



Standard 10: Complaints and appeals

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

Overview

Registered providers need to have an internal complaints handling and appeals process in place. Professional, timely, inexpensive and documented complaints handling and appeals processes ensure that grievances between overseas students and registered providers can be heard and addressed.

Registered providers must:

- have and implement a documented internal complaints handling and appeals policy and process;
- advise an overseas student within 10 working days of their right to access an external appeals process and provide contact details, if the overseas student is not satisfied with the outcome of the internal complaints and appeals process; and
- immediately implement any decision or recommendation in favour of the overseas student through the internal or external appeals process.

Key Requirements

Internal complaints and appeals processes

Registered providers must give overseas students information about the registered provider's policy and process for the internal complaints handling and appeals process that is comprehensive, free and easily accessible.

Registered providers' internal complaints and appeals must:

- have a process for overseas students to lodge a formal complaint or appeal if a matter cannot be resolved informally;
- respond to any complaint or appeal an overseas student makes about the registered provider or any agent or related party the registered provider engages;
- begin assessing a complaint or appeal within 10 working days of the overseas student lodging it, and finalise the outcome as soon as practicable;
- conduct the assessment of the complaint or appeal in a professional, fair and transparent manner;

- ensure the overseas student has an opportunity to present their case at minimal or no cost, and be accompanied and assisted by a support person if necessary; and
- give the overseas student a written statement of the outcome of the appeal, including the reasons for the outcome, and keep a written record of complaints or appeals on the overseas student's file.

If the overseas student's appeal relates to a decision to cancel the student's enrolment, the provider must wait for the internal complaints process to be completed before they can proceed.

However, the registered provider must not report the overseas student through Provider Registration and International Student Management System (PRISMS) for unsatisfactory course progress or attendance until the overseas student has accessed the internal and external complaints handling and appeals process, and the decision or recommendation supports the registered provider (see Standard 8).

If the overseas student is not successful in the registered provider's internal complaints handling and appeals process, the registered provider must advise the overseas student of their right to access an external complaints handling and appeals process at minimal or no cost. This advice must be given to the overseas student within 10 working days of the completion of the internal complaints handling and appeals process.

External complaints and appeals processes

The registered provider must give overseas students the contact details of the appropriate external complaints handling and appeals body.

For most registered providers, the appropriate external complaints body will be:

- state and territory offices of the Ombudsman, for public providers; or
- the Commonwealth Ombudsman, for private providers (except for issues of broader educational quality).

Private providers need to make specific arrangements for independent review of complaints about issues not covered by the Australian Competition and Consumer Commission (ACCC) or the Commonwealth Ombudsman.

Registered providers should make clear to overseas students that in most cases, the purpose of the external appeals process is to consider whether the registered provider has followed its policies and procedures, rather than make a decision in place of the institution.

For example, if an overseas student appeals against his or her subject results and goes through the registered provider's internal appeals process, the external appeals process would look at the way in which the internal appeal was conducted; it would not make a determination as to what the subject result should be.

A registered provider must only report an overseas student for unsatisfactory course progress or attendance in PRISMS after:

- the internal and external complaints processes have been completed and the breach has been upheld;

- the overseas student has chosen not to access the internal complaints and appeals process within the 20 working day period;
- the overseas student has chosen not to access the external complaints and appeals process; or
- the overseas student withdraws from the internal or external appeals process, by notifying the registered provider in writing.

When an external appeals process has been completed, the registered provider must immediately implement the decision or recommendations and/or take the preventative or corrective action required by the outcomes of the external complaints handling or appeals process, and notify the overseas student of the outcome.

Further complaints and appeals

If an overseas student is not satisfied with the outcome of either the registered provider's internal appeals process or the following external appeals process, they can access multiple external appeals. However, the registered provider does not have to assist the overseas student with finding further appropriate appeals processes.

Disclaimer

The Department of Education provides general information and assistance to registered providers and overseas students on the National Code and the *Education Services for Overseas Students Act 2000*.

However, such information or assistance should not be relied on as legal advice or as a substitute for legal advice. Overseas students and education providers should seek independent legal advice as appropriate.

The National Code fact sheets are designed to give registered providers practical guidance in day to day operations. Registered providers should note that compliance will be measured against the requirements of the National Code, not against the fact sheets.