



COVID-19 – information for designated state authorities and school providers

Updated 19 October 2020

International students at schools may be affected by travel restrictions and exclusion periods due to the COVID-19 outbreak.

Information for providers

From 20 March 2020 at 9PM (AEDT) only Australian citizens, residents and immediate family members can travel to Australia.

As the ESOS Agency for schools, the Department of Education, Skills and Employment encourages schools to be understanding of student circumstances beyond their control. During the COVID-19 outbreak, including while travel restrictions apply to international students enrolled in Australia, the department also encourages:

- Designated State Authorities (DSAs) to consider requests by schools to vary elements of their registration against the ESOS framework
- States' and Territories' curriculum assessment and certification authorities to offer as much flexibility to students as can be accommodated by their certification requirements.

The department acknowledges that schools may not be in a position to comply fully with the requirements of the *Education Services for Overseas Students Act 2000* (ESOS Act) and the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (the National Code) during the current COVID-19 outbreak, including while travel restrictions apply to international students enrolled in Australia.

The department supports schools to consider flexible arrangements for students during this time, where approved by the relevant Designated State Authority. Examples of flexible arrangements may

include flexible or online course delivery and adopting a flexible approach to student attendance for students who may need to exclude themselves from their place of study for a period of time.

Schools should document all flexible arrangements made on a student-by-student basis. This is particularly important for arrangements that would usually be considered non-compliant with the ESOS Act. To comply with the attendance reporting requirements under the [ESOS Act](#), quarantine periods may be considered as consistent with a period of illness. If a provider is unable to meet their reporting obligations under Section 19 of the ESOS Act, for example, reporting a deferral within the required timeframe, the department does not intend to pursue regulatory action and encourages DSAs to take a similar approach.

All AQF education, training and assessment must meet high quality standards regardless of the location of the student and the mode of delivery. As long as the student remains enrolled with their school, and the assessment requirements applicable in the student's state or territory of enrolment allow it, the location of the student and the mode of delivery should not form an impediment to attainment of an Australian qualification.

Designated State Authorities are encouraged to be flexible supporting enrolled students to continue to study online either in Australia or offshore for the duration of the current COVID-19 outbreak, including while travel restrictions apply, where schools can demonstrate:

- capacity to deliver all of the elements of the CRICOS registered course
- capacity to meet the relevant DSA school curriculum or school qualification requirements
- appropriate assessments of any child safety implications have been undertaken
- the parent / legal custodian of students has provided informed consent to changes to the written agreement with the school.

Where schools are considering offering or extending online learning opportunities, schools should assure themselves that such arrangements meet the requirements of their state's or territory's curriculum, assessment and certification agency, and are appropriately documented and are approved by the Designated State Authority. Not all qualifications are suited to online learning, this may include those with mandatory practical elements or requirements, such as laboratory work or placements.

If schools have questions about their specific circumstances they should contact their Designated State Authority under the *Education Services for Overseas Students Act 2000*, or state or territory curriculum, certification and assessment authority, as relevant.

Where a school has responsibility for approving a student's welfare arrangements and students are moved to alternative accommodation arrangements for a quarantine period, it is important that this accommodation is consistent with Standard 5 of the National Code.

Previously announced exemptions to the travel restriction for eligible Year 11 and 12 students from mainland China continue to apply. Please see the [Information for schools on exemption to travel restrictions for Years 11 and 12 international student factsheet for more information](#).

Parent / legal custodian and student consent for online learning

Allowing flexibility of online delivery does not remove parents' / legal custodian's and students' protections, or remove schools' obligations to their students under the ESOS Act.

For some parents / legal custodians, online delivery may be an option that allows their child to continue their studies uninterrupted. However, online delivery is not suitable for all courses or students and may be a significant departure from an international student's expectations of the course.

For commencing students, parent / legal custodian consent must be documented and should be reflected in the written agreement.

For continuing students, student and parent / legal custodian consent to study online may be implied or explicit. Consent may occur where:

- the student engages in online classes;
- the student has asked or agreed in writing to study online; or
- the student's written agreement has been updated by mutual agreement.

Each case should be considered on its merits and consideration should be given to the understanding of the student and their parent / legal custodian of the options available to them.

Where there is clarity about a parent's / legal custodian's (or student's) agreement to online study, no further action is required. There is no expectation that all written agreements must be updated.

Where a parent / legal custodian (or student) is not satisfied with the school's online offering, options to address this may include:

- making adjustments or concessions with the student's agreement;
- deferring or suspending the student's enrolment, or;
- releasing the student and providing a refund.

Where a student or their parent / legal custodian express concern, schools should work with them to ensure they are satisfied the course is comparable to what they expected to receive and seek their agreement to the new arrangement. Schools should be transparent with parents / legal custodians and students on the mode of delivery, resources available to students, methods of assessment and how any practical components will be managed. Students' engagement at online education can be taken as an indication of agreement to the new arrangements for the duration of their participation.

If the school is unable to come to an arrangement for online study that the student and parent / legal custodian finds suitable, the student may wish to defer or suspend their studies until they can recommence face-to-face-study. Schools should consider requests for deferral or suspension on a case by case basis. In line with the requirements under Standard 9 of the National Code, the provider may defer or suspend the enrolment if it believes there are compassionate or compelling circumstances. The ESOS agencies encourage schools to consider all student concerns and make

decisions based on a documented policy or process, and to ensure they record any decisions about suspensions or deferment of studies.

If a satisfactory solution cannot be found, the parent / legal custodian (or student) may wish to withdraw the student from the course completely, in which case schools should refund the student's unspent tuition fees. When calculating refunds, schools must follow Section 7 of [the Education Services for Overseas Students \(Calculation of Refund\) Specification 2014](#).

In cases where students do not agree to the change to online instruction, schools should seek written confirmation from the student of their decision.

Further information

Providers and students should stay up to date with the latest advice on COVID-19 from the Department of Health [website](#). Providers and students should also stay up to date on the latest advice on visa and travel matters related to the virus from the Department of Home Affairs [website](#).

Enquiries about ESOS compliance matters can be directed to esoscomplianceandregistration@dese.gov.au

Useful links

Further advice for international students is available on the Department of Education, Skills and Employment [website](#). Further enquiries can be directed to international.students@dese.gov.au.

The Tuition Protection Service has published advice for students and education providers regarding the [Restrictions on Travel](#).

Frequently asked questions

What happens if a student disagrees with a provider's decision not to refund/suspend/cancel their enrolment?

Under Standard 10 of the National Code, all education providers should have an internal complaints and appeals process that allows decisions by education providers to be appealed by students. In this way, providers and students may find a mutually agreeable solution to their dispute.

Providers should try to resolve disputes with students about online learning in accordance with the principles outlined in this fact sheet. If an agreement can't be reached, providers should release the student from their studies and refund any unspent tuition fees.

If a student is still not satisfied after exhausting their provider's internal complaints and appeals processes, the provider must advise the student that they are able to make an external complaint or appeal about their provider's decision. Students disputing decisions made by private education providers can contact the [Commonwealth Ombudsman](#), while students disputing decisions made by public education providers can contact their [State or Territory Ombudsman](#).

What level of reporting do providers need to collect on accommodations made for students which do not meet the ESOS Standards?

The department acknowledges that providers may not be able to comply fully with requirements under the ESOS Act for students who have been affected by the travel and quarantine restrictions. In these cases, the department recommends that providers document all accommodations made in each student's record. This includes, and is particularly important for, actions that would otherwise be non-compliant with the ESOS Act and the National Code.

Which students can access flexible arrangements?

The department supports the use of flexible arrangements that are reasonable in the circumstances for students directly affected by travel and quarantine restrictions. Where flexible and reasonable arrangements need to be made by providers that do not comply with the ESOS Act, the regulators will take these circumstances into account.

Providers should consider requests for deferral or suspension on a case by case basis, in line with the requirements under Standard 9 of the National Code on granting suspensions and deferrals on the basis of compelling or compassionate grounds.

What portion of ELICOS courses can now be delivered online? Can an entire course be delivered online?

ESOS agencies will work flexibly with providers on a case-by-case basis to minimise the impact this situation has on providers and students. ELICOS providers must inform their ESOS agency if they intend to deliver an ELICOS course online. Any ELICOS courses delivered online must continue to meet the requirements under the ELICOS Standards, including in relation to course hours and student to teacher ratios.

Can providers offer additional sessions for students to make up for days missed?

Yes. Increasing contact hours for a period to make up for missed classes would be considered a reasonable adjustment.

Should providers defer or suspend CoEs for incoming or continuing students who are restricted from travelling to Australia but will take online courses or alternative delivery methods?

Providers are not required to defer or suspend these students' CoEs if they are studying online. Providers are reminded that under Standard 8 of the National Code they should offer support to students who are undertaking online or distance learning. If a provider offers online study to a student after having already suspended or deferred their enrolment, we do not expect providers to update the student's CoE. The return date on a student's CoE can always be changed again if the student is unable to meet this date.