been absent for more than five consecutive days without approval, or who are at risk of not meeting attendance requirements before the overseas student's attendance drops below 80 per cent



- 8.12.4 processes for determining the point at which the overseas student has failed to meet satisfactory course attendance.

*Reporting unsatisfactory course progress or unsatisfactory course attendance*

- 8.13 *Where the registered provider has assessed the overseas student as not meeting course progress or attendance requirements, the registered provider must give the overseas student a written notice as soon as practicable which:*
- 8.13.1 notifies the overseas student that the registered provider intends to report the overseas student for unsatisfactory course progress or unsatisfactory course attendance
  - 8.13.2 informs the overseas student of the reasons for the intention to report
  - 8.13.3 advises the overseas student of their right to access the registered provider's complaints and appeals process, in accordance with Standard 10 (Complaints and appeals), within 20 working days.
- 8.14 *The registered provider must only report unsatisfactory course progress or unsatisfactory course attendance in PRISMS in accordance with section 19(2) of the ESOS Act if:*
- 8.14.1 the internal and external complaints processes have been completed and the decision or recommendation supports the registered provider, or
  - 8.14.2 the overseas student has chosen not to access the internal complaints and appeals process within the 20 working day period, or
  - 8.14.3 the overseas student has chosen not to access the external complaints and appeals process, or
  - 8.14.4 the overseas student withdraws from the internal or external appeals processes by notifying the registered provider in writing.
- 8.15 *The registered provider may decide not to report the overseas student for breaching the attendance requirements if the overseas student is still attending at least 70 per cent of the scheduled course contact hours and:*
- 8.15.1 for school, ELICOS and Foundation Program courses, the overseas student provides genuine evidence demonstrating that compassionate or compelling circumstances apply; or
  - 8.15.2 for VET courses, the student is maintaining satisfactory course progress.

*Allowable extensions of course duration*

- 8.16 *The registered provider must not extend the duration of the overseas student's enrolment if the overseas student is unable to complete the course within the expected duration, unless:*
- 8.16.1 there are compassionate or compelling circumstances, as assessed by the registered provider on the basis of demonstrable evidence, or
  - 8.16.2 the registered provider has implemented, or is in the process of implementing, an intervention strategy for the overseas student because the overseas student is at risk of not meeting course progress requirements, or
  - 8.16.3 an approved deferral or suspension of the overseas student's enrolment has occurred under Standard 9 (Deferring, suspending or cancelling the overseas student's enrolment).
- 8.17 *If the registered provider extends the duration of the student's enrolment, the provider must advise the student to contact Immigration to seek advice on any potential impacts on their visa, including the need to obtain a new visa.*



### *Modes of delivery*

**Note:** *Online learning is study where the teacher and overseas student primarily communicate through digital media, technology-based tools and IT networks and does not require the overseas student to attend scheduled classes or maintain contact hours. For the purposes of the ESOS framework, online learning does not include the provision of online lectures, tuition or other resources that supplement scheduled classes or contact hours. Distance learning is any learning that an overseas student undertakes off campus and does not require an overseas student on a student visa to physically attend regular tuition for the course on campus at the provider's registered location.*

- 8.18 *A registered provider must not deliver a course exclusively by online or distance learning to an overseas student.*
- 8.19 *A registered provider must not deliver more than one-third of the units (or equivalent) of a higher education or VET course by online or distance learning to an overseas student.*
- 8.20 *A registered provider must ensure that in each compulsory study period for a course, the overseas student is studying at least one unit that is not by distance or online learning, unless the student is completing the last unit of their course.*
- 8.21 *For school, ELICOS or foundation programs, any online or distance learning must be in addition to minimum face-to-face teaching requirements approved by the relevant designated State authority or ESOS agency as part of the registration of the course, if applicable.*
- 8.22 *The registered provider must take all reasonable steps to support overseas students who may be disadvantaged by:*
  - 8.22.1 *additional costs or other requirements, including for overseas students with special needs, from undertaking online or distance learning*
  - 8.22.2 *inability to access the resources and community offered by the education institution, or opportunities for engaging with other overseas students while undertaking online or distance learning.*



## ***STANDARD 9 – Deferring, suspending or cancelling the overseas student’s enrolment***

- 9.1 *A registered provider must have and implement a documented process for assessing, approving and recording a deferment of the commencement of study or suspension of study requested by an overseas student, including maintaining a record of any decisions.*
- 9.2 *A registered provider may defer or suspend the enrolment of a student if it believes there are compassionate or compelling circumstances.*
- 9.3 *A registered provider may suspend or cancel a student’s enrolment including, but not limited to, on the basis of:*
- 9.3.1 *misbehaviour by the student*
  - 9.3.2 *the student’s failure to pay an amount he or she was required to pay the registered provider to undertake or continue the course as stated in the written agreement*
  - 9.3.3 *a breach of course progress or attendance requirements by the overseas student, which must occur in accordance with Standard 8 (Overseas student visa requirements).*
- 9.4 *If the registered provider initiates a suspension or cancellation of the overseas student’s enrolment, before imposing a suspension or cancellation the registered provider must:*
- 9.4.1 *inform the overseas student of that intention and the reasons for doing so, in writing*
  - 9.4.2 *advise the overseas student of their right to appeal through the provider’s internal complaints and appeals process, in accordance with Standard 10 (Complaints and appeals), within 20 working days.*
- 9.5 *When there is any deferral, suspension or cancellation action taken under this standard, the registered provider must:*
- 9.5.1 *inform the overseas student of the need to seek advice from Immigration on the potential impact on his or her student visa*
  - 9.5.2 *report the change to the overseas student’s enrolment under section 19 of the ESOS Act.*
- 9.6 *The suspension or cancellation of the overseas student’s enrolment under Standard 9.3 cannot take effect until the internal appeals process is completed, unless the overseas student’s health or wellbeing, or the wellbeing of others, is likely to be at risk.*



## **STANDARD 10 – Complaints and appeals**

- 10.1 *The registered provider must have and implement a documented internal complaints handling and appeals process and policy, and provide the overseas student with comprehensive, free and easily accessible information about that process and policy.*
- 10.2 *The registered provider’s internal complaints handling and appeals process must:*
- 10.2.1 include a process for the overseas student to lodge a formal complaint or appeal if a matter cannot be resolved informally
  - 10.2.2 include that the provider will respond to any complaint or appeal the overseas student makes regarding his or her dealings with the registered provider, the registered provider’s education agents or any related party the registered provider has an arrangement with to deliver the overseas student’s course or related services
  - 10.2.3 commence assessment of the complaint or appeal within 10 working days of it being made in accordance with the registered provider’s complaints handling and appeals process and policy, and finalise the outcome as soon as practicable
  - 10.2.4 ensure the overseas student is given an opportunity to formally present his or her case at minimal or no cost and be accompanied and assisted by a support person at any relevant meetings
  - 10.2.5 conduct the assessment of the complaint or appeal in a professional, fair and transparent manner
  - 10.2.6 ensure the overseas student is given a written statement of the outcome of the internal appeal, including detailed reasons for the outcome
  - 10.2.7 keep a written record of the complaint or appeal, including a statement of the outcome and reasons for the outcome.
- 10.3 *If the overseas student is not successful in the registered provider’s internal complaints handling and appeals process, the registered provider must advise the overseas student within 10 working days of concluding the internal review of the overseas student’s right to access an external complaints handling and appeals process at minimal or no cost. The registered provider must give the overseas student the contact details of the appropriate complaints handling and external appeals body.*
- 10.4 *If the internal or any external complaints handling or appeal process results in a decision or recommendation in favour of the overseas student, the registered provider must immediately implement the decision or recommendation and/or take the preventive or corrective action required by the decision, and advise the overseas student of that action.*



## **STANDARD 11- *Additional registration requirements***

- 11.1 In applying to register a full-time course at a location, a provider must seek approval from the ESOS agency, including through the relevant designated State authority if the provider is a school, for the following:*
- 11.1.1 the course duration, including holiday breaks*
  - 11.1.2 modes of study, including online, distance or work-based training*
  - 11.1.3 number of overseas students enrolled at the provider, within the limit or maximum number approved by the ESOS agency for each location*
  - 11.1.4 arrangements with other education providers, including partners, in delivering a course or courses to overseas students.*
- 11.2 In seeking approval under 11.1, the provider must demonstrate any matters requested by the ESOS agency, including through the designated State authority if the provider is a school, which may include but are not limited to the following:*
- 11.2.1 the expected duration of the course does not exceed the time required to complete the course on the basis of full-time study – for VET courses, this is a minimum of 20 scheduled course contact hours per week unless specified by an accrediting authority*
  - 11.2.2 the expected duration of the course includes any holiday periods or any work-based training*
  - 11.2.3 any work-based training to be undertaken as part of the course is necessary for the student to gain the qualification and there are appropriate arrangements for the supervision and assessment of students*
  - 11.2.4 the course is not to be delivered entirely by online or distance learning*
  - 11.2.5 the provider and any partner they engage to deliver a course or courses to overseas students has adequate staff and education resources, including facilities, equipment, learning and library resources and premises as are needed to deliver the course to the overseas students enrolled with the provider*
  - 11.2.6 the maximum number of overseas students proposed by the provider for the location reflects the appropriateness of the staff, resources and facilities for the delivery of the course.*
- 11.3 The registered provider must submit to its ESOS agency for approval, including through the relevant designated State authority if the provider is a school, information on any proposed changes to the provider's registration for a course as outlined in standard 11.1 at least 30 days prior to the time at which those changes are proposed to take effect.*
- 11.4 Registered providers who are self-accrediting must undertake an independent external audit during their period of CRICOS registration, within 18 months prior to renewal of that registration to inform the re-registration of the provider.*