

College - ESOS Compliance Policy



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| Date first approved: | 9 May 2018 |
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| Date of next review: | 9 May 2021 |
| Approved by | Stanley College Audit and Risk Committee |
| Authorised Officer | Registrar |
| Supporting documents, procedures and forms of this policy | <p>College - ESOS Compliance Procedure</p> <p>Academic Integrity Policy and Procedure</p> <p>HE - Education Agent Engagement and Monitoring Policy and Procedure</p> <p>Work Integrated Learning Policy and Procedure</p> <p>College - Critical Incident Management Policy and Procedure</p> <p>HE - Marketing Policy and Procedure</p> <p>Student Support Policy and Procedure</p> <p>Student Progress Policy and Procedure</p> <p>Student Grievance and Complaint Policy and Procedure</p> <p>Refund Policy and Procedure (International Students)</p> <p>English Language Proficiency Policy and Procedure</p> <p>Credit and RPL Policy and Procedure</p> <p>Student Fees Policy and Procedure</p> <p>Admissions Policy and Procedure</p> <p>Student Transfer Policy and Procedure</p> <p>Deferral, Withdrawal and Course Extension Policy and Procedure</p> |
| Related Legislation | <p>Education Services for Overseas Students Act 2000</p> <p>Education Services for Overseas Students Regulations 2001</p> <p>National Code of Practice for Providers of Education and Training to Overseas Students 2018</p> <p>The Education Services for Overseas Students (TPS Levies) Act 2012</p> <p>Education Services for Overseas Students (Registration Charges) Act 1997</p> |
| Audience | Public |

1. PURPOSE

- 1.1. This policy provides a framework which comprehensively outlines Stanley College's approach to compliance with the requirements stipulated in the *Education Services for Overseas Students Act 2000 (ESOS Act)*, The National Code of Practice for Providers of Education and Training to Overseas Students 2018 (*National Code 2018*), the ESOS Regulations 2001, the ESOS (Registration Charges) Act 1997 and the Education Services for Overseas Students (TPS Levies) Act 2012.
- 1.2. The purpose of this Policy is to describe how Stanley College will meet these legislative requirements.

2. SCOPE

- 2.1 This policy applies to:
- The College as a CRICOS registered provider;
 - Staff members responsible for administration or delivery of courses and student support services to international students of higher education;
 - Prospective and current international students of higher education;
 - Approved education agents who recruit students for the College; and
 - Any person purporting to represent or recruit students for the College.
- 2.2 The ESOS Act and this policy do not apply to students holding a visa other than a student visa.

3. DEFINITIONS

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| CRICOS | Commonwealth Register of Institutions and Courses for Overseas Students: the official Australian Government database of all courses offered to people studying in Australia on student visas and the education providers offering those courses. |
| Department of Education | The Commonwealth Department of Education, which is responsible for administering the PRISMS and CRICOS databases. |
| ESOS Act | The <i>Education Services for Overseas Students Act 2000</i> of the Commonwealth of Australia |
| Education Agent | A person or organisation (in or outside Australia) who recruits overseas students and refers them to education providers. In doing so, the education agent may provide education counselling to overseas students as well as marketing and promotion services to education providers. Education agent does not refer to an education institution with whom an Australian provider has an agreement for the provision of education (that is teaching activities). |
| International student | A student studying in Australia on a student visa. |
| National Code 2018 | National Code of Practice for Providers of Education and Training |

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| | to Overseas Students 2018: a set of nationally consistent standards that governs the protection of international students and delivery of courses to those students by providers registered on CRICOS. |
| PRISMS | Provider Registration and International Students Management System: the Australian Government database that provides Australian education providers with Confirmation of Enrolment facilities required for compliance with the ESOS legislation. |
| Registered provider | An education provider entered on the National Register of Higher Education Providers, established and maintained by TEQSA. |
| TEQSA | Tertiary Education Quality and Standards Agency: the independent national regulator of Australia's higher education sector. |
| Tuition Protection Service | The Tuition Protection Service (TPS) is an initiative of the Australian Government to assist international students whose education providers are unable to fully deliver their course of study. |
| Tuition Protection Service Levy | A levy paid to the Australian Government by higher education providers to ensure that international students receive the tuition they have paid for or, as a last resort, a refund. |

4. POLICY PROVISIONS

The ESOS Act

- 4.1 The ESOS Act and its associated legislative instruments set out the legal framework governing delivery of education to international students studying in Australia on a student visa. It protects Australia's reputation for delivering quality education services, and the interests of international students by setting minimum standards and providing tuition and financial assurance.
- 4.2 The ESOS legislative framework mandates a nationally consistent approach to registering education providers so that the quality of the tuition and care of international students remains high. It sets out the legal framework for the delivery of education to international students.
- 4.3 The ESOS legislative framework protects international students coming to Australia on student visas and education institutions aspiring to teach international students by governing:
- Which providers may be registered;
 - The CRICOS registration process;
 - The obligations of providers;
 - Tuition assurance and consumer protection mechanisms;
 - Enforcement and compliance powers; and
 - Charges providers pay to enrol international students.

4.4 The interface between the ESOS Act and immigration law imposes visa related reporting requirements on both students and providers.

National Code 2018

4.5 Under the *ESOS Act*, the purpose of the National Code of Practice for Providers of Education and Training to Overseas Students 2018 (*National Code 2018*) is to set nationally consistent standards and procedures for registered providers and for persons who deliver education services on behalf of registered providers. The National Code supports the effective administration of the ESOS legislative framework by the Commonwealth and state and territory governments.

4.6 The *National Code 2018* sets standards to ensure education services meet the needs and expectations of overseas students who come to Australia, and satisfy the objectives of the *ESOS Act*.

4.7 The *National Code 2018* complements the strong quality assurance frameworks used by government agencies to oversee the Australian education system.

4.8 The *National Code 2018* comprises 11 Standards, which detail the following requirements:

- Standard 1 – Marketing information and practices
- Standard 2 – Recruitment of an overseas student
- Standard 3 – Formalisation of enrolment and written agreements
- Standard 4 – Education agents
- Standard 5 – Younger overseas students
- Standard 6 – Overseas student support services
- Standard 7 – Overseas student transfers
- Standard 8 – Overseas student visa requirements
- Standard 9 – Deferring, suspending or cancelling the overseas student's enrolment
- Standard 10 – Complaints and appeals
- Standard 11 – Additional registration requirements

CRICOS Annual Registration Charge

4.9 The *Education Services for Overseas Students (Registration Charges) Act 1997* imposes registration charges (CRICOS Annual Registration Charge (ARC) each year). All ARC amounts payable are determined based on enrolment data plus course by location stored in PRISMS. Failure to comply with this requirement will result in automatic suspension of the College's CRICOS registration.

4.10 The Vice President of Corporate Services is responsible for the payment of the fee to TEQSA, and the President is responsible for ensuring the College's ARC is paid.

Tuition Protection Service

4.11 The Tuition Protection Service (TPS) is an initiative of the Australian Government to assist international students whose education providers are unable to fully deliver their course of study. The TPS ensures that international students are able to either:

- a. Complete their studies in another course or with another education provider; or
- b. Receive a refund of their unspent tuition fees.

- 4.12 All CRICOS providers are subject to the TPS Levy, as per the Education Services for Overseas Students (TPS Levies) Act 2012. This fee is similar to an insurance premium and is paid annually. The Vice President of Corporate Services is responsible for paying the levy calculated by the respective proportion of international students studying onshore. The Accounts Department is responsible for payment of the levy to TEQSA. The President is responsible for ensuring the TPS Levy is paid.

Penalties for Non-Compliance

- 4.13 The *ESOS Act* sets out various penalties should the College be found to be non-compliant with the *ESOS Act* and *National Code 2018*. The penalties range from a fine to imprisonment.
- 4.14 Where there are reasonable grounds to believe that the College is breaching or has breached the *ESOS Act*, sanctions may be imposed. Sanctions include suspension and cancellation of, and the imposition of conditions on, the College's ability to enrol international students. Heavy fines can also be imposed on providers. The Criminal Code applies to all offences against the *ESOS Act*.
- 4.15 This policy is designed to ensure that the College minimises the risk of non-compliance with the *ESOS Act*.

Roles and Responsibilities

- 4.16 ESOS Compliance is a College-wide responsibility, requiring commitment and effort on the part of each staff member. Specific responsibilities are outlined below.

President

- 4.17 The President has specific responsibilities under the *ESOS Act* and the *National Code*. They are to:
- a. Register the name of the College on CRICOS.
 - b. Ensure information is provided to the Department of Education about international students accepted for study by the Registrar.
 - c. Ensure the Registrar sends 'notice of visa breaches' to students.
 - d. Ensure the Registrar maintains appropriate records for students accepted for study.
 - e. Register or ensure the registration of course details on CRICOS.
 - f. Maintain user access for staff members using PRISMS.
 - g. Ensure the College's Annual Registration Charge is paid.
 - h. Ensure the College's TPS Levy is paid.
 - i. Sign off on the College's compliance with the *ESOS* legislative framework and the *National Code*.
 - j. Reports on *ESOS* compliance to the Board of Directors.
- 4.18 The President is ultimately responsible for compliance with the *ESOS* legislative framework and the *National Code*.

Registrar

- 4.19 The Registrar is the President's delegate for completing day-to-day ESOS compliance activities. The Registrar is also referred to as the Institutional Compliance Officer by TEQSA.
- 4.20 The Registrar has the following responsibilities:
- a. Provide information to the Department of Education about international students accepted for study;
 - b. Send 'notice of visa breaches' to students; and
 - c. Maintain appropriate records for students accepted for study.