



EDUCATION AGENT POLICY AND PROCEDURE (International)

Purpose

This document describes the commitment of ACE to ensure that its education agents act ethically, honestly and in the best interest of overseas students and uphold the reputation of Australia's international education sector.

This policy and procedures support the following Standards:

1. National Code of Practice for Providers of Education and Training to Overseas Students 2018
2. Standards for Registered Training Organisations 2016 Standard 4 Clause 4.1—Provide accurate and accessible information to prospective and current students

Scope

This document applies to all education agents who have a written agreement with ACE.

Definitions

Agent Agreement	The agreement between ACE and the Agent including the Schedules.
Agent Code of Ethics	Australian International Education and Training Agent Code of Ethics builds on the framework established by the London Statement – signed by Australia, Ireland, New Zealand and the UK in 2012 – and provides a set of standards specific to Australia's education agents. These standards mirror the requirements for education providers as outlined in the ESOS Act and National Code. https://internationaleducation.gov.au/news/latest-news/Documents/Australian%20International%20Education%20and%20Training%20-%20Agent%20Code%20of%20Ethics.pdf
CRICOS	The Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) is the register prescribed under section 14A of the ESOS Act.
Education Agent or Agent	A person or organisation with the authority to promote ACE's training and assessment products and services to Students or intending Students in nominated regions.
ESOS Act	Education Services for Overseas Students Act 2000, or ESOS Act, establishes legislative requirements and standards for the quality assurance of education and training institutions offering courses to international students who are in Australia on a student visa
ESOS Regulations	Education Services for Overseas Students Regulations 2019
National Code	National Code of Practice for Providers of Education and Training to Overseas Students 2018
Prospective Student	A person who intends to become, or who has taken any steps towards becoming, a student, an 'overseas student' or 'intending overseas student' as defined by the ESOS Act.
Student or Overseas Student	A person (whether within or outside Australia) who holds a student visa as defined by the ESOS Act, but does not include students of a kind prescribed in the ESOS Regulations.
Relevant Legislation:	ESOS Act 2000; ESOS Regulations 2019; Migration Act 1958; National Code 2018 Standards for RTOs 2015 Any other legislation or regulations relevant to governing the provision of education to Overseas Students in Australia.

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Policy

1.0 General

ACE shall ensure that its education agents act ethically, honestly and in the best interest of overseas students and uphold the reputation of Australia's international education sector.

ACE shall take all reasonable measures to ensure that its Education Agents have appropriate knowledge and understanding of the Australian International Education Industry.

ACE shall:

- have a written agreement with each education agent they engage with;
- enter and maintain education agent details in Provider Registration and International Student Management System (PRISMS);
- ensure education agents have appropriate knowledge and understanding of the Australian International Education and Training Agent Code of Ethics;
- ensure education agents act honestly and in good faith;
- take immediate corrective action, or terminate a relationship if an agent (or an employee or subcontractor) is not complying with the National Code; and
- not accept overseas students from an education agent if it knows or suspects that the education agent is engaging in unethical recruitment processes.

2.0 Written Agreements

ACE shall have a written agreement with each education agent that formally represents its education services, and enter and maintain the education agent's details in PRISMS.

The written agreement shall include:

- ACE's responsibilities, including for compliance with the Education Services for Overseas Students Act 2000 (ESOS Act) and National Code 2018;
- the requirements of the agent in representing ACE;
- ACE's processes for monitoring the education agent's activities and ensuring the education agent gives overseas students accurate and up-to-date information;
- the corrective actions that may be taken and the grounds for termination of the written agreement with the education agent; and
- the circumstances which information about ACE may be shared by itself and Commonwealth or state and territory agencies.

ACE shall ensure that any new written agreements with education agents, or renewal of written agreements with education agents, after 1 January 2018 shall comply with the National Code 2018.

3.0 Conflict of Interest

ACE shall ensure its agents observe appropriate levels of confidentiality and transparency in dealings with overseas students while acting honestly and in good faith. ACE shall ensure its agents declare in writing and take all reasonable steps to avoid conflicts of interest with its duties as an education agent of ACE.

- No agent shall charge service fees to both overseas students and ACE for the same service.
- No employee of an education agent shall have a personal relationship with ACE's employee.
- No education agent shall have financial interest in ACE.

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4.0 Agent Code of Ethics

ACE shall ensure that its agents have appropriate knowledge and understanding of the overseas education system in Australia, including Australian International Education and Training Agent Code of Ethics. This ensures that agents adhere to and practice responsible business ethics, and that agents understand their obligations to provide current, accurate and honest information to overseas students to help them make informed decisions about study in Australia.

ACE shall ensure its agents, including offshore agents, have up-to-date and accurate marketing information, in keeping with the Marketing and Advertising Policy and related regulations.

5.0 Maintaining agent details in PRISMS and on the Website

ACE shall enter and maintain the details of agents with whom they have a written agreement in PRISMS. ACE shall subsequently publish and regularly update a list of these agents on its website, or in any other manner prescribed by the regulations.

6.0 Corrective Actions

ACE shall take immediate corrective action if they are aware that or believe the education agent or its employee or subcontractor, have not complied with the education agent's responsibilities under Standard 4 of the National Code.

ACE shall provide agents with additional information or targeted training on expectations of the agent.

ACE shall immediately terminate its relationship with an agent if it has reason to believe that an education agent is engaging in false or misleading recruitment practices

ACE shall require an agent to terminate its relationship with individuals, its employee or subcontractor, who engage in false or misleading recruitment practices.

ACE shall not accept students from agents if it has reason to believe the agent is engaging in unethical recruitment practices. This includes agents that:

- provide migration advice to overseas students when they are not authorised to do so under the Migration Act 1958;
- knowingly recruit an overseas student in conflict with the ACE's obligations under Standard 7 (Overseas Student Transfers); and
- create Confirmation of Enrolments (CoEs) in PRISMS for non bona fide overseas students or facilitating the enrolment of overseas students while knowing that the overseas student will not comply with the conditions of their visa.

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Procedures

1.0 Agent Recruitment and Application

The Marketing Manager, overseen by the CEO, is responsible for agent applications in line with the Education Agents Policy. The following procedure applies:

1. Send Agent Application Form to agents wishing to enter into an agreement to promote ACE.
2. Upon receipt of completed Agent Application Form and supporting documents, create the Agent File and initiate the Agent File Checklist form. Note that a completed application form does not provide permission to the education agent to act on behalf of ACE. The application will have to go through a verification process and if successful, the Agent will enter into an Agent Agreement with ACE.
3. Verify the completed Agent Application Form and supporting documents submitted whether they are accurate, correct and adequate. The following verification and investigation methods to ensure that ACE only approves education agents who comply with the requirements may be used:
 - a. **REFERRAL CHECKS:** Verify education agent's performance by doing referral checks. Contact a minimum of two (2) referees either by phone or email;
 - i. If referral checks are conducted via phone, record the referees' names, contact details, date and time of the discussion and ensure that all questions in the Referral Check form are answered.
 - ii. If any of the referees cannot be contacted, contact the potential agent to obtain the contact details of new referees.
 - b. **VERIFICATION OF AGENT'S DOCUMENTS:**
 - i. Certified true copies of original documents must be submitted by the agent along with the Agent Application form. Uncertified copies of documents are not acceptable.
 - ii. Documents submitted by the Agent along with the completed Agent Application form must be verified whether these are genuine or authentic.
 - iii. Verification can be done by contacting the organizations who issued the certificates to check if the details in the certificate match with their records.
 - c. **REQUIRING CERTIFICATES TO DEMONSTRATE GOOD UNDERSTANDING OF THE NATIONAL CODE 2018:** Require the agent to submit a certified copy of his/her Education Agent Training Course (EATC) certificate: <https://eatc.onlinetrainingnow.com/courses/education-agent-training-course> and an ISANA certificate of membership.
 - i. Certified true copy of Education Agents Training Course (EATC) certificate to indicate that the education agent has a good understanding of his/her regulatory responsibilities towards international students and in conducting its business operations in a professional and ethical manner. If the potential agent is currently undertaking the EATC, the agent application will be kept on hold until the agent obtains the EATC certificate.
 - ii. ISANA certificate
 - iii. If the potential agent does not have an EATC certificate and is not currently undertaking this course, and does not have an ISANA certificate, invite the Agent to attend a short training with ACE to develop his/her understanding of his/her roles and responsibilities as outlined in the National Code 2018. After this training, encourage the Agent to undertake a free online ISANA course to obtain an ISANA certificate.

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- d. MONITORING THE AGENT'S WEBSITE/MATERIAL MATERIALS:**
- i. Monitor the advertising/marketing activities in the agents' website if it potentially contains false or misleading representation of other institutions in its website and contact at least 3 institutions (if applicable) to validate such representation.
 - ii. Monitor the agent's website if it is engaged in any of the activities mentioned in clause 6.0 of the Policy above.
- e. If a potential agent claims to be a registered MARA agent:**
- i. Verify the agent's MARA number on the Office of Migration Agents Registration Authority's website www.mara.gov.au.
 - ii. Verify if the agent is in the list of sanctioned agents: <https://www.mara.gov.au/news-and-publications/public-notice/disciplinary-decisions/>
4. Provide the agent copies and ensure that they have sufficient knowledge and understanding of the following relevant legislations and documents:
- a. ACE Education Agents Recruitment and Performance Management Policy
 - b. National Code 2018 Standard 4 – Education agents
 - c. Education Services for Overseas Students (ESOS) Act 2000 Part 3, Division 1, 21A
 - d. Australia's International Education Agent Code of Ethics
 - e. Migration Act 1958
 - f. Standards for RTOs 2015 Standard 4.1
 - g. National Code 2018 Standard 1 – Marketing information and practices
 - h. MARA Code of Conduct
https://www.mara.gov.au/media/553229/Code_of_Conduct_April_2017.pdf
5. If the Agent Application Form and supporting documents are in order, background check results are satisfactory and approval is granted, send 'Agent Agreement' to the agent for their review and sign off.
- a. Where ACE chooses not to enter into an agreement with an applicant, that applicant will be notified as such in writing within 14 days of receipt of the application. A reason for the decision must be stated on the notification.
 - b. Where an application is accepted, a written agreement will be produced and distributed.
6. Enter and maintain the details of the education agent in PRISMS and on ACE's website.

2.0 Agent Agreement

The following procedure applies:

1. Send two sets of the 'Agent Agreement' to an approved agent, which the agent needs to read, sign off and return to ACE prior to undertaking any promotion activities on behalf of ACE.
2. Once the signed two sets of Agent Agreement are returned by the agent, forward these to the CEO for co-signing.
3. Issue an Agency Certificate of Representation for the agent.
4. Send the Agency Certificate of Representation together with an up-to-date Agent Manual and one set of the signed Agent Agreement. All agents who are approved by ACE and have a signed agreement as an Education Agent will be paid an agent's fee as outlined in their specific agreement.
5. Retain one original, signed Agent Agreement in the agent's file.
6. Review Agent Agreements on an annual basis from the date the agreement was established.
7. In the event of legislative changes, which would affect the relationship of ACE and the agent, send the agent a *Notification of Legislative Changes* and require the agent to acknowledge receipt of such notification.

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3.0 Marketing and Advertising Materials

- 3.1 Once an agent has been approved and is registered with ACE, provide the agent an up-to-date and accurate:
- marketing and advertising information
 - information on training courses offered
 - student policies
 - student handbook, including but not limited to:
 - information on living in Australia / Melbourne
 - enrolment process
 - code of conduct
 - disciplinary procedures
 - student and educational services
- 3.2 Provide up-to-date and accurate marketing and advertising information and materials by:
- Sending emails and/or meeting agents and obtaining sign-off or acknowledgement of receipt of such materials for onshore agents.
 - Sending materials and information via emails or posted mails (if required) to offshore agents.
- 3.3 Inform the agents of any changes to the marketing and advertising materials within 14 days of implementing the changes and advise them to discard old materials immediately.
- 3.4 Record relevant correspondence with the agent and retain agent's acknowledgement in the Agents electronic folder.

4.0 Agent Fees / Commissions

Commission of agents of ACE vary between 20-30%, depending on the type of market involved – new market, emerging market, established market. If an agent wishes to apply for a commission increase, the following procedure applies:

- Require the agent to apply in writing for a commission increase. An agent can only do so when it has met the standard commission and incentive target for the year.
- Review agent's performance and make a recommendation to the CEO of ACE regarding the agent's application for commission increase.
- Obtain the CEO's decision whether to approve or decline the application for commission increase.
- Advise the agent on the result of their application for commission increase.
- For agents whose application for commission increase has been approved, at the time of the annual review of Agent's performance, re-evaluate whether to retain the current commission rate or return it to the standard rate and make a recommendation to the CEO.

5.0 Education Agents Register

Enlist and maintain details of all approved current education agents in PRISMS, ACE's website and in the Education Agents Register, including but not limited to:

- Education Agent's Business Name
- Contact Person
- Address & Contact Details
- Area the Education Agent is operating
- Dates of engagement
- Number of students referred to ACE

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6.0 Agent Monitoring

The following procedure applies:

1. Monitor the agents on an ongoing basis using a variety of methods including but not limited to:
 - a. Informal and formal feedback
 - b. Agent visits and meetings
 - c. Reports from education agents and other external stakeholders
 - d. Audit to evaluate agent's performance prior to renewal of the agreement
2. Discuss any issues identified during the Management Review and formulate a corrective action. Record minutes of meeting.
3. Set up a meeting with the agent to discuss the issues identified and the proposed corrective action. Agree on a reasonable timeline to resolve the issue. Record minutes of meeting and retain in Education Agent's File.

7.0 Agent Performance Appraisal

Monitor and Measure Agent Performance annually from the date the agreement was established. The following procedure applies:

1. Prepare the Annual Agent Performance Appraisal Report per agent:
 - a. Enrolment Applications to Offers (Offers divided by Application);
 - b. Offers to actual enrolment (Enrolment divided by Offers);
 - c. the reasons why applications from potential Students did not proceed to Student enrolment status (e.g. student visa refusals);
 - d. the number of Student Visa refusals for Students recruited by the Agent;
 - e. Any feedback or information from Students, parents or third parties regarding the Agent;
 - f. Quality, accuracy and currency of information and advice provided by the Agent to Students;
 - g. Quality of the appointment as assessed by ACE;
 - h. Agent's marketing materials and information access;
 - i. Number of students transferring to other educational providers, requesting cancellation from ACE and the reasons for any transfer;
 - j. Timeliness of communication with ACE;
 - k. Response and action taken towards complaints;
 - l. Agent website and marketing materials – ensuring that all information regarding ACE, its training products and related services, are advertised accurately.
 - m. Data from student satisfaction surveys (Agent Student Feedback Form);
 - n. Areas for improvement required from the Education Agent.
2. Set up a meeting with each agent, via a face-to-face meeting or a teleconference at ACE, to discuss their performance. Agree on a reasonable timeline to resolve any issues. Record minutes of meeting and retain in respective Agent's file.
3. Based on the result of the Agent Performance Appraisal Report, propose to CEO whether to renew or terminate the agent for his final approval. If the agent will be renewed, prepare a new Agent Agreement and ensure all agent details held on file are updated.
4. Retain the Agent Performance Appraisal Report in the agents' respective agent's files.

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8.0 Corrective and Preventive Action

A. Corrective Action

Where any practices of the education agent are identified as being negligent, careless or incompetent or being engaged in false, misleading or unethical advertising and recruitment practices, including practices that could harm the integrity of Australian education and training, or where a significant number of students complain against the Agent on the same grounds, ACE will take immediate action and may impose one or more of the following sanctions or corrective actions:

1. Terminate the Agent's appointment immediately. (use Termination Conditions below)
2. Allow the agent to make an appeal:
 - a. the Agent must provide a written response within 10 working days from the date of the Letter of Termination from ACE;
 - b. after 10 working days and upon receipt of the Agent's letter of appeal, ACE may consider the following actions:
 - ii. Counsel the agent;
 - iii. Require the Agent to undertake further training about the agent's responsibilities and the requirements under the National Code, ESOS Act, ESOS Regulations;
 - iv. maintain the Agent's appointment;
 - v. warn the Agent;
 - vi. suspend the Agent's appointment; or
 - vii. maintain the Agent's appointment subject to certain conditions.

If the agent refuses to undertake the required further training or any corrective action, cancel the agent agreement immediately. Record minutes of meeting or discussion and retain in Education Agent's File.

B. Preventive Action

1. Engage the agents in trainings as part of their continuous improvement.
2. Provide agents with up-to-date marketing materials needed to represent ACE accurately and professionally.

9.0 Termination of an Agent Agreement

A. Automatic Termination

Automatically terminate the Agent Agreement and do not accept students recruited by the agent if ACE has reason to believe that the agent is engaged in unethical recruitment practices such as:

1. providing migration advice to overseas students when they are not authorised to do so under the Migration Act 1958;
2. knowingly recruiting an overseas student in conflict with the ACE's obligations under Standard 7 (Overseas Student Transfers); and
3. creating Confirmation of Enrolments (CoEs) in PRISMS for non bona fide overseas students or facilitating the enrolment of overseas students while knowing that the overseas student will not comply with the conditions of their visa.

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- B. Breach of obligation under the Agent Agreement
1. Where an agent is in breach of any of its obligations under the Agent Agreement with ACE, issue a notice to the agent.
 2. Require the agent to remedy such a breach within fourteen (14) days upon receiving the notice.
 3. If the agent fails to remedy the breach within fourteen (14) days, terminate the Agent Agreement.
 4. If ACE is directed or required to do so by a relevant Australian government department, issue a notice to the agent and terminate Agreement effective immediately.
- C. Termination due to non-referral
- Terminate the Agent Agreement if the agent does not refer any international students to ACE within the first twelve (12) months of the agreement or such other time as agreed in writing with ACE.
- D. Termination by either party
- Either party may terminate the Agent Agreement at any time by giving the other party thirty (30) days prior written notice. Termination of the Agreement by either party does not affect any accrued rights or remedies of either party.
- E. Notice of Termination and Required Action
1. Send the Notice of Termination to the agent, and if required, to the nearest Australian Diplomatic Mission (for offshore agents) and other relevant government bodies.
 2. On termination of the Agreement, the agent must, within seven (7) days, submit to ACE all applications and course fees from prospective students received up to the termination date and immediately cease using any advertising, promotional or other materials supplied by ACE and return all materials to ACE by registered mail or a reputable international courier.
 3. Retain a copy of the Notice of Termination in Education Agent's File.
 4. Record minutes of meeting or discussion and retain in Education Agent's File, together with any collected supporting evidence.

Legislative Context

- National Code 2018 Standard 4 – Education agents
- Education Services for Overseas Students (ESOS) Act 2000 Part 3, Division 1, 21A
- Australia's International Education Agent Code of Ethics
- Migration Act 1958
- Standards for RTOs 2015 Standard 4.1
- National Code 2018 Standard 1 – Marketing information and practices
- MARA Code of Conduct https://www.mara.gov.au/media/553229/Code_of_Conduct_April_2017.pdf

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Related Forms / Documentation

- Agent Application Form
- Agent Reference Check Form
- Agent Agreement
- Agent File Checklist
- Agency Certificate of Representation
- Notification of Legislative Changes
- Notification of Marketing Material Changes
- Education Agents Register
- Agent Warning Letter
- Agent Notice of Termination
- Agent Manual
- Agent Annual Performance Appraisal
- Agent Student Feedback Form

Related Policies and Procedures

This policy is to be read in conjunction with the following policies and procedures:

- Marketing Policy and Procedures
- Student Engagement Prior to Enrolment Policy and Procedures (International)

Responsible Parties

The CEO, Compliance Manager, Marketing Manager and staff involved in engaging with ACE's Education Agents are responsible for the use and implementation of this policy.

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