

Under Standard 7 of the National Code 2007, providers must not knowingly enrol the student wanting to transfer from another provider prior to the student completing six months of his or her principal course unless:

- The registration of the provider or the course in which the student is enrolled is cancelled
- The provider has given the student a letter of release
- A government sanction on the provider's registration prevents the student from continuing his or her principal course, or
- The student's government sponsor writes to support the change.

Principal course

The principal course is the student's main course of study or that leading to the highest qualification on the student's current visa. If the student is on a package of courses, the course leading to the highest qualification will be the student's principal course and the restriction will apply to the first six months of that course and any packaged courses before it.

Intention of Standard 7

The standard, contained within the consumer protection grouping of standards, recognises overseas students as consumers and supports them to exercise choice, while acknowledging the need to support students to transition to study and life in Australia. This intent is reflected in the introductory text to the standard:

“Registered providers, from whom the student is seeking to transfer, are responsible for assessing the student's request to transfer within the 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.”

Transfer policies

Providers' transfer policies must support the intention of Standard 7 and consider individual circumstances. Policies with blanket rules such as “No request for a letter of release will be granted” are not compliant. Policies that permit transfers in a very limited set of circumstances – thus acting as a blanket no-release rule – are also non compliant.

Providers must make the student transfer policy and procedure available to both staff and students.

Assessing requests for a letter of release

Providers should inform students of the outcome of his or her request for a letter of release within a reasonable timeframe. Providers should take into consideration that students often need to meet cut-off dates for enrolment with other providers. Good practice is that a provider gives the student an answer no later than 10 working days from the date the student lodges their application to transfer.

Granting a letter of release

Providers must not give a student a letter of release unless the student shows them a valid letter of offer of enrolment from another provider. An under 18 student must also show the provider written evidence that their parent or legal guardian supports their transfer AND, if applicable, a letter from the new provider that states they will take responsibility for approving the student's accommodation, support and general welfare arrangements.

Letters of release and packaged courses

Students in a package of courses must complete six months of the principal course – the course leading to the highest qualification – plus all preliminary courses before they can transfer to another provider unless one of the exceptions is satisfied.

Students can transfer from a preliminary course (with a release letter from the provider of the preliminary course) but they must maintain their enrolment with the subsequent providers in the package (unless they gain release letters from these providers).

If a transfer affects the start dates of any subsequent courses in the package the student:

1. Needs a letter of release from the providers of these courses, or
2. Agreement from these providers to delay the Confirmation of Enrolment (CoE) commencement dates.

Providers should tell students enrolled in a package that changing their preliminary course(s) may exclude them from admission to their principal course as a preliminary course can be a prerequisite for the principal course.

Refusing a letter of release

When a provider refuses a request for a letter of release it must give the student written reasons for doing so. These should note the factors taken into consideration and reflect due consideration of the student's individual circumstances. The reasons for refusal should help the student to decide if he or she will appeal the decision. The document must also tell the student that he or she has the right to appeal the provider's decision.

Approximations of a letter of release

The receiving provider may enrol a student if they have documentation that approximates the letter of release (e.g. the student has evidence their CoE was conditional on meeting certain entry requirements and they did not meet the requirements). The receiving provider must note this in PRISMS and keep the documentation on the student's file. A student wanting a CoE for the purposes of applying for a new visa is not considered to be a circumstance that would constitute an approximation of a letter of release.

Students withdrawing from a course

If a student withdraws from a course the *Education Services for Overseas Students (ESOS) Act 2000* requires that the provider advise the Department of Education, Employment and Workplace Relations (DEEWR) through PRISMS within 14 days. This information is transmitted to the Department of Immigration and Citizenship (DIAC) and has implications for the student's visa.

If a student withdraws without completing six months of their principal course (and the exceptions to the Standard 7 rule don't apply) another provider can not enrol the student unless they have documentation that approximates a letter of release. A FAQ for students on this matter is at http://aei.dest.gov.au/AEI/ESOS/FAQs/For_Students.htm#transferprovider.

Provider obligations under Standard 1.3 and 4.3.a

Under Standards 1.3 providers must not actively recruit a student where this clearly conflicts with its obligations under Standard 7. Furthermore, Standard 4.3.a of the National Code requires providers not to accept students from or enter into an agreement with an education agent where it knows or suspects that the education agent has deliberately attempted to recruit a student where this clearly conflicts with the obligations of providers under Standard 7.

Further information

- The National Code 2007 – <http://aei.dest.gov.au/AEI/ESOS/NationalCodeOfPractice2007/>
- The Standard 7 Explanatory Guide – http://aei.dest.gov.au/AEI/ESOS/NationalCodeExplanatoryGuide/PartD/Standard_7.htm
- Fact sheet for students on Standard 7 – http://aei.dest.gov.au/AEI/ESOS/QuickInfo/Std7_FactSheet_pdf.pdf