



Standard 4: Education agents

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

Overview

Education agents are an important part of the international education sector in Australia. Registered providers must ensure that their education agents act ethically, honestly and in the best interest of overseas students and uphold the reputation of Australia's international education sector.

Registered providers must:

- have a written agreement with each education agent they engage to formally represent them;
- enter and maintain their education agents' details in the Provider Registration and International Student Management System (PRISMS);
- ensure their education agents have appropriate knowledge and understanding of the Australian International Education and Training Agent Code of Ethics;
- ensure their education agents act honestly and in good faith;
- take immediate corrective action, or terminate a relationship if an agent (or an employee or subcontractor) is not complying with the National Code;
- not accept overseas students from an education agent if they know or suspect that the education agent is:
 - providing migration advice without being a registered migration agent
 - engaging in unethical recruitment processes, including facilitating transfers prohibited under Standard 7
 - facilitating the enrolment of a student that the agent believes will not comply with their visa conditions, or
 - using PRISMS to create non-genuine CoEs; and
- not pay an education agent a commission for the recruitment of an overseas student who is transferring from another provider.

Key Requirements

Written agreements

Registered provider must have a written agreement with each education agent that formally represents their education services.

The written agreement must outline:

- the registered provider's responsibilities, including for compliance with the *Education Services for Overseas Students Act 2000* (ESOS Act) and National Code 2018;
- the requirements of the agent in representing the registered provider;
- the registered provider's processes for monitoring the education agent's activities and ensuring the education agent gives overseas students accurate and up-to-date information;
- the corrective actions that may be taken and the grounds for termination of the written agreement with the education agent; and
- the circumstances which information about the registered provider may be shared by the registered provider and Commonwealth or state and territory agencies.

Any written agreements with education agents, or renewal of written agreements with education agents, should comply with the National Code 2018.

Education agents

Registered providers must ensure the education agents they engage with act ethically, honestly and in the best interest of overseas students. This means that registered providers must ensure its education agents declare and take all reasonable steps to avoid conflicts of interest with its duties as an education agent of the registered provider. This provision is to ensure transparency in the education agent's activities.

Examples of conflicts of interest include, but are not limited to:

- when the agent charges services fees to both overseas students and registered providers for the same service;
- where an education agent has a financial interest in a private education provider; or
- where an employee of an education agent has a personal relationship with an employee of the education provider.

Registered providers must also ensure education agents observe appropriate levels of confidentiality and transparency in dealings with overseas students while acting honestly and in good faith.

Education agents must also have appropriate knowledge and understanding of the overseas education system in Australia, including the Australian International Education and Training Agent Code of Ethics. Registered providers should ensure any education agents they engage with, including offshore agents, have up-to-date and accurate marketing information.

The Australian International Education and Training Agent Code of Ethics is based on the [London Statement](#). These requirements ensure education agents adhere to and practice responsible business ethics, and that education agents understand their obligations to provide current, accurate

and honest information to overseas students to help them make informed decisions about study in Australia.

Agent commissions

Registered providers are prohibited from paying an education agent a commission associated with the recruitment of an overseas student who has already commenced study at another registered provider.

Where an overseas student has completed, or is set to complete, their principal course of study before the course at the new provider begins, an agent commission can be paid by the new provider as this is movement for further study, not a student transfer.

Where a student is progressing through a package of courses for which their student visa was granted, this also does not constitute a transfer, and so the agent commission ban does not apply. Where an overseas student is granted a student visa for a package of courses, commissions may be paid in relation to each specified course delivered by the specified provider in the package.

The onshore transfer commission ban applies to any consideration or benefit, whether monetary or non-monetary, that:

- is or will be given, by, or on behalf of, a provider to an education agent, or an associate of the education agent; and
- is in connection with:
 - the recruitment of an overseas student or an intending overseas student; or
 - providing information, advice or assistance to overseas students, or intending overseas students, in relation to enrolment at a provider, or otherwise dealing with overseas students, or intending overseas students in relation to a provider.

For example, an education agent commission could be a monetary commission, service charges, bonuses, performance payments, gifts, discounted or free services, or other rewards and incentives.

For more information on this measure, see [this factsheet](#).

Maintaining details in PRISMS

Registered providers must enter and maintain the details of education agents with whom they have a written agreement in PRISMS. Please see the [‘How To’ guide for recording details in PRISMS](#) for more information.

Further, where an education agent has engaged, or is in engaging, in recruitment activity in relation to an accepted student, the provider must give the following information in PRISMS (under the Education Services for Overseas Students Regulations 2019):

- the agent’s name
- the address of the agent’s principal place of business
- if the agent is a body corporate—the address of the body corporate’s registered office
- the agent’s postal address (if different from the addresses mentioned above)
- the agent’s phone number, email address and website address (if any)
- the agent’s ABN or ACN (if any)

- the agent's trading name or names (if any)
- if the agent is a body corporate—the names of the body corporate's directors
- if the agent is a registered migration agent—the agent's Migration Agents Registration Number, and
- the following information about each of the agent's employees (if any) who are involved in the agent facilitating the enrolment:
 - the employee's name
 - the employee's email address, and
 - if the employee is a registered migration agent—the employee's Migration Agents Registration Number.

Recruitment activity may involve traditional recruitment activities or providing information, advice, or assistance to the student in relation to enrolment.

Immediate corrective actions

Registered providers must take immediate corrective action if they are aware that or believe the education agent or its employee or subcontractor, have not complied with the education agent's responsibilities under Standard 4. Corrective actions may include providing education agents with additional information or targeted training on expectations of the agent.

If a provider becomes aware, or has reason to believe that an education agent is engaging in false or misleading recruitment practices, they must immediately terminate their relationship with the agent.

If the false or misleading recruitment practices were engaged in by an employee or subcontractor of the education agent, the registered provider must require the education agent to terminate its relationship with those individuals.

Registered providers must not accept students from education agents if they believe the education agent is engaging in unethical recruitment practices. This includes education agents that provide migration advice to overseas students when they are not authorised to do so under the *Migration Act 1958*.

Registered providers must not accept overseas students from education agents that engage in, or have previously engaged in, dishonest recruitment practices. This includes education agents knowingly recruiting an overseas student in conflict with the registered providers' obligations under Standard 7 (Overseas Student Transfers).

Registered providers must not accept overseas students from education agents if they believe the education agent is creating Confirmation of Enrolments (CoEs) in PRISMS for non bona fide overseas students or facilitating the enrolment of overseas students while knowing that the overseas student will not comply with the conditions of their visa.

Disclaimer

The Department of Education 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.