

ESOS Compliance Policy

Policy Code: GOV-017**Version:** 4.0**Effective Date:** 1 June 2020

Purpose

The Commonwealth legislative framework which establishes the minimum requirements for education programs delivered to international students in Australia includes the:

- *Education (Overseas Student) Regulation 1998 (plus amendments)*
- *Education Services for Overseas Students (ESOS) Act 2000 (ESOS Act)*
- *ESOS (Registration Charges) Act 1997*
- *ESOS Legislation Amendment (TPS and Other Measures) Act 2012*
- *ESOS Regulations 2001*
- *National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code 2018)*

As a collective group, these pieces of legislation and underpinning regulatory documents are known as the ESOS Framework, regulated for the higher education sector by the Tertiary Education Quality and Standards Agency (TEQSA). The purpose of this Policy is to outline how the College will comply with the requirements of this framework.

Definition of “College” – *In the higher education sector, the Australian College of Natural Medicine Pty Ltd (ACNM) trades as Endeavour College of Natural Health. For the purpose of this policy, any reference to ‘College’ or ‘the College’ should be considered a reference to each or any of these respective trading names / entities.*

Scope

- All international students on a student visa
- All staff – operational and academic, permanent and contract
- All governing body members

Not in Scope

This Policy (and the associated legislative framework) does **NOT** apply to:

- International students holding any visa other than a student visa
- Students studying entirely online or outside of Australia
- Students holding permanent residency visas
- Domestic students

Policy Statement

The College is a registered provider of higher education courses on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) and as such is committed to achieving full compliance with the requirements of the ESOS legislative framework, which are designed to safeguard the interests of international students studying in Australia.

ESOS compliance is a College-wide responsibility and commitment of all staff. Each staff member is responsible for understanding their obligations under the ESOS Act and must ensure that they comply with the legislation in accordance with this Policy statement and all supporting policies, procedures and guidelines that have been developed to support the College's obligations under the ESOS framework.

The College will provide regular training (at least annually) for all staff who deal with international students on the requirements of the ESOS framework and the supporting processes underpinning that compliance in place at the College.

The College will liaise with the Department of Human Affairs (DHA) around the conduct / visa concerns of international students using the Provider Registration and International Student Management System (PRISMS).

Responsibilities

The Dean and Operations Director is the Principal Executive Officer of the College and therefore holds ultimate responsibility to ensure the College complies with the ESOS framework.

The National Compliance Manager is the key regulatory contact of the College for the CRICOS registration of the institution, and ensures all staff are regularly informed of any changes to requirements. They also report on student misconduct or academic progress concerns via PRISMS.

The Director, Student Services and Retention is responsible for ensuring all student-facing operational staff are aware of the requirements of the ESOS framework and their responsibilities under the Act when dealing with international students. They can also report on student misconduct or academic progress concerns via PRISMS.

The Director of Education is responsible for ensuring all student-facing academic staff are aware of the requirements of the ESOS framework and their responsibilities under the Act when dealing with international students; particularly regarding identifying students at risk, academic progression concerns and the need for intervention strategies to be implemented.

The Student Services Team and Academic Team are responsible for ensuring they understand the requirements of the *National Code 2018* as they apply to their role at the College, and to make themselves available to attend regular training where it is offered.

The Finance Team is responsible for notifying the National Compliance Manager when a student is not meeting their financial payment obligations under their visa conditions.

Students are responsible for meeting all conditions of their visa and for notifying the College of any change of personal situation (including location / moving, change of phone number, financial situation etc.) as soon as it becomes known.

National Code

The College undertakes to comply with the requirements of Standards 1 – 4 and 6 – 11 of the *National Code 2018*. It should be noted that Standard 5 of the *National Code 2018* does not apply as the College does not enrol international students under the age of 18 years.

The National Code 2018 comprises the following:

Standard 1 Marketing information and practices: This standard sets out that registered providers must uphold the integrity and reputation of Australia's education industry by ensuring the marketing of their courses and services is not false or misleading.

Standard 2 Recruitment of an overseas student: This standard sets out that registered providers must recruit responsibly by ensuring students are appropriately qualified for the course for which they seek enrolment, including having the necessary English language proficiency, educational qualifications and work experience. Students must have sufficient information to enable them to make informed decisions about studying with their chosen registered provider in Australia.

Standard 3 Formalisation of enrolment and written agreements: This standard sets out that registered providers must formalise their enrolment of overseas students through written agreements with overseas students. The written agreements protect the rights and set out the responsibilities of each party, as well as the courses and related education services to be provided, tuition and non-tuition fees payable, and refund policies.

Standard 4 Education agents: This standard sets out that registered providers must ensure that their education agents act ethically, honestly and in the best interests of overseas students as well as uphold the reputation of Australia's international education sector.

Standard 5 Younger overseas students: This standard sets out that registered providers of overseas students aged under 18 must meet legislative or other regulatory requirements relating to child welfare and protection. Registered providers of overseas students aged under 18 must provide the students with emergency contact information and information about how to report actual or alleged abuse. Where the registered provider has taken on responsibility for the approval of welfare arrangements for a student who is under 18 years of age (for the purposes of the Migration Regulations), the registered provider must ensure the arrangements for the younger students are suitable, ongoing and appropriately managed until the student turns 18 years of age.

Standard 6 Overseas student support services: This standard sets out that registered providers must assist overseas students to adjust to study and life in Australia and have appropriate orientation programs that help overseas students to access the information and services they require.

Standard 7 Overseas student transfers: This standard sets out that registered providers must not knowingly enrol an overseas student wishing to transfer from another registered provider's course prior to the student completing six months of his or her principal course (or for the school sector, until after the first six months of the first registered school sector course), except in certain circumstances.

Standard 8 Overseas student visa requirements: This standard sets out that registered providers must safeguard the integrity of Australia's migration laws by supporting overseas students to complete their course within the required duration and fulfil their visa requirements for course attendance and course progress. Standard 8 sets flexible provisions to allow online learning while maintaining appropriate standards for overseas students to comply with student visa conditions.

Standard 9 Deferring, suspending or cancelling the overseas student's enrolment: This standard sets out that registered providers must appropriately manage the enrolment of their overseas students and ensure all necessary information about enrolments has been provided to the relevant government department by maintaining updated information in the Provider Registration and International Student Management System (PRISMS) database.

Standard 10 Complaints and appeals: This standard sets out that registered providers must ensure their overseas students have the right to natural justice protected through access to professional, timely, inexpensive and documented complaints handling and appeals processes.

Standard 11 Additional registration requirements: This standard sets out that registered providers must continue to meet the requirements for CRICOS registration and ensure the ESOS agency for the registered provider approves, and has up-to-date information on, specific aspects of the registered provider's operations and any registered courses.

The College also undertakes to ensure that any education agents engaged to recruit international students on behalf of the College will be aware of their obligations under the *ESOS Framework* and *National Code 2018* and will be disengaged by the College as soon as any breach of those obligations may occur.

Resources and Capacity

The College undertakes to ensure that it appropriately resources all campuses and courses of study including staffing and physical resourcing, to ensure international students have fair and equitable access to resources and support and the best chance of achieving the required outcomes of their course.

The College has an established capacity of international students that may be present on any campus at any one time and undertakes to not deliver to more international students than dictated by that capacity limit. The College understands that it can apply for capacity reviews at any time through TEQSA.

Breaches of the Act / Framework

Breaches of the Act or related regulatory documents may result in infringement penalties being applied to the individual in breach and / or the College. The following actions are examples of a breach of the Act:

- Advertising that a non-CRICOS-approved course is eligible for international enrolments
- Delivering to more students than dictated by capacity limits at any one time
- Not responding to international student complaints within the timeframe set out in the relevant policy

Not notifying DHA via PRISMS when a student withdraws from the College, either to return home or to transfer to another provider.

Definitions

Agent: An accredited person or organisation with the authority to promote the College's courses and services to Students or intending Students in nominated regions.

CRICOS: Commonwealth Register of Institutions and Courses for Overseas Students.

DHA: Department of Home Affairs.

ESOS: Education Services for Overseas Students. A legislative framework, administered by the Australian Government, addressing the responsibility of education institutions towards overseas students.

ESOS Act: Education Services for Overseas Students Act 2000.

ESOS Regulations: Education Services for Overseas Students Regulations 2001.

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

PRISMS: Provider Registration and International Student Management System. The DHA database for international student management.

TEQSA: Tertiary Education Quality and Standards Agency; the government regulator of higher education institutions in Australia, including international student requirements under ESOS.

Student / Learner: an individual person who is formally enrolled to study at the College. The individual person is that who appears on the College's documents such as enrolment, admission and payment documents, and who is assigned an individual student ID.

Related Procedures

All international procedures



Further Information

Related Policies

Admission and Enrolment Policy - International
Attendance Policy - HE
Complaints and Appeals Policy - International
Course Duration and Progress Policy – International
Critical Incident Policy
Deferring Suspending or Cancelling Enrolment Policy - International
Educational Pathways Policy - HE
Fees Policy - International
Marketing Policy - International
Privacy Policy
Refund Policy - International
Student Support Services Policy - International
Transfer between Education Provider Policy - International

Related Documents

Not Applicable

Guidelines

Not Applicable

Benchmarking

Federation University
University of Queensland
University of Wollongong

Supporting Research and Analysis

Not Applicable

Related Legislation

[Education Services for Overseas Students \(ESOS\) Act 2000](#)
[Education Services for Overseas Students Regulations 2001](#)
[Education Services for Overseas Students \(Registration Charges\) Act 1997](#)
[Education Services for Overseas Students Legislation Amendment \(Tuition Protection Service and Other Measures\) Act 2012](#)
[Education \(Overseas Student\) Regulation 1998 \(plus amendments\)](#)
[National Code 2018](#)

Review and Approval

Policy Author

National Compliance Manager

Policy Owner

National Quality, Governance and Compliance Manager

Contact

National Quality, Governance and Compliance Manager

compliance@endeavour.edu.au

Recommending Body

National HE Compliance Manager

Date: 11 August 2017

Approval Body

Executive Director, Higher Education

Approved date: 11 August 2017

Policy Status

Revised – 5 December 2018

Responsibilities for Implementation

- Managing Director
- Director of Education
- Director, Student Services and Retention
- National Quality, Governance and Compliance Manager

Key Stakeholders

- All Academic staff
- All Student Services staff
- Managing Director
- Director of Education
- Director, Student Services and Retention
- Finance staff
- International students
- National Quality, Governance and Compliance Manager

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- Office of Records staff
 - Timetabling staff