

LEGEND

Home > All stacks > 01/01/2020 - > Policy – Migration Regulations – Schedules - > [Sch2Visa500] Visa 500 – Student

Visa 500 – Student

Procedural Instruction

This instruction provides procedural guidance for processing applications for the Subclass [500](#) (Student) visa (Class TU).

Related instructions

The following instructions provide further legal and policy guidance on assessing Australia's protection obligations and deciding PV applications:

- [GenGuideA - All visas - Visa application procedures](#)
- [Visa 590 - Student Guardian](#)

PPCF

Reissued on 21 September 2018

Mandatory Review Date

23 August 2019

Contact

Student and Graduate Visa section

email

Student.visa.help.desk@homeaffairs.gov.au

Document ID

VM-3680

Table of Contents

- 1. Introduction
 - 1.1. Strategic context
 - 1.2. Objectives of the student visa program
 - 1.3. Stakeholder roles and responsibilities
 - 1.3.1. Role of the Department of Home Affairs
 - 1.3.2. Role of the Department of Education and Training
 - 1.3.3. Role of DFAT and Defence
 - 1.3.4. Agency access to immigration records
- 2. Scope
 - 2.1. In Scope
 - 2.2. Out of Scope
- 3. Glossary
- 4. Procedural Instruction
 - 4.1. Latest changes
 - 4.2. Overview to this instruction
 - 4.2.1. Simplified Student Visa Framework (SSVF)
 - 4.2.2. Country and education provider immigration risk model
 - 4.3. The Subclass 500 (Student) visa
 - 4.3.1. About the Subclass 500 visa
 - 4.3.2. Other visa categories
 - 4.3.3. NZ citizens- Special category visa
 - 4.4. Education providers
 - 4.4.1. Definition of education provider
 - 4.4.2. CRICOS registration codes – National registration
 - 4.4.3. Monitoring education providers
 - 4.4.4. Dealing with complaints and referrals

- 4.4.5. Provider default
- 4.5. Applying for a student visa
 - 4.5.1. Lodgement arrangements
 - 4.5.2. Visa application charge (VAC)
 - 4.5.3. Evidence of enrolment
 - 4.5.4. Welfare of minors
 - 4.5.5. Other valid application requirements
 - 4.5.6. Applications made in Australia – Visa status
- 4.6. Assessing a student visa application
 - 4.6.1. The country and provider immigration risk model
 - 4.6.2. Evidence of enrolment for visa assessment
 - 4.6.3. Genuine applicant for entry and stay as a student
 - 4.6.4. English language proficiency
 - 4.6.5. Financial capacity evidence
 - 4.6.6. Health insurance
 - 4.6.7. Age requirements for school students
 - 4.6.8. Family members – Overview
 - 4.6.9. Genuine applicant for entry and stay as a family member
 - 4.6.10. Public interest criteria (PICs) – All cases
 - 4.6.11. Special return criteria (SRC)
- 4.7. Recording a decision
 - 4.7.1. Decision to grant a visa
 - 4.7.2. Visa grant period
 - 4.7.3. Student visa conditions
- 5. Accountability and responsibilities
- 6. Statement of Expectation
- 7. References and legislation

8. Consultation

8.1. Internal consultation

8.2. External consultation

1. Introduction

This instruction provides procedural guidance for processing applications for the Subclass 500 (Student) visa (Class TU).

1.1. Strategic context

International education is vital to the Australian economy. It is Australia's largest services export and our third largest export overall, contributing \$21.8 billion to the Australian economy in 2016. In addition to significant economic benefits, Australia's international education sector enriches our social, cultural and intellectual life.

The National Strategy for International Education sets the Australian Government's priorities for the international education sector. The student visa program is an important component of this strategy.

1.2. Objectives of the student visa program

The role of the student visa program is to support the sustainable growth of Australia's international education sector by facilitating the lawful entry and temporary stay of genuine international students. Student visa settings are designed to ensure that Australian education remains internationally competitive, while preserving high levels of immigration integrity.

1.3. Stakeholder roles and responsibilities

Home Affairs is responsible for Student visa policy settings and program delivery.

In administering the student visa program, Home Affairs works closely with other relevant Commonwealth agencies, particularly regulatory bodies and the Department of Education and Training (DET).

The student visa program is also utilised by the Department of Foreign Affairs and Trade (DFAT) and the Department of Defence (Defence) to sponsor international students to study a full-time course or undertake training in Australia.

1.3.1. Role of the Department of Home Affairs

The Department of Home Affairs (Home Affairs) is responsible for developing and administering all immigration-related legislation, policies and procedures.

Only Home Affairs' Minister and delegates of the Minister can decide student visa applications. It is not the role of other government agencies to indicate whether a visa should be granted. If advising an applicant that details of their application have

been referred to another agency, Home Affairs officers should not imply that the matter has been referred for decision

1.3.2. Role of the Department of Education and Training

DET is the lead agency for the National Strategy for International Education and is responsible for administering the [Education Services for Overseas Students Act 2000](#) (the ESOS Act).

The ESOS Act established *The National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students* (the National Code). The purpose of the National Code is to provide nationally consistent standards for education providers registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS).

Under the ESOS Act, only education providers registered on CRICOS are permitted to offer education or training services to overseas students. DET is responsible for maintaining CRICOS and the Provider Registration and International Student Management System (PRISMS).

1.3.3. Role of DFAT and Defence

DFAT and Defence sponsor students to study and/or train in Australia. DFAT is responsible for managing the Australian Government's overseas aid program (formerly AusAID), which includes offering training programs in Australia. Defence sponsors international students to undertake military and vocational training as well as scholarships to study university courses in Australia.

These programs are important in strengthening Australia's bilateral relationships and promoting development efforts in other countries.

Australia's aid program – defining Foreign Affairs students

The term [Foreign Affairs student visa](#) is defined in regulation 1.04A of the Migration Regulations 1994 ("the Regulations"). The intention is to help DFAT continue to meet Australia's aid program objectives by ensuring that, as a general rule, Foreign Affairs students return to their home country to put their skills and knowledge gained through education and training programs in Australia to use in the further development of their home country by working there for 2 years.

The definitions [Foreign Affairs recipient](#) and [Foreign Affairs student](#) in regulation 1.03 direct the reader to regulations [1.04A\(2\)](#) and [\(3\)](#). As such, the definitions apply to all references to these terms in the Regulations, including Schedule 2.

The Schedule 2 Part [500](#) criteria apply to current and former AusAID or Foreign Affairs students, regardless of whether their visa was granted under current or earlier migration legislation, including pre-1 September 1994 and pre-19 December 1989 migration law, the pre-1 July 2001 student visa regime and the pre-1 July 2016 student visa regime.

1.3.4. Agency access to immigration records

Under section [488\(2\)\(f\)](#) of the Migration Act 1958 (“the Act”), the Minister may authorise DET officers to use and disclose immigration movement records for ESOS Act purposes. The current instrument of Authorisation is available on LEGEND. This access to immigration records is intended to help confirm whether overseas students have arrived in, or left, Australia.

Under section [488A](#) of the Act, the Secretary may give information obtained or received for the purposes of the Act to a State/Territory/Commonwealth agency that is responsible for otherwise concerned with the regulation of providers. Section 488A permits disclosure of information to other government agencies for the purposes of assisting with the regulation of providers or promoting compliance with student visa conditions.

All sharing of immigration records or information must comply with the Migration Act, the [Australian Border Force Act 2015](#) (ABF Act) and the [Privacy Act 1988](#). Home Affairs’ Student and Graduate Visa Section manages information sharing with DFAT and education regulators through memoranda of understanding (MoUs) special approval provisions. Given the secrecy and disclosure provisions of Part 6 of the ABF Act, email the [Student Visa Help Desk](#) for advice before disclosing any information.

2. Scope

2.1. In Scope

This Procedural Instruction is addressed to officers administering migration law, in particular those officers who are decision makers (section 65 delegates of the [Migration Act 1958](#) (“the Act”)).

Other persons reading this Procedural Instruction should keep in mind that they are not the primary audience and assistance and advice from within the Department of Home Affairs (Home Affairs) or from Home Affairs Help Desks is only open to Home Affairs staff.

2.2. Out of Scope

The instruction does not apply to:

- Fulbright scholars – refer instead to [Temporary Work \(International Relations\) Subclass 403](#).
- students covered by a Special Program- for example, students entering under GAP arrangements – refer instead to [Temporary Activity \(Subclass 408\) Visa](#)
- occupational trainees or professional development applicants – refer instead to [Training \(Subclass 407\) visa](#).

Nor does this instruction apply to the Subclass [500](#) (Student Guardian) visa (a subclass of the Student (Temporary) (Class TU) Class of visa); refer instead to [Visa 590 – Student Guardian](#).

3. Glossary

As defined in clause [500.111](#)

Term	Acronym (if applicable)	Definition
course of study	n/a	<p>(a) in relation to a secondary exchange student—a full-time course of study under a secondary school student exchange program administered by a State or Territory education authority;</p> <p>(b) in relation to a Foreign Affairs student—either:</p> <p>(i) a full-time course of study or training under a scholarship scheme approved by the Foreign Minister; or</p> <p>(ii) a full-time course of study or training under a training program approved by the Foreign Minister;</p> <p>(c) in relation to a Defence Student—either:</p> <p>(i) a full-time course of study or training under a scholarship scheme approved by the Defence Minister; or</p> <p>(ii) a full-time course of study or training under a training program approved by the Defence Minister;</p> <p>(d) in any other case—a full-time registered course.</p>
higher education course	n/a	<p>a course of study leading to the award of any of the following:</p> <p>(a) a diploma (higher education);</p> <p>(b) an advanced diploma (higher education);</p> <p>(c) an associate degree;</p> <p>(d) a bachelor degree;</p> <p>(e) a graduate certificate (higher education);</p> <p>(f) a graduate diploma (higher education);</p> <p>(g) a bachelor honours degree;</p> <p>(h) a masters degree (course work);</p> <p>(i) a masters degree (extended).</p>

postgraduate research course	n/a	means a course of study leading to the award of: (a) a masters degree (research); or (b) a doctoral degree.
school student	n/a	a student who is enrolled in, or intends to enrol in, a course of study at a primary or secondary school.

Note: For definitions for *Defence student*, *Foreign Affairs student*, *registered course*, *school-age dependant* and *secondary exchange student*, see regulation 1.03.

4. Procedural Instruction

4.1. Latest changes

Legislative

Schedule 1 Item 1222(3)(e) was amended.

Regulation 2.05(6) was omitted with effect from 18 March 2018

Policy

This instruction was reissued to update information regarding:

- Item 1222(3)(e) – combined applications / subsequent entrants
- Identifying if a student is Commonwealth sponsored
- ‘in session’ and ‘out of session’ courses

4.2. Overview to this instruction

4.2.1. Simplified Student Visa Framework (SSVF)

On 16 June 2015, the Australian Government announced the introduction of a Simplified Student Visa Framework (SSVF). The SSVF responds to recommendations from the Future directions for streamlined visa processing review.

The SSVF came into operation on 1 July 2016 and establishes a student visa framework that is easier to navigate for genuine students, reduces regulation and red-tape for business, creates a more level playing field for education providers and delivers a more targeted risk based approach to immigration integrity.

Two key changes under the SSVF are:

- a reduction in the number of student visa subclasses from eight to two (Subclass 500 visa for students and Subclass 590 visa for student guardians) and

- the establishment of a single immigration risk framework for all student visa applications.

4.2.2. Country and education provider immigration risk model

A single immigration risk framework came into effect on 1 July 2016 to replace the previous streamlined visa processing and Assessment Level risk frameworks.

The framework operates in policy to guide decision makers, rather than being formally legislated. Under the framework, the combined immigration risk outcomes of the student's education provider and country of citizenship are used to guide the level of financial and English language documentation that the student needs to provide with their visa application.

Student visa applicants can access, on the Home Affairs website, the [Student visa \(subclass 500\) – Document Checklist Tool](#).

4.3. The Subclass 500 (Student) visa

4.3.1. About the Subclass 500 visa

The Subclass 500 (Student) visa was introduced on 1 July 2016 as part of the SSVF reforms. The seven subclasses of student visa applicable to different education sectors were merged to create the Subclass 500 (Student) visa. These were:

- 570 Independent ELICOS sector
- 571 Schools sector
- 572 Vocational Education and Training (VET) sector
- 573 Higher Education sector
- 574 Postgraduate Research sector
- 575 Non Award sector
- 576 Foreign Affairs or Defence sector.

From 1 July 2016, overseas students who wish to study in Australia apply for the Subclass 500 (Student) visa, regardless of which education sector they are enrolled.

To be eligible for a student visa applicants must, among other things, demonstrate that they are seeking to enter Australia for the purpose of study and that they will abide by the conditions of their student visa.

4.3.2. Other visa categories

Any person who is not an Australian resident or citizen may apply to study in Australia under the student visa program. Generally, people wishing to participate in the program must obtain a student visa before commencing a course of study in Australia. However, certain people may study outside the program, for example:

- New Zealand citizens who satisfy criteria for a special category visa – refer to NZ citizens- Special category visa (below)
- persons who hold a visitor visa or Electronic Travel Authority (who may study for up to 3 months).

4.3.3. NZ citizens- Special category visa

A person travelling on a NZ passport does not need a visa to travel to Australia but requires a visa to enter Australia. A NZ citizen who does not pose health or behavioural concerns is generally granted a special category visa when they enter Australia. Special category visas have no conditions; there are no restrictions on study in Australia. (Refer to Sch2Visa444- Special Category for detail.)

Should a NZ citizen not satisfy criteria for a special category visa, it would be open to them to apply for another class of visa such as a visitor or student visa. This would be unusual. Should a NZ citizen apply for a student visa, the evidence they are required to provide with their visa application regarding financial capacity is primarily guided by their combined country and provider immigration risk outcomes.

4.4. Education providers

4.4.1. Definition of education provider

Education provider is defined in regulation 1.03. To enrol overseas students an education provider must be registered on CRICOS. Exceptions are institutions offering courses to Foreign Affairs or Defence sponsored students or to students undertaking approved secondary exchange programs.

4.4.2. CRICOS registration codes – National registration

Since October 2013 education providers with more than one location across States/Territories can opt to consolidate their registration under a single national CRICOS code. Formerly, education providers operating in more than one jurisdiction had separate CRICOS codes for each of the states/territories in which they operate.

If a CRICOS code is consolidated, the confirmation of enrolment (CoE) will still link to the provider's old CRICOS code. If a particular course CRICOS code is changed, a link to the old course CRICOS code will be on the CoE.

4.4.3. Monitoring education providers

It is a government objective to protect the reputation of the overseas education industry and ensure its integrity by monitoring the compliance of education providers with obligations under the ESOS Act and of students' obligations under the Act.

The ESOS Act established the National Code by which all providers of education services to overseas students must abide. The Department of Education and Training, the Tertiary Education Quality and Standards Agency (TEQSA), the Australian Skills Quality Authority (ASQA) and the various state accreditation agencies have prime responsibility for monitoring education providers.

For further information on the regulatory jurisdiction of these agencies, refer to the DET website's [International Education Group page](#).

4.4.4. Dealing with complaints and referrals

Home Affairs may receive complaints, allegations or concerns about the service, standards or ethics of an education provider from a student, another provider or a non student member of the public.

Generally, complainants should be asked to submit their complaint with either TEQSA (for higher education providers) or ASQA (for vocation educational and training providers).

If the complaint is made by a stakeholder and is sensitive in nature, an officer should record the details and refer/email the information to [Allegations](#) (the National Allegations and Assessment Team (NAAT)).

An officer who discovers that the behaviour of an education provider is likely to breach relevant legislation can email this information to [Allegations](#).

4.4.5. Provider default

Education provider default occurs when a registered education provider fails to provide or ceases to provide a course to a student visa holder. This may occur if the course is not offered because of a sanction imposed on the provider, not just if the provider decides not to continue the course due to low enrolments.

Closure of an education provider, whether for economic reasons or because the provider's registration has been cancelled following an audit by a Commonwealth/State/Territory education authority, has a negative impact on international students. The ESOS Act provides for students affected by education provider default to be placed in a suitable alternative course with a new education provider, or to obtain a refund of their course fees.

Students may be assisted to secure enrolment in an alternative course by either the defaulting provider or the Tuition Protection Service (TPS). For more information about the TPS, refer to the [Tuition Protection Service website](#).

Unless the student is changing to a lower Australian Qualification Framework (AQF) level course, the student will be able to undertake their alternative course on their existing student visa. However, the time taken to place students in alternative courses can vary. As a result, students may need to apply for a new student visa to continue with their studies as their new course may be of a longer duration than their current visa.

The process of placing students in alternative courses can, in some circumstances, take an extended period of time and some providers may not award full credit for studies the student has already undertaken. In such situations, the student may be offered a place in a course whose duration is longer than the period of their existing student visa. In this situation the student will need to apply for a further student visa to complete their studies.

For a list of provider defaults and affected students, refer to TRIM: ADF2009/25846 (Entry - Temporary - Education provider defaults for the purposes of VAC refunds and NIL VAC provisions).

Refer also to [Education provider default and nil VAC eligibility](#).

4.5. Applying for a student visa

4.5.1. Lodgement arrangements

4.5.1.1. Via ImmiAccount

All students are required to make (lodge) their applications online. Students and agents can access online services by creating an account in 'ImmiAccount'. For further information regarding ImmiAccount refer to the Home Affairs website ImmiAccount page.

4.5.1.2. Application forms and manner of lodgement

The legislative instrument made under Schedule 1 items [1222\(1\)](#) and [1222\(3\)\(a\)](#) specifies the forms and place and manner of lodgement criteria for a valid student visa application.

Generally, the application must be made online (via ImmiAccount) using form 157A (Internet) (Application for a Student visa).

Student visa primary applicants who are under 18 years of age at the time of application must include evidence of welfare (see form 157N). See: Welfare of minors – Schedule 1 requirements. All required documents must be uploaded to ImmiAccount, including those requested by Home Affairs after the application has been made.

Only in limited circumstances will applicants be authorised to lodge using form 157A (that is, outside of ImmiAccount). Authorisation is limited to:

- eService Support – if the applicant encounters a systems error or
- (outside Australia) PMO level or (in Australia) Student Director – for high profile or sensitive cases.

4.5.1.3. Authorising an application to be made outside of ImmiAccount

Table summary: Authorising form 157A lodgement outside of ImmiAccount

Circumstance	Authoriser	If the applicant has been unable to lodge online in the following circumstances
System error	eService Support (in Australia only –	<ul style="list-style-type: none">• electronic lodgement is prevented by Home Affairs' systems and• the problem has been identified by Home Affairs, and• the expected time for the problem to be rectified will fall

	due to risk of client becoming an unlawful non-citizen)	<ul style="list-style-type: none"> outside of Home Affairs' business hours, and the visa applicant will become an unlawful non-citizen before Home Affairs' next business day commences.
System error (likely to be a data matching error)	eService Support	<ul style="list-style-type: none"> electronic lodgement is prevented by Home Affairs' systems and electronic lodgement of the application is not prevented by the Migration Act 1958 or the Migration Regulations 1994 and the problem is unable to be rectified by Home Affairs.
High profile/sensitive case. Note: If PMO/Director authorises a paper or emailed application, the data will need to be manually input into ICSE by an officer at the post/processing centre.	PMO level (outside Australia) or Student Director (in Australia)	<ul style="list-style-type: none"> the application is to be made by a high profile or sensitive applicant and they cannot (or will not) lodge in ImmiAccount and not accepting the application could significantly compromise diplomatic or commercial relations.

System error

If a student visa application is made (lodged) outside of ImmiAccount without an authorisation email, the application is invalid.

An applicant who encounters a system error will submit a technical support enquiry form to eService Support.

If authorised, eService Support will send an authorisation email to the applicant. This will include a copy of 157A or 157G, and 157N in pdf.

The authorisation email will include directions as to how the applicant can make (lodge) their student visa application.

The authorised application must be made (lodged) before midnight (AEST or AEDST when applicable) on the day following the date on which the authorising email was sent by (the authorised officer of) Home Affairs (as the prime consideration to authorise this type of lodgement is to prevent the applicant becoming an unlawful non-citizen).

It is anticipated that authorising applications made (lodged) outside Australia due to a system error will be rare. In the event that this does occur, the applicant must include the authorising email with their application.

If the application is not made (lodged) in accordance with the authorisation email, it is invalid.

High profile or sensitive cases requiring PMO or Director authorisation

An applicant can contact the relevant processing centre and ask to make (lodge) their application outside of ImmiAccount.

If authorised, the PMO (for cases arising outside Australia) or Student Director (for cases arising within Australia) will email the applicant. The authorisation email will specify how form 157A can be submitted (either via email or in paper format) and when it must be received.

The authorisation email template and visa application forms are in TRIM (ADF2016/21108), and have been distributed to PMOs. If the template is not accessible, email the Student Visa Help Desk for assistance.

If a student visa application is lodged outside of ImmiAccount without an authorisation email from an authorising officer, the application is invalid.

4.5.2. Visa application charge (VAC)

4.5.2.1. Overview

Student visa applicants are liable to pay the VAC prescribed at Schedule 1 item [1222\(2\)\(a\)\(ii\)](#) unless they fall within an exempt category specified by the legislative instrument made under [1222\(5\)\(a\)](#). No 'additional non-internet application charge' applies to student visa applications.

The subsequent temporary application charge (STAC) applies to some student visa applications. For policy and guidance on whether a STAC is payable by an applicant in Australia, refer to [Div2.2A - Visa application charge](#).

Subsequent applications

Where a subsequent entrant application is made by the partner of the primary visa holder/applicant and combined with that of a child or children, the base application charge will apply to the partner. The additional application charge will apply to each child (member of the family unit) included in the application.

Where subsequent entrants are siblings (two or more children with no parent), they must make separate student visa applications (and pay the base application charge) to join their parents as they are not members of each other's family unit. Where siblings apply as subsequent entrants together and one pays the base application charge and the other child (or children) pays the additional applicant charge, the application is only valid for the sibling who pays the base application charge (and the

other child applicant/s must be deemed invalid). The other child or children should apply again and pay the base application charge.

4.5.2.2. VAC exemptions

The legislative instrument made under 1222(5)(a) specifies the class of persons exempt from paying the VAC – namely:

- Foreign Affairs students or Defence students and their family members (includes family members making a combined application as well as those applying as a subsequent entrant).
 - applicants must provide a letter from the relevant agency (DFAT or Defence), which sets out details of the support and specifies family members.
- Other Commonwealth sponsored students and their family members who make a combined application (family members applying as subsequent entrants are liable to pay the prescribed VAC).
 - Applicants must provide evidence of the scholarship they have been granted and show that this is funded by the Australian Government. Proof of Australian Government/Commonwealth funding is generally contained in either the student's CoE (notes) or in a separate letter from their education provider or sponsor. For example, a common type of scholarship is the Research Training Program (RTP).

Note: If an applicant receives partial funding under a training scheme approved by the Commonwealth they will be eligible for a VAC exemption. Partial funding may apply under any of the following circumstances:

- not all of the courses are being funded
- the student is being funded for only a certain period of time
- a certain percentage of the student's course, living and other costs are being funded.

An applicant who states they are a Commonwealth funded student in the student visa application form without sufficient evidence will not be eligible for a VAC exemption.

Student visa applications lodged after 1 July 2017 that have been granted as Commonwealth funded without the appropriate evidence will not be eligible to have their COE reinstated. The student will be required to apply for a new student visa and pay the VAC.

Secondary exchange students and their family members who make a combined application (family members applying as subsequent entrants are liable to pay the prescribed VAC).

- Applicants must provide an Acceptance Advice for Secondary Exchange Students (AASES) form issued by the relevant State/Territory government agency.
- Certain students affected by education provider default and their family members who make a combined application (family members applying as subsequent entrants are liable to pay the prescribed VAC).
 - Refer to Education provider default and nil VAC eligibility.

- Family members of students enrolled in postgraduate research courses who make a combined application and family members applying as subsequent entrants.
- Family applicants must provide a CoE indicating that the student is enrolled in a postgraduate research course.

4.5.2.3. Education provider default and nil VAC eligibility

Education **provider default** (defined in the [legislative instrument](#) made under [1222\(5\)\(a\)](#)) means the occurrence of one of the following three events because of a sanction has been imposed on the education provider:

- the course does not start on the agreed starting day or
- the course ceases to be provided at any time after it starts, but before it is completed or
- the course not being provided in full to the student.

The [legislative instrument](#) made under [1222\(5\)\(a\)](#) requires that officers be satisfied that there is 'satisfactory evidence' that the student was enrolled in the registered course on the provider default day. This includes visa applicants who were studying with the provider, as well as visa applicants who had been granted a student visa but who had not yet commenced their studies with the provider at the time of the default.

Visa applicants:

- who had enrolment approved by the provider and
- whose student visa application had been made but not decided at the time of the default

should secure alternative enrolment with another provider before a decision is made on their visa application.

These visa applicants are not entitled to a 'nil' VAC for their undecided visa application. To be eligible for a 'nil' VAC, at the time they make their application:

- the applicant must hold a student visa or
- their last substantive visa must have been a student visa

and they should require a further student visa to complete their studies.

An example of satisfactory evidence of enrolment is a CoE that was in effect on the provider default day. Details of a student's enrolment will generally be available in PRISMS, for which officers can register to access via the [PRISMS registration webpage](#).

Officers can also refer to the TRIM lists of affected students (ADF2009/25846 - ENTRY - Temporary - Education provider defaults for the purposes of VAC refunds and NIL VAC provisions).

If a provider has only recently defaulted and/or a student is not listed in either PRISMS or the TRIM documents, officers may email the [Student Visa Help Desk](#) for advice before making a decision on the 'nil' VAC. However, if evidence of enrolment

is not available, officers may be satisfied that the visa applicant was enrolled with the provider on the provider default day on the basis of other evidence, such as written verification from:

- the defaulting education provider
- the TPS or
- DET.

4.5.2.4. Provider default day

To be eligible for Nil VAC, students must apply for a further student visa no later than 12 months after the **provider default day** as defined in the [legislative instrument](#) made under [1222\(5\)\(a\)](#).

If a student has commenced their studies with the provider, the default day is the day on which the course officially ceased to be provided by the education provider. For a list of provider defaults and default days, refer to the most recent version of the “List of Education providers and Students affected by provider default” in TRIM ADF2009/25846.

If a student had been granted a visa, but the course does not start on the agreed starting day as defined in the [legislative instrument](#) made under [1222\(5\)\(a\)](#), the provider default day is the ‘agreed starting day’ of the course. Officers may refer to the student’s CoE for details of the agreed starting day.

4.5.3. Evidence of enrolment

Under item [1222\(3\)\(c\)](#), applicants seeking to satisfy primary criteria for a Subclass [500](#) visa are required to provide evidence of enrolment for each of the applicant’s intended courses of study when they lodge their visa application with Home Affairs.

For more information on the Schedule 2 enrolment requirements refer to [Evidence of enrolment for visa assessment](#) (clause [500.211](#)).

Refer to the legislative instrument made under [1222\(5\)\(b\)](#).

4.5.3.1. Applicants outside Australia

Applicants outside Australia must provide one of the following with their visa application:

- a CoE number in the application (verification through PRISMS, preferable by student name search) for each intended course of study or
- an Acceptance Advice of Secondary Exchange Students (AASES) form or
- a letter of support from DFAT or Defence containing details of the intended course(s) of study.

4.5.3.2. Applicants in Australia

Applicants in Australia must provide one of the following with their visa application:

- a CoE number in the application (verification through PRISMS) for each intended course of study or
- a letter of offer from their education provider for each intended course of study or
- an AASES form or
- a letter of support from DFAT or Defence, containing details of the intended course of study or
- a letter for postgraduate thesis marking, as issued by an Australian education provider for postgraduate research students who are required to remain in Australia for the marking of their thesis.

4.5.3.3. Commonwealth sponsored students

Students funded or partially funded under Commonwealth or State/Territory scholarships are required to provide a CoE as evidence of their enrolment in a course of study in Australia. This is because in practice CoEs are used to manage the relevant DET-administered scholarship or fellowship scheme.

Although the Regulations require students sponsored under a Commonwealth scholarship to provide a CoE, these students are not included under the provisions of the ESOS Act. This means that under the ESOS Act, they do not require a CoE and their CoEs will be cancelled in PRISMS after visa grant. This will not affect the validity of their visa.

The above applies to students studying under Commonwealth Schemes such as the Research Training Program (previously the International Postgraduate Research Scholarship Scheme) and the Endeavour Award program.

Identifying if a student is Commonwealth sponsored

There are various ways an officer can identify who is funding a scholarship, such as:

- the applicant may attach a letter about their scholarship which specifically states it is an Australian Government funded / Commonwealth sponsored, or
- this information could be included in the comments section of the COE.

A common type of scholarship is the International Postgraduate Research Scholarship (IPRS). These can be either Government funded or university funded. A quick tip to tell the difference is if the reference to the IPRS includes the acronym of the university before it, it is not Australian Government funded. For example:

- a Curtin University funded international postgraduate research scholarship would be referred to as CIPRS
- a Griffith University funded scholarship would be referred to as VUGUPRS.

If an assessing officer is in doubt, please locate the relevant scholarship on the university's website and this information should tell you if it is funded by the Australian Government. If still in doubt, request the student to provide the evidence.

4.5.3.4. Foreign Affairs/Defence students

A CoE is not required from DFAT/Defence students. Instead, to satisfy the evidentiary requirements of enrolment in a course of study, DFAT/Defence students must provide a letter of support from DFAT or Defence with their student visa application.

If approached by DFAT/Defence or a host government about how to lodge, refer to the Home Affairs website [ImmiAccount guides](#).

4.5.3.5. Secondary exchange students

Only students who provide an AASES form can be regarded as secondary exchange students for the purposes of student visa lodgement and grant. The AASES form is the official document generated by relevant state/territory authorities and issued to each exchange student through their Overseas Secondary Student Exchange Organisation.

Secondary exchange arrangements apply only to students travelling to Australia to participate in a formally-registered secondary exchange program. The period of exchange may vary from a minimum of one month to a maximum of one year.

It is important that secondary exchange students be asked to apply for, and be granted, a student visa rather than a visitor visa even if the intended duration of the exchange program is less than 3 months. This ensures that registered exchange organisations are compliant with reciprocity conditions which are monitored by each State/Territory government to maintain the balance of inbound and outbound students.

Informal arrangements may use the term “secondary exchange” but if these students do not provide AASES forms, they cannot be processed as students.

If an applicant is not part of a formal exchange program and intends to take part in an informal exchange arrangement for no more than 3 months, they should be invited to apply for a visitor visa.

4.5.3.6. CoE status

To meet the requirements for an application to be valid, any CoE provided as evidence of ‘intended course of study’ must have a status of ‘approved’ or ‘studying’.

Expired CoEs

PRISMS automatically updates a CoE issued to a student outside Australia to ‘expired’ 60 days after the course start date if the student has not been granted a student visa for the CoE.

This does not mean that the CoE has been cancelled. A student applicant in Australia may therefore hold an ‘expired’ CoE if they were issued the CoE while outside Australia, and have arrived and commenced study on a visa other than a

student visa. To apply for a student visa such students may use their letter/letters of offer or obtain a new CoE from their education provider.

If an 'expired' CoE is submitted with an application, officers should check the CoE Event History in PRISMS to determine if the CoE status was 'approved' or 'studying' at time of lodgement.

Cancelled CoEs

DET will cancel a CoE if a course is suspended or cancelled from CRICOS. Providers can also cancel CoEs that they have issued, for example if they have terminated a student's enrolment. A cancelled CoE cannot be used for any visa-related purpose.

Impact of visa refusal on CoE validity

Refusal to grant a visa does not affect the validity of a CoE. If an applicant is refused a visa they can re-use the same CoE for the purposes of another student visa application.

Applying more than four months prior to course commencement

If a visa applicant seeks to make an application more than four months before the course commencement date they will receive a warning in ImmiAccount. The warning alerts them that Home Affairs might not prioritise their visa application and they may wish to apply closer to the course commencement date, no more than three months prior to course commencement.

The visa applicant is able to proceed with lodgement, however, the application will have a follow up in ICSE. The follow up provides that it is open to the decision maker:

- to not prioritise the application until closer to the course commencement date or
- to process the application with closer GTE scrutiny. Consider why the applicant is making an application early, when they intend to enter Australia and what they will be doing in Australia prior to course commencement, noting that they cannot work and will require OSHC to cover the entire period they are in Australia.

4.5.4. Welfare of minors

4.5.4.1. Evidence of welfare arrangements required at time of lodgement

For their application to be valid, item [1222\(3\)\(d\)](#) requires all student visa primary applicants under 18 to provide evidence of their intended arrangements for the applicant's accommodation, support and general welfare for the stay period in Australia. This requirement applies whether the student applicant is in or outside Australia, and includes Foreign Affairs/Defence sector students.

If the student will turn 18 before the intended arrival date

Students who will turn 18 after they apply but before they enter Australia must submit Form 157N with questions 1-8 completed and signed by the parent or legal guardian. No welfare arrangements are required.

If the student will turn 18 after arrival but before their course commences

Students who will turn 18 between entering Australia and starting their course are still required to include evidence of their intended welfare arrangements by means of Form 157N.

For Schedule 1 purposes, there is no need to assess whether the parent, custodian or suitable relative would meet the requirements of PIC 4012A, because this is a time of decision criterion.

4.5.4.2. Types of evidence required for each welfare type

The types of evidence required for each welfare type are as follows:

For parent, custodian or relative:

- The inclusion of a properly completed form 157N (Nomination of student guardian) is required by the legislative instrument made under 1222(1) and 1222(3)(a).
- At the time of decision, the relative must hold a visa that is in effect for the duration of the student's stay, or until the student turns 18.
- Refer to section 4.6.10.7. PIC 4012A – student welfare (primary applicants only) when assessing evidence of welfare arrangements provided by a parent/legal custodian or relative

Welfare arrangements approved by education provider:

- A CAAW (Confirmation of Appropriate Accommodation and Welfare) letter.
- Officers should confirm that a CAAW letter has been issued in PRISMS.

Defence/Foreign Affairs students

Letter from DFAT/Defence stating that arrangements have been made for the student's welfare.

Secondary exchange students

An AASES form.

4.5.4.3. Related requirements

For details on assessing Schedule 2 welfare requirements refer to:

(in this instruction) PIC 4012A - student welfare (primary applicants only)

4.5.5. Other valid application requirements

4.5.5.1. Location of applicant at time of application

For their application to be valid, applicants may be anywhere except in immigration clearance (Schedule 1 item [1222\(3\)\(b\)](#)).

4.5.5.2. Combined applicants / subsequent entrants

A family member can make a combined application (Schedule 1 item [1222\(3\)\(e\)](#)), or can apply as a subsequent entrant. Subsequent entrants may make a combined Subclass [500](#) (Student) visa application where one person is a member of the family unit of another person (e.g. mother and child).

Where subsequent entrants are siblings (two or more children with no parent), they must make separate student visa applications to join their parents as they are not members of each other's family unit.

If sibling subsequent entrants are included in the same application, and there is no parent included in that application, then the application is valid only for the applicant who pays the base application charge (and the other child applicant/s must be deemed invalid).

With online lodgement, the primary and secondary applicants may be in different locations, in or outside Australia, yet still able to make a combined application.

4.5.5.3. Adding family members to an application after it is made

Newborn children only

The only category of family unit member that can be added to a student visa application that has not been determined is a child born after the application was made but before it is decided.

Under regulation [2.08](#) a child born to an applicant after the application is made but before it is decided is taken to have applied at birth for a visa and that application combined with the parent's application. For more information, refer to [Gen Guide A – Visa application procedures – Adding child born after parent has applied \(reg. 2.08\)](#) for advice and procedures.

No other family members can be added after an application is made. Regulation [2.08B](#) does not apply to student visas, so neither dependent children (other than a child born while the application has not been finally determined) nor a spouse/de facto partner can be added to the student's application after it is lodged. To make a valid application and be considered for grant of a student visa under secondary criteria, the family member must be included in the student's visa application when it is lodged. If the student makes an error, and fails to include a family member in their application at that time, the family member cannot be added to the student's current application as a family member applicant.

Depending on their visa status (refer to [Applications made in Australia – Visa status – 1222\(4\)](#)), the student applicant may choose to:

- continue with their application, and if a visa is granted, submit an application for their family members or
- withdraw their current application and lodge a new application including all family members.

In either situation, the applicant will be responsible for the application costs, including any STAC that applies for additional temporary visa applications made in Australia.

Student must inform Home Affairs of any new family members

Regulation [2.07AF\(4\)](#) requires that student visa primary applicants inform Home Affairs in writing if a person becomes a member of their family unit after application is made and before it is decided. For example, if a student visa primary applicant marries after applying for their visa and before a decision is made, they must inform Home Affairs.

A form 1022 can be used to notify Home Affairs of the changes of circumstances.

Officers are to ensure that details of the new family member (for example, a spouse/de facto partner) are recorded by adding the spouse/de facto partner to the application as a non-accompanying family member to the application. The new family member cannot be considered for grant of a student visa in the current application, but may be able to apply later as a subsequent entrant dependant if the primary applicant is granted a visa

4.5.6. Applications made in Australia – Visa status

4.5.6.1. Ineligible visa holders

For an application by a primary or secondary applicant who is in Australia to be valid, Schedule 1 item [1222\(4\)](#) requires the applicant to hold a substantive temporary visa other than the visas specified in the [legislative instrument](#) made under [1222\(5\)\(c\)](#) - namely:

- Subclass 426 (Domestic Worker (Temporary)) visa
- Subclass [403](#) Temporary Work (International Relations) visa - Domestic Worker (Diplomatic or consular) stream only
- Subclass [995](#) Diplomatic visa granted to an applicant who satisfied the primary criteria (that is, only family members holding the Diplomatic visa can validly apply for a student visa)
- Subclass [771](#) Transit visa or
- Subclass [600](#) Visitor visa - Sponsored Family stream or Approved Destination Status stream.

4.5.6.2. If not a substantive visa holder

If the applicant does not hold a substantive temporary visa, for an application to be valid:

Item 1222(4)(b)

- the last substantive visa held must be:
 - a student visa or
 - a special purpose visa or
 - a Diplomatic (Temporary) (Class TF) visa granted on the basis of the person being a spouse/de facto partner or a dependent relative of the diplomatic/consular representative

Item 1222(4)(c)

- it must be made within 28 days after the day when the last substantive visa ceased to be in effect (for Item 1222(4)(c)(i)); or
- if that last substantive visa was cancelled, and the Tribunal set aside and substituted the cancellation decision or the Minister decision not to revoke the cancellation – the later of:

the day when that last substantive visa ceased to be in effect; and

the day when the applicant is taken, under section 368D and section 379C of “the Act”, to have been notified of the Tribunal’s decision (for Item 1222(4)(c)(ii).

Item 1222(4)(d)

- the applicant must not have previously been granted a visa on the basis of an application made when the applicant did not hold a substantive visa. From 1 July 2016, If the applicant has previously been granted a visa on the basis of an application made when they did not hold a substantive visa, **they cannot make a valid application** (this was previously a Schedule 2 criterion).

4.6. Assessing a student visa application

4.6.1. The country and provider immigration risk model

The combined immigration risk outcomes of the student’s education provider and country of citizenship are used to guide the level of financial and English language evidence that a student needs to provide with their visa application.

Students associated with lower (that is, less) immigration risk outcomes are generally able to meet financial capacity requirements via declaration and English language proficiency requirements by satisfying their education provider – referred to as **streamlined evidentiary requirements**.

Students associated with higher (that is, greater) immigration risk outcomes are required to provide additional documentary evidence of their financial and English language capacity with their visa application – referred to as **regular evidentiary requirements**.

A student can determine their likely financial capacity and English language proficiency requirements by entering their intended education provider and country of citizenship into the Home Affairs website online client service tool.

The country and provider immigration risk model operates in policy; it is not legislated. This enables the model to be responsive to changes in client or education provider behaviour, and positive or negative changes to risk levels. The country and provider immigration risk model is intended to guide decision makers as to when to require formal evidence of a student's financial capacity and English language proficiency.

Decision makers have the discretion to require evidence of financial capacity and English language proficiency from applicants with 'streamlined evidentiary requirements'. However, decision makers should not diverge from the outcomes of the student's combined country and provider immigration risk rating unless particular circumstances exist, as discussed in:

- English language proficiency (clause [500.213](#))
- Financial capacity.

For more information refer to the Home Affairs webpage [Policy overview – combined country and provider immigration risk](#).

4.6.1.1. Disclosure of immigration risk ratings

Under [the country and provider immigration risk model](#) the immigration risk ratings for education providers and countries are not publicly disclosed. Individual education providers will, however, have access via an online reporting portal to data pertaining to their individual risk ratings.

Under no circumstances are decision makers to publicly disclose the immigration risk rating for a particular education provider or country - for example, "education provider x has an immigration risk rating of 'two'".

This approach seeks to:

- mitigate risks associated with non-genuine students targeting particular education providers
- avoid the potential for immigration risk to be misinterpreted as relating to the education quality of a provider
- reduce the potential for reputational and/or diplomatic sensitivities should immigration risk ratings be increased.

4.6.1.2. Updates to country and provider immigration risk ratings

Country and provider immigration risk ratings are expected to be updated approximately every six months with updates intended to take place at the end of March and September each year, commencing from March 2017.

If immigration risk ratings change, a student's visa application is to be processed by taking into account the country and provider immigration risk ratings that applied at the time of lodgement. Visa applications on-hand when a change in immigration risk ratings occurs are to be assessed on the basis of the risk rating at the time of application (lodgement).

4.6.1.3. Internal risk framework

The country and provider risk rating model provides a broad risk rating that guides the level of evidentiary requirements for an application based on the applicant's country of citizenship and intended education provider. Each application is also treated by Home Affairs' internal risk framework to determine the level of risk associated with an application, based on the individual characteristics of the application and applicants.

Internal risk ratings for individual applications are displayed in the Permission Request in ICSE/ICUE and details are accessible through the Risk Resume.

The rating given to an application by the internal risk systems should guide the decision maker as to the level of rigour that should be applied to an application.

For information on the internal risk framework and systems, refer to [GenGuideA – Consolidated View of Risk](#).

4.6.1.4. Students with more than one citizenship

Students with more than one citizenship can choose which passport they wish to use for the purpose of the visa application; that is, the visa should be recorded against this passport in ICSE/ICUE.

Although the student can choose which passport the visa grant should be recorded against, Home Affairs' internal risk systems will take into account the risk associated with all citizenships declared by the applicant, and score the application accordingly. Decision makers should be guided by internal risk systems.

4.6.1.5. Processing of certain student visa applications

Foreign Affairs/Defence students

Foreign Affairs and Defence students are identified and treated as regular students under the SSVF immigration risk model. However, these students are exempt from English language proficiency requirements and are able to meet the financial requirement based on their letter of support from DFAT or Defence.

Secondary exchange students

Secondary exchange students are identified and treated as streamlined students under the SSVF immigration risk model. The AASES form provides evidence to meet financial capacity and English language proficiency requirements.

Postgraduate thesis marking students

Postgraduate thesis marking students are identified and treated as streamlined students under the SSVF immigration risk model. As such, these students generally will not be required to provide evidence of their financial capacity. Being postgraduate research students, they are also exempt from providing evidence of

English language proficiency. In limited circumstances, decision makers may request evidence of financial capacity to cover the living and course (tuition) fees in Australia

4.6.2. Evidence of enrolment for visa assessment

Schedule 2 clause 500.211 requires:

- the applicant to be enrolled in a course of study or
- to be a postgraduate research student in Australia who is required to remain in Australia until their thesis is marked or
- if a Foreign Affairs or Defence student, to have the support of DFAT/Defence for the grant of the visa.

Course of study is defined at 500.111 as:

- in relation to a **secondary exchange student** (defined in regulation 1.03) – a full-time course of study under a secondary school student exchange program administered by a State/Territory education authority
- in relation to a **Foreign Affairs student** or **Defence student** (both defined in regulation 1.03) - either a full-time course of study or training under a scholarship scheme or training program approved by the Foreign Minister or the Defence Minister or
- in any other case, a full-time **registered course** (defined in regulation 1.03).

4.6.2.1. Evidence of enrolment

Acceptable evidence of enrolment for clause 500.211(a) purposes is:

- a current CoE for each course of study with a status of 'approved' or 'studying' or
- for secondary exchange students, an **AASES form** (defined in regulation 1.03) or
- for Foreign Affairs and Defence students, a letter of support from DFAT/Defence containing details of the intended course of study or
- for postgraduate research students required to remain in Australia for the marking of their thesis, a letter for postgraduate thesis marking issued by the relevant Australian education provider.

The onus is on the applicant to provide all information necessary to Home Affairs. The decision maker is not required to request further information (except if a natural justice obligation arises under section 57 of the Act) or check PRISMS for further CoEs. For the purposes of determining the visa period, the delegate must consider any CoE that has been provided by the applicant for the purposes of the application. This includes any new COEs attached to the application before the application is decided. If the delegate has viewed PRISMS and become aware of a CoE relating to the applicant that has not been provided by the applicant, then the delegate must take this information into account as well when determining the visa period, but it is a matter for delegate how much weight they give to that information. There is, however, no obligation to check PRISMS for further CoEs that were not provided by the applicant with the application. If the decision maker becomes aware of other CoEs that were not included in the initial application as an attachment or included in the form, they will take this information into consideration when assessing the application.

Significant changes in course type or discipline after lodgement but before decision should be considered in relation to genuine temporary entrant (GTE) provisions- refer to [Genuine applicant for entry and stay as a student](#) (clause 500.212).

Changes would not be considered significant where:

- a student provides new CoEs for the same Diploma and Advanced Diploma program, but with new start and end dates because they have missed or deferred their start date
- a student provides new CoEs for a different Diploma and Advanced Diploma because their original provider is in default.

Applicants outside Australia

Applicants outside Australia are not able to rely on a letter of offer. As specified in the legislative instrument made under 1222(5)(b), applicants outside Australia must submit a CoE (or other form of acceptable enrolment) for each intended course of study.

The intention of the requirement to lodge with a CoE number/other form of acceptable enrolment for each intended course of study is:

- to ensure the lodgement of complete and decision ready applications and
- to remove the ability of education providers to manage their risk by waiting for a request from a Home Affairs officer before issuing a CoE.

Applicants in Australia – Relying on a letter of offer

Applicants in Australia who, at time of lodgement, provide a Letter of Offer must, prior to decision, be given the opportunity to obtain CoEs for courses. A visa application can be refused if the applicant does not satisfy other Schedule 2 criteria.

4.6.2.2. Packaged courses

Packages and principal courses

Applicants can apply to undertake two or more courses on the one visa; this is known as “packaging” courses. It provides flexibility for students to apply for one visa for several courses where there is a progression from one course to another, without added visa processing times and costs.

The principal course in a package is the course with the highest AQF level and is the course that is used to determine whether an application should be guided by streamlined or regular financial and English evidentiary requirements.

There is no limit to the number of courses in a package, but officers should consider:

- the policy guidance in [Acceptable gaps between courses in a package](#)
- the visa grant period – refer to [Visa grant period](#).

If an applicant has CoEs for courses included in a package that have not transferred into ICSE, officers should ensure all CoEs are recorded.

Assessing 'acceptable' course packages

For a decision maker to consider granting a visa for the length of the packaged course, packaged courses should be related and show reasonable course progression.

Applications with packages of unrelated courses, with limited or no progression should be considered against GTE provisions.

Assessing CoE and expected visa length

For the visa to be granted for the full duration of the packaged course, a CoE for each course is required. It is for the education provider to determine whether and when to issue a CoE for the second or subsequent courses. If CoEs are provided for a package of courses, a visa to cover the package may be granted provided the visa period does not exceed five years and the applicant satisfies all other relevant criteria. Only in limited circumstances can a visa be granted for more than five years – refer to [Visa grant period - Maximum grant period- General arrangements](#).

If an applicant has a CoE only for the preliminary course and not their proposed principal course, they should be assessed for and granted a visa only for the duration of the preliminary course. If the student completes the preliminary course and then obtains a CoE for the next course, the student can apply for a further student visa in Australia to undertake the principal course, provided they now satisfy the criteria applicable to their proposed principal course, including financial capacity.

Acceptable gaps between courses in a package

Applying for a student visa

Students applying for packaged courses may do so provided no more than 2 calendar months elapse between courses during the standard teaching year and no more than four months elapse between courses outside of the standard academic year (ie Christmas break). A standard academic year generally ends in October/November and starts again in February/March of the following year.

Officers will need to assess on a case-by-case those cases that go beyond these timeframes. In deciding such cases and whether a student should be allowed to remain in Australia during the break, officers should consider factors such as whether the student has a good academic record or if it would be unreasonable to expect them to enrol in another course during the gap.

If a student has finished their studies and has applied for a further student visa, officers should be flexible in applying the course gap policy when the gap is between visas.

For example, students who have either finished their course part way through the academic year (June) or at the end of the academic year will respectively be granted

visas which are valid for 2 months after their course end date or to 15 March in the following year. In this situation, the student is entitled to remain in Australia for this period and will have up until the visa end date in which to apply for a further visa and therefore they may legitimately be in a situation where the gap between courses may be more than 2 months.

4.6.3. Genuine applicant for entry and stay as a student

4.6.3.1. Three requirements

Clause [500.212](#) requires the decision maker to be satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to three requirements:

- [500.212\(a\)](#): Intention to genuinely stay in Australia temporarily – refer to [Genuine temporary entrant \(GTE\)](#)
- [500.212\(b\)](#): Intention to comply with visa conditions – refer to [Intention to comply with visa conditions](#)
- [500.212\(c\)](#): Any other relevant matter – refer to [Any other relevant matter](#).

4.6.3.2. Genuine temporary entrant (GTE)

Overview

A GTE is a student visa applicant whose circumstances support a genuine intention to enter and remain in Australia temporarily, notwithstanding the potential for this intention to change over time to an intention to remain in Australia for an extended period or permanently.

The decision maker must be satisfied that the applicant genuinely intends a temporary stay in Australia, having regard to the applicant's circumstances, the applicant's immigration history and any other relevant matter – refer to clause [500.212\(a\)](#).

An applicant who does not satisfy the decision maker that they are a genuine temporary entrant cannot satisfy Schedule 2 criteria for grant of a student visa and the visa must be refused.

Note:

- Secondary applicants for a student visa must also satisfy the decision maker that they genuinely intend a temporary stay in Australia – refer to [Genuine applicant for entry and stay as a family member](#).
- Primary (but not secondary) applicants for a student guardian visa must also satisfy the decision maker that they genuinely intend a temporary stay in Australia - refer to [Visa590 - Student Guardian](#) - The genuine temporary entry criterion.

The GTE section 499 direction

The ministerial section 499 Direction [Assessing the genuine temporary entrant criterion for student visa and student guardian visa applications \(the GTE s499 direction\)](#) gives officers guidance on the six factors that must be taken into account when assessing the genuine temporary entrant criterion for student visa applications - in the GTE s499 direction, refer to:

- the applicant's circumstances in their home country
- the applicant's potential circumstances in Australia
- the value of the course to the applicant's future
- the applicant's immigration history
- if the applicant is a minor - the intentions of a parent, legal guardian or spouse/de facto partner of the applicant
- other relevant matters.

Although all factors in the direction must be considered, it is not to be used as a checklist; decision makers must use their judgement to weigh all the circumstances to make a determination as to whether the applicant is a genuine temporary entrant.

Decision makers are bound by the direction and must refer to it in assessing a student visa application.

Impact of streamlined and regular evidentiary requirements on the assessment of GTE

Streamlined and regular evidentiary requirements under [the country and provider immigration risk model](#) refer only to a student's likely financial capacity and English language proficiency requirements. These factors do not have any specific bearing on the assessment of GTE.

Circumstances in which further scrutiny of an application may be required

If further scrutiny of the applicant's circumstances is considered appropriate, officers may request from the applicant additional information and/or further evidence to demonstrate that they are a genuine temporary entrant (paragraph 3 of the [GTE s499 direction](#)).

In accordance with paragraph 4 of the GTE s499 direction, four circumstances in which further scrutiny may be appropriate are:

- information in statistical, intelligence and analysis reports on migration fraud and immigration compliance compiled by Home Affairs indicates that further scrutiny is required
- the applicant or a relative of the applicant has an immigration history of concern
- the applicant intends to study in an unrelated field to their previous studies or employment and
- inconsistencies in information provided by the applicant in their application.

Note: The mere fact that an applicant matches the characteristics of information in statistical, intelligence and analysis reports or that a relative of the applicant has an

immigration history of concern is not grounds for visa refusal. These situations merely alert the decision maker to the need for additional scrutiny to assess whether the applicant is a GTE; they are not a legislative basis for refusing a visa.

All applications must be considered on their own merits taking into account all the relevant information and supporting documentation provided by the applicant.

If considered appropriate, officers may request further evidence or information from the applicant under s56 of “the Act”. Refer to:

- [GenGuideA - All visas - Visa application procedures](#) in particular Communication of Minister with applicant
- [Code of procedure instructions – Notification requirements](#)
- Identity, biometrics and immigration status instructions in particular:
 - [Assessing the identity of visa applicants](#)

Interviewing and requesting additional information to assess GTE

Decision makers should consider:

- what types of evidence they require
- whether information can be obtained at interview
- whether they require documentary evidence to satisfy themselves that the applicant is a genuine temporary entrant and
- whether a referral or further investigation is necessary.

Additional documentary evidence may be requested to assist in assessing whether the applicant is a genuine temporary entrant or not, five examples being:

- evidence of the applicant’s economic situation, which may include evidence of employment for at least the previous 12 months, evidence of an offer of employment on their return home, tax returns or financial statements
- evidence of financial and personal ties to their home country, such as evidence of assets in that country consistent with their family background, family or social ties that would provide sufficient inducement for them to return to their home country at the end of their visit
- evidence of claimed previous study
- letter from their current employer or statement from the applicant attesting to a need by the applicant for (improved) skills for the purposes of their employment or career prospects
- evidence of a range of professional or academic outcomes supporting the applicant’s need for a new career direction.

In requesting additional documentary evidence from applicants, officers should be mindful that students at undergraduate level or below may not have been in employment, nor will they usually hold many assets.

GTE - The applicant’s circumstances in their home country

‘The applicant’s circumstances in their home country’ examines reasons for not undertaking studies in their home country or region and whether the applicant’s

economic situation, personal ties, military service commitments, in the home country would support a temporary stay in Australia. It also considers whether there is any civil or military unrest in the home country that would not support a temporary stay in Australia.

Five examples of circumstances in which further scrutiny and consideration of the factors in the [GTE s499 direction](#) may be required are:

- There are a wide variety of similar courses available within the applicant's region – for more information refer to section [If the course is available in their home country](#).
- The income earned in the home country is far below the cost of living in Australia or there are high unemployment levels in the home country. Although applicants also need to meet financial capacity requirements, these are important factors that can be considered under GTE. These factors also go to the value of the applicant's course.
- There are military service commitments that have an adverse impact on the applicant's right or willingness to return to their home country. This may lead to the applicant remaining in Australia indefinitely.
- The political or geographical circumstances (such as the climate change related issues) in a student's home country would indicate they might not want to return. Officers must consider the applicant's own circumstances when looking at this factor - for example, unrest or upheaval might not affect certain areas of a country or certain social groups. Officers need to be aware of the changing circumstances in the applicant's home country and the influence these may have on an applicant's motivation for applying for a student visa.
- The applicant has no employment, community or family ties in their home country.

These situations could present as an incentive for the applicant to remain in Australia indefinitely, however, the applicant's circumstances in total must be considered.

GTE - The applicant's potential circumstances in Australia

'The applicant's potential circumstances in Australia' examines the incentives an applicant may have to remain in Australia, and the applicant's knowledge of living in Australia.

Officers should be mindful that strong community or family links do not necessarily indicate that the applicant is not a genuine temporary entrant and will not depart at the end of the authorised temporary stay in Australia. In fact, family connections to Australia may be a positive factor and could have legitimately influenced the student's decision to study in Australia.

If there are family members with adverse immigration histories, closer examination may be required. As noted in [Circumstances in which further scrutiny of an application may be required](#), officers must be mindful that the mere existence of such a factor is not a basis for refusal. It is the individual (and all their circumstances) that must be assessed against the requirement.

When considering the applicant's knowledge of living in Australia and their proposed study, decision makers must carefully weigh up all circumstances of the applicant,

including previous study and qualifications. Officers should consider what level of knowledge an applicant could be expected to have about their course of study, education provider and standard of living in Australia is realistic given their age, culture and other circumstances. This may also involve consideration of the level of research the applicant has undertaken into their proposed course of study, as well as living arrangements.

Officers must also consider whether the student visa is being used to maintain ongoing residency in Australia. The applicant's immigration history (refer to GTE - The applicant's immigration history) and study history are relevant to this factor. Officers should scrutinise cases where students:

- have spent long periods outside Australia
- did not complete courses
- are studying unrelated topics.

GTE - The value of the course to the applicant's future

'The value of the course to the applicant's future' examines whether the course that the applicant seeks to study is relevant and appropriate to their current employment and education background. This factor also examines the applicant's future employment or career prospects.

Officers should be able to identify, in the normal course, that the proposed study is relevant to past education or employment. For example, there is a clear progression from high school to a bachelor or vocational sector course. It may, of course, also be appropriate in many situations to undertake a vocational training course after completing a degree, in order to enhance specific skills or knowledge relevant to employment or the prospect of employment.

An example of where further scrutiny of the applicant's individual circumstances is required is where the applicant is seeking to undertake a course that is inconsistent with their educational and employment background - for example, the applicant is seeking to undertake a course unrelated to their education and employment backgrounds and unconnected to their future plans. Decision makers must, however, also note that reasonable changes to career or study plans are acceptable and should not negatively impact on the GTE assessment – officers should consider the student's motivation behind the choice of course.

When assessing whether an applicant satisfies the GTE requirement, the [GTE s499 direction](#) requires officers to consider whether the course will improve the applicant's employment prospects in their home country. If an applicant is seeking to undertake only a course that does not progress towards improving employment prospects, this may require a closer examination - for example, if an applicant is pursuing a course or series of courses that have low value in terms of improving employment prospects, or undertaking courses as a hobby or out of interest and not to improve employment prospects.

The GTE s499 direction also requires officers to consider the remuneration an applicant could expect to receive in the home country using their qualifications. Depending on the applicant's circumstances, officers may also wish to consider

remuneration the applicant could receive in other eligible countries of residence at the time of decision.

As with all factors, officers will need to weigh up the value of the course to the applicant's future against any other relevant factor set out in the [GTE s499 direction](#) and any other relevant matters to make an overarching assessment of whether the applicant's circumstances support a genuine intention to temporarily stay in Australia.

GTE - The applicant's immigration history

'The applicant's immigration history' examines whether there is anything in the applicant's immigration history that would not support that the applicant intends a temporary stay. An indication of this could include:

- an applicant was previously refused a visa in Australia and now seeks to prolong their stay by entering into a relationship with a student visa holder primarily to extend their stay in Australia
- an applicant's compliance with previous visa conditions
- an applicant undertaking a series of short, inexpensive courses designed to prolong a person's stay in Australia - for example, if a course is structured to include only short term periods of study and the maximum allowed break in between study periods
- a student visa holder who has been in Australia for extensive periods of time either without having successfully completed a qualification, or who has moved education providers on numerous occasions and has failed to finish a course of study (officers should request reasons from the applicant as to their failure to complete courses.)
- an applicant who has maintained ongoing residence in Australia on a range of short term temporary visas
- an applicant who has a history of visa refusal, or non-compliance with immigration requirements in another country.

The applicant's immigration history must be weighed up against the other factors relevant to the applicant, which are set out in the [GTE s499 direction](#) ('and any other relevant matters').

GTE and other relevant matters

Officers must consider whether there are any other matters that are relevant to the applicant's intentions for a temporary stay in Australia. The decision record must show that there was consideration as to whether there are other relevant matters, this includes information that may be either beneficial or unfavourable to the applicant.

GTE as basis for visa refusal

An applicant who does not satisfy the decision maker that they are a genuine temporary entrant cannot satisfy Schedule 2 criteria for grant of a student visa and the visa must be refused.

Decision makers may refuse a visa on one of the other requirements if there is clear evidence up front that the applicant intends to reside temporarily but does not plan to attend an education course – for example, ‘intention to comply’ if the applicant intends to work.

Decision records must clearly show the decision maker’s thinking and how they formed their judgement based on the information and evidence before them.

Procedural fairness

Section 57 of “the Act” details Home Affairs’ obligation to present applicants with relevant information that may lead to the decision to refuse a visa, and to give the applicant the opportunity to comment on it – refer to:

- [GenGuideA - All visas - Visa application procedures](#) in particular Adverse information
- [Code of procedure instructions – Notification requirements](#)
- [Identity, biometrics and immigration status instructions in particular: Bogus Documents – Detection, Seizure and Retention](#)
- [Controversial visitors](#)
- [Merits review instructions](#)
- Notification - Notification requirements in particular: [Inviting comment before decision - s56-s58](#)

Complex cases

GTE and long term/permanent residence pathways

Although many overseas students make a decision to apply for permanent residence or a temporary work visa upon completing their studies, this is a separate process and there is no guarantee that, on the basis of having held a student visa, a person will meet the requirements to be granted permanent residence or a temporary visa.

The student visa is primarily intended for persons who wish to study a CRICOS-registered course in Australia and to gain an education. If it appears that, at the time of decision, an applicant’s primary purpose for applying for a student visa is to obtain a permanent migration outcome or to maintain ongoing residence, and not to obtain an education, consideration may be given to refusing the applicant a visa under this criterion. However, an intention to apply for another visa after completing studies is not, by itself, sufficient to determine that the student does not meet the GTE requirement. This circumstance would warrant further scrutiny; for example, officers may need to consider options available to students if a further visa is not granted.

Similarly, the fact that a student has applied for a permanent visa (whether in or outside Australia) does not in itself mean that the same person applying for a student visa does not intend to leave Australia at the end of any authorised period of temporary stay.

Applicant has applied for protection

If an applicant has made a protection visa application that is either currently under consideration or was refused, this may demonstrate that there are significant incentives for the applicant not to return to their home country. Officers should have regard to the applicant's previous claims for protection and should be satisfied that these claims no longer reflect the applicant's current or future circumstances. If the applicant's circumstances have not changed, they may not be intending to reside in Australia temporarily.

If the course is available in their home country

The benefits of studying in Australia are well established however, if a similar course is available in the applicant's home country, an officer must consider whether the applicant has sound reasons for not undertaking the study in their home country. For example, applicants intending to study an English language course may legitimately want to study in an English speaking country regardless of whether there are cheaper courses available in their home country. A GTE refusal must not be based solely on the availability of the course. An officer may wish to ask the applicant to identify the advantages of studying in Australia.

Minors

In assessing the genuine temporary entrant criterion for minors, officers must consider the intentions of a parent, legal guardian or spouse/de facto partner (refer to clause [500.212\(a\)\(iii\)](#)). This is because a minor might not have the maturity to be capable of making decisions, including forming intentions in relation to immigration matters.

If an interview is to be conducted to seek further information or clarification for the assessment of the intentions of a parent, legal guardian or spouse/de facto partner, it is the parent, legal guardian or spouse/de facto partner who should be interviewed. If necessary information can be obtained only by interviewing the minor, the parent, legal guardian or spouse/de facto partner should be present for the interview, and care should be taken with questions directed at the minor.

Primary school students

Further GTE scrutiny of primary school student and guardian applications will occur based on internal risk analytics.

Generally, a student seeking to reside and study in Australia for 12 years, for example, commencing primary school in Year 1 and seeking to continue into Year 12 senior secondary school studies and beyond would not meet the GTE requirement. Consideration should be given to the likelihood of a child reintegrating into their home country in the absence of substantial education in their own language during their formative years. Consideration may also be given to the intentions of a parent or custodian in sending a child to study in Australia if they intend to accompany the child. This is to ensure that the integrity of the program is maintained and to prevent

the facilitation of long-term temporary residency of minors as a pathway to permanent residence.

For further information, refer to Visa grant period - [Visa grant period for primary school students](#).

Contrived relationships

There are two key issues in relation to secondary applicants relating to contrived spouse or de facto partner relationships:

- the applicants might be in a non-genuine relationship - an assessment of the genuineness of the relationship should be undertaken if there any concerns about the relationship
- the relationship might be genuine but the applicants have non-genuine intentions - for example, if:
 - the primary and secondary applicants alternate between being the primary and secondary applicant to extend their period of stay in Australia
 - an applicant who had previously unsuccessfully sought to satisfy the primary criteria now seeks to satisfy the secondary criteria.

Note: If relationships are assessed as genuine but the persons' intentions in Australia are not, these applicants could be considered for refusal under GTE.

If the applicants are found to be in a non-genuine relationship, the secondary applicant would not satisfy clause 500.311 requirements to be a member of the family unit as a spouse or de facto partner.

Risk profiles

Information in statistical, intelligence and analysis reports on migration fraud and immigration compliance compiled by Home Affairs, even if the client would otherwise be a strong candidate as a genuine student, must be considered as part of the genuine temporary entrant assessment.

Although the information is not in itself grounds for a visa refusal, the applicant will need to demonstrate that their circumstances support that they intend to stay temporarily in Australia and must be considered against the various factors set out in the [GTE section 499 direction](#) - for example, the applicant may be required to provide additional evidence of incentives to return to the home country, such as evidence of financial, personal and community ties.

Refer to Procedural fairness for policy and procedure on the information that needs to be put to the applicant.

Applicants studying at a lower level

Although an applicant enrolled to study at a lower level than previous studies undertaken in their home country could be an indicator of need for further scrutiny, consideration should also be given to the fact that:

- it can be quite common in some regions/countries for a student to hold a qualification that has been taught through a less rigid educational system than Australia and therefore a lower level of study in Australia is more suitable
- the applicant is accepted only for a lower level course in Australia and
- a lower AQF level course in Australia may be more specific than their previous studies at a higher level

Decision makers should refer to the DET website's [Country Education Profiles page](#), which provide guidance on educational equivalencies.

Independent ELICOS applicants with no previous English studies

ELICOS students might not have undertaken English studies prior to seeking to travel to Australia for a short period (12 months) to study English. The ELICOS industry in Australia is world class and offers overseas students the opportunity to enhance their English language skills. While often packaged with other courses, some students choose to study ELICOS in isolation or need to improve their English before enrolling in other courses.

Studying English in an English speaking environment is beneficial for students. As such, officers should consider that there are advantages to study English in an English speaking country.

The GTE criterion looks at the applicant's circumstances as a whole, which may also include consideration of whether the course has been structured to minimise study periods and maximise breaks.

Lengthy standalone or packaged ELICOS courses

Although there is no legislative limit as to how much ELICOS study may be undertaken, further GTE scrutiny would generally be applied to applicants who enrol in:

- standalone ELICOS for more than 12 months
- heavily packaged courses that include more than 12 months of ELICOS prior to their main course of study.

Mature applicants who are near retirement age

It is open for applicants to re-educate themselves and gain additional skills and knowledge. Officers must have regard to the value of course to the applicant's future and consider what level of remuneration the applicant could expect to receive after they have completed their study.

If an applicant is nearing retirement age, the qualification might not provide any significant benefit to their future employment prospects. However, in these cases it is important that the circumstances of the applicant, including their reasons for study, are considered. The relevant question in any GTE assessment is whether the circumstances of the applicant indicate that they intend to stay in Australia temporarily.

Extended study breaks or poor educational outcomes in home country

If an applicant has a history of extended study gaps and/or poor educational outcomes in their home country, this would likely raise concerns about their reasons for wanting to undertake study in Australia. Further scrutiny should be given to such cases.

4.6.3.3. Intention to comply with visa conditions

In addition to GTE, the genuine applicant for entry and stay as a student requires the decision maker to be satisfied under clause 500.212 that the applicant intends to comply with any conditions for which the visa was granted, having regard to the:

- the applicant's record of compliance with conditions of a visa or visas previously held;
- the applicant's stated intention to comply with conditions for which the visa is granted

Student visa conditions are designed to ensure that international students act in a manner that is consistent with the purpose for which their visa granted, for example maintaining enrolment in a registered course of study – refer to Student visa conditions

4.6.3.4. Any other relevant matter

After the 'GTE' and 'intention to comply with visa conditions' criteria are satisfied, further consideration is given to whether the applicant is a genuine applicant for entry and stay as a student having regard to the catch all criterion of 'any other relevant matter' (clause 500.212(c)).

Clause 500.212(c) requires that the decision maker to be satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to 'any other relevant matter'.

In assessing a student against Schedule 2 criteria, officers must consider this criterion; but in most cases there will not be any other matters that are relevant to the student's specific circumstances.

It is expected that 'any other relevant matter' would be the grounds for visa refusal in limited circumstances only. A decision to refuse to grant a visa should be made against this criterion only if the applicant satisfies all other Schedule 2 criteria, including GTE, but there are other **relevant** factors that might indicate the applicant is not a genuine student - that is, there is some objective evidence or reason to doubt the applicant's genuineness as a student and to enquire further - for example, if the study plan for a school student (under 16 years old) is inappropriate:

- generally, a school student would be considered to have an inappropriate study plan if they were seeking to undertake studies not related to school studies while of an age at which school education is compulsory in Australia
- a visa may be refused under Schedule 2 'any other relevant matter' if, for example, a student under 16 years old seeks to undertake studies outside of the

school sector (for example, ELICOS, non-award course) and no evidence has been provided that they intend to go on to school studies in Australia.

Officers may consider other factors. When considering whether to refuse to grant a visa under this criterion, officers must show that they have taken into account all of the information presented in the application. The decision record must include an assessment as to whether the applicant meets all other relevant criteria, including GTE.

4.6.4. English language proficiency

4.6.4.1. Evidence of English language proficiency

If required, applicants seeking to meet the primary criteria for grant of a student visa must provide evidence of English language proficiency in a form specified in the [legislative instrument](#) made under [500.213\(3\)](#). The maximum time periods in which an English test must be taken is either two years before the application is lodged or two years before a decision is made on the application.

For the purposes of clause [500.213\(3\)](#), the instrument also specifies the classes to which clause [500.213\(1\)](#) does not apply. Such applicants are exempt from providing evidence of English language. If a student visa applicant falls under an exempt category they cannot be required to undertake an English language test, regardless of whether they fall under streamlined or regular evidentiary requirements.

Non-exempt applicants with regular evidentiary requirements are required to provide evidence of achieving the minimum relevant score with a test provider specified in the instrument. Applicants identified as having regular evidentiary requirements at lodgement, will be required to provide evidence of English language proficiency. Applicants who do not provide evidence of meeting this requirement can be refused a visa, although the processing officer may choose to request the required documents from the applicant.

Applicants with streamlined evidentiary requirements do not need to satisfy the requirements in clause [500.213\(1\)](#) unless the decision maker invokes this requirement and requests the applicant to provide evidence.

Decision makers should refer to the [legislative instrument](#) made under [500.213\(3\)](#) for details of the acceptable English language test providers, the minimum English language test scores (including those for courses packaged with ELICOS) and the acceptable timeframes.

Note: The minimum test score for the Occupational English Test (OET) is listed as Pass. The OET results actually include a mark between A and E. An A or B is considered a pass.

4.6.4.2. Requesting evidence of English from streamlined students

Requesting formal evidence of English language proficiency from streamlined students should be the exception and should only be undertaken in limited

circumstances. Three circumstances in which officers may consider requesting evidence are:

- specific intelligence exists which raises concerns about the student's English language proficiency
- during an interview with Home Affairs the student is not able to understand basic questions or provide basic information in English
- the applicant has indicated on their application form that they have English test results lower than the specified levels.

If the decision maker requests evidence of English language proficiency from students who are subject to streamlined evidentiary requirements, the English language test must be taken within the time period specified by the decision maker after the evidence is requested. Sufficient time must be allowed for the student to book and sit for a specified English language test, if required. Some students may be in a position to more readily provide the decision maker with evidence of English language proficiency, especially if the test scores were required by the education provider as part of the course enrolment process.

4.6.4.3. Assessing completion of previous studies for English language exemption

Successful completion of a substantial component of a course in Australia

To determine whether an applicant has, at time of application, successfully completed a 'substantial component' of the course, decision makers should make a qualitative assessment of the course and the requirements for completing it. They should then consider whether the study the applicant has already undertaken corresponds to a 'substantial component' of that course.

Officers must not use fixed mathematical formulas to determine what equates to a 'substantial component' of a course. For example, they should not consider that a substantial component of a course has been completed merely because the applicant has completed 50% of the course duration (for example, 1 year out of a 2 year course).

Two examples of where, a student might be taken to have successfully completed a substantial component of their course could be:

- they have completed a Certificate III qualification that was packaged with a corresponding Certificate IV qualification, and the Certificate III significantly contributes as credited learning towards the completion of the Certificate IV
- the first two years of a three year course contain most of the assessments that must be completed before progressing to the final year, and the applicant has successfully completed those assessments.

An example of where a student might not be taken to have completed a substantial component of their course could be:

the applicant has completed the first two years of a three year course but the first two years comprised mainly preparation for work experience in their final year, which is the only component of the course that will be graded.

Nested qualifications

Some providers offer study programs that include one or more “nested” qualifications in the one course (that is, where completion of stages within a course may lead to eligibility for one or more AQF qualifications). An example would be students undertaking a two-year masters program may be eligible for a graduate diploma on completion of the first year of study.

Nested qualifications may be taken into consideration when deciding whether an applicant meets the ‘substantial component’ requirement. To meet the requirement on this basis, students must provide evidence from their education provider to support their claim as to the course structure and their eligibility for a nested qualification.

Credits for previous study

If the previous study has been undertaken in Australia in a CRICOS registered course taught in English, those credits can be taken into account when determining whether the applicant has successfully completed a substantial component of their course in Australia in English. Not acceptable for this purpose are:

- courses undertaken outside Australia
- non-registered courses
- courses taught in a language other than English.

Duration

The duration of study does not in itself establish successful completion of a substantial component of the course. Only subjects that have been passed can be considered to be successfully completed. Similarly, if a student has been studying for longer than the normal duration, this does not need to be taken into account.

4.6.5. Financial capacity evidence

4.6.5.1. Overview

All student visa applicants must have genuine access to sufficient funds to cover costs and expenses for themselves and any accompanying family applicants for the duration of the intended stay in Australia (clause [500.214](#)).

All applicants must declare on the application that they have sufficient funds available for the duration of the entire stay in Australia.

If required, the applicant must provide additional evidence of their financial capacity as specified in the [legislative instrument](#) made under [500.214\(4\)](#), [500.313\(4\)](#) and [590.216\(4\)](#). This instrument defines the amount of funds required, and the types of

evidence that are acceptable. If the applicant has provided evidence of finances that are not sufficient the application may be refused without requesting further information regardless of the evidence level. The cost of living will increase annually by the consumer price index (CPI).

This section of the instruction also gives guidance on financial requirements for family members applicants:

- combined applications are covered in [Amount of funds to demonstrate](#)
- subsequent entrant family member applicants are covered in [Financial requirements for subsequent entrant applicant family members](#).

The [legislative instrument](#) made under [500.214\(4\)](#), [500.313\(4\)](#) and [590.216\(4\)](#) specifies the types of evidence that applicants can provide to demonstrate evidence of their financial capacity:

- evidence that their spouse/de facto partner or parents have a specified annual income or
- evidence of sufficient funds to cover travel costs, the first 12 months' living costs, and the first annual course fee for themselves and school fees for each family applicant who is a child of school-age or
- evidence of sufficient funds to cover travel costs, course /school fees, and living costs on a pro rata basis for themselves and each family applicant where the period of stay is less than 12 months or
- a completed AASES form (for secondary exchange students) or
- a letter of support from DFAT or Defence.

Arrangements for DFAT and Defence students fall under the financial support from a government organisation – refer to [Financial support from a government, education provider or international organisation](#).

4.6.5.2. Annual income

The option to meet the financial requirement through evidence of annual income is expected to be available to small numbers of student visa applicants. This is because in countries where income is underreported to government taxation authorities or where income is primarily taxed through businesses, applicants would not be able to demonstrate the requisite income level. For applicants unable to provide the specified evidence of income, evidence of funds for travel costs and the first 12 months' living costs, course fees and school fees, this is an alternative way to demonstrate financial capacity.

The income demonstrated must be the personal income of the student visa primary applicant's:

- spouse or de facto partner or
- parents – this can include the combined income of both parents. It does not include the income of parents-in-law (that is, the parents of the student's spouse or de facto partner).

The annual income amount to demonstrate is specified in the [legislative instrument](#) made under [500.214\(4\)](#), [500.313\(4\)](#) and [590.216\(4\)](#). The income specified in the instrument is gross (that is, before tax). The instrument specifies that evidence must be in the form of official government documentation, such as a tax assessment (or country equivalent). To ensure the claimed income is recent, the documentation must have been issued in the 12 months immediately before the application is made.

4.6.5.3. Annual income provided by the applicant's spouse/de facto

If the primary student applicant's spouse/de facto has provided evidence of their income to satisfy the financial requirement, and will accompany the primary student applicant to Australia, the assessing officer should consider whether the applicant will meet the requirement to have 'genuine access' to funds during their intended stay. If the spouse/de facto is leaving their employment to accompany the applicant to Australia, they may no longer have the requisite income. If officer is not satisfied that the applicant will have access to funds from the spouse/de facto's employment, they may consider if the applicant can meet the financial requirement under 'Funds for travel costs and the first 12 month's living costs, course fees and school fees'. Refer to [Subsequent entrant applicants seeking to join a TU-570-576 visa holder](#) or [Genuine access to funds](#).

Subsequent entrant family members who apply to join a student visa holder who was granted a student visa prior to 1 July 2016 will still need to meet the financial requirements for the Subclass [500](#) (student) visa.

When deciding whether evidence of financial capacity should be required under clause [500.313\(3\)](#) decision makers should be guided by the evidence level assessed for the primary student when granted their TU570 to TU-576 student visa:

- Streamlined evidentiary requirements = AL Exempt (ALX/Streamlined) and AL1
- Regular evidentiary requirements = AL2 and AL3.

4.6.5.4. Sufficient funds for travel, living, course (tuition) and school fees

Amount of funds to demonstrate

Application by student only

The amount of funds an applicant must demonstrate can be calculated by adding the living cost amount defined in the [legislative instrument](#) made under [500.214\(4\)](#), [500.313\(4\)](#) and [590.216\(4\)](#) for a student for the first 12 months, the first annual course fee and travel costs for the student. If the period of stay is less than 12 months, then the living costs are calculated on a pro rata basis.

Combined applications including family member applicants

The amount of funds an applicant must demonstrate if family member applicants are included in the application can be calculated by adding:

- the living cost amount defined in the [legislative instrument](#) made under [500.214\(4\)](#), [500.313\(4\)](#) and [590.216\(4\)](#) for a student and the accompanying family members for the first 12 months or pro rata amount
- the student's first annual course fee
- the school fees for all school-age dependants for the first 12 months or pro rata amount and
- travel costs for the student and all family members.

The applicants, together, must demonstrate the specified total amount to meet the requirement.

Application by family members only

Refer to Financial requirements for subsequent entrant applicant family members - [Amount of funds to demonstrate](#) - [Application by subsequent entrant family members](#).

Sibling students and student guardians

If an applicant:

- has a sibling who is a student visa applicant or student visa holder or
- has nominated a student guardian to accompany them to Australia

officers should assess whether the evidence of financial capacity provided by the applicant is the same as that provided for their sibling or guardian.

If the same evidence is provided officers should assess if the evidence is sufficient to cover the costs of both students/applicants or whether additional evidence of funds is required. The 12 month period is calculated in relation to the proposed entry date of the student guardian. Refer to Sch2 [Visa590 - Student Guardian](#) - The first 12 months.

The first 12 months

The [legislative instrument](#) made under [500.214\(4\)](#), [500.313\(4\)](#) and [590.216\(4\)](#) requires the applicant to give evidence of funds for the first 12 months of stay.

The first 12 months means the period that:

- begins:
 - if the application is made outside Australia - on the day of the applicant's expected arrival in Australia or
 - if the application is made in Australia - on the day that the student visa is expected to be granted to the applicant and
- ends on the earlier of:
 - the day 12 months after the beginning of the period
 - the last day of the applicant's proposed stay in Australia.
 -

Courses of less than 12 months

If the intended stay period is less than 12 months, the applicant must provide evidence on a pro rata basis of funds that they will use for the intended period of stay.

‘Living costs’

Living costs for each applicant are specified in the [legislative instrument](#) made under [500.214\(4\)](#), [500.313\(4\)](#) and [590.216\(4\)](#) and from 2017 increase by CPI. Officers should refer to the instrument in place at the time the application is made to determine the relevant living costs amounts. Airfares and health cover are not included in living costs.

Prepaid boarding or prepaid homestay fees

Students who will be accommodated in formal boarding or homestay arrangements with their education provider may prepay a portion of these fees prior to the issue of a CoE.

Formal boarding or homestay arrangements do not include privately arranged boarding or homestay arrangements, or private rent arrangements.

If a student provides evidence of prepayment of formal boarding or homestay fees, this amount can be deducted from the amount the student needs to show against the living costs component of the financial requirements.

Acceptable evidence may be in the form of a contract or an authorised receipt of payment from the education provider.

Course fees

Overview

Tuition and/or education fees are indicated by the education provider on the CoE and/or “Offer of Place” letter.

When calculating course fees, the total course length is found by using the course start date and course end date on the CoE/s. Course fees are not based on the applicant’s stay in Australia. For example, a course from 1 March 2017 to 31 October 2018 will have a course length of 20 months.

For students with formal boarding arrangements the costs of boarding should have been separated from the course fees by the education provider. If an officer is concerned that the boarding fees have been rolled in with the course fees on the CoE they can check the letter of offer to refer to if the course and boarding components have been separated out on that document.

Prepaid course fees

If an applicant provides one or more CoEs with their visa application, any amount that the provider records on the CoE as prepaid may be deducted from the total course fees payable when calculating the amount of funds to cover course fees.

School fees for school-age dependants

Overview

The costs of schooling must be included in any financial capacity calculations if school-age dependants are included in the student visa application (either by making a combined application with the student, or by applying as a subsequent entrant). The costs of schooling for family members who do not apply for a student visa should not be included in the calculation.

For the purpose of assessing the financial capacity to meet the schooling costs of school-age dependants the cost is predetermined at AUD 8 000 a year (refer to the [legislative instrument](#) made under [500.214\(4\)](#), [500.313\(4\)](#) and [590.216\(4\)](#)) unless school fees are exempted.

If not yet of school age

If at time of visa decision, the child in question is not a school-age dependant (that is, is under 5 years old) but will become so during the **first 12 months** of the intended stay period, the cost of schooling must be included in any financial capacity calculations from the time they do become a school-age dependant until the end of the **first 12 months**.

This cost should be calculated on a pro-rata basis for the number of days out of 365 the child will be a school-age dependant.

Exemptions for school fees

Dependent children of PhD students are not required to demonstrate capacity to meet school costs if they provide evidence of enrolment in an Australian government school because Australian government schools exempt children of PhD students from paying school fees.

Dependent children of Australian Commonwealth Government scholarship recipients, including children of DFAT and Defence students, are not required to demonstrate this amount if they provide evidence of enrolment in a government school and commonwealth scholarship. Australian government schools exempt children of Commonwealth scholarship recipients from paying school fees.

Travel costs

Travel costs should be consistent across the program and communicated externally so applicants are aware of the funds required to include in the calculation of funds. Travel costs are set at AUD\$2000 for applicants applying outside Australia and

AUD\$1000 if applying inside Australia. There may be exceptions for some countries (for example countries in Africa) where travel costs are significantly higher. Any exceptions must be made public.

If family members make a combined application with the student, total travel costs must include the travel costs for each member of the family unit included in the visa application.

Exchange rate

The exchange rate used to determine financial capacity should be the rate applicable at the time of application. However, as Schedule 2 criteria are to be satisfied at the time of decision, if there has been a variation of more than 10%, the current exchange rate should be used instead.

Types of acceptable evidence of funds

Overview

The [legislative instrument](#) made under [500.214\(4\)](#), [500.313\(4\)](#) and [590.216\(4\)](#) specifies the types of evidence a student visa applicant can provide to satisfy the financial requirements. The types of evidence that are permitted are:

- money deposit(s) with a financial institution
- loan with a financial institution
- government loan
- scholarship or financial support.

The value of an item of property is not a permitted type of evidence for clause 500.214 purposes.

It is generally not open to officers to request evidence of additional funds above and beyond that prescribed.

The relationship of the individual/organisation providing the funds to the applicant must be considered under the 'genuine access' component of the financial requirement.

Financial institutions

Financial institution is defined in regulation 1.03. Only financial institutions that meet this definition are able to be accepted. This definition provides that a financial institution is a body corporate that, as part of its normal activities, takes money on deposit and makes advances of money:

- under a regulatory regime
 - governed by the central bank (or its equivalent) of the country in which the body corporate operates and
 - that the visa decision maker is satisfied provides effective prudential assurance and

- in a way that the decision maker is satisfied complies with effective prudential assurance requirements.

Prudential assurance refers to the prudent management of capital and other assets of the relevant bank or financial institution to enable it to meet its financial obligations as and when they become due.

The specific criteria used to measure effective prudential assurance will differ based on the circumstances relevant to the regulatory regime in each country but may include a consideration of whether the:

- financial institution has implemented appropriate credit risk management strategies
- financial institution is approved by the central bank (or equivalent) of the country and is appropriately licensed
- financial institution receives an official high credit rating from an independent body
- documents from the financial institution have previously been assessed by Home Affairs and found not to represent legitimate funds available to a client
- financial institution has been implicated in any unacceptable behaviour such as systematic fraud or bribery.

Some posts may maintain a list of acceptable financial institutions. The list should be created on the basis of the relative financial standing of an institution, its credit rating and integrity:

- A list of financial institutions for the Philippines is available at: [DIAC090313 – DIAC Financial institutions in the Philippines](#).
- For a list of acceptable Australian financial institutions, refer to the [APRA website](#).
- Information about acceptable financial institutions for India, Nepal, Bhutan and Bangladesh may be found on the Australian High Commission website: http://india.embassy.gov.au/ndli/students_home.html.

Some students may choose to move funds from a non-acceptable institution to an acceptable one. The funds could then be used to meet the financial requirement; however, officers should consider whether the student would have access to those funds. For example, a student may have savings in a post office account. A post office is not an acceptable financial institution as it does not give loans. The student may withdraw their funds and deposit them into an acceptable financial institution. Other common scenarios include when students draw on provident funds or take out a loan with an institution that does not take money on deposit. On their own, neither of these forms would be acceptable. However, if the student deposits the funds in an acceptable financial institution or even borrows against the funds (loan from an acceptable institution) then the funds can be used to meet the financial requirement.

Money deposit

Evidence of money deposits may be in the form of bank statements. Term deposits or fixed deposits may also be used to meet this criteria if the assessing officer is satisfied that the money will be released and the student will have genuine access to the funds for use during the period the visa is held - refer to [Subsequent entrant](#)

applicants seeking to join a Student Te(mporary) (Class TU) visa holder or Genuine access to funds.

Subsequent entrant family members who apply to join a student visa holder who was granted a student visa prior to 1 July 2016 will still need to meet the financial requirements for the Subclass 500 (Student) visa.

When deciding whether evidence of financial capacity should be required under clause 500.313(3) decision makers should be guided by the evidence level assessed for the primary student when granted their Class TU visa:

- Streamlined evidentiary requirements = AL Exempt (ALX/Streamlined) and AL1
- Regular evidentiary requirements = AL2 and AL3.

Monies in provident fund accounts with an entity managing a provident fund would not qualify as 'money deposits with a financial institution' as the entity would not satisfy the definition of 'financial institution'. Monies held in savings or other accounts with commercial banks under schemes such as the Public Provident Fund (Amendment) Scheme operated by the Government of India, may satisfy the definition of 'money deposits with a financial institution'. However, there are likely to be legal restrictions in regard to the amount and timing of withdrawal of funds from such accounts.

Applicants reliant on funds in provident fund accounts/ accounts maintained under government schemes may arrange to have sufficient funds transferred into an account with an acceptable financial institution, to which the applicant has unrestricted access. Bank statements relating to the accounts into which funds were transferred, may be submitted as evidence of financial capacity.

Loan

A loan:

- encompasses a legally enforceable agreement by which a financial institution promises to advance funds to a borrower on the condition that the funds advanced be repaid and
- is not dependent upon any or all of the funds that have been agreed to be lent coming into the possession of the borrower, and nor is it contingent upon there being a repayment schedule.

Therefore, other forms of borrowing, such as a credit card or a line of credit, where there is a pre-approved limit that may be drawn upon when required and which the borrower needs to make payments only on the funds that are withdrawn, can be considered loans.

Financial support from a government, education provider or international organisation

An applicant who claims financial support from the government, education provider or international organisation is expected to provide supporting documentation from the relevant organisation confirming and describing scholarship or financial support.

Officers should refer to the scholarship/funding letters to check the level of funding included. For example, because DFAT does not normally provide sufficient funding to cover living costs of family members, DFAT students must demonstrate additional funds to support family member applicants. The Department of Defence usually includes funding to cover family members and additional evidence of funds is not required.

4.6.5.5. Evidence of finances for secondary exchange students

The AASES form issued to secondary exchange students is sufficient evidence of financial capacity for secondary exchange students. This is because secondary exchange programs involve paying a fee to an exchange organisation, which includes homestay accommodation (full board) and course fees.

4.6.5.6. Requesting evidence of financial capacity from applicants

Requesting formal evidence of financial capacity from students subject to streamlined evidentiary requirements should be the exception and should be undertaken in limited circumstances only. Circumstances where officers may consider requesting specified evidence are:

- Specific intelligence exists that raises concerns about the particular student's financial capacity:
- If the applicant has been granted a visa previously, any information that Home Affairs has in relation to their ability to meet their financial requirements while they were in Australia.
- If the applicant has previously applied for a visa, any information that Home Affairs has in relation to their ability to provide for their living costs while in Australia

4.6.5.7. Financial requirements for subsequent entrant applicant family members

Overview

All subsequent entrant applicants for a student visa must have sufficient funds or support to cover costs and expenses for themselves and each family member of the primary student applicant for the duration of the intended stay in Australia. The funds must be accessible and be available to financially support the applicants in Australia.

All applicants must declare on the application that they have sufficient funds available for the duration of the entire stay in Australia.

If required, the subsequent entrant applicant must provide additional evidence of their financial capacity.

The [legislative instrument](#) made under [500.214\(4\)](#), [500.313\(4\)](#) and [590.216\(4\)](#) specifies that family member applicants whose application is not combined with the primary student will have to provide either:

- evidence that the primary applicant's spouse/de facto partner or parents have a specified annual income or
- evidence of sufficient funds to cover travel costs, and the first 12 months' living costs and course fees for themselves and each family applicant, including those family members who already hold an associated student visa.

If the subsequent entrant cannot provide evidence of financial capacity for themselves, family members and those who already hold an associated visa, the primary applicant's visa can be referred because they may have breached visa condition [8516](#).

Amount of funds to demonstrate

Application by subsequent entrant family members

The amount of funds an applicant must demonstrate can be identified by adding the following (refer to the amounts in the [legislative instrument](#) made under [500.214\(4\)](#), [500.313\(4\)](#) and [590.216\(4\)](#)):

- living cost amount for the student and all accompanying family members for the first 12 months
- student's course fees for the first 12 months
- school fees for all school-age dependants for the first 12 months
- travel costs for the student and all family members.

'The first 12 months' (subsequent entrant applicants)

When assessing the financial requirement for subsequent entrant applicants, the 12 month period is calculated in relation to the subsequent entrant family member applicant(s) proposed entry to Australia. This is especially relevant if the primary applicant has already been studying in Australia for some time.

For primary applicants and combined applications– refer to [Amount of funds to demonstrate](#).

Requesting evidence from subsequent entrant applicants

In determining whether to require evidence of financial capacity for subsequent applicants, officers should be guided by the primary applicant's combined country and education provider risk ratings. Refer to - [The country and provider immigration risk model](#).

Generally:

- if the primary applicant was required to demonstrate specified evidence, their family members should also be asked to provide evidence
- if the primary applicant was not required to demonstrate specified evidence, their family members should also not be asked to provide evidence unless there is information available that may indicate concerns or a change in circumstances.

Requesting evidence of funds from family members of streamlined applicants

Requesting formal evidence of financial capacity from subsequent entrant family members of streamlined students should be undertaken only in very limited circumstances.

Five examples of circumstances in which officers may consider requesting specified evidence are:

- If the student has changed course since their visa was granted and is now studying at an education provider that would have resulted in the student having to demonstrate funds as part of their visa application. Requesting funds from family members in this situation would generally be appropriate only if the student has been studying for less than 12 months on their current visa.
- Specific intelligence exists that raises concerns about the family members, the student's or the entire family unit's financial capacity.
- If the applicant has been granted a visa previously, any information that Home Affairs has in relation to their ability to meet their financial requirements while they were in Australia
- If the applicant has previously applied for a visa, any information that Home Affairs has in relation to their ability to provide for their living costs while in Australia.
- If the applicant has declared in their application that they do not have sufficient funds for the entire period of stay in Australia.

Subsequent entrant applicants seeking to join a Student (Temporary) (Class TU) visa holder

Subsequent entrant family members who apply to join a student visa holder who was granted a student visa prior to 1 July 2016 will still need to meet the financial requirements for the Subclass 500 (Student) visa.

When deciding whether evidence of financial capacity should be required under clause 500.313(3) decision makers should be guided by the evidence level assessed for the primary student when granted their Class TU student visa:

- Streamlined evidentiary requirements = AL Exempt (ALX/Streamlined) and AL1
- Regular evidentiary requirements = AL2 and AL3.

4.6.5.8. Genuine access to funds

Overview

Clause 500.214(1) requires the decision maker to be satisfied that the applicant will have genuine access to funds mentioned in clause 500.214(2). These funds should be available to be used for the purpose of financially supporting the applicant (and family members if any) while in Australia.

Decision makers may consider the circumstances of the applicant/person providing the funds to determine whether the applicant(s) would genuinely have access to the funds.

Examples of circumstances that may be considered are:

- the employment history of the applicant/person providing the funds
- the income and assets of the applicant/person providing the funds
- the source of the income used to meet the financial requirements (for example, if the applicant is relying upon funds from a third party (for example, a family friend), and the nature of the relationship between the applicant and the person providing the funds
- if the person providing the source of income has provided financial support for another student visa applicant
- if the applicant has previously been granted a visa, any information which Home Affairs has in relation to their ability to meet their financial requirements while they were in Australia
- if the applicant has previously applied for a visa, any information which Home Affairs has in relation to their ability to provide for their living costs while in Australia
- the immigration activities in Australia of other nationals from the applicant's home country are such that further investigation into the genuine intentions of the student should be undertaken
- relevant intelligence and analysis reports on illegal immigration and malpractice (if relevant to the individual's circumstances).

Genuine access – Annual income

Applicants who have demonstrated sufficient funds by providing evidence of the annual income of their spouse/de facto partner or parent would need to show that they would genuinely have access to the funds generated from the income. Because the annual income requirement is restricted to the applicant's spouse/de facto partner or parents, there is generally no need to further scrutinise 'genuine access' based on the relationship to the applicant.

However, in order to meet the 'genuine access' component of the financial requirement, the applicant may need to provide evidence of the relationship to the applicant of the person providing the funds. Decision makers may also seek evidence of the currency of employment/asset ownership generating the personal income, particularly if there are concerns with the age of the records, or information available to the decision maker to indicate there may have been a change in circumstances (for example significant economic downturn in a country, or specific intelligence about an applicant).

Additional scrutiny may also be appropriate if the amount of personal income demonstrated is equal to the amount required, suggesting that the funds have been generated specifically to meet visa requirements.

Genuine access – Money deposit

Money deposits held by the applicant, the applicant's spouse/de facto partner or the applicant's parents would generally satisfy the genuine access requirement.

Funds that are not committed to the applicant are less likely to be available to the applicant for the purpose of financially supporting the applicant in Australia. For

example, if several family members and/or third parties are contributing to the applicant's stay in Australia, the money is less likely to be available to the applicant in Australia than if the money is in the applicant's own name (or the name of their spouse/de facto partner /parent, as relevant).

An example of a situation in which an applicant would reasonably be expected to have access to funds in Australia in circumstances where the money deposit is in another person's name, is where the applicant will live with a relative in Australia and the relative will provide for all (or some) costs and expenses while in Australia. For example, the relative will provide for all living costs, but the student's parents will fund, for example, course fees.

Consideration should be given to eight factors:

- whether the account is held in the applicant's name
- the relationship of third parties to the applicant and the account holder (for example, are they a relative)
- whether the money is a lump sum payment in an account (even if held by the applicant or their spouse/de facto partner /parent) or is there a savings history to accumulate the funds (this should include where third party 'donations' or 'loans' have come from)
- how long the money has been in the account
- where the account is held (for example, held in Australia, or whether held in a country from which large money deposits cannot be transferred internationally)
- if the money deposit is held outside Australia, whether there is evidence that the exchange control regulations of the country permit the remittance of funds for study and where necessary whether evidence of requisite approval is available
- the applicant's age
- the family's individual circumstances.

If a business account is presented as evidence of financial capacity, decision makers must be satisfied that those funds will be for the use of the student while the student is in Australia.

(Note: If financial support is being provided by a business, it is the business (and not the individuals within the business) that provides the support. Unless the persons who have the authority to commit the business are identified and appropriate documentation is obtained, genuine access to the funds cannot be established.)

In these circumstances, the business should be able to transfer the funds that it wishes to commit towards the student into an account (current, savings or term deposit) in the name of the student or the person providing the financial support. The applicant may be asked to provide evidence that the source of funds was the business.

Where funds have been transferred into an acceptable financial institution but have come from another source, supporting documents should show that the student has genuine access to these funds. For example:

- evidence of income or transfers from another institution/account, with further scrutiny where the record of transfer from the other institution or account is not generally reliable.
- when the money in provident funds is deposited into an account with an acceptable financial institution and the applicant has unrestricted access, evidence of the provident fund terms, withdrawal and amendment to fund account.
- similarly, funds transferred from an account at an institution that is the usual bank of the student or sponsor (such as a post office account) to a financial institution on the approved list can be supported by the account history. Where this shows that a wage has been credited into the account, this can be supported by evidence of employment.

Genuine access – Loans from financial institutions (including credit cards)

Loans should be in the name of the student or other individual providing financial support to the student.

Decision makers may wish to seek additional information to be satisfied that the loan is for the support of the student and is not a loan that has been committed to other purposes. As four examples, this may occur if:

- the loan is for a considerable amount more than required
- the loan was taken out a significant period before the visa application was made
- the loan was provided as support for another student
- the loan is made to (or applied for by) a business.

Loans in the name of the applicant, the applicant's spouse/de facto partner or the applicant's parents would generally meet the genuine access requirement unless there is evidence indicating that the funds from the loan may not genuinely be available to the student visa applicants.

If the loan is jointly held in another person's name, consideration should be given to the relationship between the student visa applicant and the loan holders to establish whether the funds will genuinely be available to the applicant in Australia.

If a loan was obtained against collateral, consideration should be given to who the collateral for the loan is owned by and that individual's relationship to the applicant.

Another consideration may be the amount of time before the application that the loan was obtained. If the loan was drawn down many months before the application was lodged, the applicant should be able to demonstrate either that the funds are in an account (current or savings) in the name of the student or the individual providing financial support or have been used to pay expenses such as course fees and airfares.

To be satisfied the funds will be available to the applicant, decision makers may consider four factors:

- whether the funds have been disbursed and if yes, in whose account the funds have been deposited

- what the collateral for the loan was (property, money deposit) and who owns that asset
- if the collateral was a money deposit, how the funds in the money deposit were accumulated and for how long the deposit has been held
- evidence that the exchange control regulations of the country permit the remittance of funds for study and where necessary evidence that requisite approval.

Business loans do not meet the 'genuine access' requirement.

Evidence of disbursement is the best way to satisfy us that the student will have genuine access to these funds:

- where the education loan relates to course fees that will be paid directly to the education provider, disbursement according to the agreement with the education provider, financial institution and student should be provided. For example, this may be for the first semester's course fees. Information about the terms of the loan, including any conditions around disbursement, should also be attached to the application.
- if the education loan includes living expenses, agents should consider showing that the first 12 months of these funds have been disbursed. Alternatively, they could consider showing that the student is relying on another source of funds to cover the first year of living costs.

In the case of applications made in Australia by student visa holders; if the evidence of funds relates to the proceeds of an overseas loan or money deposit held overseas, the applicant may be requested to arrange for the transfer of funds for the first 12 months into an account with a bank in Australia. Evidence of genuine access would be bank statements of the Australian account showing the deposit and a trail to show that the funds are proceeds from the overseas loan or deposit previously identified.

Genuine access – Government loans, scholarships or financial support

A student visa applicant would generally satisfy the genuine access requirements if the student is to be funded by one of the following six entities through a scholarship or other formal funding arrangement:

- the student's education provider in Australia (refer to [Education provider scholarship](#))
- the Australian Commonwealth Government
- the government of a State or Territory in Australia
- the national government of a foreign country
- a provincial or state government of a foreign country that has the written support of the national government of that foreign country
- an international organisation that operates across several countries (for example an agency of the United Nations).

If there are concerns based on the circumstances of the entity providing the funds, the decision maker may request further information to verify funds will be available

and genuinely accessible by the applicant. Four examples of situations in which further information may be required are:

- there is publicly available information that an organisation has a limited life span
- there is limited public information about the organisation
- there are doubts that the organisation is actively and lawfully operating in Australia or overseas
- there are doubts whether the organisation has funds or an income sufficient to provide the financial support.

Education provider scholarship

For the purposes of a student visa application, scholarships that meet the following four policy requirements generally meet the genuine access requirement:

- awarded to the student by the student's education provider or proposed education provider
- awarded on the basis of merit and an open selection process
- awarded to the student as a student who is enrolled in a course leading to the award of a Certificate IV or higher qualification
- awarded to no more than 10% of overseas students in a course intake or no more than 3 overseas students in an intake (whichever is the greater).

A student visa applicant who claims financial support from their education provider or proposed education provider is expected to provide supporting documentation from the education provider. Documentation from the provider is expected to address each of the four factors above. Further evidence should be requested only if decision makers have concerns that the scholarship does not comply with these factors.

Corporate sponsorship

Corporate sponsorship would satisfy the genuine access requirements if either:

- the proposed course of study is consistent with their background and role within the corporation or
- there is a demonstrated need within the corporation for the student to be trained or retrained

In either case the applicant should be an employee of the company.

4.6.6. Health insurance

4.6.6.1. Overview

A student visa applicant must provide evidence of adequate arrangements in Australia for health insurance during their period of intended stay in Australia (clause [500.215](#)).

'Adequate' does not have legislated meaning under migration law. However, it is policy that this condition has been complied with if:

- the student (or if applicable, family unit member) provides evidence of payment of the Overseas Student Health Cover (OSHC) – refer to [About the OSHC](#)

or

- the student is an Endeavour Award holder, and presents a letter from the Department of Education stating that health insurance will be organised for the duration of their stay - refer to [Endeavour Award holders](#)

or

- the student is sponsored by DFAT which arranges OSHC on their behalf – refer to [Foreign Affairs students](#)

or

- the student and their accompanying family members are sponsored by Defence - refer to [Defence-sponsored students](#)

or

- the student is an exempt citizen from Belgium, Norway or Sweden – refer to [Exempt citizens covered by other arrangements](#).

This approach ensures that international students can meet the cost of the medical and hospital care they may need in Australia.

4.6.6.2. About the OSHC

The OSHC is the result of arrangements between the Australian Government and certain registered health insurers for the provision of visits to the doctor, some public hospital insurance treatment, ambulance cover and limited pharmaceuticals for student visa holders and their family members (for example, spouse/de facto partners and children under 18).

Health insurers registered in Australia under the [Private Health Insurance Act 2007](#) are eligible to provide OSHC to overseas students if they have been approved by the Department of Health to do so through a Deed of Agreement. For more information about OSHC, refer to the Department of Health's webpage: Overseas Student Health Cover - Frequently Asked Questions.

4.6.6.3. Evidence of OSHC

Overseas students may supplement their OSHC with overseas health or travel insurance, however overseas insurance is not evidence of 'adequate' arrangements for the grant of a student visa.

Private health insurers offering OSHC in Australia are subject to regulatory requirements set by the Private Health Insurance Administration Council. This is because the Australian Government wants to be able to monitor and regulate insurers who are covering people studying temporarily in Australia. The government

is not able to protect the interests of people insured by overseas insurance companies in the same way.

Students must provide evidence of cover for themselves and any accompanying dependants for the proposed duration of their student visa in order to be granted a visa. Students applying for further stay on a student visa must also show evidence of cover for the proposed duration of the subsequent visa before it can be granted.

Please note that evidence of cover for couples or families does not need to be combined and each applicant can take out cover separately. For example, couples can take out cover separately as two single premiums.

For a list of current approved OSHC providers, refer to the Department of Health's webpage: Overseas Student Health Cover – Frequently Asked Questions.

4.6.6.4. Methods of obtaining OSHC

Two of the current procedures for obtaining OSHC are:

- education providers can collect and pay OSHC premiums direct to the approved OSHC provider of their choice (however from 1 July 2016, OSHC will not be recorded on CoEs) and
- students pay the OSHC premium direct to the approved OSHC provider of their choice.

4.6.6.5. Assessing the OSHC requirements

Overview

- To ensure a consistent approach across the network, when assessing OSHC decision makers should consider the following advice regarding [Start dates](#) and [End dates](#).

The online form asks for:

- a declaration that OSHC has been obtained or they fall into an exemption category
- the start and end dates
- a declaration that identifies if the cover has been arranged by the provider.

If the student declares the OSHC was arranged by the provider, the student needs to provide the OSHC commencement and end dates only.

Unless there are OSHC follow-ups, the information provided in the visa application may be accepted by the decision maker as meeting the requirements.

Start dates

Decision makers should check the start date for a student's OSHC prior to visa grant. A common mistake is for students to nominate the date of the commencement

of their course as the start date for their OSHC, rather than the date they intend to enter Australia.

In these circumstances:

- for applications made outside Australia, the student should be asked to obtain additional cover that commences at least a week before the date their course commences
- for applications made in Australia in circumstances where the student does not currently hold a student visa, the student should be advised to obtain additional cover that commences on or before the date of visa grant.

If the student enters Australia before their OSHC begins, they will be in breach of visa condition 8501.

End dates

If a visa applicant does not hold OSHC or falls into an exemption, the officer should request evidence.

If a visa applicant has OSHC coverage for the full study period (that is, to the end of all combined courses) but less than the maximum period they would have otherwise been eligible for (refer to [The student visa end date](#)) the decision maker should grant the visa to the end date of the OSHC coverage.

If a visa applicant has OSHC that does not cover the full study period, the decision maker must provide the applicant with an opportunity to purchase additional OSHC. The decision maker should advise the applicant of the maximum period they would be eligible for, to assist in their OSHC purchase (refer to [The student visa end date](#)).

If, after a request is sent, a visa applicant provides evidence of OSHC coverage that covers the full period of study but less than the maximum period they would have otherwise been eligible for, the decision maker should grant the visa to the end of the OSHC coverage.

If, after a request is sent, a visa applicant does not provide evidence of OSHC coverage or does not provide evidence of OSHC coverage for the full study period, the decision maker should refuse the application.

4.6.6.6. Exempt citizens covered by other arrangements

The only students who are exempted from the purchase of OSHC are those from countries that have a specific (government-to-government) agreement with Australia that covers their insurance requirements:

- Belgian students are covered by a reciprocal health care agreement between Australia and Belgium and do not have to take out OSHC.
- Norwegian students are provided with adequate health insurance by the Norwegian government (National Insurance Scheme) and do not need to take out OSHC.

- Swedish students who take out health insurance with Kammarkollegiet (the Swedish Legal, Financial and Administration Agency) do not need to take out OSHC. Be aware, however, that Kammarkollegiet cover, it is not universal. The applicant must present a card or other evidence of cover before the visa can be granted. Swedish students not covered by Kammarkollegiet must take out OSHC.

Previously students from Sweden were also able to take out health insurance with CSN International (the Swedish National Board of Student Aid) however this option is no longer available. Students currently in Australia with an existing CSN International policy will continue to be covered by CSN however no new policies will be issued.

4.6.6.7. Endeavour Award holders

For Endeavour Award holders, DET organises health insurance (OSHC) for the duration of the student's stay. A letter from the Department of Education to Endeavour students referring to this should be accepted as evidence that adequate arrangements for health insurance have been made.

4.6.6.8. Reciprocal health care agreements

Australia has reciprocal health care agreements (RHCA) with New Zealand, United Kingdom, Republic of Ireland, the Netherlands, Sweden, Finland, Norway, Italy, Belgium, Slovenia and Malta.

The agreements provide reciprocal access to the public health system for residents of these countries. In Australia, this covers public hospital admission, subsidised medical treatment under Medicare, and pharmaceutical benefits.

With the exception of students from Belgium, students who are covered by a RHCA:

- are still required to maintain adequate arrangements for health insurance in Australia (by showing evidence of OSHC) to be granted a student visa
- must maintain OSHC as a condition of their visa.

Any cover provided under a RHCA will be in addition to their OSHC.

Students who have temporary Medicare access must still maintain OSHC while they hold a student visa. This includes students whose home country has a RHCA with Australia, and students who have applied in Australia for a permanent visa.

Due to the limited essential medical treatment that is provided under the reciprocal agreements, Medicare Australia indicates on its [RHCA webpage](#) that RHCAs are not designed to replace private travel health insurance.

The OSHC provides more comprehensive benefits to overseas students and their dependants than those provided under the RHCAs, including ambulance services, benefits for expenses exceeding the equivalent of the current Pharmaceutical Benefits Scheme, private hospital/registered day hospital facilities and surgically implanted prostheses. The OSHC also provides prudential protection for overseas

students and their dependants, which may not necessarily be extended to a policy holder obtaining health coverage from a non-registered insurance provider.

4.6.6.9. Foreign Affairs students

DFAT pays OSHC on behalf of the student but not their accompanying family members. Decision makers may accept the DFAT letter of offer as acceptable evidence of coverage for the student.

If an applicant's family members apply for a visa to accompany the student they will need to independently organise and submit evidence that they have OSHC as part of their application.

4.6.6.10. Defence-sponsored students

Defence students and their accompanying family unit members are not required to produce evidence of OSHC if they are sponsored by Defence.

The Letter of Support provided by Defence (the "Confirmation of Defence Student Sponsorship" letter) is considered acceptable evidence of adequate arrangements for health insurance for the grant of a visa.

Defence organises OSHC on behalf of Defence Cooperation Program (DCP) students while a Fee For Service (FFS) students' home country is responsible for their health insurance costs. In some cases, a FFS student may hold an adequate level of health insurance as provided by a foreign Ministry of Defence.

4.6.7. Age requirements for school students

Applicants for school studies must be of an appropriate age to the entry level for their school course. The age requirement applies to all school sector students, regardless of their country of citizenship.

The appropriate age for entry to different school levels are specified in clause [500.216](#) as follows:

- at least 6 years old at time of application
- less than 17 when commencing Year 9
- less than 18 when commencing Year 10
- less than 19 when commencing Year 11
- less than 20 when commencing Year 12.

A child under six years old is able to study for up to three months on a visitor/tourist visa.

An applicant would meet this criterion if they apply for a further visa to complete their studies where they have passed the stipulated age only if they:

- have commenced studies prior to reaching the stipulated age, and
- require an additional visa to complete the studies, and
- meet all other criteria for grant of the visa such as GTE.

For example, where a student's visa will expire part of the way through Year 12 and they commenced Year 12 at age 19, they may be granted a further visa to complete Year 12 even though they have turned 20 by the time they apply for the further visa.

4.6.8. Family members – Overview

Clause [500.3](#) sets out the criteria that must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

4.6.8.1. Eligibility

Certain family members may apply for a student visa as a dependant to either accompany or join the student in Australia.

Any person claiming to be the member of the family unit of a person who satisfied the primary criteria for the grant of a student visa may be assessed against the secondary criteria. If a decision maker finds that the applicant cannot satisfy the secondary criteria because the applicant is not a **member of the family unit** of a person who has satisfied the primary criteria, this applicant must themselves be assessed against the primary criteria before their application can be refused. If this applicant satisfies the primary criteria, the decision maker must grant a visa on this basis.

A visa application by a family unit member will fail unless the student is granted a visa.

4.6.8.2. Member of the family unit

As per regulation [1.12](#), a person is a **member of the family unit** of an applicant for or holder of a student visa if the person is:

- a **spouse** or **de facto partner** of the applicant, and at least 18 years old or
- an unmarried **dependent child** under 18 years.

For further information refer to:

- [Act defined terms - s5F – Spouse](#)
- [Act – defined terms – s5CB – De facto partner](#)
- [s5G - Relationships and family members - Child-parent relationships.](#)

4.6.8.3. Members of the family unit must be declared

Regulation 2.07AF requirements

The family member/s must either be included in the student's initial application to come to Australia or, in limited circumstances, after the student has been granted a student visa.

Regulation [2.07AF](#)(3) requires all existing family unit members to be declared on the initial student visa application, regardless of whether or not they intend to join the

student in Australia at a later stage. Declaring family members upfront is important for assessing the genuineness of the application, including the GTE criterion.

An exception applies to those who became a family member after the primary applicant was granted a visa.

Family members must provide proof of the relationship to the primary student visa applicant in accordance with regulation [2.07AF\(3\)](#) at time of application. Regulation [2.07AF\(4\)](#) however requires a student to notify Home Affairs in writing if a person becomes a member of their family unit between the time the student applies for their visa and the time of decision. For further details, refer to Adding family members to an application after it is made.

Schedule 2 requirements

Under clause [500.311](#), a family unit member who was not declared on the student's visa application is not eligible to be granted a subsequent visa as a dependant of a student visa holder, unless they became a member of the family unit of the primary applicant after the grant of the student visa to the primary applicant (for example, by marriage or birth) and before the subsequent application was made. Satisfactory evidence is required such as officially issued birth or marriage certificates.

Claims that student visa holders "forgot" to include family unit members in their initial application should prompt the decision maker to investigate whether the claimed family member is in fact a member of the family unit as defined for student visa purposes in regulation [1.12](#). It is open to the primary applicant to re-apply for a new student visa and include their previously undeclared family member(s) in the new application. However, these cases need to be treated cautiously when considering the overall genuineness of the applicants.

4.6.9. Genuine applicant for entry and stay as a family member

4.6.9.1. Overview

To be granted a student visa, family members are required to satisfy the GTE criterion and prove they are a genuine applicant for entry and stay as a member of the family unit of the primary applicant (student).

Clause [500.312](#) sets out the three criteria that must be satisfied in determining whether the applicant is a genuine for entry and stay as a family member of the student:

- genuine temporary entrant
- intention to comply with visa conditions, having regard to the applicant's:
 - record of compliance with conditions of a visa or visas previously held by the applicant and
 - stated intention to comply with conditions for which the visa is granted
- any other relevant matter.

4.6.9.2. GTE for family member applicants

Overview

The GTE criterion requires the decision maker to be satisfied that the applicant intends genuinely to stay in Australia temporarily.

[Ministerial s499 direction no. 69 - Assessing the genuine temporary entrant criterion for Student and Student Guardian visa applications](#) (the GTE s499 direction) provides officers with guidance on the (for secondary applicants) five factors that must be taken into account when assessing the GTE criterion for student visa applications:

- the applicant's circumstances in their home country
- the applicant's potential circumstances in Australia
- the applicant's immigration history
- if the applicant is a minor - the intentions of a parent, legal guardian or spouse/de facto partner of the applicant
- other relevant matters.

(For secondary applicants, the value of the course to the applicant's future is not a relevant consideration.)

Decision makers are bound by the [GTE s499 direction](#) and must refer to it in assessing a student visa application.

Complex cases

Overview

Five situations in which a member of the family unit might not be a genuine temporary entrant and further scrutiny may be required are:

- the applicant is applying for a student visa as the member of the family unit, one to two months prior to the cessation of their own student visa and may be using the visa primarily to maintain ongoing residence
- the relationship does not follow cultural norms, for example adding a de facto partner to the visa application in circumstances where this type of relationship hardly ever exists in that culture
- limited information is provided with the application to substantiate the relationship
- either the student or the subsequent dependant have been previously married
- the student has a poor study record in Australia.

If any of the above circumstances appear to apply to an applicant, officers will need to examine the applicant's individual circumstances as a whole to determine whether the genuine temporary entrant criterion is satisfied.

In the case of relationships that are suspected to be contrived for visa purposes, officers must also consider whether the relationship is genuine for the purposes of the applicant being a member of the family unit (as defined) for the purposes of clause [500.311](#).

Minors

When assessing the genuine temporary entrant criterion for minors, decision makers must also have regard to the intentions of a parent or legal guardian, or the minor's spouse/de facto partner (if both minor and spouse/de facto partner are at least 16 years old). This is because a minor might not have the maturity to be capable of making decisions, including forming intentions in relation to immigration matters.

If an interview is to be conducted to seek further information or clarification for the assessment of the intentions of a parent or legal guardian, or the minor's spouse/de facto partner (if both the minor and spouse/de facto partner are at least 16 years old), it is the parent, legal guardian or spouse/de facto partner who should be interviewed. If necessary information can be obtained only by interviewing the minor, the parent, legal guardian or spouse/de facto partner should be present for the interview, and care should be taken with questions directed at the minor.

Subsequent entrants

The situation may arise where a subsequent entrant applicant is found not to be a genuine temporary entrant even though the student visa holder nominating them had earlier satisfied the genuine temporary entrant criterion. An example is where the secondary applicant entered into a contrived marriage with a student visa holder so that the secondary applicant could enter and remain in Australia on the basis of being the visa holder's family member.

Depending on the circumstances of the case, the student visa holder may need to be referred to Compliance for possible visa cancellation. Refer to [General visa cancellation powers \(s109, s116, s128, s134B and s140\)](#).

Intention to comply with visa conditions – family member applicants

Refer to the corresponding guidance in relation to primary applicants in Assessing a student visa application - [Genuine applicant for entry and stay as a student](#) (clause 500.212) - [Intention to comply with visa conditions](#).

Any other matter – family member applicants

After the 'GTE' and 'intention to comply with visa conditions' criteria are satisfied, further consideration is given to whether the applicant is a genuine applicant for entry and stay as a member of a family of a student having regard to the catch all criterion of "any other relevant matter".

As outlined in the guidance provided for primary applicants at [Any other relevant matter](#), in most cases there will not be any 'any other matters' that are relevant to the applicant's specific circumstances.

Financial requirement for family members (clause 500.313)

As with primary applicants, all secondary applicants for a student visa must have sufficient funds to cover costs and expenses for themselves and any family

applicants for the duration of the intended stay in Australia. The funds must be accessible and be available to financially support the applicant in Australia.

For guidance on financial requirements for family member applicants, refer to

Assessing a student visa application - [Financial capacity evidence](#) (clause 500.214):

- Combined applications are covered under [Amount of funds to demonstrate](#) because the evidence must cover all applicants included in the application and can be used to meet secondary criteria as well as the primary criteria.
- Subsequent entrant family member applicants are covered under Financial requirements for subsequent entrant applicant family members.

4.6.9.3. Health insurance for accompanying family members (clause 500.314)

Family members of students must provide evidence of adequate arrangements in Australia for health insurance before a visa can be granted (clause 500.314). This approach ensures that the family members of students can meet the cost of the medical and hospital care during their period of stay in Australia.

Family unit members applying outside Australia to join a student already in Australia should provide details of their policy with their application.

Arrangements for family members of Endeavour Award students, Defence students and DFAT students are covered under their own headings in the section 'Health Insurance (OSHC)'

Health insurance must be taken out for the entire proposed visa period.

For more information, refer to:

- [Health insurance](#)
- [Sch4/4005-4007 - The health requirement](#)
- [Condition 8501 – Maintain health insurance.](#)

4.6.9.4. Education of school age dependants (clause 500.315)

Overview

Clause 500.315 requires the applicant to provide evidence of adequate arrangements for the education of any [School-age dependant](#) if the intended duration of stay is more than 3 months.

'[School-age dependant](#)' is defined in regulation 1.03 as a member of the family unit who has turned 5, but has not turned 18.

A student visa holder is considered to be maintaining adequate arrangements for a school-age dependant's education if they satisfy the relevant legislation for education in the State/Territory in which they are residing. In all States/Territories, children must commence their education, at the latest, in the year the child turns 6. The age students are permitted to leave school varies by jurisdiction, however, in all

States/Territories students must remain in education, either at school or through some combination of training and employment, until the age of 17.

Conditions [8517](#) and [8518](#) require that adequate education arrangements be maintained while the visa is held. For more information refer to:

- in this instruction, [Conditions 8517 and 8518 - Maintain education of school-age dependants](#)

If outside the State/Territory compulsory education age at the time of visa decision

If the child is a school-age dependant at the time of visa decision, but has not yet reached the compulsory age for education in the State/Territory in which they reside, the primary applicant will be required to demonstrate that adequate arrangements have been made for the child to commence school once the child reaches the compulsory age for education, as per clause [500.315](#).

If the child is under 5 at the time of visa decision, the primary applicant is not required (for grant of the visa) to demonstrate adequate arrangements for the child's education. However, to comply with visa conditions [8517](#) and [8518](#), the child must commence schooling once they reach the compulsory age for education.

If a dependant is 17 (and so still falls within the school-age dependant definition because they have not turned 18) but is no longer under the age of compulsory education in their State/Territory of residence, evidence of enrolment is not required to demonstrate adequate arrangements for their education.

Enrolment requirements for school-age dependants

Evidence of enrolment in an Australian (government or non-government) school at the time of visa decision is typically considered adequate. Generally, therefore:

- students should enrol and pay any school fees required for each school-age dependant proposing to stay in Australia for more than 3 months. (Official CoE for students attending government schools is issued through the relevant State/Territory education department)

and

- the school-age dependant should produce evidence of enrolment (for example, preferably an original letter from a provider or the relevant State/Territory education department giving enrolment details and fees paid) before prescribed criteria for a student visa may be considered satisfied.

In some instances schools will not issue a CoE until the student has been granted the visa and arrived in Australia. In these circumstances a letter of offer for a placement in a school that is conditional on the applicant arriving in Australia would also be considered adequate.

Situations in which schools will not issue a CoE, or at minimum, a letter of offer, until the applicant takes residence in their catchment area should be considered on a case by case basis. In these situations, the decision maker should be satisfied the applicant:

- has done everything reasonably in their power to secure enrolment for the child in a school in their intended area of residence in Australia and
- understands the need to enrol the child as soon as possible after arriving in Australia and
- intends to comply with the conditions of their visa.

Defence students are not required to provide evidence of enrolment for school-age dependants at the time of visa decision. This is because Defence arranges the applicant's placement and accommodation in Australia and the applicant may not be aware which school their dependant will attend before they arrive in Australia. Officers can be confident that Defence will impose this requirement on their students and that school-age dependants will be enrolled in school once they arrive in Australia.

Other arrangements

If unusual educational arrangements proposed on, for example, grounds of location, religious or cultural requirements do not appear to meet the 'adequate arrangements' test, the proposed arrangements should be brought to the attention of this instruction's owner for consideration.

An example of well-recognised and strong cultural requirements is dependent female spouses under 18 in circumstances where it is not culturally appropriate for them to attend classes in a western country unchaperoned.

The 'adequate arrangements' test could include enrolment in a registered school or home-school arrangements approved by the local State/Territory authority. Generally, for parents proposing to home-school their children in Australia, arrangements should be considered as adequate only if the parents can demonstrate that they have registered with their local State/Territory education authority to provide home-schooling.

The national charging policy

About the national charging policy

State/Territory governments operate a national charging policy, in cooperation with the Australian Government, for the education at government schools of school-age dependants accompanying international students to Australia.

Most State/Territory government schools and private schools also charge substantial school fees and/or apply various enrolment restrictions on school-age dependants. Applicants who wish to bring school-age dependants to Australia should seek information about these matters from their intended education provider prior to enrolment.

Exemptions

Certain students (and, it follows, their family unit members) may be exempted from the national charging policy. If this is the case, the sponsorship leading to their exemption from the national charging policy is considered sufficient for the applicant to satisfy criteria relating to school fees.

Depending on State/Territory education department policy, exemptions from the national charging policy may include:

- Australian Government sponsored students (including Foreign Affairs/ Defence students and RTP/IPRS holders)
- students with sponsorship or scholarship from certain Australian non-government organisations. (Approval of non-government scholarships is a State/Territory responsibility; details of such scholarships are available from the relevant State/Territory education authority.)

Despite being exempted from the national charging policy, such students are still required to supply evidence of enrolment of school-age dependants – refer to visa conditions [8516](#), [8517](#) and [8518](#).

Proof of exemption

Students exempt from the charging policy can be identified by their providing a letter identifying them as the holder of a scholarship of a kind that may exempt them from the charging policy. State/Territory governments are, however, increasingly moving to impose charges of various amounts on all family unit members. Students should be made aware of the likelihood of fees and encouraged to check with the State/Territory authorities before finalising visa arrangements.

4.6.9.5. Family members of Foreign Affairs/Defence students (clause 500.316)

Family members of Foreign Affairs/Defence students require the support of the relevant Minister for grant of the student visa.

4.6.10. Public interest criteria (PICs) – All cases

4.6.10.1. Overview

Clauses [500.217](#) and [500.316](#) set out the PICs. Most of the PICs prescribed apply to both primary student applicants and secondary (family member) applicants.

4.6.10.2. PIC 4001 – Character

PIC 4001 applies to all primary and secondary applicants. For policy and procedure, refer to:

- [Character and security - Penal checking handbook](#)
- [Character and security – Regulation 2.03AA, character tests and security assessments](#)

- [Character and security – s501 – The character test, visa refusal and visa cancellation.](#)

4.6.10.3. PIC 4002 – Security requirement

PIC 4002 applies to both primary and secondary applicants.

Assessing PIC 4002 (“the security requirement”) involves security checking the visa applicant in strict accordance with the procedures set out in the Security Checking Handbook (SCH) – refer to:

- Sch4/4002 - PIC 4002 - The security requirement
- [Character and security - Security Checking Handbook](#)
- [Code of Procedure – Notification requirements](#)

PIC 4002 applies to all student visa applicants whether seeking to satisfy primary criteria or secondary criteria.

4.6.10.4. PIC 4003- Foreign Minister requirements

PIC 4003 applies to both primary and secondary applicants.

For 4003(a), refer to:

- [Sch4/4003\(a\) - Foreign Minister requirement - Foreign policy interests](#)
- [Character and security - Foreign policy travel sanctions and autonomous travel sanctions.](#)

For 4003(b), refer to:

- [Sch4/4003\(b\) - Foreign Minister requirement – WMD](#)
- [Character and security - Proliferation of weapons of mass destruction - Risk assessment procedures.](#)

For 4003(c), refer to:

- [Sch4/4003\(c\) - Foreign Minister requirement - Autonomous sanctions](#)
- [Character and security - Foreign policy travel sanctions and autonomous travel sanctions](#)

If the systems message <refer to competent authorities> appears when processing a student visa application, refer to:

- [Character and security - Proliferation of weapons of mass destruction - Risk assessment procedures](#)
- [Sch4/4003\(b\) - Foreign Minister requirement – WMD](#)
- form 1221 (Additional personal particulars information).

4.6.10.5. PIC 4004 - Debts to the Commonwealth

PIC 4004 applies to both primary and secondary applicants.

PIC 4004 requires that an applicant not have outstanding debts to the Commonwealth unless the decision maker is satisfied that appropriate arrangements have been made for payment.

As a matter of policy, in most circumstances it is expected that the debt be paid in full before the visa is granted. The process for requesting and verifying payment is set out in [Sch4/4004 - Debts to the Commonwealth](#).

If an applicant has a debt to the Commonwealth, a decision maker can be satisfied that appropriate arrangements have been made if certain elements are met, as outlined in [Sch4/4004 - Debts to the Commonwealth](#).

4.6.10.6. PIC 4005/4007 - Health requirement

All primary and secondary student visa applicants are required to meet certain health requirements.

Australia's health requirements are designed to:

- minimise public health risks to the Australian community
- contain public expenditure on health and community services
- ensure that Australian residents have access to health and other community services.

Foreign affairs students, defence students and their accompanying family members must be assessed against PIC 4007. All other student visa applicants and their accompanying family members must be assessed against PIC 4005.

For more information on meeting the health requirements refer to [Sch4/4005-4007- The health requirement](#).

4.6.10.7. PIC 4012A - student welfare (primary applicants only)

Overview

In order for a student under 18 years old to be granted a student visa they must demonstrate that they have adequate welfare arrangements in place for the length of the student visa or until they turn 18. PIC 4012A is not a requirement for members of the family unit.

PIC 4012A requires students under 18 years old to:

- express a genuine intention to reside with a parent or legal custodian, or a relative (as defined in regulation 1.03, see 'Relative' definition below) who is at least 21 years old, who has been nominated by the student's parent/custodian, and who is of good character

or

- give evidence that the student's education provider approves the arrangements for the student's accommodation, support and general welfare for the length of the CoE plus seven days at the end of the CoE

or

- if the applicant is a Foreign Affairs student or Defence student, for appropriate welfare arrangements to be approved by the Foreign Minister or Defence Minister.

or

- an AASES form

PIC 4012A - Evidence of welfare arrangements provided by a parent/legal custodian or relative

Overview

If the student intends to reside with a parent, legal custodian or suitable relative, form 157N must be provided even if the student's parent/custodian is nominating a relative on a temporary or permanent visa (other than a Student Guardian visa) who is already present in Australia.

If a parent/custodian or relative provides welfare arrangements

If the student's welfare arrangements are not being approved by their education provider, officers must be satisfied that the student will physically reside with a parent/custodian or nominated relative who is at least 21 and of good character.

'Relative' definition

Nominated relatives must be a 'relative' of the student visa applicant as set out in paragraph (b) of the regulation 1.03 definition of [relative](#).

Under this definition, only spouse/de facto partner, child, adopted child, a parent, brother, sister or step equivalent, a grandparent, grandchild, aunt, uncle, niece or nephew, or a step-grandparent, step-grandchild, step-aunt, step-uncle, step-niece or step-nephew can be nominated relatives for PIC [4012A](#) purposes. Cousins or relatives with a different family relationship to the student visa applicant than those stated above do not meet requirements to be nominated as a student guardian.

Officers should also note that titles such as "auntie" often have a cultural connotation in some countries, which may not meet the required legislative definition of relative.

The parent/custodian or relative's immigration status

Officers need to be satisfied that the parent/custodian or nominated relative will be residing in Australia for the period of the student's stay (while under 18). For this to be demonstrated, the parent/custodian or nominated relative must have the right to

reside in Australia. This may be demonstrated by evidence as provided in form 157N that they:

- are an Australian citizen
- hold a permanent visa
- hold a Subclass [590](#) (Student Guardian) visa or other substantive temporary visa (does not include Bridging visas) permitting them to remain for the duration of the student's study and stay, or until the student turns 18 (whichever is the lesser period). An application by the family member for a student guardian visa may be made and considered at the same time as the student's visa application.

If the parent/custodian or relative does not hold a permanent or other temporary substantive visa but has made a valid application for one, that visa application must be decided before the student visa can be considered for grant. Otherwise the student visa applicant will be unable to meet PIC[4012A](#). For student guardian cases, refer also to [Sch2Visa590 – Student Guardian](#).

Australian address

Form 157N requires that a nominated relative must provide a residential address in Australia. If only a business address for the nominated relative is provided, the decision maker should not be satisfied that the student will be residing with the relative. In such circumstances officers should ask that a home address be provided or the parent/custodian should be advised to name another relative or obtain an accommodation/welfare undertaking from the education provider.

Character test

The nominated relative must be of good character. For guidelines on character checking, first refer to [Character and security - s501 - The character test, visa refusal and visa cancellation](#).

Standard penal checking applies (that is, for each country where the relative has, since turning 16, resided for one year or more in the last 10 years). If a relative resides or has resided in Australia during the relevant period, they must provide a "complete disclosure" AFP certificate which covers the full period of their residency in Australia.

This penal check/s should in most circumstances be sufficient to establish if a nominated relative is of good character. If officers have other information or evidence that raises serious concern about the person's conduct towards minors, it is also open to them to email the details to [Cancellation Support mailbox](#) for additional checking. Note: These checks can be made only if the relative is residing in Australia.

This checking is in addition to normal penal checking procedures only in exceptional cases.

For assistance with checking contact the Student visa helpdesk.

PIC 4012A - Evidence that the education provider approves welfare arrangements

The standard letter, Confirmation of Appropriate Accommodation and Welfare (CAAW) must be issued by the education provider in PRISMS for applicants other than secondary exchange students.

Secondary exchange students' welfare arrangements are detailed in their AASES form.

The relevant data on the CAAW, including the start and end dates of the nominated welfare period is sent to ICSE via PRISMS.

Assessing PIC 4012A if education provider makes welfare arrangements

If enrolled in 2 or more courses with different providers

Students under 18 who are enrolled in 2 or more courses with different providers must supply evidence that PIC 4012A is satisfied in relation to each course. That is, if the student is not staying with a parent/custodian or relative, they should provide a statement from each provider they are enrolled with while under 18 confirming that adequate welfare arrangements have been made.

Home Affairs officers should also ensure that there are no gaps between the welfare periods nominated by each provider. If there is a gap between the welfare periods and the providers will not extend their nominated welfare periods to cover the gap, the visa should be granted only for the period for which there are continuous approved welfare arrangements.

Secondary exchange students

For secondary exchange students a CAAW is not required as the AASES form contains details of the approved welfare arrangements.

Assessing PIC 4012A if student seeks more than one type of welfare arrangement

Students who are under 18 who seek to put in place more than one type of welfare arrangement can be considered provided there are no gaps.

For example, a student can nominate a parent to accompany them to Australia (either as a guardian on an appropriate visa or as a [Subclass 590 \(Student Guardian\) visa](#) holder for a specified period of time and then move into welfare arrangements made by their education provider and evidenced in a CAAW.

PIC 4012A – Evidence that Foreign Minister or Defence Minister approves welfare arrangements

PIC 4012A requires Foreign Affairs student and Defence students to have arrangements for their accommodation, support and general welfare to be approved by the Foreign Minister or the Defence Minister.

This requirement is taken to be met through the issue and presentation of the support letter from the Foreign Minister or the Defence Minister.

Students who will turn 18 after visa grant but prior to arriving in Australia

PIC [4012A](#) is applicable to all students who have not turned 18 at the time of decision. This includes cases where a student will turn 18 prior to their arrival in Australia.

Condition 8532 applies to all student visas, and requires that if under 18 the visa holder must have adequate welfare arrangements if they are in Australia. If a minor chooses to travel prior to turning 18 they must therefore be accompanied by an appropriate relative, or have CAAW issued by their education provider, or their visa is liable for cancellation.

Students who will turn 18 after they apply but before they enter Australia must submit Form 157N with questions 1-8 completed and signed by the parent or legal guardian. No welfare arrangements are required.

Refer to Student visa conditions – [Condition 8532 - Maintain welfare arrangements for minors](#)

4.6.10.8. PIC 4017- Custody (parental responsibility) and best interests of child

For student visas, Schedule 4 PICs [4017](#) and [4018](#) relate to the welfare of minors apply to both students under 18 and student family members under 18.

The PIC 4017 criterion operates to preclude the grant of a visa to the minor if there are unresolved custody/residence issues concerning the applicant. This is to ensure that the visa grant and travel of the child to Australia does not conflict with parental rights/responsibilities that a person (for example a non-custodial parent) may have under the laws of the minor's home country, including local court orders.

Refer to [s5G - Relationships and family members - Custody \(parental responsibility\) for minor children](#).

4.6.10.9. PIC 4020 - Fraud

PIC [4020](#) applies to both primary and secondary applicants.

For policy and procedure on PIC [4020](#), which applies to all student visa applications made on or after 5 November 2011, refer to [Public Interest Criterion 4020 – The Integrity PIC](#).

4.6.11. Special return criteria (SRC)

Clauses [500.218](#) and [500.318](#) set out the SRC.

4.6.11.1. Overview

A visa applicant, whether currently within or outside Australia must satisfy Schedule 5 SRC SRC 5001, 5002 and 5010. SRC regulate exclusion periods for certain visa holders or former visa holders. Refer to [Visa cancellation instructions – Exclusion periods](#)

4.6.11.2. SRC 5010

SRC 5010 applies specifically to certain holders or former holders of student visas.

4.6.11.3. Foreign Affairs students

Foreign Affairs sponsored students (and any family member applicants) are expected to leave Australia and return to their home country to use their skills and knowledge gained in Australia for 2 years before they may apply for a further temporary or permanent visa for entry to Australia, unless, under SRC 5010(3)(c), the course or training was 12 months or less (for example, Fellowship recipients in the DFAT Australia Award program).

Supporting this aspect of student visa program policy, SRC 5010, which applies to most visa subclasses, requires former Foreign Affairs students (and any family member applicants) wishing to return to Australia within 2 years of ceasing or completing their course generally to have the support of DFAT before the visa can be granted.

If a person is granted a subsequent visa but has not spent a full 2 years outside Australia since ceasing their course, the 2 year “exclusion period” remains in force for any further visa applications.

4.6.11.4. Support for grant of the visa

Under SRC 5010(5)(a), DFAT support or the support of the government of the foreign country that provided financial support to the applicant is required.

If DFAT has not already provided their comments as to whether a visa grant is supported, procedurally it is Home Affairs’ responsibility (not the visa applicant’s) to email the Scholarship Management Section, DFAT (scholarships@dfat.gov.au) seeking DFAT’s comments as to whether the visa grant is supported.

DFAT must be given reasonable opportunity to support (or not to support) the visa being granted. If DFAT either does not support visa grant or does not respond within a reasonable time, officers must consider whether to invoke the waiver provision under SRC 5010(5)(b).

4.6.11.5. Certain foreign government sponsored students

All Iranian government sponsored Iranian students must provide a letter of support from the Iranian government to meet SRC 5010.

All Iraqi government sponsored Iraqi students (including the Kurdistan Regional Government) must provide a letter of support from the Iraqi government to meet SRC 5010.

4.6.11.6. Schedule 5 waiver provision

SRC 5010(5)(b) allows the requirement for DFAT/foreign government to support a visa grant to be waived if justified by:

- compelling circumstances affecting Australia's interest or
- compassionate or compelling circumstances affecting the interests of an Australian citizen, eligible New Zealand citizen or Australian permanent resident.

For further information on these circumstances refer to Visa cancellation instructions – Exclusion periods

Delegations

Under policy, s65 delegates of at least Executive Level 1 may decide whether an applicant satisfies the relevant criteria and decide such applications. Case officers should prepare a submission providing details of the applicant, supporting information from the applicant, the response from DFAT and information on any other circumstances that are relevant. The submission should then be referred to the Executive Level 1 officer for a decision on the waiver specifically and, on the visa application as a whole.

Test the waiver

If DFAT indicates that visa grant is not supported, the visa application must be tested against the waiver provision. Officers must at least consider waiving the criterion even though the power to exercise the waiver is non-compellable. They are not compelled to exercise the waiver, however, even if the case meets the strict 'compelling/compassionate' requirements of the waiver provision.

Policy considerations

It is critical that officers give full weight to the importance of this Schedule 5 criterion in supporting Government policy and its aid program objectives. In particular, officers should keep in mind that exercising the waiver and granting a temporary visa (whether in or outside Australia) potentially allows the visa holder to apply for a range of onshore residence visas that are not otherwise available to former Foreign Affairs students and that do not require the applicant to have DFAT support for their application.

Documenting decisions

An officer who is inclined to favourably consider waiving this Schedule 5 criterion must fully document (on both the case file and data base) the arguments for waiver, taking into account, for example:

- any information from DFAT
- the Government policy objective underlying this criterion – refer to [Role of DFAT and Defence](#)

Notifying DFAT

Officers are to inform DFAT of all cases where the waiver is exercised, that is, cases where a visa is granted even though DFAT did not support visa grant. However, for privacy reasons, officers are not permitted to inform DFAT as to which subclass of visa was granted.

An officer who is not inclined to favourably consider waiving the Schedule 5 criterion must, in accordance with the Code of procedure, first give the applicant an opportunity to comment - refer to [PAM3: Act - Code of procedure - Notification requirements](#). Reasons for not waiving must be fully documented (on both the case file and data base).

4.7. Recording a decision

4.7.1. Decision to grant a visa

4.7.1.1. Overview- legislative provisions

The circumstances in which a student visa can be granted are set out at clause [500.411](#). It states that the applicant can be in or outside Australia, but must not be in immigration clearance.

Clause [500.511](#) specifies that the Subclass [500](#) (Student) visa is a temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the decision maker. Refer to Visa grant period.

Student visas are granted subject to several conditions intended to govern the stay in Australia of students and their families. Schedule 2 Division [500.6](#) specifies:

- the Schedule 8 conditions that are ‘mandatory’ (that is, the conditions that must be imposed), or are ‘discretionary’ (that is, may at the decision maker’s discretion be attached to the grant of that subclass of student visa to students and student dependants) and
- the circumstances in which the mandatory and discretionary conditions apply.

Note that the conditions that attach to visas granted to family unit members are not necessarily the same as those which attach to visas granted to students.

4.7.1.2. Grant of a student visa will cease the substantive visa held by the applicant

Section [82\(2\)](#) of “the Act” provides that a substantive visa ceases to be in effect if another substantive visa (other than a special purpose visa) comes into effect for that person.

Decision makers must establish whether an applicant holds another substantive visa immediately prior to the grant of a student visa. Case officers may need to contact the applicant to inform them that the grant of the student visa will automatically cease the substantive visa they hold. The option to withdraw the student visa application should also be presented to clients in this situation who may not be aware of their current visa status.

4.7.1.3. If the visa grant occurs after course start date

If the visa grant will occur after the start date of the CoE, officers can request the student provide confirmation that it is acceptable to commence the course late.

4.7.2. Visa grant period

Clause 500.511 sets out the visa grant period.

4.7.2.1. Maximum grant period - General arrangements

With the exception of student of primary school age, the maximum period of effect for a student visa is generally 5 years. If a student is packaging two or more courses together, the visa would be granted to the end of the course ending before 5 years.

Excessive or unusual course progression - for example if a package spans several qualifications and sectors - would not support a visa grant of over 5 years.

This policy does not prevent students from applying for further student visas to allow them to study in Australia for more than 5 years, for example, if a student has held a student visa for four years (Bachelor) and applies for a further student visa to study a PHD.

Examples of visa grant periods for packaged courses

Officers can grant visas for more than 5 years if there is reasonable course progression where each course is a pre-requisite or foundation for the next course in the package - for example:

- Not acceptable – ELICOS (to) Bachelor (to) Bachelor (no course progression)
- Acceptable – ELICOS (to) Diploma (to) double Bachelor degree (taking 4 years, or specialised undergraduate degree taking 4 or more years full time, such as Architecture).

4.7.2.2. Visa grant period for primary school students

To help manage increased welfare and immigration risks associated with the younger and more vulnerable students, a reduced visa grant period covering two years of school studies will apply to primary school students. If a student enrolls mid-year, the visa grant period may be extended for a period to cover two and a half years, to align with the end of the Australian school year, 31 December.

In very limited cases, an officer can use their discretion to extend the visa grant period beyond two years. These circumstances are limited to cases where there are

no integrity concerns and it is reasonable to do so - for example, a 7 year old has applied for a student visa to study Years 1 to 4 (four years) because a parent has been deployed with the army (for the four years) to a country that is not suitable for the student to attend school.

The two-year visa grant period does not apply to high school students. A visa can be granted to a student seeking to study five years in primary and secondary provided the primary component does not exceed two years. Therefore, a visa grant period of five years would be permitted to enable a student to progress from year 5 in primary school to year 9.

4.7.2.3. The student visa end date

For students

The visa should be granted in accordance with the expiry date of the OSHC and if relevant, welfare arrangements, up to the maximum period as outlined above:

- students undertaking a course or package of courses that are 10 months or more duration finishing in November-December should be granted a visa that ceases 15 March of the year following course completion
- students undertaking a course or package of courses that are 10 months or more duration finishing in January to October should be granted a visa that ceases two calendar months after the expected date of course completion (as stated on the CoE)
- students undertaking a course or package of courses of less than 10 months' duration should be granted a visa that ceases one calendar month after the expected date of course completion. This excludes certain foreign government-sponsored Non-Award university students who should be granted a visa that ceases 15 March of the year following course completion. Refer to [For foreign government sponsored university students](#).
- students who apply with a new COE to complete a course they have already commenced should be granted a visa based on the new COE only. The period of grant will depend on the length of that COE and the date of expected completion based on the three principles above. For example, if the COE covers a study period of 11 months and the course end date is 30 November, the visa should be granted that ceases 15 March of the following year.

For primary school students

For primary school students the visa end date should align with the end of the Australian school year, generally 31 December. Refer to [Visa grant period for primary school students](#).

For postgraduate research students

All initial Postgraduate Research visa recipients are to be granted an additional six months on the length of their visa on top of what is normally granted for other student visa sectors. This additional time allows these students to remain in Australia during the interactive marking of their thesis. Applicants who:

- are undertaking a course of more than 10 months duration finishing in November-December should be granted a visa that ceases 15 September (an additional 6 months from 15 March) of the year following course completion or
- are undertaking a course of more than 10 months duration finishing in January to October should be granted a visa that ceases 8 calendar months (2 months that would have been granted under general circumstances and an additional 6 months for interactive thesis marking) after the expected date of course completion.

A visa applicant may request that the additional 6 months not be granted (for example, if they do not intend to write a thesis or do not intend to stay in Australia for the marking period). Also, another party (such as a foreign government providing funding for a government scholarship over a defined period of time) may also request that the visa be granted without the additional six months.

Postgraduate Research visa holders who are in Australia and require additional time to complete their interactive marking process may be granted a further student visa for this purpose only for a maximum period of 6 months. If visa holders require extra time at the end of this period, they may be granted further consecutive visas, though never for a period exceeding 6 months at a time.

These visa holders must provide appropriate supporting evidence (that is, a letter from their education provider) that they are required to remain for this purpose. The visa should be granted in accordance with the end date nominated by the provider in the letter (as long as this period does not exceed 6 months at a time). If there is no end date nominated by the education provider the visa should be granted for 6 months from the date of the education provider's letter.

This option is not available to visa applicants undertaking a masters degree by coursework.

For foreign government sponsored university students

Students undertaking a course of less than 10 months duration and finishing in November-December should be granted a visa that ceases 15 March of the year following course completion if all of the following circumstances are met:

- the student is sponsored by their national government (for example, the Brazilian "Science Without Borders" students).

For Foreign Affairs students

DFAT award scholarships (long term) and fellowships (short term – less than 12 months).

For Fellows, the visa should be granted to seven days after the fellowship end date in the Letter of Support (letter of offer).

For Scholars, the visa should be granted to one month after the course end date in the Letter of Support (Schedule 1 of the Acceptance of Offer letter).

For Defence students

The Letter of Support provided by Defence will include the required visa period. Officers should refer to the visa end date in this document.

For secondary exchange students

Approved secondary exchange students should be granted a visa corresponding to the period of exchange, as per the end date (generally the end of December) shown on the AASES form, unless the student will still be under 18 at the completion of the exchange program, in which case they should be granted a visa according to the nominated welfare dates on the AASES form.

For family members

Family unit members accompanying or joining the student should be granted visas corresponding to the end date of the student's visa, unless that family member turns 18 during the period of the student's study.

If a student's dependent child will turn 18 before the student completes their course, unless specified by a sponsoring government, the dependent child's visa should be granted:

- if the dependent child's birthday falls between 1 January and 30 June - until 31 July in the year the dependant turns 18
- if the dependent child's birthday falls between 1 July and 31 December - until 31 December in the year the dependant turns 18.

This allows the dependent child to complete their current semester of study if enrolled. This will also avoid a situation of a dependent child who is about to complete their course of study needing to apply for a further student visa as a primary applicant for only a very short period.

If the **student's** visa ceases before their dependent child turns 18, the dependent child's visa should be granted with the same cease date as the student. If the dependent child requires a further visa beyond this period to complete their course, they should apply for their own student visa in accordance with the sector of education specified for their course.

4.7.3. Student visa conditions

Division [500.6](#) sets out Student visa conditions.

4.7.3.1. About visa conditions

Student visa holders must comply with the conditions of their visa.

Student visa conditions are designed to ensure that international students act in a manner that is consistent with the purpose for which their visa granted, for example maintaining enrolment in a registered course of study.

4.7.3.2. Condition 8104/8105 – Limited work (students and family members)

About 8104 and 8105

Conditions 8104 is mandatory for all student visas granted to secondary applicants. Conditions 8105 is mandatory for all student visas granted to primary applicants.

4.7.3.3. Condition 8104 work limitation (family members)

Overview

Condition 8104(1) states that the holder 'must not engage in work for more than 40 hours a fortnight'.

Condition 8104 restricts family member from undertaking work (voluntary work may be permitted in certain circumstances) until the primary student has commenced their course of study in Australia. It also restricts them to no more than 40 hours of work a fortnight.

Under condition 8104, family members of students who have commenced a masters by research or coursework, or a doctorate degree are permitted to work unrestricted hours.

If the student has commenced a preliminary course only (for example an ELICOS course), their dependants are restricted to 40 hours a fortnight of work until the student has commenced their masters or doctorate course. After which, they are permitted to work unlimited hours.

Children under school leaving age - State/Territory law prevails

All States/Territories prohibit by law the employment of children under the school leaving age (in most instances, 17 years old) during school hours. Although a child might, in terms of student visa conditions be permitted to work a limited number of hours, they must still comply with State/Territory laws at all times.

4.7.3.4. Condition 8105 work limitation (primary visa holders)

About 8105

Condition 8105 restricts students to 40 hours work per fortnight while their course is in session. They are not permitted to work until their course has commenced.

When their course is not in session they may work unlimited hours.

Students who have commenced a masters by research or a doctorate course may work unlimited hours after commencing their postgraduate research course.

Condition 8105 - working between course sessions

Condition 8105 states that holders are also not permitted to work more than 40 hours a fortnight while their course of study or training in which they are enrolled is 'in

session', with the exception of those who have commenced a masters degree by research or doctoral degree.

However, this work limitation does not include work that is a registered component of the student's course of study or training for the award to be obtained.

Defining 'in session' and "out of session"

A course is considered to be 'in session':

- for the duration of the advertised semesters (including periods when exams are being held);
- if a student is undertaking another course during a break from their main course and the points will be credited towards their main course.

A course is considered to be 'out of session':

- during scheduled course breaks
- if the course has been deferred or suspended in line with [Standard 9 of the National Code of Practice for Providers of Education and Training to Overseas Students](#)
- if a student has completed their course as scheduled (as per dates listed on their CoE) and still holds a valid Student visa
- if a student's enrolment has been cancelled due to the default of their education provider, until they secure alternative enrolment and commence the course.

If the studies have been completed early but the CoE is still in effect, refer to Completing a course early.

Definition of 'work'

Work is defined in regulation 1.03 as an activity that, in Australia, normally attracts remuneration.

Determining what is included as work

A student visa holder can be considered to have engaged in work if they:

- have attended a place of work for a period by a roster or timesheet (but not during unpaid breaks)
- have been "clocked on" to an electronic system that records a work activity
- have received remuneration for work, as indicated in a payslip provided to the visa holder (unless documentary evidence is provided that they were not working during this time).

The following are examples of how the definition of work may be used in context:

- A person who undertakes a shift at a restaurant as part of a roster is engaged in work, but not during their rostered unpaid meal break.

- A taxi driver who has signed in and is ready to receive passengers is considered to be working, until at such time as they sign out for a break or when their shift has ended.
- A person has a payslip indicating they were paid for 25 hours work in one fortnight, but can provide a medical certificate that they were at home unwell for 15 of these 25 hours, meaning that they only worked for 10 of those hours.

Volunteer work

Work, as defined in regulation 1.03, does not include certain activities for which no remuneration is received. Student visa holders, and their dependants, who are subject to condition [8104](#) or [8105](#), may undertake volunteer work outside of the 40 hour work limitation if:

- their main purpose is to study in Australia and any voluntary work remains incidental to this and
- the work involved would not otherwise be undertaken by an Australian resident and
- the work is genuinely voluntary for a non-profit organisation and that no remuneration, in cash or kind, is received in return for the activity.

Unpaid work that does not conform to the description of volunteer work above must be undertaken within the work limitation.

Definition of 'fortnight'

Fortnight is defined in conditions [8104](#) and [8105](#) as the period of 14 days commencing on a Monday. Therefore the end of any fortnight would be at the end of the second following Sunday. The 40 hours a fortnight:

- relates to each fortnight during which the course of study or training is in session
- cannot be averaged out over the duration of the course.

The following scenario illustrates how the fortnight in condition [8104](#)/8105 is intended to work:

A student visa holder (primary or secondary visa holder) works the following numbers of hours over a four week period after the primary student visa holder's course has commenced:

- week 1: 15 hours work
- week 2: 25 hours work
- week 3: 25 hours work
- week 4: 10 hours work.

The student visa holder would not have breached their work conditions in the fortnight comprising the 14 days of weeks 1 and 2 (40 hours worked) or in the fortnight comprising the 14 days of weeks 3 and 4 (35 hours). However the visa holder would have breached their work conditions in the fortnight comprising the 14 days of weeks 2 and 3 (50 hours worked).

Eligibility to continue working between courses and student visas

Condition [8105](#)(1A) provides that 'the holder must not engage in any work in Australia before the holder's course of study commences'. The work limitations are tied to the date of commencement of the relevant course of study. Therefore, in certain circumstances the student may continue working between courses and visas:

- Students who have been granted or have applied for a student visa (including those on a bridging visa associated with their student visa application, which is subject to condition [8105](#)) to enable them to complete a course for which an initial visa was granted, such as where the initial CoE is extended, may continue to work.
- Students who have completed a course of study and have been granted or have applied for a student visa (including those on a bridging visa associated with their student visa application, which is subject to condition [8105](#)), to undertake a different course of study, are required to stop working from the grant date of the new visa and cannot work until the new course commences.
- Students on a visa associated with a package of courses may continue working between courses.

For policy and procedure on the effect of conditions on bridging visas granted in relation to visas that are not student visas, refer to [Sch2 Bridging visas - Visa application and related procedures](#).

4.7.3.5. Condition 8201 – 3 month study limitation

About 8201

Condition [8201](#), which attaches (by law or under policy) to various temporary visas, relates to study. The condition generally requires that the visa holder not engage in any studies or training for more than 3 months while in Australia.

As condition [8201](#) applies to each new visa granted, the 3-month period starts again if the person is, for example, granted a further visa while in Australia. The 3-month period does not start again by leaving and re-entering Australia on the same visa.

Students – family members

Condition [8201](#) (study limitation) is mandatory for all student visas granted to secondary applicants who are 18 or older at time of visa grant.

Adult family members are subject to visa condition [8201](#), which stipulates that, while in Australia, they cannot engage in any studies or training for more than 3 months. Adult family members who wish to study for more than 3 months must apply for a student visa in their own right.

There are no limitations on dependants of student visa holders under 18 undertaking study or training, because they are not subject to condition [8201](#).

Exemptions

Condition 8201(2) lists specific situations in which the holder of a visa to which 8201 is attached is in effect “exempt” from the “study limitation” condition as set out in 8201(1).

The 3 month study limitation applies in all other situations:

Example:

For Student Guardians:

- Condition 8201 does not apply to Subclass 580 (Student Guardian) visa holders granted on or after 24 March 2012, or to Subclass 590 (Student Guardian) visa holders (see condition 8201(2) table item (1)). This means that such visa holders are permitted to undertake an ELICOS course of less than 20 hours a week.
- However, condition 8201 is breached if the Subclass 590 or Subclass 580 visa holder:
 - undertakes ELICOS studies for 20 or more hours a week for more than 3 months or
 - undertakes any other studies or training (irrespective of how many hours a week) for more than 3 months.

For more information, see PAM3: Sch2 Visa 590 - Student Guardian - Condition 8201 (Study limitations).

Study or training

3 months study is equivalent to 13 weeks of studying, excluding holiday, vacations and orientation periods, but including:

- weekends
- public holidays
- study vacation periods prior to start of exam periods and
- exam periods (up until the student's last examination day). As exam timetables are not usually published till later in a semester, realistically students need to allow for the whole exam period when considering their visa options.

For those non-Student visa applicants to whom condition 8201 applies, because the length of proposed study is relevant in assessing any Schedule 2 “genuine intention” criteria, it is generally not appropriate for such persons to be granted non-Student visas in order to undertake more than 3 months study.

More than 3 months study or training

Persons seeking longer-term entry to Australia for study should be advised to apply upfront for a Student visa. Among other reasons, this is because, if they enter Australia holding other than a Student visa there may be - in the form of specific Schedule 2 criteria - restrictions on their being granted a further visa in Australia to study.

Distance learning

In regard to distance learning, the policy view is as follows:

- Minors accompanying their parents on an extended holiday in Australia and whose education needs are being met by distance learning or home-based schooling are not, for condition 8201(1) purposes, regarded as engaging in studies
- Adults continuing with online study at an institution located outside Australia are not regarded as engaging in studies
- Adults continuing with online study at an institution in Australia in other than a registered course (and therefore ineligible for a Student visa) are not regarded as engaging in study
- Adults enrolled in distance education with an institution in Australia are regarded as studying (and should be on a Student visa) if they are undertaking a registered course of 3 months or more.

Young children attending school

If officers consider it appropriate, non-Student visa applicants to whom condition 8201 will apply are to give full details of any intention to attend kindergarten, pre-school, primary or secondary school in Australia, so that officers may establish whether the applicant:

- intends to comply with condition 8201 and, it follows
- satisfies any relevant “genuine intention” criterion (for the FA-600 Visitor visa, see GenGuideH - Visitor visas - Visa application and related procedures)

Provided officers are satisfied that attendance at a school in Australia would not be in breach of condition 8201, the applicant may be considered as satisfying any “genuineness” criterion. An applicant who intends to attend primary or secondary school for more than 3 months, however, should be considered not to satisfy that criterion and be advised to apply for a more appropriate visa.

There are no limits on dependants undertaking pre-compulsory schooling, such as pre-school (or kindergarten in some states), as this does not constitute ‘study’.

“Rights of the child”

Australia is a signatory to the UN Convention on the Rights of Children, one of which is the right to an education. Home Affairs’ policy requirement that minors wishing to study in Australia apply for a Student visa does not contravene Australia’s obligations under the UN Convention; there is no obligation on Australia giving minors visiting Australia an entitlement to attend school during their stay. The minor is not being denied an education, they are merely being required to apply for the appropriate visa if they wish to study in Australia.

The onus is solely on the minor’s parent(s) (or legal guardian(s)) to enrol the minor at school while visiting Australia. It is not Home Affairs’ responsibility to ensure that minors visiting Australia are enrolled in an educational institution. However, if the minor is of school age and has spent excessive amounts of time in Australia without

studying, officers should carefully assess, for both the minor and their parent(s), any requests for further visas in the context of GTE.

4.7.3.6. Condition 8202- Enrolment/course change (students)

About 8202

Condition [8202](#) (attendance and course progress) is mandatory for all student visas granted to primary applicants.

Condition 8202 and ESOS students

In general terms condition 8202 requires students to:

- be enrolled in a full time, registered course;
- achieve satisfactory course progress;
- achieve satisfactory course attendance; and
- maintain enrolment in a course at the same level or higher AQF level for which they obtained the visa: change from AQF 10 to 9 is permitted but change from an AQF course to a non-AQF course is **not** permitted.

Condition 8202 and non-ESOS students

Three categories of student must be enrolled in a full-time course of study or training:

- secondary exchange students
- students approved under a scholarship or an exchange scheme
- Foreign Affairs/ Defence students.

Breach of condition 8202 under ESOS

On 1 July 2012, section 19 of the ESOS Act was changed to require registered education providers to give particulars of any breach by an accepted student of a prescribed condition of a student visa as soon as practicable after the breach occurs, even if the student has ceased to be an accepted student of the provider (the condition prescribed under the [Education Services for Overseas Students Regulations 2001](#) is condition [8202](#)).

From that date, if an education provider certifies a student visa holder in accordance with section 19 of the ESOS Act as having failed to achieve satisfactory course progress or attendance, the student will be in breach of condition [8202](#) even if they have ceased to be an accepted student of the education provider prior to the certification.

Satisfying course requirements

If a student does not maintain studies during the academic year their visa may be subject to cancellation.

If the student falls ill

Students who fall ill during semesters should apply to their education provider for permission to take leave from their course. If the student's leave is not approved and they are absent for more than 20% of the scheduled hours for their course they may be subject to visa cancellation procedures.

Students deferring or suspending their course

Under standard 9 of the National Code, registered education providers may only enable students to defer or temporarily suspend their studies, including granting a leave of absence, during the course through formal agreement in certain limited circumstances. Students who fall ill and are expected to require leave from their studies for a significant period should apply to their education provider to defer their studies. If during this period of deferral the student continues to remain enrolled, they remain compliant with condition [8202](#).

As specified in regulations [2.43\(1C\)](#) and [2.43\(1D\)](#), a student visa may be subject to visa cancellation under section [116\(1\)\(fa\)](#) if the education provider has deferred/suspended the student's study for any of the following 4 reasons:

- the conduct of the student
- the student deferred or suspended their studies for reasons other than compassionate or compelling circumstances
- the compassionate or compelling circumstances which warranted the deferral/suspension of studies have ceased to exist
- the deferral/suspension was based on fraudulent evidence or document/s given to the education provider.

For policy and procedures, refer to [Visa cancellation instructions - General visa cancellation powers \(s109, s116, s128, s134B and s140\)](#) – in particular Cancellation of visas on specified grounds.

If the student needs to leave Australia for compassionate reasons

Students who need to leave Australia for compassionate reasons during semesters should apply to their education provider for leave from their course.

If the deferral/suspension is approved, the education provider reports this approval via PRISMS to Home Affairs. If during this period of deferral the student continues to remain enrolled, they remain compliant with condition [8202](#).

Family members of students deferring or suspending studies for up to 6 months are permitted to stay in Australia during this period (once the deferral/suspension has been approved).

Research/study outside Australia

Approved research/fieldwork outside Australia as part of a course is permissible, provided the primary applicant remains enrolled for the duration of the fieldwork/research.

Family unit members of the primary applicant can remain in Australia while the primary applicant is conducting research/fieldwork outside Australia.

Students on exchange programs in a third country

Student visa holders in Australia are allowed to participate in an international exchange program provided:

- the study or training to be undertaken is an assessable part of the student's full-time course in Australia and has been approved as part of the registration process for the course; and
- the exchange is for no more than 12 months; and
- family members who are in Australia accompany the student if the exchange is for more than 6 months.

While on exchange, the student must maintain full-time study and comply with conditions imposed on their visa.

Attendance requirements under the National Code

Condition [8202](#) requires students maintain satisfactory attendance. Under standard 8 of the National Code, education providers are required to monitor students' attendance where relevant:

Higher Education students' attendance is not required to be monitored.

ELICOS and Schools students are reported if their attendance falls below 80%, unless the provider determines that:

- the student's lack of attendance is due to compelling and compassionate circumstances and
- the student is attending at least 70% of the course

and this is set out in the provider's policies and procedures.

VET and non-award students are reported if their attendance falls below 80%, unless the provider has determined that:

- the student is maintaining satisfactory academic progress
- the student is attending at least 70% of their course

and this is set out in the provider's policies and procedures.

VET education institutions that implement the approved course progress policy are exempt from monitoring attendance.

Students may be taken to have satisfied the attendance requirements of condition [8202](#) if they have not been reported by their education provider for a breach of attendance requirements. The presence of student course variation 8 (SCV 8) on a student's PRISMS record is evidence of being in breach of attendance requirements. For the breach of condition [8202](#) to be relevant to assessing substantial non-

compliance, the breach of attendance would have to have occurred during the validity period of the last student visa held.

Displaced students (that is, students who are no longer enrolled in a course because the institution at which they were enrolled has ceased operations) are not required to provide evidence of attendance.

Course progress

Condition 8202 requires that students achieve course progress that is certified by their education provider to be at least satisfactory. The absence of student course variation 10 (SCV 10) advice means the student visa holder is taken to be compliant with this condition.

The presence of SCV 10 on a student's PRISMS record is evidence of being in breach of attendance requirements. For the breach of condition 8202 to be relevant to assessing substantial non-compliance, the breach of attendance must have occurred during the visa period of the last student visa held.

Students applying for a further visa are not ordinarily required to provide transcripts of their academic results.

When assessing whether condition 8202 has been complied with, officers should not make their own judgments about a student's academic record or course progress.

Student visa holders in Australia and permanent visa applications

If a student visa holder completes their course of study and applies in Australia for a permanent visa while they still hold their student visa, they are likely to be granted a [Bridging A visa](#) (BVA) in association with the application. The BVA, however, would not come into effect until the student visa ceases. Therefore, the applicant would remain subject to student visa conditions until such a time as their student visa ceases, or they are granted the permanent visa.

The following guidelines provide advice for officers in relation to dealing with students who remain on a student visa while awaiting an outcome of a migration application. The general principle is that:

- students who complete the full course of study for which they were granted a student visa will remain on a student visa
- visa cancellation and subsequent bridging visa applications should be considered for students who do not complete the full course of studies for which they were granted the visa.

The following 2 scenarios illustrate the policy approach:

Scenario 1: If the student finishes the principal course for which they were granted the visa as scheduled, or earlier than planned, and applies for a permanent visa:

- the student to be allowed to remain on student visa, even if not intending to undertake any further studies

- if an SCV is issued for early completion, the visa should not be cancelled.

Scenario 2: If the student does not attempt the principal course, but applies for a permanent visa after only completing a preliminary course, once the SCV brings the student to notice:

- if the student intends continuing studies, they can be allowed to remain on their student visa but
- if the student does not continue studies, the student visa may be cancelled because the student no longer continues to be a person who would satisfy the grant of a student visa (condition 8516) – refer to [Visa cancellation instructions - General visa cancellation powers \(s109, s116, s128, s134B and s140\)](#). In this instance, the student and dependants can apply for a Bridging E visa (BVE). For policy and procedure on granting work rights to BVE holders in such cases, refer to [Compliance and Case Resolution – Program visas - Bridging E visas](#).

Changing courses - transferring to a lower AQF level or non-AQF course

Students must maintain enrolment in a course at the same level or higher AQF level for which they were granted the visa. Transferring to a lower AQF level course would result in a breach of condition [8202](#). However, a change from an AQF 10 to 9 course is permitted.

Note:

- For a list of AQF qualification types, refer to the Australian Qualifications Framework website.
- Although Years 11 and 12 do not have an AQF Level as such, they have a qualification type of Senior Secondary Certificate of Education.

If a student changes from an AQF course to a non-AQF course, this would also result in a breach of condition [8202](#).

A breach of condition [8202](#) may result in the student's visa being considered for cancellation.

If students intend to transfer to a lower AQF level course, they must apply for another student visa and must not commence the lower level course until they have been granted a new student visa.

Examples

If a student transfers from the higher level Bachelor degree (AQF level 7) to a lower Certificate III (AQF level 3) course, this would result in a breach of condition [8202](#) and the student's visa may be considered for cancellation.

If a student transfers from Year 12 studies (recognised in the AQF as a Senior Secondary Certificate of Education qualification type) to a non-AQF course, such as a Foundation course, this would breach condition [8202](#) and the visa may be considered for cancellation.

Conversely, transferring from a non-AQF course to an AQF course would not result in a breach of condition 8202. For example, a non-award university student on a study abroad program would be permitted to transfer to a Bachelor's degree.

Changing from an AQF 10 to 9 is permitted – for example transferring from a higher AQF 10 (Doctoral Degree) to the lower AQF 9 (Masters Degree).

For more information about AQF levels, refer to the Australian Qualifications Framework website.

Changing course - varying a package or transferring to a package of courses

If a student wants to amend the courses in their package of courses or wants to change to a package of courses without applying for a new student visa they must:

- have commenced studying in Australia; and
- remain enrolled in their principal course; and
- will commence their principal course before their visa expires; and
- continue meet the requirements of Condition 8202.

If the student has an extended course gap that may lead to their visa being cancelled, the student may choose to enrol in a short course to fill the gap. The course can be in any sector, for example, ELICOS or vocational education and training, or higher education.

Changing courses – transfer at same AQF level course

If a Subclass 500 (Student) holder transfers between providers to a course at the same AQF level, this would not breach condition 8202. Limitation on transferring between CRICOS-registered providers apply however and is governed by Standard 7 of the National Code.

Completing a course early

As a general rule, students are granted a visa for the duration of the course for which they have enrolled. If a student subsequently changes their course at the same level but of a shorter duration than that for which the visa was granted, the student should be counselled that:

- although they do not have to make a new visa application, when they have completed the shorter course they must, within 28 days, either:
 - leave Australia or
 - if they wish to enrol in a further course of study, notify Home Affairs and apply for a new student visa as required and
- if they do neither, Home Affairs might commence visa cancellation action.

Student visa holders who complete their principal course (for which the visa was granted) earlier than the date listed on the CoE will be in breach of visa condition 8202. The CoE will cease in PRISMS and the student visa holder will be unenrolled.

In these circumstances, the student is expected to either depart or apply for a new visa if they plan to stay in Australia.

Students who complete their principal course in the allocated time can remain in Australia for several months until their visa expires (generally 15 March of the following year). For this reason, Home Affairs considers students who complete their course (for which the visa was granted) earlier than planned are low-risk and are not using the student visa program to circumvent the migration program with the intent to work. Home Affairs would not consider visa cancellation for breaching visa condition 8202 within three months of early course completion. This is designed so that students who comply with their visa conditions are not penalised for finishing their course early, for reasons such as undertaking summer courses or Recognition of Prior Learning.

4.7.3.7. Condition 8203 and 8204 - Iranian students and family members

Applicants to whom condition 8203 applies

Condition 8203 states that the holder 'must not change ... course of study, or thesis or research topic, unless approval is given ... after an assessment from the competent Australian authorities'.

Condition 8203 is mandatory for all Iranian citizen students granted a student visa on the basis of enrolment in a higher education or postgraduate research course.

To comply with condition 8203 the visa holder cannot change their course of study, thesis or research topic until approval is provided.

Applicants to whom condition 8204 applies

Condition 8204 states that the holder 'must not undertake or change a course of study or research, or thesis or research topic for ... a graduate certificate, a graduate diploma, a masters degree or a doctorate ... or ... any ... prerequisite to a ... masters degree or a doctorate; unless **approval** is given by the Minister'.

Condition 8204 attaches by law to the visas of all Iranian citizens:

- students granted a Subclass 500 (Student) visa on the basis of enrolment in a course other than a higher education or postgraduate research course; and
- all family unit members who are Iranian citizens (irrespective of the citizenship of the student, or the type of course they are studying)

To comply with condition 8204 visa holders cannot undertake their course of study, thesis or research topic until approval is provided.

How to request to change course if 8203/8204 applies

A request by a student for approval to undertake or change a course of study, thesis or research topic in accordance with condition 8203/8204 requirements may be made either:

- as part of a new Subclass visa [500](#) application or
- by completing and submitting a form 1221 (Additional personal particulars information).

The student is not required to apply for a new visa if the proposed course is of the same duration as (or shorter than) the current course, unless the student is required to apply for a new visa to comply with condition 8202.

If the student does not require a new student visa application, they must:

- complete a form 1221
- mail it to adelaide.studentcentre@homeaffairs.gov.au with the title "8203/8204 assessment."

The student must not change the course until approval is granted.

Manual recording of 8203 and 8204 conditions

Officers must ensure that either condition [8203](#) or [8204](#) is recorded for all applications meeting the criteria. ICSE will not automatically record the condition, but it will be attached by operation of law. It is essential that the condition is recorded in ICSE so that visa holders are aware (by notification, or checking VEVO) that condition [8203](#) or [8204](#) applies to them.

4.7.3.8. Condition 8303- Not be disruptive

Condition [8303](#) (must not become involved in disruptive activities) is discretionary for all student visa grants (as either a primary or secondary applicant). For policy, refer to [Sch8/8303 - Not become involved in disruptive activities](#).

4.7.3.9. Condition 8501 – Maintain health insurance

About 8501

Condition [8501](#) (maintain health insurance) is mandatory for all student visa grants (as either a primary or secondary applicant).

Students and family unit members must maintain adequate arrangements for health insurance during their period of intended stay in Australia by payment of the Overseas Student Health Cover).

For more information on other acceptable health arrangements for student visa holders, refer to [Health insurance](#). For details on condition [8501](#), refer to [Sch8/8501 - Maintain health insurance](#).

Student visa holders who have applied for a permanent visa in Australia

Student visa holders who have applied for a permanent visa in Australia are issued with a Medicare card that is valid until a final decision is made on their application. If the applicant remains on a student visa while their permanent visa application is being processed they must continue to abide by the visa conditions attached to their

student visa. This includes maintaining health insurance. Applicants should be informed of this requirement.

4.7.3.10. Condition 8516 - Continue to satisfy criteria for visa grant

About condition 8516

Condition 8516 (continue to satisfy the primary or secondary criteria) is mandatory for all student visa grants (as either a primary or secondary applicant).

Condition 8516 requires the visa holder to continue to satisfy the primary or secondary criteria (as applicable) that permitted visa grant. When imposed on a visa granted to the student, it ensures that the student does not provide evidence to meet requirements at initial visa grant, only to change these arrangements after arrival in order to avoid visa requirements.

Non-compliance with condition 8516

A visa holder may be considered not to comply with this condition if there is evidence to support the person's inability to continue to satisfy criteria. This may be due to a significant change in circumstances, which may or may not be outside the control of the student and may include relationship breakdown, inability to access funds, or changes in enrolment shortly after arrival to avoid the requirement to provide English language requirements.

4.7.3.11. Conditions 8517 and 8518 - Maintain education of school-age dependants

About conditions 8517 and 8518

Visa conditions 8517 and 8518 require that adequate arrangements for education be maintained.

Condition 8517 (maintain adequate arrangements for education of school-age dependants) is mandatory for all student visas granted to primary applicants. It states that the holder must maintain adequate arrangements for the schooling of their school-age dependants who are in Australia for more than 3 months as holder of a student visa.

Condition 8518 (adequate arrangements for education are maintained) is mandatory for all student visas granted to secondary applicants who are under 18 at time of visa grant. It states that adequate arrangements must be maintained for the education of the holder while they are in Australia.

Compliance with 8517/8518

'**School-age dependant**' is defined in regulation 1.03 to as a member of the family unit who has turned 5, but has not turned 18.

A student visa holder is considered to be maintaining adequate arrangements for a child's education if they satisfy the relevant legislation for education in the State/Territory in which the child is residing. In all States/Territories, children must commence their education, at the latest, in the year the child turns 6. The age students are permitted to leave school varies by jurisdiction, however, in all States/Territories students must remain in education, either at school or through some combination of training and employment, until they turn 17. The onus is on the applicant to provide evidence that the arrangements satisfy the State/Territory requirements.

If the child is under 5 when the visa was granted, to comply with visa conditions 8517 and 8518, the child must commence schooling once they reach the compulsory age for education.

Enrolment in a school does not require enrolment in a CRICOS-registered school. If a family member is of school-leaving age, they may be enrolled with an education provider other than a school, such as a TAFE or private VET provider. ELICOS does not meet State/Territory requirements for education of school age children.

4.7.3.12. Condition 8532- Maintain welfare arrangements for minors

About condition 8532

Condition 8532 provides that, if the visa holder is under 18 years and is neither a *Foreign Affairs student* nor a *Defence student* the visa holder must stay in Australia with a person who is:

- a parent of the student, or
- a person who has custody of the student, or
- a relative of the student who:
 - is nominated by a parent of (or by a person who has custody of) the student, and
 - is at least 21 years old and
 - is of good character, or
- the arrangements for the student minor's accommodation, support and general welfare must be approved by the *education provider* (defined in regulation. 1.03) for the course to which the student's visa relates, and the student minor must not enter Australia before the day nominated by the education provider as the day on which those arrangements are to commence

Condition 8532(c) and (d) states that:

- if the visa holder is a Defence or Foreign Affairs student under 18, appropriate arrangements approved by the Defence Minister or the Foreign Minister, as relevant, for the visa holder's accommodation, support and general welfare are in place and
- the visa holder must not enter Australia before the day on which those arrangements are to commence.

Changes to welfare arrangements

Nominated Guardian approved welfare arrangements

If the student's welfare is provided by a student guardian, the guardian must reside in Australia with the student at all times. If the guardian leaves Australia without the student they are in breach of condition [8537](#) and the student may be in breach of condition [8532](#).

Home Affairs will need to approve any changes to the welfare arrangements put in place at the time of visa grant. The nominated guardian must provide evidence that:

- there are compelling and compassionate circumstances
- alternative welfare arrangements have been arranged for the student visa holder.

Alternative welfare arrangements can be made by either:

- Nominating a new student guardian by lodging Form 157N (Nomination of a student guardian). All changes to welfare arrangements must comply with condition [8532](#).
- Requesting a CAAW from the student's education provider which will state the start and end dates for approval of the welfare arrangements.

Student visa processing areas in Australia will review the request to change welfare arrangements and advise the student guardian in writing whether it has been approved before they can depart Australia.

Education provider approved welfare arrangements

If the student wishes to change arrangements previously approved by an education provider, they must seek prior approval from their education provider. Education providers can report updates and changes to welfare arrangements through PRISMS.

Students must lodge a form 157N (Nomination of a student guardian) if they wish to change their arrangements to:

- a parent/custodian or
- a relative (who must be at least 21 years old) who has been nominated by a parent/custodian who holds a Student Guardian visa or
- a relative (who must be at least 21 years old) residing in Australia as the holder of a permanent or temporary visa.

If a student's welfare arrangements are approved by their education provider and the provider reports through PRISMS that they no longer approve the welfare arrangements, the student has breached condition [8532](#) and their visa may be subject to cancellation.

Education provider responsibilities under the ESOS Act

The National Code provides that, if (as provided for by Schedule 4 public interest criterion 4012A), a registered education provider has taken responsibility for approving the accommodation, support and general welfare arrangements for a student who is under 18 years of age, the education provider must nominate the dates for which the education provider accepts such responsibility.

The Code also requires registered education providers who have approved the welfare arrangements to ensure the arrangements made to protect the personal safety and social well-being of those student minors are appropriate.

Under the Code:

- A registered education provider who has taken responsibility for approving the accommodation, support and general welfare arrangements for a student minor is required to advise Home Affairs within 24 hours (using the Home Affairs pro form letter available through PRISMS) if the registered education provider is no longer able to approve those arrangements.
- If the registered provider is no longer able to approve the welfare arrangements of a student, the Code requires the registered education provider to make all reasonable efforts to ensure that the student's parents or legal guardians are notified immediately. If the registered provider is unable to contact a student and has concerns for the student's welfare, the registered 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.

If enrolment suspended or cancelled

Under Standard 5.6 of "the National Code", if a registered education provider suspends or cancels the enrolment of a student minor, the registered education provider must continue to approve the welfare arrangements for that student until:

- the student has alternative welfare arrangements approved by another registered education provider or
- care of the student by a parent or nominated relative is approved by Home Affairs or
- the student leaves Australia or
- the registered education provider has notified Home Affairs under Standard 5.3.6 of the National Code that it is no longer able to approve the student's welfare arrangements under Standard 5.5 and that it has taken the required action after not being able to contact the student.

Breach of Condition 8532

Subclass 500 (Student) visa holders under the age of 18 in Australia may be in breach of condition 8532 if:

- The student minor travels to Australia prior to their welfare arrangements commencing.
- The student minor stays in Australia with a person other than a parent/custodian.
- The arrangements for the student minor's accommodation, support and general welfare referred to in condition 8532(b) are no longer approved.

- The person described in condition [8532\(a\)](#) (that is, the person with whom the student minor has to stay in Australia) has left Australia without making appropriate accommodation, support and general welfare arrangements for the student minor.

Officers should contact the [Student Visa Help Desk](#) if they become aware/suspect that an education provider has reported the student as a disciplinary measure and has not tried to help the student find other suitable accommodation as the education provider is required to do under the National Code.

At risk minors

If an officer identifies a student minor who no longer has welfare arrangements in place and who is at serious risk of harm should follow case escalation protocols.

Related provisions

Refer to [Sch2Visa590 – Student Guardian - Condition 8537](#).

4.7.3.13. Condition 8533- Notify education provider of changes

About 8533

Condition [8533](#) (inform education provider of address) is mandatory for all student visas granted to primary applicants.

Condition [8533](#) requires students:

- who were outside Australia when their visa was granted, to notify their education provider within 7 days of arrival in Australia of their residential address in Australia
- in all cases, to notify that provider of any change of residential address within 7 days after the change occurs; and
- in all cases, to notify their current losing provider of a change of education provider within 7 days of receiving a CoE from their new provider; or
- in all cases, if no CoE is required to be sent or transmission failure prevents the provider from sending a CoE – evidence that the student has been enrolled by a new provider

ESOS Act requirements for condition 8533

The ESOS Act requires registered education providers to keep records of a student visa holder's residential address (ESOS Act section 21(2)). Failure to do so is an offence under that Act (ESOS Act section 21(5)) and the provider may be subject to administrative or even criminal penalties (ESOS Act Part 6 Division 3 'Offences').

4.7.3.14. Condition 8534- No further application

About 8534

Condition 8534 is discretionary for all student visa holders.

Condition 8534 states that the holder will not, while they remain in Australia, be entitled to be granted a substantive visa other than

- a protection visa or
- a Subclass 485 (Temporary Graduate) visa or
- a Subclass 590 (Student Guardian) visa.

In all other circumstances, the condition will prevent the visa holder from making a valid visa application in Australia unless the condition has been waived under regulation 2.05(4) or 2.05(5A).

Applying 8534 on a discretionary basis

Condition 8534 should be applied to certain applications processed in Australia only if the applicant has an immigration history that raises concerns about de facto residence. It should generally not be imposed on applicants outside Australia with no previous travel history to Australia.

Condition 8534 should be attached to visas of family members of student visa holders if requested by DFAT/Defence or a foreign government, or if the student is a government-funded student subject to visa condition 8535.

Widespread discretionary imposition of condition 8534 undermines the student visa program as it limits the ability of genuine students to undertake further studies or training at the end of their course.

Any concerns officers have in relation to an applicant's status as a genuine student, based on objective evidence, should be addressed through an assessment of the applicant against the GTE criterion.

4.7.3.15. Condition 8535- No further application (Foreign Affairs/ Defence)

About condition 8535

Condition 8535:

- applies to visas granted to primary applicants who are Foreign Affairs and Defence students (clause 500.611(1)(d))
- is discretionary for foreign government sponsored students who are primary applicants (clause 500.611(2)(a)). It should be imposed if: the applicant is sponsored by a foreign government; and the agency or government indicates their preference for this condition to be imposed. Decision makers should consult/email the [Student Visa Help Desk](#) if they believe that circumstances in a particular case justify not imposing this condition.

There is no provision to impose condition 8535 on secondary applicants.

If condition 8535 applies

Condition 8535 states that the holder will not, while they are in Australia, be entitled to the grant of a substantive visa other than:

- a protection visa or
- a Student (Temporary)(Class TU) visa that is granted to an applicant on the basis of support from the Commonwealth government or a foreign government.

4.7.3.16. Conditions 8534 and 8535- Effect of waiver on no further application

Overview

Subject to the provisions outlined in:

- Condition 8534- No further application
- Condition 8535- No further application (Foreign Affairs/ Defence)

for obtaining a substantive visa, the visa holder is prevented from making a valid visa application in Australia unless the condition has been waived.

If the condition is waived, the visa holder can apply for any class of substantive visa, because the waiver overcomes the bar on making a valid application.

Being able to apply for the visa does not, of course, make the applicant automatically eligible to be granted that visa. Applicants must still satisfy the relevant criteria for the visa applied for. For applicants who were previously sponsored by a foreign government or the Australian Government this may include special return criteria (that is, SRC 5010).

Reg. 2.05 provisions for waivers

For visas to which condition 8534 or 8535 has been attached, section 41(2A) enables the condition to be “waived” in the circumstances prescribed as applicable, in regulation 2.05(4) or 2.05(5A).

For policy and procedure on the waiver provisions, refer to [Div2.1/reg2.05 - Conditions applicable to visas - Waiver of “no further application” conditions](#).

Home Affairs seeks to maximise voluntary visa compliance through prevention and deterrence activities. Awareness campaigns, education/information dissemination and engagement with community and cultural groups encourage visa holders to comply with their visa. Activity is escalated to enforcement measures for acts of deliberate or serious non-compliance, resulting in possible visa cancellation and/or removal from Australia.

5. Accountability and responsibilities

Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
Student and Graduate Visas Section	Document owner/author and interpretation
Temporary Graduate Program Network	Enactors of PI
International Education Policy Section	Development and evaluation of student visa policy
FAS, Visa & Citizenship Management	Endorsing officer
AS, Temporary Visa Program	Approving officer

6. Statement of Expectation

This Procedural Instruction under the PPCF sets out guidance and directions to workers on how to implement the Department's policy.

It is expected that all workers who are subject to this Procedural Instruction will have due regard to it and will only depart from it if:

- a) the departure is reasonable and justified in the circumstances;
- b) all risks have been considered; and
- c) approval has been sought and responsibility accepted for documenting the justification for the decision.

Workers are required to comply with all reasonable and lawful directions contained in this Procedural Instruction. Failure to comply with a direction may be considered a breach of the Australian Public Service Code of Conduct (for APS employees) or the Professional Standards Secretary's Direction under section 55 of the Australian Border Force Act 2015 (for non-APS employees).

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

7. References and legislation

- [Migration Regulations 1994](#)

- [Migration Act 1958](#)
- [Migration \(Visa Application\) Charge Act 1997](#)
- [Direction No. 69 – Assessing the Genuine Temporary Entrant Criterion for Student Visa and Student Guardian Visa Applications](#)

8. Consultation

8.1. Internal consultation

The following internal stakeholders were consulted in the development of this Procedural Instruction:

- Student Program Network
- Records Management Section
- International Education Policy Section
- Integrity and Professional Standards Branch

8.2. External consultation

The following external stakeholders were consulted in the development of this Procedural Instruction:

- Nil