



B O A R D O F S T U D I E S
NEW SOUTH WALES

**Guidelines for
Approved NSW School Providers
Delivering Courses to Overseas Students**

Please note: Amendments to the Guidelines are noted, as they take effect, in the Official Notices of the Board Bulletin. The most up-to-date version of the Guidelines at any time is available on the Board's website <www.boardofstudies.nsw.edu.au>.

The Board of Studies reserves the right to make amendments to the Guidelines at any time where additional information/clarification regarding policies or procedures is required. The current version of the Guidelines will be maintained on the Board's website. Schools will be advised of significant changes when they occur.

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1 Introduction

The *Guidelines for Approved NSW School Providers Delivering Courses to Overseas Students* ('the Guidelines') provides information about the regulatory framework and requirements for school providers delivering courses to overseas students under the following legislation NSW and Commonwealth legislation and guidelines (henceforth 'NSW and Commonwealth legislation and guidelines'):

NSW legislation

- *Vocational Education and Training (Commonwealth Powers) (Transitional) Regulation 2011*

Commonwealth legislation

- *Education Services for Overseas Students ('ESOS') Act 2000* (amended 2010)
- *ESOS Regulations 2001*
- *Education Services for Overseas Students (Assurance Fund Contributions) Act 2000*
- *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (The National Code) 2007.*

A school provider seeking to deliver course(s) of study to overseas students must first be listed on the Commonwealth Register of Institutions and Courses for Overseas Students ('CRICOS'). CRICOS is maintained by the Australian Government's Department of Industry, Innovation, Science, Research and Tertiary Education ('DIISRTE') under the *Education Services for Overseas Students Act 2000* ('ESOS Act'). CRICOS lists providers registered to deliver course(s) to overseas students and the course(s) they are approved to deliver. An overseas student is a person (within or outside) Australia who holds a student visa as defined by the ESOS Act.

CRICOS registration is a two-stage process. The first stage is the approval of providers and their courses by the designated authority in each Australian state or territory. The second stage is undertaken by DIISRTE. It is at this stage that providers and courses are registered by being listed on the CRICOS website at <<http://cricos.deewr.gov.au>>.

Approval of a school provider to deliver course(s) to overseas students may be granted by the Board of Studies ('the Board') for a period of up to five years. The main purpose of the approval is to ensure that the requirements for the delivery of courses for overseas students under the ESOS Act and associated legislation are being, or will be, met.

Once approved a school provider must ensure that it maintains evidence of compliance with the ESOS legislative framework as detailed in these Guidelines.

School providers seeking registration on CRICOS should also be aware of their obligations in relation to the student visa program of the Commonwealth Department of Immigration and Citizenship ('DIAC').

The Guidelines provide details about:

- the legislative basis for approving NSW school providers to deliver courses to overseas students
- the responsibilities of the Board in relation to the approval of NSW school providers to deliver courses to overseas students
- the requirements for school providers delivering courses to overseas students
- the Board's procedures for approval of a school provider to deliver courses to overseas students
- procedures for refusal, amendment, suspension or cancellation of a school provider's approval
- procedures for appeal of certain decisions.

The NSW and Commonwealth legislation and guidelines, and these Guidelines are amended from time to time and approved school providers need to be aware that they must abide by the current legislation and amendments at all times.

1.1 Responsibilities of the Board of Studies for approval of schools to provide courses for overseas students

The Board is the designated authority under the NSW and Commonwealth legislation and guidelines for approving school providers to deliver courses to overseas students in NSW. The Board's authority is solely in relation to NSW government or non-government school providers of courses to overseas students as defined at section 3 of the *Education Act 1990* ('the Education Act'). The Board grants approval for a period of up to five years. In the case of a registered non-government school provider, approval is usually granted for a period of time corresponding with the school's registration period.

The Board is responsible for the oversight of compliance with the requirements set out in the NSW and Commonwealth legislation and guidelines. The Board's activities, therefore, involve setting the regulatory and accountability requirements detailed in these Guidelines. These requirements represent the minimum standards to be met for a school provider to be granted approval to deliver courses to overseas students.

As the regulatory body, the Board needs to be assured that a school provider with approval to deliver courses to overseas students meets the requirements of the ESOS legislative framework. To assist in making recommendations to the Board's Registration and Accreditation Committee ('the Committee') as to whether a school provider meets the requirements, the Board has specified the evidence required to be maintained by the provider to demonstrate compliance with each of the requirements.

In meeting the requirements for approval, it is anticipated that the range of policies and procedures that a school provider has in place will vary and the content will reflect the context of the school.

The Office of the Board of Studies ('the Office') administers the approval program. The approval process involves dialogue between schools and personnel at the Office including Board Inspectors. Board Inspectors have a legislated role to conduct compliance audits and ascertain whether or not the school provider complies with the requirements of the NSW and Commonwealth legislation and guidelines.

In carrying out its responsibilities in relation to approval of school providers to deliver courses to overseas students, the Office is committed to complying with the *Privacy and Personal Information Protection Act 1998 (NSW)*. It is also mindful of confidential matters related to the business affairs of school providers. The Information Protection Principles detailed in sections 8 and 9 of the Privacy and Personal Information Protection Act set the privacy standards that the Office is required to follow when dealing with personal information. The Office's Privacy Management Plan describes how the Office complies with the Information Protection Principles in relation to personal information supplied by proposed school providers and by registered and accredited schools in complying with the requirements for approval. The Privacy Management Plan is available on the Board's website <www.boardofstudies.nsw.edu.au>.

General information about the approval of school providers to deliver courses to overseas students is available on the Board's website <www.boardofstudies.nsw.edu.au>. For specific inquiries about applications for approval of school providers to deliver courses to overseas students the Office may be contacted on (02) 9367 8111 or by email to service@bos.nsw.edu.au

2 Legislative basis for approval of school providers to deliver courses to overseas students

The approval and registration of providers to deliver courses to overseas students involves both the state and territory governments and the Commonwealth government. The designated state/territory authority makes a recommendation to DIISRTE that an approved provider for that state or territory be included on CRICOS.

The Commonwealth government through DIISRTE is responsible for:

- administering the ESOS Act and associated instruments
- managing CRICOS
- managing and administering the Provider Registration and Student Management System ('PRISMS')
- supporting national consistency and policy development
- monitoring compliance with the ESOS Act and the standards in the National Code
- investigating and enforcing action for breaches of the ESOS Act and the standards in the National Code.

Information regarding the ESOS legislation is available on the Australian Government website at <www.aei.gov.au/AEI/ESOS/ESOSLegislation>.

State and territory governments are responsible for:

- domestic registration, accreditation and compliance systems
- approval of providers for registration and re-registration on CRICOS
- monitoring compliance with the National Code
- enforcement action for breaches of state and territory legislation, particularly where legislation may relate to ESOS.

2.1 The Commonwealth Legislative Framework

The *ESOS Act* and its National Code, the *ESOS Regulations 2001* and associated legislation, set out the legal framework governing delivery of education to overseas students studying in Australia on a student visa.

The legislative framework governs:

- which providers may be registered
- the CRICOS registration process
- the obligations of providers
- the standards providers must meet under the National Code
- tuition assurance and consumer protection mechanisms
- enforcement and compliance powers
- charges providers pay to enrol overseas students.

Only education institutions registered under the ESOS Act and listed on CRICOS can enrol overseas students studying in Australia on a student visa. A registered provider has met the standards demanded by approving authorities at state/territory government level and the additional requirements of the ESOS Act and the National Code.

2.1.1 The ESOS Act

The objects in section 4A of the ESOS Act are to ensure that:

- institutions and courses for overseas students are of a good standard
- overseas students receive the education and training for which they have paid
- student visa integrity is maintained.

2.1.2 The National Code 2007

The National Code is a legislative instrument established by the ESOS Act, providing for nationally consistent standards for the registration of providers and their courses. The objectives of the National Code are to:

- support the ESOS legislative framework
- establish and safeguard Australia's international reputation as a provider of high quality education and training
- protect the interests of overseas students
- support registered providers in monitoring student compliance with student visa conditions and in reporting any student breaches to the Australian Government.

The National Code 2007 has four parts.

Part A includes a description of the role, purpose and objectives of the Code in the ESOS legislative framework.

Part B outlines the roles and responsibilities of the Australian and state and territory governments which share the responsibility for implementing the Code.

Part C explains the CRICOS registration process including requirements and obligations of providers.

Part D provides 15 standards that providers must meet in their interactions with international students.

2.2 NSW legislative framework

The *NSW Vocational Education and Training (Commonwealth Powers) (Transitional) Regulation 2011* ('the VET Transitional Regulation') provides the legislative framework for the approval of NSW school providers to deliver courses for overseas students.

Under the VET Transitional Regulation, the Board is the designated authority for approving school providers to deliver courses for overseas students. The Board's responsibility is limited to providers of courses for overseas students at NSW government schools or registered non-

government schools as defined by section 3 of the *Education Act 1990*. The Board's responsibility commenced on 1 October 2010.

2.3 The role of the Board of Studies in the approval process

The Board's authority involves the functions to:

- approve persons to provide courses for overseas students
- issue guidelines in relation to approval of persons to provide courses for overseas students
- advise the Minister on matters concerning the approval of persons to provide courses for overseas students
- liaise with authorities and other bodies (both in New South Wales and elsewhere) in connection with the approval of persons to provide courses for overseas students
- investigate and report on matters concerning the approval of persons to provide courses for overseas students.

2.4 The role of Board Inspectors in the approval process

The Board of Studies may appoint inspectors for the purposes of the VET Transitional Regulation.

The powers of inspectors in relation to school providers of courses for overseas students are conferred under the VET Transitional Regulation.

For the purposes of conducting a compliance audit or ascertaining whether or not the provisions of the VET Transitional Regulation have been complied with, an inspector may:

- a) enter the premises of a training organisation or person who provides courses for overseas students (including the premises at which any course provided by the training organisation or person is conducted), and
- b) inspect the premises, any documents found on the premises and the conduct of any courses at the premises, and
- c) remove, or make copies of, any such documents.

An inspector may only exercise this authority during the ordinary operating hours of the premises concerned. The authority may not be exercised in any part of the premises that is used for residential purposes.

In exercising the powers conferred under the VET Transitional Regulation, an inspector:

- a) must, if requested to do so by any person on the premises, produce his or her certificate of identification for inspection by that person, and
- b) must avoid, as far as practicable, doing anything that is likely to impede the conduct of any course at the premises.

Under the VET Transitional Regulation, a person must not assault, delay, obstruct, hinder or impede an inspector in the exercise of the inspector's functions under the Act.

2.5 The approval process

2.5.1 Classes of approval

A NSW school provider may be approved by the Board for the following course levels:

- Primary school studies
- Junior secondary studies
- Senior secondary certificate of education
- Non-Australian Qualifications Framework (AQF) award.

2.5.2 Initial approval

Under the VET Transitional Regulation, school providers seeking approval to deliver courses to overseas students in NSW must make application for initial approval in a form, and accompanied by a fee, determined by the Board. The Board requires that applications are made not later than 31 March preceding the calendar year in which the school intends to commence delivery of the courses to overseas students. The information that must be provided in order to demonstrate that the school provider has the capacity to comply with the requirements for initial approval is detailed in section 4 of the Guidelines.

Applications for initial approval are referred to a Board Inspector who, after considering the information provided by the applicant and a visit to the school site, prepares a report with a recommendation as to whether or not the school provider should be approved. Procedures followed in processing such applications are set out in section 5 of the Guidelines.

The Inspector's report and recommendation are considered by the Registration Committee which makes a decision as to whether the school provider should be granted initial approval. The recommendation is then dealt with in accordance with the VET Transitional Regulation as outlined in section 5 of the Guidelines.

Under authority provided by the VET Transitional Regulation, the Board may impose conditions on the approval including the period of the approval, the premises from which the courses are to be conducted, the maximum number of overseas students at any one time, and/or fee requirements in respect of the approval.

Typically, initial approval is for 12 months.

Upon approval of an application by the Registration Committee, a Certificate of Approval is issued to the provider and DIISRTE is advised.

While the Board undertakes to process applications within nine months, applicants must be aware that the granting of approval by the Board is only the first stage of the process for registration on CRICOS. Following receipt of a recommendation for registration on CRICOS, the Commonwealth undertakes its own processes for endorsing the recommendation and registering the provider on CRICOS. Consistent with the requirements of the ESOS legislation, school providers must not provide a course to overseas students, make an offer of enrolment to an overseas student or intending overseas student, invite an overseas student to apply, or hold themselves out as willing to provide a course to overseas students until receipt of notification from DIISRTE of its registration on CRICOS.

2.5.3 Renewal of approval

School providers seeking renewal of approval to deliver courses to overseas students must make application in a form, and accompanied by a fee, determined by the Board. The Board requires that applications for renewal be submitted at least nine months before the existing approval is due to expire, or at a later date decided by the Board and communicated to the provider in writing.

A school provider applying for renewal of approval must demonstrate:

- whether or not the provider continues to satisfy the requirements for approval
- whether or not, since the provider's approval was granted or last renewed, the provider has complied with the conditions of the approval.

Under authority of the VET Transitional Regulation, the Board may impose conditions on any renewal of approval including the period of the approval, the premises from which the courses are to be conducted, the maximum numbers of overseas students at any one time and/or fee requirements in respect of the approval.

The Board has determined that the maximum period for which approval may be renewed is five years. For non-government school providers the expiry date of the approval usually corresponds to the expiry date of the school's registration and accreditation.

The VET Transitional Regulation makes provision for the Board to reduce the period of a school provider's approval if at any time before the expiry of the period of approval of the provider the Registration Committee is not satisfied that the school provider is complying with the requirements for approval outlined in section 6 of the Guidelines.

2.5.4 Refusal of approval

Under the VET Transitional Regulation, the Board may refuse an application for approval on the following grounds:

- that the applicant has not furnished such further information in relation to the application as the Board requires
- that the applicant does not have the resources to provide the courses to which the approval relates competently
- that the applicant's financial arrangements or ethical standards do not warrant the approval of the applicant
- in the case of a course that includes matter the subject of proprietary rights (such as copyright) – that the applicant is not lawfully entitled to the benefit of those rights
- that the applicant or the applicant's resources do not comply with the requirements for approval.

2.5.5 Amendment, suspension or cancellation of approval

Under the VET Transitional Regulation, the Board may, on its own motion or on the application of any person, do any of the following in relation to an approved provider:

- amend the approval so that it applies to different courses

- revoke or amend any condition to which the approval is subject
- impose additional conditions on the approval
- suspend or cancel the approval.

A suspension of approval may be lifted at any time by the Board. Before lifting the suspension, the Board requires the payment of a fee as determined by the Board.

The Board may not suspend or cancel approval except on one or more of the following grounds:

- the approved provider requests the suspension or cancellation
- the approved provider is no longer providing courses for overseas students
- the approved provider has ceased to exist
- the approved provider has failed to comply with the requirements for approval
- the approved provider's financial arrangements or ethical standards are such that they would not warrant the approval of the provider if it were now to apply for approval
- a reasonable doubt exists as to the approved provider's financial capacity to continue to meet its contractual obligations to its students, staff or other persons
- the approved provider does not have the resources to competently provide the courses to which the approval relates
- the resources of the approved provider do not comply with the approval guidelines
- in the case of a course that includes matter the subject of proprietary rights (such as copyright) that the approved provider is not lawfully entitled to the benefit of those rights
- the approved provider has engaged in misleading or deceptive conduct in connection with the recruitment of intending overseas students
- the approved provider has failed to comply with a requirement of the *Education Services for Overseas Students Act 2000* of the Commonwealth, or of a regulation under that Act, in relation to the courses to which the approval relates
- the approved provider has contravened the *Education Services for Overseas Students Act 2000*, the regulations or a condition to which the provider's approval is subject.

2.5.6 Requirements relating to approval decisions of the Board

The VET Transitional Regulation requires that before the Board makes a decision to refuse, amend, suspend or cancel approval, (other than a decision to require a person to provide further information in relation to an application for approval or a decision to grant such an application unconditionally), the Board must:

- cause notice of the proposed decision to be served on the person concerned, and
- give the person a reasonable opportunity to make representations to the Board in relation to the proposed decision.

This provision does not apply if the Board is of the opinion that it is in the public interest for the decision to have effect immediately.

In making a decision the Board will have regard to the requirements identified in the Guidelines and any representations made in relation to the decision. Notice of the decision, together with reasons for the decision, must be served on the person to whom the decision relates.

2.5.7 Appeal of a decision

The VET Transitional Regulation provides for a review of decisions of the Board by the Administrative Decisions Tribunal. A review may be requested of a decision to:

- refuse approval to provide courses for overseas students
- impose conditions on the approval to provide courses for overseas students
- amend an approval to provide courses for overseas students, or amend or revoke the conditions to which the approval is subject
- suspend or cancel an approval to provide courses for overseas students.

The process for the appeal of a decision of the Board's Registration and Accreditation Committee or the Board is described in section 7 of the Guidelines.

2.6 Delivery of courses by providers not registered on CRICOS

It is an offence under the VET Transitional Regulation to falsely advertise or otherwise falsely represent that a person is, has been or will be approved by the Board to provide courses for overseas students.

3 Requirements for approved school providers

Approved school providers must meet the legislative requirements under:

- the Australian Government's *Education Services for Overseas Students (ESOS) Act 2000* (amended 2010) ('ESOS Act') section 9
- the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007* Part D ('The National Code')
- the New South Wales *Vocational Education and Training (Commonwealth Powers) (Transitional) Regulation 2011* ('VET Transitional Regulation').

This section of the Guidelines details the requirements that all school providers approved to deliver courses to overseas students must meet. It also details the evidence of compliance that school providers must maintain at all times during any period of approval. The wording of each requirement is taken from the relevant legislation and/or regulations as listed above. The following information provides an overview of the requirements for approval and the regulatory basis for each.

Requirement	Reference
3.1 Fit and proper test	ESOS Act 9(2)(ca), 9(6)
3.2 Australian Residency	ESOS Act 9(2)(a)
3.3 Tuition Assurance Membership	ESOS Act 22(1)(a)
3.4 Principal purpose of provider	ESOS Act 9(2)(d)
3.5 Capacity of provider	ESOS Act 9(2)(d)
3.6 Identification of persons representing a provider	ESOS Act 21(a)
3.7 Marketing information and practices	National Code Standard 1
3.8 Student engagement before enrolment	National Code Standard 2
3.9 Formalisation of enrolment	National Code Standard 3
3.10 Education agents	National Code Standard 4
3.11 Younger students	National Code Standard 5
3.12 Student support services	National Code Standard 6
3.13 Transfer between registered providers	National Code Standard 7
3.14 Complaints and appeals	National Code Standard 8
3.15 Course completion within expected duration of study	National Code Standard 9
3.16 Monitoring course progress	National Code Standard 10
3.17 Monitoring attendance	National Code Standard 11
3.18 Course credit	National Code Standard 12
3.19 Deferring, suspending or cancelling the student's enrolment	National Code Standard 13
3.20 Staff capability, educational resources and premises	National Code Standard 14
3.21 Changes to provider's ownership or management	National Code Standard 15
3.22 Application fees	VET Transitional Regulation

3.1 Fit and proper test

A school provider, its associates and high managerial agents must be fit and proper to be registered to deliver programs to overseas students unless exempt under the ESOS Act, for example a provider that is administered by a state education authority.

Registration on CRICOS is for the delivery of a particular course or courses in NSW. A school provider wishing to provide courses in any other state or territory must seek registration for each course in each state or territory where it will be delivered.

In the event that a change of ownership of the registered provider results in a change to the previous legal entity registered on CRICOS, the Board's approval of the provider ceases. The new entity may seek its own CRICOS registration by application to the Board for initial approval.

Evidence of compliance

A school provider must have in place for the current approval period, a statutory declaration by the Chief Executive Officer and/or Principal Executive Officer of the provider declaring whether the provider, or an associate¹ of the provider, or a high managerial agent² of a provider who has been, is, or who will be involved in the business of delivering programs to overseas students:

- has been convicted of a criminal offence
- has ever had its CRICOS registration cancelled or suspended under the ESOS Act 2000
- has ever been issued with an Immigration Minister's suspension certificate
- has ever had conditions imposed on its registration under the ESOS Act 2000
- has been bankrupt
- has ever been disqualified from managing a corporation under the Corporations Act 2001
- has been involved in the business of provision of courses by another provider covered by any of the points above.

A school provider must have a documented process for notifying the Board immediately if a positive response is given to any of the circumstances described in 3.1 of the Guidelines at any time during a period of approval.

3.2 Australian residency

The provider must be a resident of Australia. Under section 5 of the ESOS Act 'resident' means a company or unincorporated body which conducts business in Australia.

Evidence of compliance

A school provider must have evidence of complying with 3.2 of the Guidelines including:

¹ Section 6 of the ESOS Act provides the meaning of associate for the purposes of the requirement.

² Section 5 of the ESOS Act defines a high managerial agent of a provider as an employee, agent or officer of the provider with duties of such responsibility that his or her conduct may fairly be assumed to represent the provider in relation to the business of providing courses. Teachers who deliver courses would not come typically within the scope of the definition but a deputy principal or department head may be considered a high managerial agent of the provider.

- a certificate of Incorporation as a Company, certificate of Registration of Business Name, ABN details, or evidence that the legal entity of the provider is of a kind approved by the Minister for Education to be the proprietor of a non-government school, or that the provider is administered by a state education authority
- the address of the provider's place of business, postal address and contact details
- the names, and residency status, as appropriate of the provider or principal executive officer for unincorporated associations or directors, owners, partners, consortium providers, chief executives and managers (where there is no stated position of director, principal or chief executive), and
- contact details for all premises at which the provider is delivering courses to overseas students.

3.3 Tuition Assurance membership

Approved providers must at all times be a member of a Tuition Assurance Scheme (TAS) unless exempted from this requirement. Providers that are exempt from the requirements are providers that:

- are a technical and further education or a vocational and training institution created under state legislation
- are administered by a state education authority
- are receiving recurrent Commonwealth funds for education and training
- enter into payment in arrears agreements with students to accept tuition fees in arrears
- have a bank guarantee approved by the Minister
- are a body corporate and have an indemnity agreement with a parent organisation which is approved by the Minister
- have a Ministerial exemption from a TAS.

The ESOS Act section 22 (3) and ESOS Regulation 3.11 provide guidance on exemptions. Exemptions do not apply to any private corporate body established in connection with an exempt provider.

Evidence of compliance

A school provider must have evidence of complying with 3.3 of the Guidelines including:

- details of provisional/current membership of a Tuition Assurance Scheme for all courses and total student numbers approved, or
- evidence of exemption, such as evidence of receipt of recurrent Commonwealth government funding.

3.4 Principal purpose of provider

The provider has the principal purpose to provide education.

Evidence of compliance

Being a government or registered non-government school satisfies this requirement.

3.5 Capacity to provide education of a satisfactory standard

The provider is required to have a clearly demonstrated capacity to provide education of a satisfactory standard.

Evidence of compliance

Being a government or registered non-government school satisfies this requirement.

3.6 Identification of persons representing a provider

Providers are required to maintain on their website a list of all persons (whether within or outside Australia) who represent or act on their behalf in dealing with overseas students or intending overseas students.

Evidence of compliance

A school provider must:

- maintain on the school provider's website, a list of all persons (whether within or outside Australia) who represent or act on the provider's behalf in dealing with overseas students or intending overseas students including education agents
- have processes to maintain the currency of the list on the website
- maintain records of the provider's dealing with the named persons.

3.7 Marketing information and practices

Registered providers ensure that marketing of their education and training services is professional, accurate and maintains the integrity and reputation of the industry. (National Code Standard 1)

Students and their parents are often first exposed to the Australian education system through providers' marketing information. It is important that this information is of a high standard, clear and unambiguous, so that intending students and parents can make informed decisions in selecting a preferred provider and course. The marketing practices of registered providers and their agents must uphold the reputation of Australian international education and training and be undertaken in a professional manner.

3.7.1 The registered provider must ensure the marketing of its education and training services is undertaken in a professional manner and maintains the integrity and reputation of the industry and registered providers.

3.7.2 The registered provider must:

- clearly identify the registered provider's name and CRICOS number in written marketing and other material for students, including electronic form, and
- not give false or misleading information or advice in relation to:
 - claims of association between providers
 - the employment outcomes associated with a course
 - automatic acceptance into another course

- possible migration outcomes, or
- any other claims relating to the registered provider, its course or outcomes associated with the course.

3.7.3 The registered provider must not actively recruit a student where this clearly conflicts with its obligations under 3.13 of the Guidelines (transfer between registered providers).

Evidence of compliance

A school provider must have evidence of complying with 3.7 of the Guidelines including records of marketing and other materials for students which are consistent with 3.7.1 and 3.7.2 of the Guidelines and identify the provider's name and CRICOS number. The marketing information may include the school's website, prospectus and application forms.

3.8 Student engagement before enrolment

Registered providers recruit students in an ethical and responsible manner and provide information that enables students to make informed decisions about studying with the registered provider in Australia. Registered providers ensure students' qualifications, experience and English language proficiency are appropriate for the course for which enrolment is sought. (National Code Standard 2)

The recruitment of students follows general marketing and is the first step in establishing a formal relationship between the student and the registered provider. It is important that the recruitment is ethical and upholds the integrity of Australian education and training. Intending students need to be able to access information about the course, fees, facilities, services and resources offered by the registered provider prior to enrolment in order to make informed choices about their education options. At this point, the registered provider also needs to be satisfied that the student's English language proficiency, qualifications and experience are appropriate for the course.

3.8.1 Prior to accepting a student, or an intending student, for enrolment in a course, the registered provider must provide, in print or through referral to an electronic copy, current and accurate information regarding the following:

- a) the requirements for acceptance into a course, including the minimum level of English language proficiency, educational qualifications or work experience required and whether course credit may be applicable
- b) the course content and duration, qualification offered if applicable, modes of study and assessment methods
- c) campus locations and a general description of facilities, equipment, and learning and library resources available to students
- d) details of any arrangements with another registered provider, person or business to provide the course or part of the course
- e) indicative course-related fees including advice on the potential for fees to change during the student's course and applicable refund policies
- f) information about the grounds on which the student's enrolment may be deferred, suspended or cancelled
- g) a description of the ESOS framework made available electronically by DIISRTE

- h) relevant information on living in Australia, including:
- indicative costs of living
 - accommodation options
 - where relevant, schooling obligations and options for school-aged dependants of intending students, including school fees that may be incurred.

3.8.2 The registered provider must have documented procedures in place, and implement these procedures to assess whether the student's qualifications, experience and English language proficiency are appropriate for the course for which enrolment is sought.

Evidence of compliance

A school provider must have evidence of complying with 3.8 of the Guidelines including:

- records of enrolment and course structure information that are consistent with 3.8.1 of the Guidelines and made available to students, such as:
 - information available on the provider's website
 - the provider's prospectus or course brochures
 - student handbooks
 - enrolment and application forms
 - notifications to students of course offers
- procedures to assess whether the student's qualifications, experiences and English language proficiency are appropriate for the course for which enrolment is sought
- records for each student demonstrating the basis of the school's assessment of the student's qualifications, experiences and English language proficiency for entry into the course for which enrolment has been sought.

3.9 Formalisation of enrolment

**Written agreements between registered providers and students set out the services to be provided, fees payable and information in relation to refunds of course money.
(National Code Standard 3)**

Student enrolment is formalised by a written agreement entered into by the registered provider and student (or parent or legal guardian if the student is under 18 years of age). This agreement aims to ensure the obligations and rights of both the registered provider and student are clearly set out, including the course money payable and services to be provided.

3.9.1 The registered provider must enter into a written agreement with the student, signed or otherwise accepted by that student (or the student's parent or legal guardian if the student is under 18 years of age), concurrently with or prior to accepting course money from the student. The agreement must:

- a) identify the course or courses in which the student is to be enrolled and any conditions on his or her enrolment
- b) provide an itemised list of course money payable by the student
- c) provide information in relation to refunds of course money

- d) set out the circumstances in which personal information about the student may be shared between the registered provider and the Australian Government and designated authorities and, if relevant, the Tuition Assurance Scheme and the ESOS Assurance Fund Manager. This information includes personal and contact details, course enrolment details and changes, and the circumstance of any suspected breach by the student of a student visa condition, and
- e) advise the student of his or her obligation to notify the registered provider of a change of address while enrolled in the course.

3.9.2 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 course money in the case of student and provider default:

- a) amounts that may or may not be repaid to the student (including any course money collected by education agents on behalf of the registered provider)
- b) processes for claiming a refund
- c) a plain English explanation of what happens in the event of a course not being delivered, and
- d) a statement that 'This agreement, and the availability of complaints and appeals processes, does not remove the right of the student to take action under Australia's consumer protection laws'.

Evidence of compliance

A school provider must have evidence of complying with 3.9 of the Guidelines including a signed written agreement with each enrolled student and parent if the student is under 18 years of age, identifying the course for which the student is enrolled, an itemised list of course money payable and the processes for claiming a refund in accordance with 3.9.1 and 3.9.2 of the Guidelines.

3.10 Education agents

Registered providers take all reasonable measures to use education agents that have an appropriate knowledge and understanding of the Australian international education industry and do not use education agents who are dishonest or lack integrity. (*National Code Standard 4*)

Education agents are often the first point of contact between the school provider and intending students and the parents of intending students. The activities and ethics of education agents are important to Australia's reputation as a desirable destination for students, and registered providers have an interest in ensuring education agents act ethically and appropriately.

3.10.1 The registered provider must enter into a written agreement with each education agent it engages to formally represent it. The agreement must specify the responsibilities of the education agent and the registered provider and the need to comply with the requirements in the National Code. The agreement must also include:

- a) processes for the provider to monitor the activities of the education agent, including where corrective action may be required, and

- b) termination conditions, including providing for termination in the circumstances outlined in Standard 3.10.4.

3.10.2 The registered provider must ensure that its education agents have access to up-to-date and accurate marketing information as set out in Standard 3.7 (Marketing information and practices).

3.10.3 The registered provider must not accept students from an education agent or enter into an agreement with an education agent if it knows or reasonably suspects the education agent to be:

- a) engaged in, or to have previously been engaged in, dishonest practices, including the deliberate attempt to recruit a student where this clearly conflicts with the obligations of registered providers under 3.13 of the Guidelines (Transfer between registered providers)
- b) facilitating the enrolment of a student who the education agent believes will not comply with the conditions of his or her student visa
- c) using PRISMS to create Confirmations of Enrolment for other than a bona fide student
- d) providing immigration advice where not authorised under the *Migration Act 1958* to do so.

3.10.4 Where the registered provider has entered into an agreement with an education agent and subsequently becomes aware of, or reasonably suspects, the engagement by that education agent, or an employee or sub-contractor of that agent, in conduct set out in 3.10.3 of the Guidelines, the registered provider must terminate the agreement with the education agent. This requirement does not apply where an individual employee or sub-contractor of the education agent was responsible for the conduct set out in 3.10.3 and the education agent has terminated the relationship with that individual employee or subcontractor.

3.10.5 The registered provider must take immediate corrective and preventative action upon the registered provider becoming aware of an education agent being negligent, careless or incompetent or being engaged in false, misleading or unethical advertising and recruitment practices, including practices that could harm the integrity of Australian education and training.

Evidence of compliance

A school provider must have evidence of complying with 3.10 of the Guidelines including:

- a written agreement with each agent engaged by the provider which specifies:
 - the responsibilities of the education agent and the provider and the need to comply with the Guidelines
 - processes for the provider to monitor the activities of the education agent, including where corrective action may be required
 - termination conditions, including providing for termination in the circumstances outlined in Requirement 3.10.4 of the Guidelines.
- processes for ensuring that up-to-date and accurate information is provided to each agent used by the school provider

- records of the monitoring activities undertaken by the school provider of each agent engaged by the provider
- evidence of any immediate corrective or preventative action taken by the provider if the provider reasonably suspects any agent engaged by the provider of acting inappropriately.

3.11 Younger students

Where students under the age of 18 are not being cared for in Australia by a parent or suitable nominated relative (as defined by DIAC on its website), registered providers ensure the arrangements made to protect the personal safety and social well-being of those students are appropriate. (*National Code Standard 5*)

Before a student visa can be granted to a student under 18 years of age, the Australian Government must be satisfied that there are appropriate accommodation, support and general welfare arrangements in place for the period, including school holidays, that the student will be under 18 while in Australia.

Where the registered provider agrees to take on responsibility for approving these arrangements, the registered provider must nominate the period for which it takes on the responsibility under 3.11 of the Guidelines. The period nominated is to include sufficient time after the enrolment period or the student turning 18 years for the student to arrange to leave Australia, or make other appropriate arrangements.

3.11.1 Where the registered provider has taken on responsibility under the Migration Regulations for approving the accommodation, support and general welfare arrangements for a student who has not turned 18, the registered provider must:

- a) nominate the dates for which the registered provider accepts responsibility for approving the student's accommodation, support and general welfare arrangements using the DIAC proforma letter available through PRISMS
- b) advise DIAC in writing of the approval using the DIAC proforma letter available through PRISMS
- c) have documented procedures for checking the suitability of the student's accommodation, support and general welfare arrangements, and
- d) advise DIAC as soon as possible in the event that the under-18-year-old student has changed his or her living arrangements or the registered provider no longer approves of the arrangements for the student using the DIAC proforma letter available through PRISMS.

3.11.2 Where 3.11.1 of these Guidelines applies and the student is under 18 with a student visa that covers multiple courses, the registered provider with whom the student is currently enrolled is responsible for approving arrangements for the student's accommodation, support and general welfare during that nominated period.

3.11.3 Where 3.11.1 of these Guidelines applies and the registered provider suspends or cancels the enrolment of the student, the registered provider must continue to check the suitability of arrangements for that student until:

- a) the student is accepted by another registered provider and that registered provider takes over responsibility for approving the student's accommodation, support and general welfare arrangements, or
- b) the student leaves Australia, or
- c) other suitable arrangements are made that satisfy the Migration Regulations, or
- d) the registered provider reports under 3.11.1.d of the Guidelines that it can no longer approve of the arrangements for the student.

School providers who approve the accommodation, support and general welfare arrangements for a student who has not turned 18 years must ensure that arrangements approved by the provider meet the provider's legislative obligations in relation to child protection.

A number of Acts relate to child protection in New South Wales:

- *Children and Young Persons (Care and Protection) Act 1998 (NSW)*
- *Commission for Children and Young People Act 1998 (NSW)*
- *Ombudsman Act 1974.*

Evidence of compliance

If a school provider enrolls students under the age of 18 years the provider must maintain up-to-date records of the living arrangements of all students under 18 years.

If the school provider enrolls students under 18 years of age who are not living with a parent or a suitable nominated relative, the provider must have evidence of complying with 3.11 of the Guidelines including:

- information provided to parents and prospective students about the provider's approved accommodation and welfare arrangements including a statement indicating whether or not the provider accepts unaccompanied students under 18 years of age
- a description of the school provider's approved arrangements for the accommodation, support and general welfare arrangements of students under the age of 18 years
- records for each student identifying the nominated dates for which the provider takes responsibility for approving the student's accommodation, support and general welfare
- for each student evidence of advising DIAC of the provider's approval using the DIAC proforma letters available through PRISMS
- records of acceptance by parents of the provider's approved accommodation and welfare arrangements
- procedures for and records of contacting parents or legal guardians for matters related to the personal safety and social wellbeing of students
- documented policy and procedures that:
 - outline the process the provider uses for recommending, monitoring, assessing and approving accommodation arrangements specifying the provider's requirements, process for review and the circumstances for terminating approval of the arrangements
 - identify how persons/carers approved by the school provider for the accommodation and welfare of students are informed of their obligations in relation to child protection legislation

- identify how the approved accommodation and welfare arrangements are monitored by the school provider in relation to child protection legislation
- identify the action to be taken in the event that concerns about the accommodation or welfare of a student under 18 years of age are raised either through the provider's monitoring or any other credible source of information
- identify how the provider is satisfied that the approved accommodation and living arrangements comply with relevant local council requirements
- details of the school staff designated to manage the school provider's processes for recommending, monitoring, assessing and approving accommodation and welfare arrangements for students
- records of the activities undertaken by school staff designated to manage the school provider's processes for recommending, monitoring, assessing and approving accommodation and welfare arrangements for students under 18 years of age
- written agreements with other CRICOS registered providers regarding the scope of responsibility for students under 18 years of age planning to enrol with the other provider following completion of the current course (if applicable)
- evidence of advising DIAC as soon as possible in the event that a student under 18 years changes his or her living arrangements or the provider no longer approves of the arrangements for the student using the DIAC proforma letters available through PRISMS
- documented procedures to continue checking the suitability of the approved accommodation and welfare arrangements of a student in the event that the provider suspends or cancels the enrolment of the student for the periods specified in 3.11.3 of the Guidelines.

If the provider enrolls students under 18 years of age who are living with a parent or a suitable nominated relative (as defined by DIAC on its website), the provider must have evidence of complying with 3.11 of the Guidelines including:

- records for each student living with a suitable nominated relative, that parent/s have approved of the arrangements
- a policy and procedures for monitoring the living arrangements of students living with a parent or a suitable nominated relative including procedures for responding to concerns about the accommodation or welfare of a student under 18 years of age raised through the provider's monitoring or any other credible source of information.

3.12 Student support services

Registered providers support students to adjust to study and life in Australia, to achieve their learning goals and to achieve satisfactory progress towards meeting the learning outcomes of the course. (*National Code Standard 6*)

The support services and orientation programmes provided to all students help them to adjust to study in Australia and improve the quality of their educational experience. Registered providers have important responsibilities to provide access to support services and support staff to meet the needs of the students enrolled in their courses. Critical incident policies ensure the interests of students and their families are managed appropriately. Such policies also ensure registered providers are prepared for such incidents and have a clear protocol to follow in what can be distressing and upsetting circumstances.

- 3.12.1** The registered provider must assist students to adjust to study and life in Australia, including through the provision of an age and culturally appropriate orientation program that includes information about:
- a) student support services available to students in the transition to life and study in a new environment
 - b) legal services
 - c) emergency and health services
 - d) facilities and resources
 - e) complaints and appeals processes, and
 - f) any student visa condition relating to course progress and/or attendance as appropriate.
- 3.12.2** The registered provider must provide the opportunity for students to participate in services or provide access to services designed to assist students in meeting course requirements and maintaining their attendance.
- 3.12.3** The registered provider must provide the opportunity for students to access welfare-related support services to assist with issues that may arise during their study, including course progress and attendance requirements and accommodation issues. These services must be provided at no additional cost to the student. If the registered provider refers the student to external support services, the registered provider must not charge for the referral.
- 3.12.4** The registered provider must have a documented critical incident policy together with procedures that cover the action to be taken in the event of a critical incident, required follow-up to the incident, and records of the incident and action taken.
- 3.12.5** The registered provider must designate a member of staff or members of staff to be the official point of contact for students. The student contact officer or officers must have access to up-to-date details of the registered provider's support services.
- 3.12.6** The registered provider must have sufficient student support personnel to meet the needs of the students enrolled with the registered provider.
- 3.12.7** The registered provider must ensure that its staff members who interact directly with students are aware of the registered provider's obligations under the ESOS framework and the potential implications for students arising from the exercise of these obligations.

Evidence of compliance

A school provider must have evidence of complying with 3.12 of the Guidelines including:

- a copy of the orientation program conducted for students that is consistent with the points specified in 3.12.1 of the Guidelines
- information about support services provided to students with specific reference to
 - the provider's student support personnel
 - the services available to assist students to meet course requirements and maintain attendance

- welfare-related support available at no additional cost to students
- school staff designated as the official point of contact for students
- mechanisms for accessing the support services
- information provided to staff who interact directly with students to ensure that the staff are aware of the provider's obligations under the ESOS framework
- a documented critical incident policy and procedures with specific reference to the action to be taken in the event of a critical incident, required follow-up to an incident and records of the incident and action taken.

3.13 Transfer between registered providers

Registered providers assess requests from students for a transfer between registered providers prior to the student completing six months of the principal course of study in accordance with their documented procedures. (*National Code Standard 7*)

Registered providers are restricted from enrolling transferring students prior to the student completing six months of his or her principal course of study except for the circumstances outlined below. Registered providers, from whom the student is seeking to transfer, are responsible for assessing the student's request to transfer within this restricted period. It is expected that the student's request will be granted where the transfer will not be to the detriment of the student.

- 3.13.1** The receiving registered provider must not knowingly enrol the student wishing to transfer from another registered provider's course prior to the student completing six months of his or her principal course of study except where:
- a) the original registered provider has ceased to be registered or the course in which the student is enrolled has ceased to be registered
 - b) the original registered provider has provided a written letter of release
 - c) the original registered provider has had a sanction imposed on its registration by the Australian Government or state or territory government that prevents the student from continuing his or her principal course, or
 - d) any government sponsor of the student considers the change to be in the student's best interest and has provided written support for that change.
- 3.13.2** The registered provider must have and implement its documented student transfer request assessment policy and procedure, which is available to staff and students. The policy must specify:
- a) the circumstances in which a transfer will be granted
 - b) the circumstances the registered provider considers as providing reasonable grounds for refusing the student's request, including when a transfer can be considered detrimental to the student, and
 - c) a reasonable timeframe for assessing and replying to the student's transfer request having regard to the restricted period.
- 3.13.3** The registered provider must grant a letter of release only where the student has:
- a) provided a letter from another registered provider confirming that a valid enrolment offer has been made, and

- b) where the student is under 18:
- i. the registered provider has written confirmation that the student's parent or legal guardian supports the transfer, and
 - ii. where the student is not being cared for in Australia by a parent or suitable nominated relative, the valid enrolment offer also confirms that the registered provider will accept responsibility for approving the student's accommodation, support and general welfare arrangements as per 3.11 of the Guidelines (Younger students).

3.13.4 A letter of release, if granted, must be issued at no cost to the student and must advise the student of the need to contact DIAC to seek advice on whether a new student visa is required.

3.13.5 Where the registered provider does not grant a letter of release, the student must be provided with written reasons for refusing the request and must be informed of his or her right to appeal the registered provider's decision in accordance with 3.14 of the Guidelines (Complaints and appeals).

3.13.6 The registered provider must maintain records of all requests from students for a letter of release and the assessment of, and decision regarding, the request on the student's file.

Evidence of compliance

A school provider must have evidence of complying with 3.13 of the Guidelines including:

- policies and procedures related to student transfer that support and are consistent with the intent of 3.13.1 to 3.13.6 of the Guidelines by:
 - describing the circumstances in which a transfer will be granted
 - describing the circumstances the school provider considers as reasonable grounds for refusing a student's transfer request, including examples of when a transfer can be considered detrimental to a student
 - providing a reasonable timeframe for assessing and responding to a student's transfer request (generally within ten working days)
 - having a 'request for release' form
- evidence that the provider's transfer policy and procedures have been made available to staff and students
- evidence that the provider has communicated to a student any decision in response to the student's request for a transfer and the reasons for the provider's decision
- for each student enrolled during the current period of approval, records, as relevant, in the student's file of
 - completed 'request for release' forms
 - the provider's decision in response to such requests and the reasons for the provider's decision
 - student requests for an appeal of the decision
 - evidence that any appeal was conducted in accordance with the provider's documented appeal process as required by 3.14 of the Guidelines (Complaints and appeals)

- copies of any letter of release to show that the student has the previous provider's permission to transfer before having completed six months of their principal course
- an enrolment offer from a new provider kept on the student's file
- if a student is under 18 years of age written confirmation that the student's parent supports the transfer
- if the student is under 18 years and is not being cared for in Australia by a parent or suitable nominated relative, a valid enrolment offer confirming that the receiving provider will accept responsibility for approving the student's accommodation, support and general welfare arrangements as specified in 3.11 of the Guidelines (Younger students).

3.14 Complaints and appeals

Registered providers' complaints and appeals processes are independent, easily and immediately accessible and inexpensive for the parties involved. (*National Code Standard 8*)

The National Code recognises that both internal and external complaint and appeals processes play a role in ensuring that grievances are appropriately heard and addressed for both the student and the registered provider. These processes will enable students to seek recourse using the registered provider's internal processes, and then if needed, through an independent, external person or body.

The complaints and appeals requirements stipulated in 3.14 of the Guidelines may be satisfied by the processes established by the registered provider to satisfy other regulatory requirements. As the student's stay in Australia is subject to the period of his or her student visa, the timeliness of decision-making is a consideration in the development of appropriate complaints and appeal policies, procedures and practices.

- 3.14.1** The registered provider must have an appropriate internal complaints handling and appeals process that satisfies the following requirements, or can use its existing internal complaints and appeals processes as long as it meets these requirements:
- a) a process is in place for lodging a formal complaint or appeal if the matter cannot be resolved informally, which requires a written record of the complaint or appeal to be kept
 - b) each complainant or appellant has an opportunity to formally present his or her case at minimal or no cost to him or herself
 - c) each party may be accompanied and assisted by a support person at any relevant meetings
 - d) the complainant or appellant is given a written statement of the outcome, including details of the reasons for the outcome, and
 - e) the process commences within 10 working days of the formal lodgement of the complaint or appeal and supporting information and all reasonable measures are taken to finalise the process as soon as practicable.
- 3.14.2** The registered provider must have arrangements in place for a person or body independent of and external to the registered provider to hear complaints or appeals arising from the registered provider's internal complaints and appeals process or

refer students to an existing body where that body is appropriate for the complaint or appeal.

- 3.14.3** If the student is not satisfied with the result or conduct of the internal complaint handling and appeals process, the registered provider must advise the student of his or her right to access the external appeals process at minimal or no cost.
- 3.14.4** If the student chooses to access the registered provider's complaints and appeals processes as per the requirement of 3.14 of the Guidelines, the registered provider must maintain the student's enrolment while the complaints and appeals process is ongoing.
- 3.14.5** If the internal or any external complaint-handling or appeal process results in a decision that supports the student, the registered provider must immediately implement any decision and/or corrective and preventative action required and advise the student of the outcome.

Evidence of compliance

A school provider must have evidence of complying with 3.14 of the Guidelines including:

- policies and procedures for handling complaints and appeals with processes for internal review and independent external review that are consistent with 3.14.1 to 3.14.5 of the Guidelines
- a statement in the policies and procedures of the provider's obligation to maintain the enrolment of a student whilst a complaint and/or appeal is considered
- evidence that the policies and procedures are communicated to staff and students
- for each student enrolled during the current period of approval, records, as relevant, in the student's file of
 - any complaint made to the provider and the nature of the complaint
 - the written notification of the outcome of the complaint and appeal, if relevant, that were provided to the student
 - the corrective or preventative action taken by the provider where the outcome of a complaint was decided in the student's favour
- a written agreement with an independent external body for the provision of dispute resolution.

3.15 Course completion within expected duration of study

Registered providers monitor the enrolment load of students to ensure they complete the course within the duration specified in their Confirmation of Enrolment (CoE) and do not exceed the allowable portion of online or distance learning. Registered providers only enable students to extend the expected duration of study for the course through the issuing of a new CoE in limited circumstances. (*National Code Standard 9*)

The National Code supports the integrity of the Australian Government's migration laws by requiring students to complete their course within its expected duration. This duration is to be based on the normal time required to complete the course. The normal duration of a course may be established by the appropriate quality assurance framework for that sector (for example, the Australian Qualifications Framework, relevant state and territory government

legislation or guidelines). This approach offers registered providers and students some flexibility to vary the enrolment load to suit the student's needs and course requirements. However, it also recognises that students may not always be able to complete the course within the expected duration of study and provides for extensions in a limited range of circumstances.

- 3.15.1** The registered provider must have and implement documented policies and procedures for monitoring the progress of each student to ensure that at all times the student is in a position to complete the course within the expected duration as specified on the student's CoE. In monitoring this enrolment load, the registered provider must ensure that in each compulsory study period for a course, the student is studying at least one unit that is not by distance or online learning.
- 3.15.2** The registered provider may only extend the duration of the student's study where it is clear that the student will not complete the course within the expected duration, as specified on the student's CoE, as the result of:
- a) compassionate or compelling circumstances (for example, illness where a medical certificate states that the student was unable to attend classes or where the registered provider was unable to offer a pre-requisite unit)
 - b) the registered provider implementing its intervention strategy for students who were at risk of not meeting satisfactory course progress, or
 - c) an approved deferment or suspension of study has been granted under 3.19 of the Guidelines.
- 3.15.3** Where there is a variation in the student's enrolment load which may affect the student's expected duration of study in accordance with 3.15.2 of the Guidelines, the registered provider is to record this variation and the reasons for it on the student's file. The registered provider must correctly report the student via PRISMS and/or issue a new CoE when the student can only account for the variation/s by extending his or her expected duration of study.
- 3.15.4** The registered provider may allow the student to undertake no more than 25 percent of the student's total course by distance and/or online learning. However, the registered provider must not enrol the student exclusively in distance or online learning units in any compulsory study period.
- 3.15.5** Except in the circumstances specified in 3.15.2 of the Guidelines, the expected duration of study specified in the student's CoE must not exceed the CRICOS registered course duration.

Evidence of compliance

A school provider must have evidence of complying with 3.15 of the Guidelines including:

- policies and procedures in relation to monitoring student course completion with specific reference to ensuring that at all times each student is in a position to complete the course within the expected duration as specified on the student's CoE
- records of student enrolment identifying the date of commencing and the intended date for completing the course for which the student is enrolled
- for each student enrolled during the current period of approval, records, as relevant, in the student's file of:
 - the student's timetables providing adequate time for the course to be completed
 - evidence that courses undertaken by distance and/or online learning do not exceed 25 per cent of the student's total pattern of study in any one school year
 - any units undertaken by distance education showing that at least one subject per school year is not by distance education
 - medical certificates and/or other evidence the student provided to justify compassionate or compelling circumstances
 - intervention strategies such as counselling provided to assist the student if the student is deemed at risk of not completing the course within the specified time
 - any variation to the student's enrolment and course length and the reasons for the variation
 - any issuing of a new CoE
- reports of variations in a student's enrolment load via PRISMS.

3.16 Monitoring course progress

Registered providers systematically monitor students' course progress. Registered providers are proactive in notifying and counselling students who are at risk of failing to meet course progress requirements. Registered providers report students, under section 19 of the ESOS Act, who have breached the course progress requirements. (National Code Standard 10)

It is the intention of the Australian Government student visa program for students to genuinely attempt to achieve their desired educational outcomes within the duration of their student visa. Student visas include a condition that requires the student to progress satisfactorily. Students must attend their classes. Registered providers monitor the progress of students and their attendance where applicable. This monitoring enables students at risk of not progressing, or participating, where applicable, to be identified and offered support so that they are assisted to achieve their educational goals.

- 3.16.1** The registered provider must monitor, record and assess the course progress of each student for each unit of the course for which the student is enrolled in accordance with the registered provider's documented course progress policies and procedures.
- 3.16.2** The registered provider must have and implement appropriate documented course progress policies and procedures for each course, which must be provided to staff and students, that specify the:

- a) requirements for achieving satisfactory course progress
- b) process for assessing satisfactory course progress
- c) procedure for intervention for students at risk of failing to achieve satisfactory course progress
- d) process for determining the point at which the student has failed to meet satisfactory course progress, and
- e) procedure for notifying students that they have failed to meet satisfactory course progress requirements.

- 3.16.3** The registered provider must assess the course progress of the student in accordance with the registered provider's course progress policies and procedures at the end point of every study period.
- 3.16.4** The registered provider must have a documented intervention strategy, which must be made available to staff and students, that specifies the procedures for identifying and assisting students at risk of not meeting the course progress requirements. The strategy must specify:
- a) procedures for contacting and counselling identified students
 - b) strategies to assist identified students to achieve satisfactory course progress, and
 - c) the process by which the intervention strategy is activated.
- 3.16.5** The registered provider must implement the intervention strategy for any student who is at risk of not meeting satisfactory course progress requirements. At a minimum, the intervention strategy must be activated where the student has failed or is deemed not yet competent in 50 percent or more of the units attempted in any study period.
- 3.16.6** Where the registered provider has assessed the student as not achieving satisfactory course progress, the registered provider must notify the student in writing of its intention to report the student for not achieving satisfactory course progress. The written notice must inform the student that he or she is able to access the registered provider's complaints and appeals process as per 3.14 of the Guidelines (Complaints and appeals) and that the student has 20 working days in which to do so.
- 3.16.7** Where the student has chosen not to access the complaints and appeals processes within the 20 working day period, withdraws from the process, or the process is completed and results in a decision supporting the registered provider, the registered provider must notify the Secretary of DIISRTE through PRISMS as soon as practicable that the student is not achieving satisfactory course progress.

Evidence of compliance

A school provider must have evidence of complying with 3.16 of the Guidelines including:

- policies and procedures for monitoring, recording and assessing student course progress
- written guidelines for determining when a student is deemed to be at risk of failing, not completing or not yet competent in 50 percent or more of the units attempted in any study period

- a documented intervention strategy and counselling for assisting students at risk of not making satisfactory course progress
- evidence of the policies and procedures and intervention strategies being made available to staff and students
- for each student enrolled during the current period of approval, records, as relevant, in the student's file of:
 - the provider's assessment of the student at the end of each study period
 - details of any intervention strategy implemented for the student including any medical certificates and/or records of counselling
 - any written notice informing the student that the provider intends to report the student to DIISRTE through PRISMS for not making satisfactory course progress and the reasons for this decision and that the student has 20 days in which to appeal the decision
 - any complaint or appeal made by the student and written evidence of the student being notified of the outcome of the process
 - reporting unsatisfactory course progress to DIISRTE through PRISMS.

3.17 Monitoring attendance

Registered providers systematically monitor students' compliance with student visa conditions relating to attendance. Registered providers are proactive in notifying and counselling students who are at risk of failing to meet attendance requirements. Registered providers report students, under section 19 of the ESOS Act, who have breached the attendance requirements. (*National Code Standard 11*)

Student visas include a condition that requires the student to progress satisfactorily and attend the classes for which they are enrolled. Registered providers monitor the progress of students and their attendance. This monitoring enables students at risk of not progressing, or participating, where applicable, to be identified and offered support so that they are assisted to achieve their educational goals.

3.17.1 The registered provider must record the attendance of each student for the scheduled course contact hours for each CRICOS registered course in which the student is enrolled which is:

- a) an accredited vocational and technical education course (unless 3.17.2 of the Guidelines applies)
- b) an accredited school course
- c) an accredited or non-award ELICOS course, or
- d) another non-award course (for the purposes of the National Code, non-award courses do not include higher education courses or units including Study Abroad courses).

3.17.2 Where the registered provider implements the DIISRTE and DIAC-approved course progress policy and procedures for its vocational and technical education courses, Requirement 3.17 of the Guidelines does not apply.

3.17.3 For the courses identified in 3.17.1 of the Guidelines, the registered provider must have and implement appropriate documented attendance policies and procedures for each course which must be provided to staff and students that specify the:

- a) requirements for achieving satisfactory attendance, which at a minimum, requires overseas students to attend at least 80 percent of the scheduled course contact hours
- b) manner in which attendance and absences are recorded and calculated
- c) process for assessing satisfactory attendance
- d) process for determining the point at which the student has failed to meet satisfactory attendance, and
- e) procedure for notifying students that they have failed to meet attendance requirements.

- 3.17.4** For the courses identified in 3.17.1 of the Guidelines, the registered provider's attendance policies and procedures must identify the process for contacting and counselling students who have been absent for more than five consecutive days without approval or where the student is at risk of not attending for at least 80 percent of the scheduled course contact hours for the course in which he or she is enrolled (that is, before the student's attendance drops below 80 percent).
- 3.17.5** For the courses identified in 3.17.1 of the Guidelines, the registered provider must regularly assess the attendance of the student in accordance with the registered provider's attendance policies and procedures.
- 3.17.6** Where the registered provider has assessed the student as not achieving satisfactory attendance for the courses identified in 3.17.1 of the Guidelines, the registered provider must notify the student in writing of its intention to report the student for not achieving satisfactory attendance. The written notice must inform the student that he or she is able to access the registered provider's complaints and appeals process as per 3.14 of the Guidelines (Complaints and appeals) and that the student has 20 working days in which to do so.
- 3.17.7** Where the student has chosen not to access the complaints and appeals processes within the 20 working day period, withdraws from the process, or the process is completed and results in a decision supporting the registered provider, the registered provider must notify the Secretary of DIISRTE through PRISMS as soon as practicable that the student is not achieving satisfactory attendance.
- 3.17.8** For the vocational and technical education and non-award courses identified in 3.17.1a and 3.17.1d of the Guidelines, the registered provider may only decide not to report the student for breaching the 80 percent attendance requirement where:
- a) that decision is consistent with its documented attendance policies and procedures
 - b) the student records clearly indicate that the student is maintaining satisfactory course progress
 - c) the registered provider confirms that the student is attending at least 70 percent of the scheduled course contact hours for the course in which he or she is enrolled.
- 3.17.9** For the ELICOS and school courses identified in 3.17.1 of the Guidelines, the registered provider may only decide not to report a student for breaching the 80 percent attendance requirement where:

- a) the student produces documentary evidence clearly demonstrating that compassionate or compelling circumstances (eg illness where a medical certificate states that the student is unable to attend classes) apply, and
- b) that decision is consistent with its documented attendance policies and procedures, and
- c) the registered provider confirms that the student is attending at least 70 percent of the scheduled course contact hours for the course in which he or she is enrolled.

Evidence of compliance

A school provider must have evidence of complying with 3.17 of the Guidelines including:

- documented attendance policies and procedures provided to staff and students specifying:
 - the requirements for achieving satisfactory attendance, which at a minimum, requires attendance for at least 80 percent of the scheduled course hours
 - the process for recording and calculating attendance and absences
 - the process for contacting and counselling students who have been absent for more than five consecutive days without approval or where the student is at risk of not attending for at least 80 percent of the scheduled course contact hours for the course in which he or she is enrolled
 - the process for determining the point at which a student has failed to meet satisfactory attendance
 - the procedure for informing a student in writing of an intention to report the student to DIISRTE through PRISMS for not achieving satisfactory course attendance and that a student has 20 working days in which to appeal any decision to report the student to DIISRTE for unsatisfactory attendance
 - the process for appealing a decision of the provider to report a student to DIISRTE for not achieving satisfactory attendance
- for each student enrolled during the current period of approval, records, as relevant, in the student's file of:
 - contacting and counselling the student if the student is identified as being at risk of not meeting attendance requirements
 - evidence of any intervention action undertaken by the provider to improve attendance
 - written advice to the student if the provider's attendance policy has been breached indicating that the student has 20 working days in which to lodge an appeal
 - any complaint or appeal made by the student and written evidence of the student being notified of the outcome of the process
 - any evidence relating to compassionate or compelling circumstances where a minimum of 70 percent attendance has been applied by the provider in accordance with 3.17.9 of the Guidelines
 - any report made to DIISRTE through PRISMS about the student's failure to meet attendance requirements.

3.18 Course credit

NOTE: Generally, this standard is not relevant to school providers. It is included in the Guidelines as it may have relevance to providers approved to deliver technical or vocational education courses, accredited ELICOS courses or non-AQF courses.

Registered providers appropriately recognise course credit within the ESOS framework. (*National Code Standard 12*)

Course credit may be granted to students who are able to demonstrate appropriate prior learning or experience. In the interests of ensuring students are fully informed, registered providers are to give students a copy of the course credit for their records. Where course credit is granted, the duration in which the student is expected to complete the course must reflect any consequent reduction in the period of study.

3.18.1 Where the registered provider grants course credit, the registered provider must:

- a) have documented procedures for the granting and recording of course credit, and
- b) provide a record of the course credit to the student, which must be signed or otherwise accepted by the student, and place it on the student's file.

3.18.2 If the registered provider grants the student course credit which leads to a shortening of the student's course, the registered provider must:

- a) if the course credit is granted before the student visa grant, indicate the actual net course duration (as reduced by course credit) in the CoE issued for that student for that course, or
- b) if the course credit is granted after the student's visa was granted, report the change of course duration via PRISMS under section 19 of the ESOS Act.

Evidence of compliance

A school provider must have a stated policy as to whether or not the provider will grant course credit. Where a provider grants course credit, the provider must also have evidence of complying with 3.18 of the Guidelines including:

- a documented procedure for granting and recording course credit
- evidence of making the procedures available to staff and students
- if course credit has been granted for a student enrolled during the current period of approval, records in the student's file of:
 - the course credit granted and evidence of the basis for granting the credit
 - evidence that if course credit was granted after a visa was issued and this led to a reduction in the course length, that this variation has been reported to DIISRTE through PRISMS
 - any application for course credit that was refused by the provider including evidence of written notice to the student and the reason for the provider's decision.

3.19 Deferring, suspending or cancelling the student's enrolment

Registered providers may only enable students to defer or temporarily suspend their studies, including granting a leave of absence, during the course through formal agreement in certain limited circumstances. (*National Code Standard 13*)

Students may, through formal agreement with their registered provider, be given permission to defer commencement, take a leave of absence or temporarily suspend their studies during the course. Such absences, however, may affect the student's visa status. The registered provider may also seek to cancel the student's enrolment.

3.19.1 The registered provider must have in place documented procedures for assessing, approving and recording a deferment of the commencement of study or suspension of study for the student, including keeping documentary evidence on the student's file of the assessment of the application.

3.19.2 The registered provider can only defer or temporarily suspend the enrolment of the student on the grounds of:

- a) compassionate or compelling circumstances (eg illness where a medical certificate states that the student is unable to attend classes), or
- b) misbehaviour by the student.

3.19.3 The registered provider must:

- a) inform the student that deferring, suspending or cancelling his or her enrolment may affect his or her student visa, and
- b) notify the Secretary of DIISRTE via PRISMS as required under section 19 of the ESOS Act where the student's enrolment is deferred, temporarily suspended or cancelled.

3.19.4 The registered provider must inform the student of its intention to suspend or cancel the student's enrolment where the suspension or cancellation is not initiated by the student and notify the student that he or she has 20 working days to access the registered provider's internal complaints and appeals process as per 3.14 of the Guidelines (Complaints and appeals). If the student accesses the registered provider's internal complaints and appeals process, the suspension or cancellation of the student's enrolment under this standard cannot take effect until the internal complaints and appeals process is completed, unless extenuating circumstances relating to the welfare of the student apply.

Evidence of compliance

A school provider must have evidence of complying with 3.19 of the Guidelines including:

- policies and procedures for assessing, approving and recording a deferment of the commencement of study, a suspension of study or the cancellation of student enrolment that are consistent with the intent of 3.19 of the Guidelines
- evidence of making the policies and procedures available to staff and students

- policies and procedures for informing parents of students under 18 years of age of any identified risk of cancellation of student enrolment
- written information given to students prior to enrolment which states the grounds on which a student's enrolment may be deferred, suspended or cancelled
- written information given to students which states that any deferment, suspension or cancellation of enrolment may affect a student's visa
- for each student enrolled during the current period of approval, records, as relevant, in the student's file of:
 - any request for deferment or suspension of enrolment
 - evidence of how any such request has been assessed by the provider and how the student was informed in writing of the outcome of the request
 - any action taken by the provider with regard to deferring, suspending or cancelling the student's enrolment including evidence of the written advice given to the student and parent including that the student has 20 working days in which to appeal a decision
 - any complaint or appeal made by the student and written evidence of the student being notified of the outcome of the process
 - evidence of notification to DIISRTE through PRISMS of any change to the enrolment status of the student.

3.20 Staff capability, educational resources and premises

The staff of registered providers are suitably qualified or experienced in relation to the functions they perform for students. The educational resources of registered providers support the delivery of courses to students. The premises of registered providers, including the floor space available for each student, support students to achieve their course outcomes. (*National Code Standard 14*)

Students are to be given every opportunity to achieve their educational objectives while in Australia. The staff of registered providers need to be suitably qualified or experienced and appropriate educational resources are to be made available. The premises of registered providers, including the nature of the tenure of the registered provider's occupancy of the premises, will also be appropriate for the courses provided to students.

3.20.1 The registered provider must have and implement policies and procedures to ensure its staffing resources are adequate and have the capabilities as required by the quality assurance framework applying to the course. Where the course provided by the registered provider is not subject to an appropriate quality assurance framework, the registered provider must have and implement appropriate documented policies and processes for the recruitment, induction, performance assessment and ongoing development of members of staff involved with the recruitment or delivery of education or client services to students.

3.20.2 The registered provider must have adequate education resources, including facilities, equipment, learning and library resources and premises as required by the quality assurance framework applying to the course. Where the course provided by the registered provider is not subject to an appropriate quality assurance framework, the registered provider must ensure it has adequate education resources, including facilities, equipment, learning and library resources, and premises, including

ownership or tenancy arrangements for the premises, as are needed to deliver the registered course to the students enrolled with the registered provider.

- 3.20.3** The registered provider must notify the Board and the students enrolled with the registered provider of any intention to relocate premises (including the head office and campus locations) at least 20 working days before the relocation.

Evidence of compliance

A school provider must have evidence of complying with 3.20 of the Guidelines including:

- policies and procedures for the staffing and educational resources required to meet the needs of the students and the courses being delivered
- evidence that the provider's teaching staff have appropriate qualifications and teaching experience for the school courses being delivered
- a description of the provider's organisational structure including key positions and responsibilities and identification of the personnel responsible for overseas students
- documented processes for staff induction with specific reference to overseas students
- evidence of the ownership or tenure arrangements of the provider's premises to deliver the courses for which the provider is approved
- records of implementing any restriction imposed by the Board in relation to a maximum student number for the premises
- processes for notifying the Board of an intention to relocate premises at least 20 working days before the relocation or, for a registered non-government school, at least three months in advance of implementing such a change
- processes for notifying any enrolled student and any accepted student who has not commenced of an intention to relocate premises at least 20 working days before the relocation.

3.21 Changes to registered provider's ownership or management

Registered providers proactively inform the designated authority of prospective ownership and/or management changes. (*National Code Standard 15*)

Registered providers are required to advise the designated authority where there is a change to the registered provider's ownership or management. If changes during the period of registration affect the legal entity of the registered provider, the new owner or entity must seek a new CRICOS registration. In these situations the Board is to be notified as soon as possible prior to the change taking place. Where the change of ownership does not result in a new legal entity, any new owners or managers will be subject to the 'fit and proper person' test required under section 9(6) of the ESOS Act.

3.21.1 The registered provider must advise the designated authority in writing of:

- a) any prospective changes to the ownership of the registered provider as soon as practicable prior to the change taking effect, and
- b) any prospective or actual change to the high managerial agents (as defined in section 5 of the ESOS Act) of the registered provider as soon as practicable

prior to the change taking effect or within 10 working days of the change taking effect where the change cannot be determined until it takes effect.

- 3.21.2** The registered provider must provide the designated authority with information on the new owner or high managerial agent for the purpose of making an assessment under section 9 (6) of the ESOS Act.

Evidence of compliance

A school provider must have evidence of complying with 3.21 of the Guidelines including:

- documented processes for notifying the Board of changes to the provider's ownership as soon as possible, or, for a registered non-government school, within seven days of the change
- documented processes for notifying the Board of changes to the provider's high managerial agents as soon as practicable prior to the change taking effect or within 10 working days of the change taking effect where the change cannot be determined until it takes effect
- documented processes for obtaining information to assist the Board in assessing whether a high managerial agent of the provider satisfies the 'fit and proper' test
- if a provider's legal entity changes and a student is offered a refund as a result of the change, evidence of the offer and the student's response.

3.22 Application fees

An application for approval to provide courses for overseas students must be in such form, and be accompanied by such fee, as determined by the Board of Studies NSW.

To maintain approval to provide courses for overseas students a school provider must make payment of fees as determined by the Board and published on the Board's website.

The school provider must also ensure payment of any other fee charged by any other authority such as DIISRTE for approval or registration to deliver courses to students from overseas.

4 Initial approval to provide courses to overseas students

Initial approval applies to school providers seeking to deliver courses to overseas students for the first time.

4.1 Initial approval

School providers seeking initial approval to deliver courses for overseas students must meet the requirements of the Australian Government's ESOS Act and the NSW VET Transitional Regulation before they can be registered on CRICOS and commence delivery of courses.

It may not be possible for a proposed school provider to provide evidence of compliance with all sections of the legislation prior to commencing delivery of courses. It is expected, however, that the applicant will provide evidence of policies and procedures that will ensure

compliance of the school provider with the legislative requirements should the application be successful and the applicant is registered on CRICOS. If the application for initial approval is successful, the new school provider is required to meet all the requirements detailed in section 3 of the Guidelines and must, throughout its period of initial approval, maintain evidence of compliance with these requirements.

Typically, initial approval to deliver courses to overseas students is for a period of 12 months.

Based on the requirements described in section 3 of the Guidelines, the following evidence of capacity to comply is required for proposed new school providers to be considered for initial approval.

Any difference in the description of the requirements for initial approval in this section and those described in section 3 is only intended to take account of the fact that compliance with some requirements cannot be demonstrated until the school provider commences delivery of courses for overseas students. On commencing delivery, the requirements in section 3 of the Guidelines apply.

4.1.1 Fit and proper test

Evidence of capacity to comply

The proposed school provider must have in place a statutory declaration by the Chief Executive Officer and/or Principal Executive Officer of the provider declaring whether the provider, or an associate³ of the provider, or a high managerial agent⁴ of a provider who has been, is, or who will be involved in the business of delivering programs to overseas students:

³ Under the ESOS legislation *an associate* of the provider includes:

- a. the spouse or de facto spouse, a child (of person, or of person's spouse or de facto spouse), a parent (of person, or of person's spouse or de facto spouse), or a sibling of the person (ESOS Act 6 (1))
- b. where the provider is a company, an officer of the company or a related company (ESOS Act 6 (1))
- c. where the provider is a company, a person who holds 15 percent or more of the paid-up shares in the Company (ESOS Act 6 (3)).

⁴ Under the ESOS legislation *a high managerial agent* of a provider means an employee, agent or officer of the provider with duties of such responsibility that his or her conduct may fairly be assumed to represent the provider in relation to the business of providing courses. Teachers who deliver courses would not come within the scope of the definition but a deputy principal or department head may be considered a high managerial agent of the provider.

- has been convicted of an offence
- has been convicted of an offence under the ESOS Act 2000 at any time during the past five years
- has ever had its CRICOS registration cancelled or suspended under the ESOS Act 2000
- has ever been issued with an Immigration Minister's suspension certificate
- has ever had conditions imposed on its registration under the ESOS Act 2000
- has been bankrupt
- has ever been disqualified from managing a corporation under the Corporations Act 2001
- has been involved in the business of provision of courses by another provider covered by any of the points above.

A proposed school provider must have a documented process for notifying the Board immediately if a positive response is given to any of the circumstances described in 3.1 of the Guidelines at any time during a period of approval.

4.1.2 Australian Residency

Evidence of capacity to comply

The proposed school provider must have evidence of complying with 3.2 of the Guidelines including:

- a certificate of Incorporation as a Company, certificate of Registration of Business Name, ABN details or evidence that the legal entity of the provider is of a kind approved by the Minister for Education to be the proprietor of a non-government school, or that the provider is administered by a state educational authority
- the address of the provider's place of business, postal address and contact details
- names, and residency status, as appropriate of the provider or principal executive officer for unincorporated associations or directors, owners, partners, consortium providers, chief executives and managers (where there is no stated position of director, principal or chief executive), and
- contact details for all premises at which the provider is delivering courses.

4.1.3 Tuition Assurance membership

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.3 of the Guidelines including:

- details of provisional/current membership of a Tuition Assurance Scheme for all courses and total student numbers, or
- evidence of exemption, such as evidence of receipt of recurrent Commonwealth government funding.

If at the time of application for initial approval the school provider is unable to provide evidence of a capacity to comply with Requirement 3.3, the provider makes an assurance that the evidence will be forwarded to the Board as soon as possible.

4.1.4 Principal purpose of provider

Evidence of capacity to comply

Being a government school or registered non-government school satisfies this requirement.

4.1.5 Capacity of provider

Evidence of capacity to comply

Being a government school or registered non-government school satisfies this requirement

4.1.6 Identification of persons representing a provider

Evidence of capacity to comply

The proposed school provider must:

- provide a list of all persons (whether within or outside Australia) who will represent or act on the provider's behalf in dealing with overseas students or intending overseas students
- have processes to maintain the list on the provider's website.

4.1.7 Marketing information and practices

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.7 of the Guidelines including proposed marketing and other materials for students which are consistent with 3.7.1 and 3.7.2 of the Guidelines and identify a place for the provider's name and CRICOS number should the provider be approved. The marketing information may include the school provider's proposed website, prospectus and application forms.

4.1.8 Student engagement before enrolment

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.8 of the Guidelines including:

- proposed enrolment and course structure information that are consistent with 3.8.1 of the Guidelines to be made available to students, such as:
 - information to be available on the provider's website
 - a provider's prospectus or course brochures
 - student handbooks
 - enrolment and application forms
 - notifications to students of course offers
- procedures to assess whether the student's qualifications, experiences and English language proficiency are appropriate for the course for which enrolment is sought.

4.1.9 Formalisation of enrolment

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.9 of the Guidelines including the proposed written agreement to be signed by each enrolled student and parent if the student is under 18 years of age, identifying the course for which the student is enrolled, an itemised list of course money payable and the processes for claiming a refund in accordance with 3.9.1 and 3.9.2 of the Guidelines.

4.1.10 Education agents

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.10 of the Guidelines including:

- the proposed written agreement with each agent to be engaged by the provider which specifies:
 - the responsibilities of the education agent and the provider and the need to comply with the Guidelines
 - processes for the provider to monitor the activities of the education agent, including where corrective action may be required
 - termination conditions, including providing for termination in the circumstances outlined in Requirement 3.10.4 of the Guidelines.
- processes for ensuring that up-to-date and accurate information will be provided to each agent used by the proposed school provider
- a description of the monitoring activities to be undertaken by the proposed school provider including a description of corrective or preventative action to be taken by the provider if the provider reasonably suspects any agent engaged by the provider of acting inappropriately.

4.1.11 Younger students

Evidence of capacity to comply

If the proposed school provider intends to enrol students under 18 years of age who will not be living with a parent or a suitable nominated relative, the proposed school provider must have evidence of the capacity to comply with 3.11 of the Guidelines including:

- a description of the proposed school provider's arrangements for the accommodation, support and general welfare arrangements of students under the age of 18 years
- information to be provided to parents and prospective students about the proposed provider's approved accommodation and welfare arrangements including a statement indicating whether or not the proposed provider accepts unaccompanied students under 18 years of age
- procedures for contacting parents for matters related to the personal safety and social wellbeing of students
- documented policy and procedures that:

- outline the process the proposed provider will use for recommending, monitoring, assessing and approving accommodation arrangements for students specifying the provider's requirements for approving the arrangements, the process for review and the circumstances and processes for terminating approval of the arrangements
- identify how persons/carers to be approved by the proposed school provider for the accommodation and welfare of students will be informed of their obligations in relation to child protection legislation
- identify how the approved accommodation and welfare arrangements will be monitored by the proposed school provider in relation to child protection legislation
- identify the action to be taken in the event that concerns are raised about the accommodation or welfare of a student under 18 years of age either through the provider's monitoring or other credible source of information
- identify how the provider will ensure that the approved accommodation and living arrangements comply with relevant council requirements
- details of the school staff to be designated to manage the school provider's processes for recommending, monitoring, assessing and approving accommodation and welfare arrangements for students
- proposed written agreements with other CRICOS registered providers regarding the scope of responsibility for students planning to enrol with the other provider following completion of the current course (if applicable)
- procedures to advise DIAC as soon as possible in the event that a student under 18 years changes his or her living arrangements or the provider no longer approves of the arrangements for the student using the DIAC proforma letters available through PRISMS
- documented procedures to be used to check the suitability of the approved accommodation and welfare arrangements of a student in the event that the provider suspends or cancels the enrolment of the student for the periods specified in 3.11.3 of the Guidelines.

If the school provider intends to enrol students under 18 years of age who are living with a parent or a suitable nominated relative (as defined by DIAC on its website), the provider must have evidence of the capacity to comply with 3.11 of the Guidelines including a policy and procedures for monitoring the living arrangements of students living with a parent or a suitable nominated relative and procedures for responding to concerns raised about the accommodation or welfare of a student under 18 years of age either through the provider's monitoring or any other credible source of information.

4.1.12 Student support services

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.12 of the Guidelines including:

- the proposed orientation program to be conducted for students that is consistent with the points specified in 3.12.1 of the Guidelines
- information about support services to be provided to students with specific reference to:

- the provider's proposed student support personnel
- the services proposed to be available to assist students to meet course requirements and maintain attendance
- the proposed welfare related support to be available at no additional cost to students
- the proposed school staff to be designated as the official point of contact for students (where known)
- proposed mechanisms for accessing the support services
- proposed information to be provided to the staff who will interact directly with students to ensure that the staff will be aware of the provider's obligations under the ESOS framework
- a critical incident policy and procedures with specific reference to the action to be taken in the event of a critical incident, required follow-up to an incident and records of the incident to be maintained.

4.1.13 Transfer between registered providers

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.13 of the Guidelines including policies and procedures related to student transfer that support and are consistent with the intent of 3.13.1 to 3.13.6 of the Guidelines by:

- describing the circumstances in which a transfer would be granted
- describing the circumstances the school provider considers as reasonable grounds for refusing a student's transfer request, including examples of when a transfer could be considered detrimental to a student
- providing a reasonable timeframe for assessing and responding to a student's transfer request (generally within 10 working days)
- having a 'request for release' form.

4.1.14 Complaints and appeals

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.14 of the Guidelines including:

- policies and procedures for handling complaints and appeals with processes for internal review and independent external review that are consistent with 3.14.1 to 3.14.5 of the Guidelines
- a statement in the policies and procedures of the proposed provider's obligation to maintain the enrolment of a student while a complaint and/or appeal is considered
- a proposed written agreement with an independent external body for the provision of dispute resolution.

4.1.15 Course completion within expected duration of study

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.15 of the Guidelines including policies and procedures in relation to monitoring student course completion with specific reference to ensuring that at all times each student is in a position to complete the course within the expected duration as specified on the student's Confirmation of Enrolment (CoE).

4.1.16 Monitoring course progress

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.16 of the Guidelines including:

- policies and procedures for monitoring, recording and assessing student course progress
- proposed written guidelines for determining when a student is deemed to be at risk of failing, not completing or not yet competent in 50 percent or more of the units attempted in any study period
- a proposed intervention strategy and proposed counselling for assisting students at risk of not making satisfactory course progress.

4.1.17 Monitoring attendance

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.17 of the Guidelines including proposed attendance policies and procedures to be provided to staff and students specifying:

- the requirements for achieving satisfactory attendance, which at a minimum, requires attendance for at least 80 percent of the scheduled course hours
- the process for recording and calculating attendance and absences
- the process for contacting and counselling students who have been absent for more than five consecutive days without approval or where the student is at risk of not attending for at least 80 percent of the scheduled course contact hours for the course in which he or she is enrolled
- the process for determining the point at which a student has failed to meet satisfactory attendance
- the procedure for informing a student in writing of an intention to report the student to DIISRTE through PRISMS for not achieving satisfactory course attendance and that a student has 20 working days in which to appeal any decision to report the student to DIISRTE for unsatisfactory attendance
- the process for appealing a decision of the provider to report a student to DIISRTE for not achieving satisfactory attendance.

4.1.18 Course credit

Evidence of capacity to comply

The proposed school provider must have a stated policy as to whether or not the proposed provider will grant course credit. Where a provider intends to grant course credit, the provider must also have evidence of the capacity to comply with Requirement 3.18 of the Guidelines including:

- a proposed procedure for granting and recording course credit
- a proposed process to make the procedures available to staff and students.

4.1.19 Deferring, suspending or cancelling the student's enrolment

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.19 of the Guidelines including:

- proposed policies and procedures for assessing, approving and recording a deferment of the commencement of study, a suspension of study or the cancellation of student enrolment that are consistent with the intent of 3.19 of the Guidelines
- policies and procedures for informing parents of proposed students under 18 years of age of any identified risk of cancellation of student enrolment
- proposed written information to be given to students prior to enrolment which states the grounds on which a student's enrolment may be deferred, suspended or cancelled
- proposed written information to be given to students which states that any deferment, suspension or cancellation of enrolment may affect a student's visa.

4.1.20 Staff capability, educational resources and premises

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.20 of the Guidelines including:

- policies and procedures for the proposed staffing and educational resources required to meet the needs of the students and the courses being delivered
- confirmation that the provider's proposed teaching staff will have appropriate qualifications and teaching experience for the school courses being delivered
- a description of the provider's proposed organisational structure including key positions and responsibilities and identification of the personnel responsible for overseas students
- documented processes for induction of proposed staff responsible for delivering courses to overseas students
- evidence of the ownership or tenure arrangements of the provider's proposed premises to deliver the courses for which the proposed provider is seeking approval

- proposed processes for notifying the Board where there is an intention to relocate premises at least three months in advance of implementing such a change
- proposed process for notifying any enrolled student and any accepted student who has not commenced, of any intention to relocate premises at least 20 days before the relocation.

4.1.21 Changes to registered provider's ownership or management

Evidence of capacity to comply

The proposed school provider must have evidence of the capacity to comply with Requirement 3.21 of the Guidelines including:

- documented processes for notifying the Board of changes to the provider's ownership as soon as possible, or, for registered non-government schools, within seven days of the change
- documented processes for notifying the Board of changes to the provider's high managerial agents as soon as practicable prior to the change taking effect or within 10 working days of the change taking effect where the change cannot be determined until it takes effect
- documented processes for obtaining information to assist the Board in assessing whether a high managerial agent of the proposed provider satisfies the 'fit and proper' test.

4.1.22 Application fees

For initial approval to provide courses for overseas students a proposed school provider must make payment of fees as determined by the Board and published on the Board's website.

5 Procedures for approval of a school provider to deliver courses to overseas students

The following information provides details about the procedures involved in:

- applying for initial approval for a school provider to deliver courses to overseas students
- applying for renewal of approval for a school provider to deliver courses to overseas students
- applying to amend approval for a school provider to deliver courses to overseas students including adding a course, cancelling a course, increasing student capacity or additions to or changes in sites
- providing a return to the Board.

5.1 Submission of applications and documentation

School providers applying for initial/renewal/amending of approval need to submit the appropriate application form(s) electronically through the online facility on the Board's website: <www.boardofstudies.nsw.edu.au/manuals/#courses-os-students>.

School providers seeking approval to deliver courses to overseas students, are required to pay a fee:

- for initial approval
- annually
- for an application for amendment.

Fees can be paid by electronic means or cheque. A schedule of fees and details about payment are available on the Board's website <www.boardofstudies.nsw.edu.au>.

A partial refund will be considered when an application is withdrawn. The refund decision is solely at the discretion of the Office of the Board of Studies ('the Office'), taking into account the time and costs estimated by the Office in assessing the application to that point.

A refund may be considered when a school provider:

- pays more than required
- decides to change details of the application resulting in different fees
- decides to cease operation during the year – the annual fee will be refunded on a pro-rata basis to a maximum of 80 percent of the fee paid.

Requests for refunds should be made in writing to:

Manager, Registration and Accreditation
Office of the Board of Studies
GPO Box 5300
Sydney NSW 2001

5.2 Overview of the Board's processes

The Board's process for initial/renewal of approval includes:

- receipt of application and fee
- consideration of the submitted application and supporting documentation
- an inspection by at least one Board Inspector
- compilation of a report with recommendations based on the application, documentation and inspection
- submission to and consideration of the recommendations by the 'the Committee
- decision to grant approval by the Committee
- submission of the decision to approve the application to the President of the Board for certification
- notification of the outcome of the application to the school provider and, where the application is approved, issuing of relevant certificate(s)
- ensuring that DIISRTE is advised of the approval.

(NB All references in the Guidelines to the Committee making recommendations to the President of the Board concerning approval are based on the Committee exercising the Board's delegation on approval matters within prevailing Board policies. The process of review of decisions or recommendations made by the Committee is described in section 7 of the Guidelines.)

The Board's process for amending approval by adding a course, withdrawing a course, increasing student capacity or adding or changing sites includes:

- receipt of notification and fee
- consideration of the submitted application and supporting documentation
- where necessary, an inspection by a Board officer
- compilation of a report with recommendations based on the application, documentation and inspection
- submission to and consideration of the recommendations by the Committee
- decision to grant the amendment by the Committee
- submission of a decision to approve the amendment to the President of the Board for certification
- notification of the outcome of the application to the school and, where the application is approved, issuing of certificate(s), if relevant
- ensuring that DIISRTE is advised of the amendment to the approval.

5.3 Procedures

5.3.1 Application for initial approval of a school provider to deliver courses to overseas students

A school provider applying for initial approval must submit to the Office *Form 1: Application for initial approval of a school provider to deliver courses to overseas students* not later than 31 March preceding the calendar year in which the proprietor wishes to commence operating as a school provider. The Office may consider an application for initial approval made after 31 March if the application is from an established government or registered non-government school provider and the application is within the scope of the school's current registration and

accreditation. Typically, the maximum period for initial approval to deliver courses to overseas students is 12 months.

The Office will:

- acknowledge receipt of the application and fee
- arrange for a Board Inspector to:
 - examine the submitted application and documentation stipulated in the application form
 - contact the proprietor of the school provider to identify the evidence of a capacity to comply that the school will need to make available during the visit
 - visit the site and examine any evidence of compliance requested by the Inspector
 - write an inspection report and make recommendations
 - forward the inspection report to the proprietor and principal (or equivalent) for comment
 - submit the inspection report, advice and recommendation and the comments from the proprietor and principal (where provided) to the Committee for a decision regarding approval. This final process may take up to six weeks.
- submit the decision to grant approval to the President of the Board for certification
- forward the relevant certificate(s) if the application is approved
- ensure that DIISRTE is advised of the approval.

Where following an inspection, concern regarding the applicant's capacity to comply is identified, a letter identifying the concern will be sent to the applicant. The letter will contain the deadline for evidence of capacity to comply to be provided to the Office.

On receipt of the additional information an Inspector will finalise the inspection report. A copy of the inspection report is provided to the proprietor and/or principal (or equivalent).

5.3.2 Application for renewal of approval of a school provider to deliver courses to overseas students

The following procedure applies to school providers applying for renewal of approval to deliver courses to overseas students.

The maximum period for approval to deliver courses to overseas students is five years.

A school provider applying for renewal of approval to deliver courses to overseas students must submit to the Office *Form 2: Application for renewal of approval to deliver courses to overseas students* not later than 31 March in the calendar year in which the current approval to deliver courses to overseas students is due to expire.

The Office will:

- acknowledge receipt of the application and fee
- arrange for a Board Inspector to:
 - examine the submitted application and documentation stipulated in the application form
 - contact the proprietor of the school provider to identify the evidence of compliance that will need to be available during the visit

- visit the site and examine any evidence of compliance requested by the Inspector
- write an inspection report and make recommendations
- forward the inspection report to the proprietor and principal (or equivalent) for comment
- submit the inspection report, advice and recommendation and the comments from the proprietor and principal (where provided) to the Committee for a decision regarding approval. This process may take up to six weeks
- submit the decision to the President of the Board for certification
- forward the relevant certificate(s) if the application is successful
- ensure that DIISRTE is advised of the approval.

Where following an inspection, concern regarding compliance is identified, a letter identifying the concern will be sent to the applicant. The letter will contain the deadline for evidence of compliance to be provided to Office.

On receipt of the additional information an Inspector will finalise the inspection report. A copy of the inspection report is provided to the proprietor and/or principal (or equivalent) for signature.

5.3.3 Application to amend approval of a school provider to deliver courses to overseas students

The following procedure applies to applications from approved school providers to amend approval of a school to deliver courses to overseas students including:

- adding a course
- withdrawing a course
- increasing student capacity
- adding or changing its site(s).

A school provider applying to amend approval to deliver courses to overseas students may submit to the Office *Form 3: Application to amend approval to deliver courses to overseas students*. The form must be submitted at least 20 working days before implementing an amendment or, for a registered non-government school, at least three months before implementing an amendment.

The Office will:

- acknowledge receipt of the application and fee
- arrange for a Board officer to:
 - examine the submitted application and documentation stipulated in the application form
 - where a site audit is required, visit the school and examine any evidence of compliance requested by the Board officer
 - write a report and make recommendations with specific conditions, if relevant
 - submit the report and recommendation to the Committee
 - submit the decision to the President of the Board for certification
 - forward the relevant certificate(s) if the application is successful
 - ensure that DIISRTE is notified of the amendment to approval.

5.3.4 Returns to the Board of Studies

School providers with approval to deliver courses to overseas students must notify the Board of Studies in writing:

- when the provider, or an associate of the provider, or a high managerial agent of a provider who has been, is, or who will be involved in the business of delivering programs to overseas students:
 - has been convicted of an offence
 - has been convicted of an offence under the ESOS Act 2000 at any time during the last five years
 - has ever had its CRICOS registration cancelled or suspended under the ESOS Act 2000
 - has ever been issued with an Immigration Minister's suspension certificate
 - has ever had conditions imposed on its registration under the ESOS Act 2000
 - has been bankrupt
 - has ever been disqualified from managing a corporation under the Corporations Act 2001
 - has been involved in the business of provision of courses by another provider covered by any of the points above
- of any change in the name or address of the provider, written notice is to be given one month prior to such a change taking effect
- of any intention to relocate premises (including the head office or principal place of business) at least three months before the relocation
- of any change in the school name, written notice is to be given one month prior to such a change taking place
- of any prospective changes to the ownership of the registered provider as soon as practicable prior to the change taking effect
- of any prospective or actual change to the high managerial agents (as defined in section 5 of the ESOS Act) of the registered provider as soon as practicable prior to the change taking effect or within 10 working days of the change taking effect where the change cannot be determined until it takes effect. Information on the new high managerial agent is to be provided for the purpose of making an assessment under section 9(6) of the ESOS Act
- of any request to cancel or suspend the provider's approval and registration to deliver courses to overseas students, written notice to be given at least three months before the cancellation or suspension
- where the school provider ceases to provide courses for overseas students, written notice to be given within one month of the change.

The Office will:

- acknowledge receipt of the relevant notification
- arrange for a Board Officer to:
 - examine the submitted return and any other submitted documentation
 - contact the school provider to identify whether further evidence of compliance is required and whether a visit to the school will be undertaken
 - examine any evidence of compliance and, where applicable, visit the school and examine any further evidence of compliance

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- where applicable, write an inspection report and make recommendations, forward the inspection report to the school provider's proprietor and principal for feedback, submit the report to the Committee. This process may take up to six weeks
- where applicable, forward the relevant certificate(s) to the school provider
- where applicable, ensure DIISRTE is informed.

6 Requirements of a school system provider

This section of the Guidelines relates to the Board's monitoring of approved 'school system providers'.

A 'school system provider' is an entity that has been approved to deliver courses to overseas students enrolled at schools owned and operated by the entity or for which the entity is the recognised school authority for the purpose of the relevant legislation. This is the case for the NSW Department of Education and Communities which is the approved school provider for government schools in NSW. It is also the case where the approved school provider is the approved authority of a system of non-government schools pursuant to section 42 of the Education Act, to monitor the compliance of its member schools with the requirements of the Education Act for registration and accreditation.

Within this section, the term 'member school' refers to a school that is owned and operated by a school system provider. Member schools that deliver courses to overseas students are referred to as 'school delivery sites'.

A school system provider that has been approved and registered to deliver courses to overseas students, may enrol overseas students at one or more of its member schools or school delivery sites.

The Board's Guidelines provide information about the regulatory framework and requirements for school providers delivering courses to overseas students. This section of the Guidelines details the requirements for school system providers.

6.1 Requirements of school system providers

An approved school system provider must provide assurance that the school system provider will continue to meet the requirements for approval as specified in the Board's Guidelines at all times and at all school delivery sites.

The school system provider must describe in writing the manner in which the compliance of its school delivery sites will be monitored. The description must include documented procedures for:

- monitoring the compliance of each delivery site in relation to the requirements for approval under the Guidelines during the school system provider's period of approval
- maintaining evidence of compliance, as specified in the Guidelines, for each delivery site
- monitoring a new delivery site, that is, a school that is new to delivering courses to overseas students
- responding to concerns identified in relation to the compliance of a school delivery site with the requirements for approval under the Guidelines
- handling complaints and grievances raised by students, parents or key stakeholders about the school system provider and/or a school delivery site or sites
- maintaining evidence that the school system provider has implemented its procedures for monitoring the compliance of its school delivery sites.

Board approval of a school system provider's monitoring procedures requires that the school system provider monitor its school delivery sites in the manner which has been approved by the Board. If the school system provider proposes to change the manner in which the

compliance of its school delivery sites is monitored, the school system provider must seek Board approval nine months prior to implementing the proposed change.

6.2 Monitoring school system providers

The Board will monitor annually the monitoring procedures of a school system provider and a report on the monitoring will be provided to the Board's Registration and Accreditation Committee.

Wherever feasible, the Board's monitoring of a school system provider that is also a registration system will align and integrate with the Board's annual monitoring of the registration system.

In accordance with the Board's Guidelines, Board Inspectors will assess the compliance of a school system provider with all requirements for approval when an application for renewal of approval is made.

Assessment of the compliance of a school system provider may also occur if concerns are raised that the school system provider and/or one of its school delivery sites may not be complying with the requirements for approval.

7 Refusal, amendment, suspension or cancellation of approval

The VET Transitional Regulation makes provision for refusal of an application for approval, amending or revoking a condition to which the approval is subject, imposing additional conditions on the approval, suspending an approval or cancelling an approval for a school provider to deliver courses to overseas students.

The Board, on its own motion or on application for approval, may:

- refuse an application for initial approval
- refuse an application for renewal of approval
- amend an approval so that it applies to different courses
- amend or revoke any condition to which an approval is subject
- impose additional conditions on an approval
- suspend an approval
- cancel an approval.

7.1 Process leading to refusal, amendment, suspension or cancellation of approval

Board Inspectors consider any documentation provided by the school provider and observations at an inspection visit in order to form opinions about the provider's compliance with the requirements relating to approval. When it is an Inspector's judgement that a new or established school provider has been unable to demonstrate compliance with the requirements, the Inspector will discuss these concerns with the provider and principal (or equivalent) and provide an opportunity for the school provider to submit further evidence of compliance.

If, following consideration of any further evidence of compliance the school provides, the Inspector has formed the judgement that the school provider does not comply with requirements for approval, the Inspector will prepare a report that includes advice that the application for initial approval or renewal of approval of the school provider be refused, amended, suspended or cancelled.

If the Inspector advises refusal, amendment, suspension or cancellation of the approval of the school provider, the provider and principal (or equivalent) of the school will be given written notice detailing those requirements with which, in the opinion of the Inspector, the school provider does not comply. The provider and principal (or equivalent) will be given the opportunity to make written comment to the Committee regarding the Inspector's advice.

If, following consideration of the Inspector's report and advice and the comments of the provider and principal (or equivalent), the Committee is satisfied that the requirements of the ESOS Act and regulations in relation to approval are not being complied with, the Committee will notify the school provider and principal (or equivalent) that it intends to recommend the refusal, amendment and suspension of the application for initial, or renewal of, approval of the school provider, or to recommend approval be cancelled.

The proprietor and principal (or equivalent) of the school may make an appeal against the recommendation of the Committee (refer to section 7 of the Guidelines).

If the appeal is unsuccessful, written notice of the recommendation or decision to refuse, amend, suspend or cancel approval will be given to the school provider and principal (or

equivalent). Where it is recommended that the approval of a school provider be cancelled or the renewal of approval be refused, DIISRTE will be advised.

8 Appeals for review of certain decisions

An applicant may request an internal review where the Committee, under delegation from the Board, has decided that approval of a school provider to deliver courses to overseas students be refused, amended, suspended or cancelled.

The outcome of an internal review is determined by the full Board of Studies. The review process is undertaken by Board officers not involved in the initial assessment of the school provider's application for approval. The documentation considered by the review includes that previously submitted by the school provider and/or principal (or equivalent) and any additional documentation that the applicant wishes to have considered, the Committee decision and reasons for the decision and the internal review report prepared by another Board Inspector not associated with the original inspection report.

If the internal review supports the original decision, a person who is aggrieved by any of the following decisions of the Board may apply to the Administrative Decisions Tribunal for a review of the decision:

- refusing to approve a person to provide courses for overseas students
- imposing conditions on the approval of a person to provide courses for overseas students
- amending the approval of a person to provide courses for overseas students, or revoke or amend the conditions to which the approval is subject
- suspending or cancelling the approval of a person to provide courses for overseas students.

The appeal process involves the following steps:

- The Board gives the school provider and/or principal (or equivalent) written notice of a decision.
- The school provider or applicant has 28 days in which to lodge an appeal in writing with the Registrar, Administrative Decisions Tribunal.
- The Tribunal contacts the school provider and/or principal (or equivalent) to arrange a date on which the appeal will be heard.
- The Tribunal considers the appeal and makes a recommendation to the President of the Board who considers the recommendation of the Tribunal and makes a decision as to whether the school provider should be approved.

Under the VET Transitional Regulation, there is no appeal against the decision.

If the appeal is rejected, a new application will be accepted after a period of six months from the date the Board is advised that the appeal was rejected.

9 Glossary

Administrative Decisions Tribunal	The Administrative Decisions Tribunal (NSW Government) provides an independent, external review of administrative decisions made by the Board of Studies in relation to the refusal, amendment, suspension or cancellation of a provider's approval to offer courses to overseas students.
Agent	See Education Agent
Cancellation of enrolment	Enrolment may be cancelled by the student or by the registered provider. The provider notifies DIISRTE through PRISMS that it wishes to permanently cancel the student's enrolment. Once this process is complete, the student's CoE status will be listed as 'cancelled'.
Compassionate or compelling circumstances	Circumstance beyond the control of the student which affects the student's course progress or wellbeing.
Compulsory study period	A compulsory study period is one in which the student must enrol unless granted a deferment or suspension from enrolment or leave of absence under Standard 13 (Deferring, suspending or cancelling the student's enrolment). A compulsory study period does not include periods in which the student can elect to undertake additional studies. See also 'Study period'.
Confirmation of Enrolment (CoE)	A document, provided electronically, which is issued by the registered provider to intending overseas students and which must accompany their application for a student visa. It confirms the overseas student's eligibility to enrol in the particular course of the registered provider.
Course	A course of education or training as defined in the ESOS Act.
Course credit	Exemption from enrolment in a particular part of the course as a result of previous study, experience or recognition of a competency currently held. Includes academic credit and recognition of prior learning or experience.
Course money	As defined by section 7 of the ESOS Act, means money a provider receives, directly or indirectly, from an overseas student or intending overseas student, or another person who pays the money on behalf of an overseas student or intending overseas student, for a course that the provider is providing, or offering to provide, to the overseas student. This includes tuition fees, any amount received by the provider for overseas student health cover, and any other amount that the student had to pay to the provider in order to undertake the course.
CRICOS	The Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) is the register prescribed under section 10 of the ESOS Act.

DIISRTE	Department of Industry, Innovation, Science, Research and Tertiary Education. Administers the ESOS Act, manages CRICOS and PRISMS and monitors compliance with the ESOS Act and the Standards in the National Code.
Deferment of enrolment	A student may request a temporary deferment to his or her enrolment on the grounds of compassionate or compelling circumstances. If the request is granted, the provider notifies DIISRTE via PRISMS of the deferment of enrolment.
Designated authority	As defined by section 5 of the ESOS Act, means a person responsible under the law of a state for approving providers to provide courses to overseas students in that state.
DIAC	Department of Immigration and Citizenship (Commonwealth).
Distance learning	Study in which the teacher and overseas student are separated in time or space throughout the duration of the unit of study (including online learning), but does not include study where the student is resident in his or her home country or another country offshore and does not hold a student visa. Distance learning differs from online learning in that the study may be undertaken through written correspondence and exchange of hard copy materials.
Duration of study	The time required for an overseas student to complete an approved course of study as specified in their Confirmation of Enrolment (CoE)
Education agent	A person or organisation (in or outside Australia) who recruits overseas students and refers them to education providers. In doing so, the education agent may provide education counselling to overseas students as well as marketing and promotion services to education providers. 'Education agent' does not refer to an education institution with whom an Australian provider has an agreement for the provision of education (that is, teaching activities).
Enrolment	Where the student has been issued with a CoE to confirm acceptance by the registered provider and is occupying a place in the CRICOS registered course for which the student was accepted and is progressing towards the completion of the course requirements. The period of enrolment includes scheduled breaks between study periods.
ESOS Assurance Fund	The ESOS Assurance Fund was established under section 46 of the ESOS Act 2000 to protect the interests of current and intending overseas students of registered providers. It does this by ensuring that students are provided with suitable alternative courses, or have their course monies refunded, if the provider cannot provide the course(s) that the student has paid for.
Formalisation of enrolment	Written agreement between registered provider and student (or parent or legal guardian if the student is under 18 years of age) which sets out the obligations and rights of both the registered provider and the student.

High managerial agent	An employee, agent or officer of the provider with duties of such responsibility that their conduct may fairly be assumed to represent the provider in relation to the provision of courses (ESOS Act 5).
International student	See Overseas student.
Letter of release	A written approval provided to a student approving their transfer from one registered provider to another, which conforms to the conditions of transfer as set out in 3.13.3 of the Guidelines.
Migration Act	The <i>Migration Act 1958</i> reinforces the obligations of overseas students studying in Australia under their student visas.
Migration agent	A person registered as a migration agent as per section 286 of the <i>Migration Act 1958</i> .
National Code 2007	The National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007.
Overseas student	<p>A person (whether within or outside Australia) who holds a student visa as defined by the ESOS Act, but does not include students of a kind prescribed in the ESOS Regulations.</p> <p>Where the student is under 18 years of age and the student is required to exercise rights or enter into obligations as a legal person, this term may refer to the student's parent or legal guardian.</p>
Principal course of study	The main course of study to be undertaken by an overseas student where a student visa has been issued for multiple courses of study.
PRISMS	The Provider Registration and International Student Management System (PRISMS) is the system used to process information given to the Secretary of DIISRTE by registered providers.
Registered provider	<p>The process whereby a provider is approved and recommended by a designated authority for registration under the ESOS Act to provide a specified course in that state to overseas students; and the provider is registered by the Secretary of DIISRTE on CRICOS.</p> <p>Registration includes re-registration.</p>
Scheduled course contact hours	The hours for which students enrolled in a course are scheduled to attend classes, course-related information sessions, supervised study sessions, mandatory and supervised work-based training and examinations.
School system provider	An entity that has been approved to deliver courses to overseas students enrolled at schools owned and operated by the entity or for which the entity is the recognised school authority for the purpose of the relevant legislation.
Student visa	An authorisation permitting people who are not Australian citizens or permanent residents to come to Australia for the primary purpose of studying in Australia as defined by the <i>Migration Act 1958</i> .

Study period	A discrete period of study within a course, namely term, semester, trimester, short course of similar or lesser duration, or as otherwise defined by the registered provider as long as that period does not exceed six months. See also 'Compulsory study period'.
Suspension of enrolment	To suspend enrolment means to temporarily put studies on hold. Providers do this by notifying DIISRTE via PRISMS of the suspension of enrolment. A student may request a temporary suspension to his or her enrolment on the grounds of compassionate or compelling circumstances.
Transfer (between registered providers)	Students may seek to transfer from one registered provider to another. Registered providers may not enrol transferring students prior to the student completing six months of their principal course of study except under conditions indicated in 3.13 of the Guidelines.
Tuition Assurance Scheme (TAS)	A scheme approved by the Australian Government Minister for Education, Employment and Workplace Relations to ensure that overseas students receive the course they have paid for. If a provider is unable to meet its teaching obligations to a student (for any reason whatever) one of the other providers in the scheme will take over teaching the student. Providers must be a member of a TAS and apply for coverage unless they are exempt from joining a TAS.
Unit	A discrete component of study within a course; the term includes 'subject' and 'module'.

Acronyms and abbreviations

AQF	Australian Qualifications Framework
AQTF	Australian Quality Training Framework
CoE	Confirmation of Enrolment
CRICOS	Commonwealth Register of Institutions and Courses for Overseas Students
DIISRTE	Department of Industry, Innovation, Science, Research and Tertiary Education
DIAC	Department of Immigration and Citizenship
ELICOS	English Language Intensive Courses for Overseas Students
ESOS Act	<i>Education Services for Overseas Students Act 2000</i>
NTIS	National Training Information Service
PRISMS	Provider Registration and International Students Management System
RTO	Registered Training Organisation
TAS	Tuition Assurance Scheme
VET	Vocational Education and Training