



Standard 8: Overseas student visa requirements

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

Overview

Overseas students must make satisfactory course progress and, where applicable, attendance as a condition of their student visa.

Registered providers must:

- monitor the overseas student's course progress and attendance according to the requirements of their sector;
- identify and offer support to those at risk of not meeting course progress or attendance requirements;
- only extend the duration of an overseas student's enrolment in certain circumstances and advise them of potential impacts on their student visa; and
- only deliver online learning in accordance with the online learning requirements for their sector.

Key Requirements

Monitoring course progress and attendance

Registered providers must inform overseas students before they begin a course about the requirements to achieve satisfactory course progress and attendance requirements, where applicable.

The expected duration of study specified on the overseas student's Confirmation of Enrolment (CoE) must not exceed the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) registered duration for the course. This means that registered providers will need to monitor the progress of overseas students to ensure they are able to complete the course within the expected duration specified on the CoE.

Registered providers must have documented policies and processes in place to identify, notify and assist overseas students who are at risk of not meeting course progress or attendance requirements. There should be evidence from the overseas student's assessment tasks, participation in tuition activities, or other indicators of academic progress, to indicate the overseas student is at risk of not satisfying these requirements.

Registered providers must also have processes in place to determine the point at which the overseas student has failed to meet satisfactory course attendance or course progress.

Course progress and attendance requirements

Schools, ELICOS and Foundation Programs

Registered providers of a school course, ELICOS or Foundation Program must have a documented policy and process for monitoring and recording both attendance and course progress for overseas students.

The minimum requirement for attendance is 80 per cent of the scheduled contact hours for the course, or higher if required under state or territory legislation. Registered providers may also choose to impose a higher attendance regulation through their attendance policies.

Registered providers must assist overseas students through an intervention strategy if they are not achieving satisfactory course progress. The intervention strategy should identify, notify and assist overseas students who have been absent for more than five consecutive days without approval, or who are at risk of not meeting attendance requirements before the overseas student's attendance drops below 80 per cent.

Registered providers should keep records of all contact and counselling made with overseas students who have been absent for more than five consecutive days or where the overseas student is at risk of not attending at least 80 per cent of the course contact hours.

The intent of contacting these overseas students is to find out why they have been absent and to see what support the registered provider may be able to offer the overseas student. For example, the overseas student's absence may not be due to medical reasons, but rather to homesickness or social issues – matters which may be addressed through the registered provider's student support services (see Standard 6).

Higher education

Registered providers of higher education courses must have a documented policy and process for monitoring and recording course progress for an overseas student.

Higher education providers must monitor course progress regularly and implement an intervention strategy to assist an overseas student not making satisfactory course progress. Registered providers are not required to monitor attendance for higher education courses.

Vocational education and training (VET)

Registered providers of VET courses must have a documented policy and process for monitoring and recording course progress for an overseas student.

By default, VET providers do not have to monitor attendance. However, they will have to monitor attendance if required as a condition of registration by the Education Services for Overseas Students (ESOS) agency. If an ESOS agency requires a VET provider to monitor attendance, it will notify the registered provider, and the minimum requirement for attendance is 80 per cent of the scheduled contact hours for the course.

Registered providers must assist overseas students through an intervention strategy if they are not achieving satisfactory course progress, and if applicable, assist with attendance before the overseas student's attendance falls below 80 per cent.

Reporting overseas student visa holders

Registered providers must report overseas students who do not meet course progress or, if applicable, attendance requirements.

If the registered provider has assessed that the overseas student is not meeting course progress or attendance requirements in accordance with its policies, the registered provider must give the overseas student a written notice of its intention to report. The registered provider also needs to advise the overseas student of their right to access the registered provider's internal complaints and appeals process within 20 working days.

The registered provider must maintain the overseas student's enrolment by only reporting a breach of course progress or attendance in Provider Registration and International Student Management System (PRISMS) if:

- the internal and external complaints processes have been completed and the breach has been upheld;
- the overseas student has chosen not to access the internal complaints and appeals process within the 20 working day period;
- the overseas student has chosen not to access the external complaints and appeals process; or
- the overseas student withdraws from the internal or external appeals process by notifying the registered provider in writing.

There are limited circumstances where a registered provider may decide not to report an overseas student for falling below 80 per cent attendance:

- for school, ELICOS and foundation program providers: the overseas student is still attending at least 70% of the scheduled course contact hours and provides genuine evidence of compassionate or compelling circumstances; and
- for VET providers who are required to monitor attendance by the ESOS agency: the overseas student is still attending at least 70% of the scheduled course contact hours and is maintaining satisfactory course progress.

Extending course duration

The registered provider can only extend the overseas student's enrolment if:

- the registered provider has assessed that there are compassionate or compelling circumstances and there is evidence to support this assessment;
- the registered provider has implemented, or is in the process of implementing, an intervention strategy for the overseas student who is at risk of not meeting course progress requirements; or
- an approved deferral or suspension of the overseas student's enrolment has occurred.

If the registered provider extends the duration of an overseas student's enrolment and the student's visa will expire prior to completion of the course, the student will need to apply for a new Student visa (subclass 500) to complete their study. More information about the Student visa (subclass 500) is available on the Department of Home Affairs website at:

<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/student-500>. 'Compassionate or compelling' circumstances are generally those beyond the control of the overseas student and which have an impact upon the overseas student's course progress or wellbeing. These could include, but are not limited to:

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

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

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

Online learning

Registered providers may offer overseas students up to one-third of their course online.

If online or distance learning is offered, the registered provider must ensure that the overseas student is studying at least one unit that is face-to-face in each study period. The only exception is if the overseas student is completing the last unit of their course that is only available online.

School, ELICOS or foundation program providers must only deliver online or distance learning in addition to the minimum face-to-face teaching requirements. This must be approved as part of the registration of the course by the relevant designated State authority or ESOS agency.

To assist the sector in the current climate, the Department of Education, Skills and Employment (DESE), the Tertiary Education Quality and Standards Agency (TEQSA) and the Australian Skills Quality Authority (ASQA) as the regulatory agencies under the *Education Services for Overseas Students Act 2000* are committed to a flexible approach to regulating the sector, including supporting Australian education providers to deliver courses online to international students for the duration of the COVID-19 pandemic.

Providers should assure themselves that such arrangements maintain assessment and quality standards, and are appropriately documented. Not all qualifications are suited to online learning, this may include those with mandatory work placements.

TEQSA has also developed an Online learning good practice hub at: <https://www.teqsa.gov.au/online-learning-good-practice> which could be useful for providers.

Disclaimer

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

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

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