

Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021

Pursuant to section 534 of the Education and Training Act 2020, the Minister of Education makes the following code of practice.

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- (6) This code does not override the responsibilities of education and accommodation providers under the Privacy Act 2020 or the Health Information Privacy Code made under that Act.
- (7) This code contributes to an education system that honours Te Tiriti o Waitangi and -Crown relationships in accordance with section 4(d) of the Education and Training Act 2020.

4. Approval and removal of signatory status

- (1) Providers (that is, tertiary education providers and schools) may make an application to the code administrator to become signatories under Parts 6 and 7 of this code.
- (2) The criteria for an applicant to become a signatory to this code are the following
 - (a) the applicant is a provider; and
 - (b) the applicant provides, or is intending to provide, educational instruction; and
 - (c) the applicant has acceptable financial management practices and performance; and
 - (d) the applicant has policies and procedures in place that will enable it to achieve the outcomes sought and processes required by this code; and
 - (e) the code administrator does not otherwise consider the applicant a

years) and the signatory that entitles the learner to receive educational instruction provided by that signatory

designated caregiver means a relative or close family friend designated in writing by a parent or legal guardian of an international learner under 18 years as the caregiver and accommodation provider for that learner

disabled or disability includes those who have long-term physical, mental, intellectual, or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others (UN Convention on the Rights of Persons with Disabilities)

Dispute Resolution Scheme means the student contract Dispute Resolution Scheme established under section 536 of the Act

diverse means various backgrounds, experiences, and beliefs and a variety of needs across a range of learning contexts. Diversity in the learner population includes, but is not limited to, learners of varying ages, cultures, religions, sexual orientation, gender identities, international learners, refugee background learners, disabled learners, distance learners, and learners with care-experience

education agent means a person, body, or organisation acting on behalf of a signatory in relation to any aspect of their international learners including accommodation, and includes a subcontracted agent

educational instruction includes any

- (a) class, course or programme approved under section 524;
- (b) approved programme that a provider is accredited to provide under section 441;
- (c) training scheme approved under section 445;
- (d) consent to assess against standards granted under section 449.

education quality assurance agency means an agency or agencies authorised by the Act to exercise quality assurance functions in respect of providers

expatriation in relation to international learners means the process of moving a person from one country or locality to another

fee protection mechanism means a mechanism approved in rules made under section 452(1)(e) of the Act

homestay means accommodation provided to an international learner in the residence of a family or household in which no more than 4 international learners are accommodated

house rules

learner ‘at risk’ means that a tertiary provider or school has reasonable grounds to believe that the learner is unable to including for example,

- (a) adequately protect themselves against serious harm; or
- (b)

ing and safety means having a positive frame of mind, resilience, satisfaction with self, relationships, and experiences

(a)

- (a) proactively building and maintaining effective relationships with diverse learner groups within their organisation; and
- (b) working with diverse learners and their communities to develop, review, and improve learner wellbeing and safety strategic goals, strategic plans and practices; and
- (c) providing formal and informal processes for actively hearing, engaging with, and developing the diverse range of learner voices and those of their communities; and
- (d) providing timely and accessible resources to learners to support them and their learner communities to develop the necessary skills to enable them to participate fully in decision-making processes; and
- (e) providing timely and accessible information to learners to increase transparency of -making processes.

13. Process 2: Learner complaints

Providers must

- (a) work with learners to effectively respond to, and process complaints (including appropriate engagement with support people); and
- (b) inform learners on how the complaint will be handled and how it is progressing; and
- (c) handle complaints in a timely and efficient way, including having practices that
 - (i) are appropriate to the level of complexity or sensitivity of the complaint; and
 - (ii) consider

- quality assurance agency complaints process, the c
and the Dispute Resolution Schemes; and s process,
- (h) advise learners, on the next steps available to them if the provider does not accept the
complaint

20. Process 1: Information for learners about assistance to meet their basic needs

- (1) Providers must have practices for enabling all learners and prospective learners to identify and manage their basic needs (the essential material requirements to support wellbeing and safety including housing, food and clothing), including providing accurate, timely and tailored information on how they can
 - (a) access services through the provider or through community and public services that will help them maintain reasonable standards of material wellbeing and safety; and
 - (b) access suitable accommodation and understand their rights and obligations as a tenant in New Zealand; and
 - (c) maintain a healthy lifestyle.
- (2) If food is made available by the provider on campus or in student accommodation, the provider must ensure that the food available includes a range of healthy food options that is obtainable at a reasonable cost.

21. Process 2: Promoting physical and mental health awareness

Providers must have practices for

- (a) providing opportunities and experiences for learners that improve their physical and mental health and wellbeing and safety; and
- (b) promoting awareness of practices that support good physical and mental health that are credible and relevant to learners; and
- (c) supporting connection to their language, identity, and culture; and
- (d) providing accurate, timely information and advice to learners about
 - (i) how they can access medical and mental health services through the provider or through community and public services, including culturally responsive services; and
 - (ii) how they can report health and safety concerns they have for their peers; and
 - (iii) how to respond to an emergency and engage with relevant government agencies; and
 - (iv) how they can make positive choices that enhance their wellbeing.

22. Process 3: Proactive monitoring and responsive wellbeing and safety practices

(1) Providers must have practices for

- (a) requesting that domestic learners 18 years 71(r)-14et(r)- reW*nBq-5(c)-21(a)-21(l)-5(3)-10(-5(c)-2 10.5



- (a) ensuring residents receive clear, sufficient, accurate and transparent information and advice about the type and nature of student accommodation and services provided; and
- (b) using information provided by prospective residents at the time of application, to help plan their transition into student accommodation; and
- (c) working with residents to develop and provide information and tools that help residents understand their responsibilities within a communal living environment, including those relating to diversity; and
- (d) providing residents with learning and peer support, and information on
 - (i) self-care and positive wellbeing and safety; and
 - (ii) how to access wellbeing services on campus and in the community; and
 - (iii) how to provide peer support to other residents; and
- (e) providing residents with information and advice on what action to take in an emergency and the mechanisms for reporting incidents and raising health and safety concerns.

(2) The information required by this clause must be readily available, accessible, and promoted to residents.

26. Process 2: Accommodation staff

Providers must ensure that

- (a) accommodation staff are provided with ongoing training and resources that are appropriate for their roles as set out in clause 18(2); and
- (b) the experience and training of accommodation staff is appropriate for the type and nature of accommodation that is being provided; and
- (c) there is managerial oversight of accommodation staff at all times (24 hours a day, 7 days a week) so that issues can be escalated when they occur; and
- (d) the level of live-in accommodation staffing provides appropriate oversight and support for residents based on the type and nature of accommodation (for example, a higher level of staffing for halls of residence primarily intended for first-year learners); and
- (e) there is ongoing wellbeing support for accommodation staff.

26. Process 3: Accommodation staff must be fit and proper persons

Providers must take all reasonable steps to ue s to ue s to ue s to u

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- (2) Providers must ensure that any alterations, maintenance and repairs to student accommodation are undertaken in a timely manner that minimises interference with the quiet enjoyment of the residents.

Part 6

Additional wellbeing and safety practices for tertiary providers (signatories) enrolling international learners

(These requirements for providers enrolling international tertiary learners are in addition to the requirements for Part 3, Part 4, and Part 5)

34. Outcome 8: Responding to the distinct wellbeing and safety needs of international tertiary learners

Signatories must ensure that practices under this code respond effectively to the distinct wellbeing and safety needs of their diverse international tertiary learners.

35. Process:

Signatories must engage with diverse international tertiary learners to understand their wellbeing and safety needs under the outcomes of Parts 3, 4 and 5 of this code.

36. Outcome 9: Prospective international tertiary learners are well informed

Signatories ensure that prospective international tertiary learners receive clear, accessible, accurate and sufficient information, and make informed choices about the study and services a signatory provides before they begin their study.

37. Process 1: Marketing and promotion

Each signatory must have marketing and promotion practices, that include

- (a) proactively seeking to understand the information needs of prospective international tertiary learners; and
- (b) developing and providing information to prospective international tertiary learners and reviewing the information to ensure it is kept up to date;

41. Process 2: Information to be provided before entering contract

- (1) Signatories must have practices that ensure prospective international tertiary learners (or the parents or legal guardian of international students under 18 years) receive, as a minimum, accurate, timely and tailored information about the following before entering into a contract with the learner
 - (a) the most recent results of their evaluations by education quality assurance agencies; and
 - (b) quality improvement or compliance notices and conditions imposed under the Act that the code administrator directs must be disclosed to prospective international tertiary learners; and
 - (c) the education provided and its outcome, for example, whether a qualification is granted; and
 - (d) refund conditions that comply with the process in clause 46; and
 - (e) staffing, facilities, and equipment; and
 - (f) available services and supports; and
 - (g) insurance and visa requirements for receiving educational instruction from the signatory; and
 - (h) this code and the relevant Dispute Resolution Scheme Rules; and
 - (i) full costs related to an offer of educational instruction.
- (2) Each signatory must ensure that, before entering into a contract of enrolment or enrolling with the signatory, each international tertiary learner (or the parents or legal guardian of international students under 18 years) relation to receiving educational instruction from the signatory, including the rights under this code.

42. Process 3: Contract of enrolment

44. Process 5: Insurance

(1)

- (c) it provides its international tertiary learners (or the parents or legal guardian of international tertiary learners under 18 years) with sufficient information to understand their rights and obligations under those refund policies.
- (2) A refund policy must include refund conditions for the following situations
- (a) failure by an international tertiary learner to obtain a study visa; and
 - (b) voluntary withdrawal by an international tertiary learner; and
 - (c) the signatory ceasing to provide a course of educational instruction as contracted with an international tertiary learner, whether as the result of a decision by the signatory or as required by an education quality assurance agency; and
 - (d) the signatory ceasing to be a signatory; and
 - (e) the signatory ceasing to be a provider.
- (3) In the situation in subclause (2)(c) or (d), the tertiary signatory must deal with fees paid for services not delivered or the unused portion of fees paid as follows
- (a) refund the amount in question to the international tertiary learner (or the learner or legal guardian); or
 - (b) if directed by the international tertiary learner or the code administrator or the agency responsible for fee protection mechanisms, transfer the amount agreed with the student

- a. each transfer that occurs during the period of enrolment; and
 - b. the transfer that occurs at the end of enrolment; and
- (ii) ensuring that the parent or legal guardian is notified of each transfer plan.

51. Process 2: International tertiary learners under 10 years

- (1) Each signatory must ensure that its international tertiary learners under 10 years live with a parent or legal guardian.
- (2) The requirements in clauses 49 and 50 apply, in addition to this clause, to international tertiary learners who are under 10 years.

52. Process 3: Decisions requiring written agreement of parent or legal guardian

Each signatory must ensure that, where appropriate, it obtains the written agreement of the parent or legal guardian of an international tertiary learner under 18 years with respect to decisions affecting the learner.

53. Process 4: Accommodation for international tertiary learners under 18 years

- (1) In relation to an international tertiary learner under 18 years who is in the care of a residential caregiver while living in accommodation that is **not subject to Part 5** of this code, the

- (j) ensure that the learner is appropriately supervised in the accommodation.
- (2) For the purposes of clause 53(1)(c), a person who is 18 years or over and who resides at the
- (a) temporarily resides at that accommodation; or
 - (b)

55. Process 6

- (a) support international school learners (or the parents or legal guardian of international school learners under 18 years) to make well-informed enrolment decisions that are appropriate to the educational outcomes sought; and
- (b) ensure that international school learners (or the parents or legal guardian of international school learners under 18 years) have the information required to understand their interests and obligations before entering into a legally binding contract with a signatory; and
- (c) ensure that each contract of enrolment is fair and reasonable; and
- (d) ensure that any disciplinary action is taken in accordance with the principles of natural justice; and
- (e) ensure that international school learners have the appropriate insurance coverage, including insurance covering travel costs, medical care, and costs associated with repatriation, expatriation, and funeral expenses; and
- (f) ensure that proper documentation is kept and, where appropriate, provided to international school learners (or the parents or legal guardian of international school learners under 18 years).

61. Process 1: Offer of educational instruction

Each signatory must ensure that the educational instruction on offer is in accordance with the Act and is appropriate for international school learner academic capability.

62. Process 2: Information to be provided before entering contract

- (1) Each signatory must ensure international school learners receive, as a minimum, information about the following before entering into a contract with the learner
 - (a) the most recent results of their evaluations by education quality assurance agencies; and
 - (b) compliance notices and conditions imposed under the Act that the code administrator directs must be disclosed to prospective international school learners; and
 - (c) the education provided and its outcome, for example, whether a qualification is granted; and
 - (d) refund conditions that comply with the outcome and process in clauses 80 and 81; and
 - (e) staffing, facilities, and equipment; and
 - (f) available services and supports; and
 - (g) insurance and visa requirements for receiving educational instruction from the signatory; and
 - (h) this code and the relevant Dispute Resolution Scheme Rules; and
 - (i) full costs related to an offer of educational instruction.
- (2) Each signatory must ensure that, before entering into a contract of enrolment or enrolling with the signatory, each international school learner (or the parents or legal guardian of international students under 18 years) is informed of the learner relation to receiving educational instruction from the signatory, including the rights under this code.

63. Process 3: Contract of enrolment

- (1) Each signatory must ensure that a contract of enrolment is entered into between the signatory and each international school learner that includes the following information and terms

- (a) clear information about the beginning and end dates of enrolment; and
- (b) the grounds for terminating the contract of enrolment; and
- (c) the circumstances under which the school learner contract of enrolment (including conduct that occurs while the learner is not under the immediate supervision or control of the signatory); and
- (d) 3000008871 22 84 35 35 37 77 (510232352351265051163265

- (3) Subclause (1)(a)(i) does not include the school learner unless that travel is primarily for the purpose of embarking on connecting flights to and from New Zealand.

66. Process 6: Decisions requiring written agreement of parent or legal guardian

Each signatory must ensure that, where appropriate, it obtains the written agreement of the parent or legal guardian of an international school learner under 18 years with respect to decisions affecting the learner.

67. Outcome 16: Immigration matters

Signatories must

- (a) ensure that they do not allow or continue to allow a person to undertake educational instruction if that person is not entitled under the Immigration Act 2009 to undertake the educational instruction; and
- (b) take reasonable precautions and exercise due diligence in ascertaining whether international school learners are entitled under the Immigration Act 2009 to undertake the educational instruction for which they enrol.

68. Process:

Each signatory must

- (a) ensure that each international school learner who enrolls with the signatory has the necessary immigration status for study in New Zealand; and
- (b) report to Immigration New Zealand known or suspected breaches of visa conditions by international school learners; and
- (c) notify Immigration New Zealand of terminations of enrolment.

69. Outcome 17: Orientation

- (i) the school learner is in a properly supervised group of learners whose educational instruction is not for more than 3 months; or
 - (ii) the school learner is in the care of a residential caregiver; and
- (b) have up-to-date contact details for the learner

- (i) ensure that there is appropriate separation of international learners from others of different ages in the accommodation; and
 - (j) ensure that the learner is appropriately supervised in the accommodation.
- (2) For the purposes of clause 76(1)(c), a person who is 18 years or over and who resides at the
- (a) temporarily resides at that accommodation; or
 - (b) is or will be residing at that accommodation for 1 or more periods in any month (whether or not for valuable consideration), each period of which is 5 or more consecutive nights.
- (3) In relation to an international school learner 18 years or over who lives in accommodation provided or arranged by a signatory, the signatory must
- (a) ensure that the learner all regulatory and legislative requirements; and
 - (b) maintain effective communication with the learner when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities.
- (4) In relation to an international school learner 18 years or over who arranges accommodation for themselves, the signatory must ensure that the learner is directed to relevant advice and information that will enable the learner to understand their rights and obligations as a tenant in New Zealand.
- (5) To avoid doubt, if the residential caregiver is a supervisor described in clause 77(2) or a designated caregiver, the signatory must meet the requirements of this clause and ensure the safety, health, and wellbeing of the learner.
- (6) In this clause, **accommodation issues** include issues of health and wellbeing arising from a learner

77. Process 6: Safety checks and appropriate checks

- (1) The safety check for the residential caregiver referred to in clause 76(1)(b)
- (a) must include
 - (i) a confirmation of identity; and
 - (ii) a reference check that includes contacting at least 1 of the following persons or bodies for the purpose of obtaining information that the signatory considers relevant to a risk assessment
 - a. rent or previous employer, professional body, or registration authority;
 - b. business or professional activities;
 - c. a person who is not related to the residential caregiver; and

(iii) a police vet, to obtain information that is relevant to a risk assessment; and

(iv) how to report misconduct by employers.

80. Outcome 20: Managing withdrawal and closure

Signatories must ensure that the fees paid by international learners for educational instruction in New

- (2) Each signatory must advise its international learners
 - (a) of the availability of recourse to the code administrator or relevant Dispute Resolution Scheme or any other relevant authority if a learner cannot access the internal complaints process or is dissatisfied with the outcome or experience of using that process; and
 - (b)

- (a) strategic goals and strategic plans; and
 - (b) self-review reports, attestations, policies and procedures and evidence of their implementation; and
 - (c) complaints and referrals; and
 - (d) information from its other quality assurance activities; and
 - (e) information from other education quality assurance agencies and other relevant government agencies; and
 - (f) the Disputes Resolution Scheme reports.
- (3) The c monitoring and investigation roles may be undertaken either on the complaint or referral of a code outcome, process or other code requirement not being met.
- (4) The code administrator, for the purpose of monitoring and investigating compliance with the code, may
- (a) request a tertiary education provider or school signatory to provide to the code administrator, by a date specified in the notice (which must be within a reasonable time), an attestation of their giving effect to all or any part of this code and/or of ongoing self-

- (b) when obtaining information from the Dispute Resolution Scheme to consider the action needed by a tertiary provider or school signatory to support the wellbeing and safety of the learner.

91. Requirements for entry to inspect student accommodation

- (1) accommodation in addition to section 633 of the Act.
- (2) The code administrator needs to provide evidence of identity at arrival and when requested at any later time. They should also provide evidence of authorisation, including reference to
 - (a) the full name of the person or people who are authorised; and
 - (b) a head of house or other person authorised to receive the code administrator.