

Submission on proposed changes to the National Code of Practice for Providers of Education and Training to Overseas Students 2007

Independent Schools Queensland (ISQ) is the peak body representing Queensland's independent schooling sector. Our 200 member schools are a vital part of the state's education system. Together, these schools educate over 120,000 students, or 15 percent of Queensland's school enrolments. Around 45% of ISQ member schools are CRICOS registered.

Independent Schools Queensland is a not-for-profit organisation. Membership is voluntary and open to all not-for-profit non-government schools in Queensland.

Overview

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Parts A, B and C of the 2007 National Code have been streamlined to: <ul style="list-style-type: none"> ○ provide an overview of the ESOS framework ○ summarise the role of the National Code and its purpose ○ outline the quality assurance arrangements and roles of other relevant Commonwealth agencies 	<p>Support the streamlining of four parts of the National Code into two parts, and the functions of each part.</p> <p>Please see comments for Part A.</p>	<p>Comments for Part A p.3</p> <ul style="list-style-type: none"> • Suggest re-wording the following sections to be less explicit in <ul style="list-style-type: none"> • promoting tourism in the National Code. <i>In turn, Australia offers international students enriching and high quality learning experiences in diverse geographic and cultural environments, helping to prepare them for a rewarding future. Australia's natural assets, relaxed lifestyle and many tourist attractions make us one of the most appealing destinations in the world.</i> • emphasising the value of international education to trade, and highlight the benefits to our national interests. <i>The reputation and quality of Australia's international education services underpin long-term benefits for trade and foreign relations and are imperative to growth in trade in education services integral to Australia's national interests.</i> • Grammar – subject-verb agreement <i>the Education Services for Overseas Students Act 2000 (ESOS Act) and related legislation are designed ...</i>

		<p>p.4</p> <ul style="list-style-type: none"> Suggest deleting <i>Providers of these students must give emergency contact information and information on how to report actual or alleged abuse.</i> ISQ does not support such a prescriptive statement relating to reporting of abuse being in the overview of St 5 (or even in the revised Code). The overarching references to legislative and other requirements relating to child welfare and Migration Regulations are sufficient. <p>p.5</p> <ul style="list-style-type: none"> For the overview of Standard 7 Transfer of students, it may be necessary to clarify, in the National Code, definitions or accompanying guidelines, that “the first six months of the first registered school sector course” does not include an enabling/ ELICOS course that might be registered under a school provider’s scope. <p>p.6</p> <ul style="list-style-type: none"> The heading Department of Immigration and Border Protection should be in bold text.
<ul style="list-style-type: none"> Some part C and D requirements in the 2007 National Code have been moved to Standard 11 as requirements for providers. The standards are now in part B. 	Support	Please see specific comments for Standard 11 , below.

Standard 1 – Marketing information and practices

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Clarifies that providers must not engage in false or misleading marketing practices, consistent with Australian Consumer Law. 	Support	
<ul style="list-style-type: none"> Marketing material must accurately identify the provider's association with any other providers, work-based or work-integrated learning opportunities, and prerequisites including English language. 	Support 1.2 and 1.4-1.6. Please see comments for 1.3.	Comments for 1.3 <ul style="list-style-type: none"> Standard 1, which focusses on providers ... <i>uphold(ing) the integrity and reputation of Australia's education industry by ensuring the marketing of their services is not false or misleading</i>, it is difficult to see the rationale for including 1.3 in this standard. The provisions of 1.3.1-1.3.3 are largely covered in Standard 2, (which focusses on students having <i>sufficient information to enable them to make informed decisions about studying with their chosen provider in Australia</i>) – viz., in 2.1.6, 2.1.2 and 2.1.1 respectively. 1.3.4 <i>any other information relevant to the registered provider, its courses or outcomes associated with those courses</i> is far too broad to be implemented in any consistent or meaningful way and should be deleted. Instead, information that must be given to students prior to enrolment should be clearly articulated in Standard 2.
<ul style="list-style-type: none"> Specific provisions prevent a provider from undertaking to or guaranteeing that it can secure a migration or successful education assessment outcome. 	Support	

Standard 2 – Enrolment of an overseas student

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Clarifies that a provider must inform a student before they enrol about: course content, modes of study (including online and/or work related learning placements) and assessment requirements. 	<p>Generally, support. Please see comments for specific provisions for 2.1.3.</p>	<p>Comments for 2.1.3</p> <ul style="list-style-type: none"> Clarification will be needed about how much detail will have to be provided to prospective students about <i>holiday breaks</i>. For example, providers will need guidance for questions such as: <ul style="list-style-type: none"> Must these include public holidays? Will a link to an academic year calendar suffice? How far in advance do “holiday breaks” need to be identified in information provided prior to enrolment if a course is longer than a year?
<ul style="list-style-type: none"> Requires providers to give information about the policy and process for approving welfare and accommodation arrangements for students under 18 where relevant. 	<p>Support. Please see comments for 2.1.10.</p>	<p>Comments for 2.1.10</p> <ul style="list-style-type: none"> 2.2.10 <i>where relevant, the policy and process the registered provider has in place for approving the accommodation, support and general welfare arrangements for students under the age of 18 (in accordance with Standard 5)</i> Clarification will be needed about how much detail will have to be provided about a provider’s process for approving arrangements under Standard 5. Providing a copy of a provider’s welfare and accommodation policy for meeting the requirements of Standard 5 should be sufficient.
<ul style="list-style-type: none"> Requires registered providers to have and implement a documented policy and process for assessing English language proficiency, educational qualifications and work experience are sufficient to undertake the course. 	<p>Support</p>	

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Incorporates the requirements relating to course credit, previously in standard 12. • Adds that course credit or recognition of prior learning (RPL) must preserve the integrity of the award to which it applies. 	Support	

Standard 3 – Formalisation of enrolment and written agreements

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
Written agreements must include more detailed information about students' enrolment.	Generally, support. Please see comment for 3.3.1.	Comment for 3.3.1 <ul style="list-style-type: none"> Do not support change of wording in 3.3.1 to outline the course or courses from identify the course or courses in 3.1a of the 2007 National Code. Standard 2 requires providers to provide sufficient information to students about registered courses to enable them to choose a course of study to enrol in. Providers can only enrol students in a registered course. Identifying the registered course code in a letter of offer, written agreement and CoE should be sufficient. <ul style="list-style-type: none"> We suggest that <i>identify</i> is retained and replaces <i>outline</i>.
Providers must require students must keep their personal and contact information up to date.	Support but with more flexibility for timeframe. Please see comment for 3.5.3.	Comment for 3.5.3 <ul style="list-style-type: none"> Recommend inserting <i>or as soon as practicable</i> after <i>any changes to those details, within 7 days of the change</i>, as a 7 day timeframe may not be possible if a change of contact details takes place over a holiday period if a provider is closed, or the student is overseas when the change of contact details occurs.
<ul style="list-style-type: none"> The provider must retain records of the written agreement and receipts of payments by the student for at least 2 years after the person ceases to be an accepted student. 	Support	

Standard 4 – Education agents

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Clarifies that providers must ensure the agent has up to date and accurate information, does not engage in false or misleading conduct, declares in writing and takes reasonable steps to avoid conflicts of interest, observes appropriate levels of confidentiality and transparency in dealing with students, and acts honestly and in good faith. 	<p>Generally, support. Please see comments for 4.1 and 4.4.</p>	<p>Comment for 4.1</p> <ul style="list-style-type: none"> Suggest wording for 4.1 better clarifies that written agreements are required only with those agents engaged by a provider to formally represent that provider – for example: <i>... must enter into written agreements with their formally appointed</i> or <i>... namely, those education agents who represent or act</i> <p>Comments for 4.4.1</p> <ul style="list-style-type: none"> Clarification will be needed for 4.4.1 <i>declare in writing and take reasonable steps to avoid conflicts of interests</i> <ul style="list-style-type: none"> What constitutes <i>conflicts of interests</i>? Agents must declare <i>conflicts of interests – in writing – to whom?</i>
<ul style="list-style-type: none"> Clarifies the provider must ensure the agent has appropriate knowledge and understanding of the international education system in Australia, including the code of ethics. 	<p>Support. Please see comment.</p>	<p>Comment for 4.4.4</p> <p>The <i>code of ethics for agents</i> referred to in 4.4.4 may need to be further clarified or to be referenced in the definitions.</p>

Standard 5 – Younger students

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Providers enrolling students under 18 must meet any Australian, state or territory legislation or other regulatory requirements relating to child welfare and protection. 	Support. Please see comments.	Comment for 5.1 <ul style="list-style-type: none"> We suggest the following re-wording: <i>Where the registered provider enrolls a student who is under 18 years of age, it must be able to demonstrate the required policies and processes to meet any Australian, state or territory legislation or other regulatory requirements relating to child welfare and protection.</i>
<ul style="list-style-type: none"> Requires providers to give information to students under 18 about who to contact in emergency situations. 	Support	

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Requires providers to give information on how a student under 18 can seek assistance and report any incident or allegation involving abuse. 	Please see comments.	<p>Comment for 5.2.2</p> <ul style="list-style-type: none"> ISQ supports rigorous child protection policies and procedures for all young people, and as a school sector peak body, has extensive experience in providing resources to member schools to assist them comply with an increasingly complex range of regulatory requirements. From experience, we understand that state and territory frameworks for child protection and welfare are complex and often have multiple levels of reporting requirements. Moreover, they vary from state to state, and are constantly changing. <p>We are concerned that having an additional layer of regulation relating to child protection, without the contextual guidelines and support materials that accompany the state and territory frameworks, has the potential to create confusion and duplication of procedures in member schools. Hence we suggest changes for re-wording 5.1 instead of including 5.2.2. We believe it will minimise confusion about and duplication of regulation if, as part of CRICOS registration requirements, all providers enrolling under 18s must be able to demonstrate their compliance with the current child protection frameworks in the jurisdiction in which they operate.</p> <p>The requirements of 5.2.2 are in any case covered by the requirement of 6.9.2, for all providers, to <i>provide information to overseas students about how to seek assistance for and report an incident that significantly impacts on their wellbeing.</i></p> <ul style="list-style-type: none"> ISQ therefore recommends 5.2.2 not be included in Standard 5 for these reasons.

<p style="text-align: center;">PROPOSED AMENDMENTS</p>	<p style="text-align: center;">SUPPORT / DO NOT SUPPORT</p>	<p style="text-align: center;">COMMENTS</p> <p><i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i></p>
<ul style="list-style-type: none"> • Providers with responsibility for a student’s welfare must check initially and least every six months thereafter that the student’s accommodation is appropriate to the student’s age and needs. 	<p>Qualified support. Please see comments.</p>	<p>Comments for 5.3.2</p> <ul style="list-style-type: none"> • The wording of 5.3.2 is somewhat loose and could be confusing. 5.3.2.1 and 5.3.2.2 would be impractical if applied to each and every location where a student under a CAAW might be accommodated – for example, an overnight stay with a friend or while on a school organised trip. <p>The requirement that <i>adults involved in or providing accommodation and welfare arrangements to the student have any working with children clearances (or equivalent) as required in a state or territory</i> could be interpreted as including adults even remotely involved with accommodation or welfare arrangements for students (for example, staff providing purely administrative services).</p> <p>We believe the intention of this standard is to require appropriate checking and monitoring of the principal place of residence of the student and that adults associated with that principal place of residence or with responsibilities for a child’s welfare have working with children clearances as required in a state or territory.</p> <p>We suggest re-wording of 5.3.2 to reflect this intention. Please see below.</p>

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Adults involved in or providing accommodation must have any Working with Children clearances (or equivalent) as required in a state or territory. 	<p>Qualified support. Please see suggested re-wording for 5.3.2.</p>	<p>Suggested re-wording for 5.3.2</p> <p><i>5.3.2 (... the provider must) ensure</i></p> <p><i>5.3.2.1 any adults providing accommodation that is a student's principal place of residence, or are otherwise responsible for a student's welfare arrangements, must have working with children clearances (or equivalent) as required in a state or territory, and that</i></p> <p><i>5.3.2.2 there are documented and implemented processes for verifying and checking that the student's principal accommodation is appropriate to the student's age and needs, prior to the accommodation being approved and at least every six months thereafter.</i></p>
<ul style="list-style-type: none"> Requires a policy and process for managing critical incidents, including in emergency situations and when welfare arrangements are disrupted. 	<p>Please see comment.</p>	<p>Comment for 5.3.3</p> <ul style="list-style-type: none"> We suggest cross-referencing Standard 5.3.3 and Standard 6.8 so it is clear that a provider needs to have only one critical incident policy, but if holding a CAAW for a student under 18 years, there are additional requirements.
<ul style="list-style-type: none"> Where a provider is no longer able to approve welfare arrangements, all reasonable steps must be taken to notify the student's parent or legal guardian immediately. 	<p>Support</p>	
<ul style="list-style-type: none"> Providers must have documented processes for selecting, screening and monitoring any third parties engaged by the provider to organise and assess welfare and accommodation arrangements. 	<p>Support</p>	

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<ul style="list-style-type: none"> • If a provider enrolls a student under 18 who has welfare arrangements approved by another provider, the receiving provider must negotiate the transfer date for welfare arrangements to ensure there is no gap. 	<p style="text-align: center;">Support</p>	
<ul style="list-style-type: none"> • The provider must advise the student of their visa obligation to maintain their current welfare arrangements until the transfer date or have alternative welfare arrangements approved or return to their home country until the new arrangements take effect. 	<p style="text-align: center;">Support</p>	

Standard 6 – Student support services

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Requires providers to give information to students regarding a range of support services, including relating to English language, health, legal services, complaints and appeals avenues, and employment assistance (including resolving workplace issues). 	Support	
<ul style="list-style-type: none"> Requires the provider to facilitate access to learning support services, including for different modes of study such as online or distance. 	Support	
<ul style="list-style-type: none"> Clarifies that providers must have in place a documented policy and process to manage critical incidents that could affect a student undertaking or completing the course. (Note: standard 5 requires a critical incident policy and process more specific to the needs of students under 18.) 	Support	Comment for 6.8 <ul style="list-style-type: none"> We suggest cross-referencing Standard 6.8 and Standard 5.3.3 so it is clear that a provider needs to have only one critical incident policy, but if holding a CAAW for a student under 18 years, there are additional requirements.
<ul style="list-style-type: none"> Providers must take all reasonable steps to provide a safe environment on campus and give overseas students information about how to seek assistance for and report an incident that significantly impacts on their wellbeing. 	Support	Comment for 6.9 <ul style="list-style-type: none"> Including a focus on student safety and wellbeing in the revised Code is appropriate and welcomed. Having a focus on supporting student “wellbeing” rather than prescribing specific support mechanisms is important as it encompasses known as well as emerging or future risks to student welfare.

Standard 7 – Student transfers

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Providers must not knowingly enrol a student wishing to transfer from another provider’s course prior to the student completing six months of their principal course, or for the school sector, until after the first six months of the first registered school sector course. 	Support. Please see comment for 7.1.	Comment for 7.1 <ul style="list-style-type: none"> It may be necessary to clarify, in the National Code, definitions or accompanying guidelines, that “the first six months of the first registered school sector course” does not include an enabling / ELICOS course that might be registered under a school provider’s scope.
<ul style="list-style-type: none"> Transfer requests from the student must be in writing. 	Support	
<ul style="list-style-type: none"> The provider must have and implement a documented policy and process for assessing student transfer requests, which must outline circumstances in which the provider will grant a transfer because it is in the student’s best interests; and reasonable grounds for refusal of the request. 	Qualified support. Please see comments.	Comments for 7.2 <ul style="list-style-type: none"> Support 7.2.1 Support 7.2.2 up to “best interests”, but do not support 7.2.2.1-7.2.2.6 for reasons given below.

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<ul style="list-style-type: none"> • The standard contains additional guidance for providers about circumstances in which they should grant a transfer because it is in the student’s best interests. 	<p>Do not support. Please see comments.</p>	<p>Comments for 7.2.2.1-7.2.2.6</p> <ul style="list-style-type: none"> • The onus in Standard 7 is clearly on providers to provide reasons for granting a request to transfer because the transfer is in the student’s best interests. <p>Reasons for wanting to transfer can vary greatly for students, depending on sector and/or provider. All students are able to appeal a provider decision to refuse a transfer request, and it is well known, among private providers at least, that the OSO will uphold a student’s appeal to be granted leave to transfer if the request is in the student’s best interests. The OSO has the power to recommend changes to provider policies if deemed non-compliant.</p> <p>Prescribing grounds for granting transfers in the National Code only paves the way for the Code to become exploited by unscrupulous parties concocting “reasons” and / or “evidence” as grounds for transfer.</p> <p>This level of detail belongs in explanatory material or guidelines, where it can be customised to some extent for different sectors and be supplemented by materials provided by external appeals bodies, rather than in a national Code of Practice.</p>
<ul style="list-style-type: none"> • If a student requesting a transfer is under 18, written confirmation of agreement of a parent or legal guardian is required. 	<p>Support all of 7.3.</p>	

<p style="text-align: center;">PROPOSED AMENDMENTS</p>	<p style="text-align: center;">SUPPORT / DO NOT SUPPORT</p>	<p style="text-align: center;">COMMENTS</p> <p style="text-align: center;"><i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i></p>
<ul style="list-style-type: none"> • Where a provider agrees to a student's release the date of effect and reason for release must be recorded in PRISMS and the provider must advise the student Immigration to seek advice on whether a new student visa is required. 	<p style="text-align: center;">Support</p>	<p>Please see comment for Standard 7 under "Other comments"</p>
<ul style="list-style-type: none"> • If release is not to be granted, the provider must give to the student the reasons for refusal in writing. 	<p style="text-align: center;">Support</p>	
<ul style="list-style-type: none"> • The provider must maintain records of all requests for transfer, assessment and decision on the student's file for two years after the student ceases to be an accepted student. 	<p style="text-align: center;">Support</p>	

Standard 8 – Monitoring course progress and attendance
Providers must monitor student progress

<p align="center">PROPOSED AMENDMENTS</p>	<p align="center">SUPPORT / DO NOT SUPPORT</p>	<p align="center">COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i></p>
<ul style="list-style-type: none"> All providers must monitor students' progress, as satisfactory course progress is a student visa requirement. Some sectors require providers to also monitor attendance. 	<p align="center">Support</p>	
<ul style="list-style-type: none"> Providers must clearly outline and inform the student before they commence their course of the requirement to achieve satisfactory course progress in each study period. 	<p align="center">Support. Please see comment.</p>	<p>Comment for 8.4</p> <ul style="list-style-type: none"> It is not clear in the revised Code the point at which students must be informed of the requirement to achieve satisfactory course progress before they begin their course. Can providers choose when this can happen – for example, as part of pre-enrolment information or as a condition of enrolment? If not, and an ESOS agency expects providers to make students aware of this requirement at a particular point in time, then this should be made explicit.
<ul style="list-style-type: none"> Providers must have documented policies and processes to identify, notify and assist a student at risk of not meeting course progress (or attendance requirements if applicable) where evidence from the student's assessment tasks, participation or other indicators of academic progress indicate the student is at risk of not meeting requirements. 	<p align="center">Support</p>	

Schools, ELICOS and foundation programs

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> School, ELICOS and foundation programmes require both course progress and attendance monitoring. The requirement for attendance is 80% of the scheduled contact hours for the course, or higher if specified under state registration or approval frameworks. 	<p>Support. Please see comment.</p>	<p>Comment for 8.6</p> <ul style="list-style-type: none"> ISQ seeks clarification about the meaning of <i>must be 80 per cent—or higher if specified under state registration or approval frameworks—of the scheduled contact hours</i> <p>Does this refer to any provisions of state and territory legislation related to education delivery respective jurisdictions (i.e., under domestic registration or accreditation frameworks) or does this mean a higher minimum attendance rate can arbitrarily be imposed by a state registration authority? ISQ cautions against including provisions in the revised Code that may result in different minimum attendance requirements for school students across states and territories. Inconsistently mandated minimum requirements could adversely impact on timelines for implementing intervention strategies under 8.6.4 “in sufficient time for ... students to meet attendance requirements”; they could become drivers for enrolments or transfers in jurisdictions perceived to be “less strict”, and this would not be in keeping with the intended “design” of the ESOS framework: <i>to uphold Australia’s high standards for, and commitment to, international education through a consistent national approach, and to support the integrity of our visa system (p.3, Consultation draft February 2017).</i></p>

<p style="text-align: center;">PROPOSED AMENDMENTS</p>	<p style="text-align: center;">SUPPORT / DO NOT SUPPORT</p>	<p style="text-align: center;">COMMENTS</p> <p style="text-align: center;"><i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i></p>
<ul style="list-style-type: none"> • School, ELICOS and foundation program providers must have a documented policy and process for monitoring and recording students' attendance. 	<p>Support.</p>	<p>Please see comment for 8.6 above.</p>
<ul style="list-style-type: none"> • Higher education providers must have and implement a documented policy and process for monitoring and recording course progress, specifying requirements for achieving satisfactory progress, the provider's processes and policies to uphold academic integrity, assessment of progress, identification of students at risk of not meeting requirements and details of the provider's intervention strategy. 		<p>ISQ has no comment on sector specific requirements outside our own sector.</p>

VET programs

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> VET providers must have and implement a documented policy and process for assessing course progress, specifying requirements for achieving satisfactory process and policies to uphold academic integrity, assessment of progress, identification of students at risk of not meeting requirements and details of the provider's intervention strategy. 		ISQ has no comment on sector specific requirements outside our own sector.
<ul style="list-style-type: none"> A VET provider must have and implement a documented policy and process for monitoring students' attendance if the ESOS agency requires that provider to monitor attendance as well as course progress. This requirement in the National Code replaces previous arrangements split between the National Code and Course Progress Guidelines that applied to VET. If the ESOS agency imposes attendance monitoring as a requirement for a VET provider, the minimum requirement for attendance is 80% of the scheduled contact hours for the course. If the VET provider is required to monitor attendance of students, the provider must have an intervention strategy for students at risk of not meeting attendance requirements. 		ISQ has no comment on sector specific requirements outside our own sector.

Course duration and allowable extensions

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Providers must continue to not extend the duration of a student’s enrolment if the student is unable to complete the course within the expected duration, unless: <ul style="list-style-type: none"> a. compassionate and compelling circumstances apply b. the provider has implemented, or is implementing, an intervention strategy to assist the student to meet course progress (or attendance, if applicable) requirements c. there is an approved deferral or suspension of the student’s enrolment under standard 9. 	Support	
<ul style="list-style-type: none"> • If a student’s enrolment is extended, the provider must advise the student of any potential impacts on their visa. 	Qualified support. Please see comment.	Comment for 8.14 <ul style="list-style-type: none"> • It is our understanding that a provider is not able to provide immigration advice. In this case, a provider could make student aware that they would need to take action about their visa if the new course end date was beyond the student’s visa expiry date. ISQ suggests that any wording for 8.14 be approved by DIBP prior to inclusion in the revised Code.

Reporting breaches of visa requirements

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Providers must continue to report students who do not meet course progress (attendance requirements if applicable) and notify the student: <ul style="list-style-type: none"> a. that the provider intends to report them b. inform the student of the reasons c. advise the student they can appeal d. report the breach in PRISMS in accordance with s19(2) of the ESOS Act 	Support	
<ul style="list-style-type: none"> • A provider may decide not to report a student for breaching attendance requirements if the student provides genuine evidence of compassionate or compelling circumstances, is still attending at least 70 per cent of course contact hours and appeals the decision successfully 	Support. Please see comment.	Comments for 8.16 <ul style="list-style-type: none"> • It would be useful to clearly indicate in the revised Code the last possible point at which a provider is required to report a student. Is this at the point when a student reaches 70% attendance of the course contact hours, or does the internal appeals process need to be completed? • ISQ also seeks clarification as to whether both 8.16.1 and 1.16.2 are required under 8.16, or if either can apply.

Online learning

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Online and distance learning are defined in the standard. 	Support	
<ul style="list-style-type: none"> The 2007 National Code requirement that providers must not enrol a student exclusively in distance or online learning in any compulsory study period has been removed. 	Support	
<ul style="list-style-type: none"> Higher education and VET providers must not deliver more than one-third of a student's course online. 		ISQ has no comment on sector specific requirements outside our own sector.
<ul style="list-style-type: none"> Providers must take all reasonable steps to prevent students being disadvantaged by additional costs or requirements associated with online learning or by an inability to access the resources and community of the education institution, or opportunities to engage with other students. 	Support	

Standard 9 – Deferring, suspending or cancelling the student’s enrolment

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Standard 9 now relates to deferring, suspending or cancelling the student’s enrolment (previously standard 13). It clarifies the current requirements but makes no significant changes to policy from the 2007 version. 	Support. Please see comment.	Comment for 9.5.1 <ul style="list-style-type: none"> As for 8.14, it is our understanding that a provider is not able to provide immigration advice. In this case, a provider could make students aware that they may need to take action about their visa. ISQ suggests that any wording for 9.5.1 be approved by DIBP prior to inclusion in the revised Code.

Standard 10 – Complaints and appeals

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Assessment of an internal complaint or appeal must be finalised within 20 working days. 	Support. Please see comment.	Comment for 10.2.4 <ul style="list-style-type: none"> ISQ requests there be some flexibility either in the wording of 10.2.4 or in guidelines for interpretation of this provision around the timeline of <i>20 working days</i> for finalisation of assessment of a complaint or appeal. Depending on the timing of lodgement of a complaint or appeal in an academic calendar year for some sectors – for example, if written details of a complaint or appeal are received by administration staff in an institution at the start of a long holiday break, it may not be possible to have an outcome within <i>20 working days</i> if key decision makers (rather than administration staff) are on annual leave. This may not be an issue for larger providers, but it could be problematic for smaller providers such as non-government schools.

Standard 11 – Additional requirements

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none">Standard 11 creates new provisions for additional registration requirements, many of which were previously in Part C of the 2007 version of the National Code relating to 'registration authorities'. Registration authorities are replaced by ESOS agencies by amendments to the ESOS Act passed in December 2015.	Support	

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Providers must seek approval from the ESOS agency, including through the relevant designated State authority if the provider is a school, for proposed: <ul style="list-style-type: none"> a. course content and duration b. number of overseas students enrolled within the limit approved by the ESOS agency c. arrangements with other education providers (partnerships). • Providers must also seek approval from their ESOS agency for any proposed changes to the above during their period of registration under the ESOS Act. 	<p>Qualified support for 11.1.1.</p> <p>Do not support 11.1.2 as written. Please see comments.</p>	<p>Comments for 11.1.1</p> <ul style="list-style-type: none"> • Non-government schools in Queensland must be accredited by the Non-State Schools Accreditation Board (NSSAB) to operate as a school. As part of their accreditation, schools are required to deliver curricula and meet assessment requirements approved by the Queensland Curriculum and Assessment Authority (QCAA), as well as any requirements under the Queensland Education (General Provisions) Act 2006. If a school is applying to register a full time course that is compliant with Queensland government school accreditation and legislative requirements for domestic students, approval of the course for CRICOS registration purposes should be automatic, providing there is no conflict with other ESOS requirements. <p>If anything further than this is intended by 11.1.1, then this should be made clarified before enshrined in the revised Code.</p> <ul style="list-style-type: none"> • Comments for 11.2 Requiring schools to submit <i>information on any proposed changes to the provider’s business activities or operations as outlined in standard 11.1 at least 30 days prior to the time at which those changes are proposed to take effect</i> is unworkable and serves no useful purpose if 11.1.1 is included in this provision. It only makes any sense for <i>course duration</i> from 11.1.1, along 11.1.2 and 11.1.3 to be subject to regulator approval for the school sectors.

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Providers must advise their ESOS agency, including through the relevant designated State authority if the provider is a school, in writing of: <ul style="list-style-type: none"> a. any other affiliated organisations registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) b. any changes to high managerial agents or ownership of their organisation. 	Support	
<ul style="list-style-type: none"> • Self-accrediting providers must undertake an independent external audit during their period of registration, at least within 18 months prior to renewal of registration, allowing the outcomes to be used for registration renewal. 		ISQ has no comment on sector specific requirements outside our own sector.

Other comments

Overall ISQ supports the streamlining of the revised Code into two parts with fewer standards, and many of the proposed changes. However, we caution against the Code becoming too prescriptive. It is our experience, with most of the provisions in the Code being one-size-fits-all, that overly prescriptive measures usually result in confusion and additional administrative burden as different sectors strive to accommodate requirements that do not easily align with their underlying accreditation frameworks or operational practices.

Whilst we commend ESOS on the work done to streamline the National Code, we observe that it has not also become simpler, and that overall, the degree of regulation has increased rather than decreased. Implementing the changes will increase the regulatory burden and costs of compliance for our member schools – all of which manage CRICOS and ESOS compliance individually.

According to Commonwealth Government census data of August 2016, there were 1,716 overseas student enrolments in 75 independent schools in Queensland, ranging from one student to 220 students in a school. 54% of these schools enrolled 7% of the total number of overseas students with 39% of schools enrolling fewer than five overseas students and another 15% enrolling from 5 - < 10 overseas students. 53% of overseas student enrolments were in the 10 schools which had at least 50 overseas students enrolled. ¹

¹ Note: The definition for “overseas student” in the Commonwealth Government census data included dependants of overseas students with a student visa. See http://www.isq.qld.edu.au/files/file/About_Independent_Schools/Sector_Statistics/2016/SectorStatistics2016AGFFPOS.pdf p.3. Accessed 09/03/17.

For the many independent schools that maintain CRICOS registration to be able enrol only a small number of overseas students for reasons of diversity of student cohort, regulatory burden and costs associated with CRICOS and ESOS compliance are significant.

ISQ requests that due consideration be given to the following to reduce impact on our member schools:

- Generous lead time or transition arrangements for implementation of new requirements
- Reduction in duplication of regulation where necessary – particularly where schools are also subject to state legislative frameworks
- Achieving national consistency in applying ESOS regulation our sector where possible - particularly as schools are also subject to state legislative frameworks.

Standard 3 Formalisation of enrolment and written agreements

While it is good to have some more specific details about what is required in written agreements to better align the revised Code with Australian Consumer Law, we should be mindful of the overall amount of overall that needs to be included in the body of the written agreement, so that it does not become so unwieldy as to become an impediment to enrolling a student. This is an area where some practical guidelines about what must be legally included in a written agreement would be useful from the ESOS agencies.

Standard 5 Younger students

5.3.5.3 (advise Immigration) within 24 hours if the registered provider is no longer able to approve the student's welfare arrangements is an additional requirement in the revised Code. We suggest that *or in exceptional circumstances, as soon as practicable* or similar be added to cover situations where a 24 hour timeframe is not possible.

We request clarification about the meaning of *and any other relevant Commonwealth, state or territory agencies* in

5.5 If the registered provider is unable to contact a student and has concerns for the student's welfare, the provider must make all reasonable efforts to locate the student, including notifying the police and any other relevant Commonwealth, state or territory agencies as soon as practicable.

It is our understanding, that once the police have been notified a child is missing or involved in a critical incident, a provider will be obliged to follow police instructions about any further actions.

Standard 7 Student transfers

ISQ welcomes the revised provisions under Standard 7 that provide greater protection for students under 18 years of age (7.3) and that provide a systems solution for recording reasons for release in PRISMS (7.1.3).

While ISQ supports 7.4 *If a release is granted, the releasing provider must advise the student to contact immigration to seek advice on whether a new student visa is required*, we draw the ESOS agency's attention to the fact that Immigration will not require a student transferring from a senior secondary course after Year 11 to a non-award Foundation course that he or she will need to apply for a new visa until they begin the course with which the Foundation course is packaged. This effectively means a student holding a visa for the school sector can exit the sector and study in another sector for a year before applying for a new visa – with the school sector being held accountable for that student's immigration risk, and the sector the student has transferred to not being accountable for any immigration risk.

Standard 8 Monitoring course progress and attendance

ISQ supports streamlining of monitoring course progress and attendance into one standard.

Standard 9 Deferring, suspending or cancelling the student's enrolment

ISQ supports the overall changes to Standard 9.