Code of Practice for Pastoral Care of International Students

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Part 1
Introduction

1 Introduction
This code is the Code of Practice for Pastoral Care of International Students. It is established under section 238F(1) of the Education Act 1989 and replaces all previous versions of the code.

2 Commencement
This code comes into force on 1 January 2016.

3 Previous version revoked and replaced
(1) The version of the code in force immediately before this code comes into force (the previous version) is revoked and replaced by this code.

(2) Despite subclause (1), the previous version remains in force (as if it had not been revoked and replaced) in relation to an international student who has enrolled with a provider before 1 January 2016 and applies, to the exclusion of this code, until the termination of that enrolment.

4 Code is legislative instrument
This code is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

5 Purpose of code
The purpose of this code is to support the Government’s objectives for international education by—

(a) requiring signatories to take all reasonable steps to protect international students; and

(b) ensuring, so far as is possible, that international students have in New Zealand a positive experience that supports their educational achievement.

6 Scope of code
(1) The scope of this code is to prescribe, alongside other quality assurance prescribed by the Education Act 1989,—

(a) outcomes sought from signatories for their international students; and

(b) key processes required of signatories to support the well-being, achievement, and rights of international students.

(2) The code does not apply to the activities of a signatory relating to students whose study is carried out outside New Zealand.
Part 2
How to read this code

7 General definitions

(1) In this code, unless the context otherwise requires,—

Act means the Education Act 1989
agent means a person, body, or organisation acting on behalf of a provider or signatory, and includes a subcontracted agent
code administrator means the person or agency appointed under section 238FA(1) of the Act
credential means a qualification, achievement, quality, or aspect of a person’s or organisation’s background that indicates the suitability of a person or organisation for offering relevant services to international students
designated caregiver means a relative or close family friend designated in writing by a parent or legal guardian of an international student under 18 years as the caregiver and accommodation provider for that student
DRS means the International Student Contract Dispute Resolution Scheme established by section 238J of the Act
DRS rules means the rules prescribed under section 238M of the Act
due diligence means the process of obtaining disclosure and verification in respect of another party before entering into a binding commitment
education quality assurance agency means an agency authorised by the Act to exercise quality assurance functions in respect of signatories
educational instruction includes accreditation, training schemes, consents to assess, and courses approved under section 4E of the Act
enrol means register or admit a person as a student on a course of educational instruction provided by a signatory, and enrolment has a corresponding meaning
expatriation means the process of moving a person from 1 country or locality to another
fee protection mechanism means a mechanism approved in rules made under section 253(1)(e) of the Act
homestay means accommodation provided to an international student in the residence of a family or household in which no more than 4 international students are accommodated
hostel has the same meaning as in section 2(1) of the Act
international student has the same meaning as in section 238D of the Act
legal guardian, in relation to an international student, means a person who, by court or testamentary appointment, is responsible for the student’s well-being and financial support

licensed hostel means a hostel that is licensed under the Education (Hostels) Regulations 2005

parent, in relation to an international student, means the father or mother of the student who is responsible for the student’s well-being and financial support

provider has the same meaning as in section 238D of the Act

repatriation means the process of returning a person to his or her country of origin or citizenship

residential caregiver means—
(a) a homestay carer; or
(b) a hostel manager or other person responsible for the care of international students in a hostel; or
(c) a designated caregiver; or
(d) in the case of temporary accommodation, a supervisor

signatory means a provider that is a signatory to this code

subcontracted agent means a person, body, or organisation contracted by an agent to act on the agent’s behalf.

(2) In this code, a reference to the age of a person is a reference to the age of the person on his or her last birthday.

(3) A term that is used in this code and defined in the Act but not in this code has the same meaning as in the Act.

Part 3
Becoming signatory

8 Function of code administrator to receive and assess applications to become signatories

The code administrator must—
(a) receive applications from signatories seeking to become signatories to this code; and
(b) assess those applications against—
   (i) the criteria for becoming a signatory set out in clause 9; and
   (ii) the purpose and scope of this code set out in clauses 5 and 6.

9 Criteria for becoming signatory

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, a course of educational instruction in accordance with the Act; 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 to be unsuitable for approval as a signatory to this code.

10 **Code administrator may remove signatory on request of signatory**

At the request of a signatory, the code administrator may remove the signatory as a signatory to this code.

**Part 4**

**What signatories must do**

*Marketing and promotion*

11 **Outcome 1**

Signatories must ensure that the marketing and promotion to prospective international students of services provided by signatories includes clear, complete, and accurate information enabling those students to make informed choices about the services provided.

12 **Process**

Each signatory must—

(a) proactively seek to understand the information needs of international students; and
(b) regularly develop and review information packages for international students; and
(c) include the following in those information packages as a minimum:
   (i) the signatory’s credentials, including the credentials of its agent; and
   (ii) the signatory’s quality assurance results; and
   (iii) information about educational instruction, staffing, facilities, and equipment available to international students; and
   (iv) potential employment outcomes for international students; and
   (v) estimated study and living costs for international students; and
   (vi) information about accommodation and transport.
Agents

13 Outcome 2
Signatories must effectively manage and monitor their agents to ensure that those agents—
(a) provide international students with reliable information and advice about studying, working, and living in New Zealand; and
(b) act with integrity and professionalism towards prospective international students.

14 Process
Each signatory must—
(a) carry out and record due diligence on potential agents to ensure as far as possible that they have not been involved in any conduct that is in breach of the law, false, misleading, or deceptive; and
(b) enter into written contracts with each of its agents; and
(c) terminate contracts with agents if those agents or their subcontracted agents—
   (i) have been involved in any conduct that is in breach of the law, false, misleading, or deceptive; or
   (ii) have jeopardised the signatory’s compliance with this code; and
(d) ensure that its agents have access to, and maintain, up-to-date information, knowledge, and skills relevant to their duties; and
(e) maintain and publish a full list of all its agents on its Internet site.

Offers, enrolment, and contracts

15 Outcome 3
Signatories must—
(a) support international students to make fully informed enrolment decisions that are appropriate to their needs; and
(b) ensure that international students have all the information required to understand their interests and obligations before entering into a legally binding contract with a signatory; and
(c) ensure proper documentation.

16 Process
(1) Each signatory must ensure that international students receive, as a minimum, information about the following:
(a) the outcomes of the most recent evaluation results by quality assurance authorities; and
(b) current compliance notices and conditions imposed under the Act; and
(c) compliance notices and conditions imposed under the Act within the previous 12-month period; and
(d) the education provided and its outcome, for example, whether a qualification is conferred; and
(e) refund conditions that comply with the outcome and process in clauses 29 and 30; and
(f) staffing, facilities, and equipment; and
(g) available services and supports; and
(h) insurance and visa requirements for receiving educational instruction from the signatory; and
(i) this code; and
(j) full costs related to an offer of educational instruction.

(2) Each signatory must ensure that the educational instruction on offer is in accordance with the Act and is appropriate for students’ expectations, English language proficiency, and academic capability.

(3) Each signatory must ensure that, before entering into a contract with the signatory or enrolling with the signatory, international students and their parents or legal guardians are informed of their rights and obligations in relation to receiving educational instruction from the signatory, including their rights under this code.

(4) Each signatory must ensure that there is a written contract entered into between the signatory and each international student (or the student’s parent or guardian if the student is under 18 years) which includes clear information about the beginning and end dates of enrolment, the conditions for terminating enrolment, and the conditions for terminating the contract.

(5) Each signatory must ensure that, while an international student is enrolled with the signatory, the student has appropriate insurance covering—

(a) the student’s travel—
   (i) to and from New Zealand; and
   (ii) within New Zealand; and
   (iii) outside New Zealand; and
(b) emergency medical care in New Zealand, including diagnosis, prescription, surgery, and hospitalisation; and
(c) repatriation or expatriation of the student as a result of serious illness or injury, including cover of travel costs incurred by family members assisting repatriation or expatriation; and
(d) death of the student, including cover of—
   (i) travel costs of family members to and from New Zealand; and
(ii) costs of repatriation or expatriation of the body; and
(iii) funeral expenses.

(6) Each signatory must ensure that significant matters involving an international student under 18 years are managed through his or her parent or legal guardian, and that where appropriate the signatory obtains the written agreement of the parent or legal guardian to decisions affecting the student.

Immigration matters

17 Outcome 4

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

18 Process

Each signatory must—
(a) ensure that each international student who enrols 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 students; and
(c) notify Immigration New Zealand of terminations of enrolment.

Orientation

19 Outcome 5

Signatories must ensure that international students have the opportunity to participate in a well-designed and age-appropriate programme that provides the information and advice necessary for a student at the outset of his or her educational instruction.

20 Process

(1) Each signatory must ensure that its orientation programme—
(a) provides each international student with full information and advice on all relevant institutional policies; and
(b) provides each international student with full information and advice on the services, support, and facilities that the signatory offers; and
(c) provides the names and contact details of designated staff members responsible for international student support; and
(d) provides appropriate information relating to health and safety of international students; and
(e) provides information about grievance procedures for international students, both internal and external; and
(f) provides information about the termination of enrolment.

(2) For international students under 18 years, each signatory must offer an orientation programme to their accompanying parents, legal guardians, and residential caregivers.

Safety and well-being

21 Outcome 6
Signatories must—
(a) ensure that international students study in a safe environment; and
(b) provide adequate support for the well-being of their international students; and
(c) as far as practicable ensure that international students live in a safe environment.

22 Process: general
Each signatory must—
(a) respond fairly and effectively to instances of inappropriate behaviour by, or impacting on, an international student; and
(b) develop and maintain polices for managing inappropriate behaviour that are communicated to staff and students and effectively implemented; and
(c) advise international students on how to—
(i) report and address health and safety issues (for both on campus and off campus activities); and
(ii) respond to an emergency (for both on campus and off campus activities); and
(iii) access health and counselling services; and
(iv) engage with relevant Government agencies such as the New Zealand Police and Child, Youth and Family; and
(d) have up-to-date contact details for each international student and their next of kin; and
(e) ensure that at all times (24 hours a day, 7 days a week) there is at least 1 staff member available to be contacted by an international student in an emergency.
23 **Process: international students under 18 years**

In relation to international students under 18 years, each signatory must, in addition to the requirements set out in clause 22,—

(a) not enrol an international student 11 years or older but under 18 years who does not live with a parent or legal guardian unless—

(i) the student is in a properly supervised group of students whose educational instruction is not more than 3 months; or

(ii) the student is in the care of a residential caregiver; and

(b) have up-to-date contact details for the students’ parents, legal guardians, and residential caregivers; and

(c) maintain effective communications with the parents, legal guardians, or residential caregivers of students concerning their wellbeing and progress in study; and

(d) ensure that at least 1 staff member is designated to proactively monitor and address any concerns about international students under 18 years; and

(e) ensure that each student is in the care of a parent, legal guardian, or residential caregiver when the student’s enrolment with the signatory terminates.

24 **Process: international students under 11 years**

(1) Each signatory must ensure that its international students under 11 years live with a parent or legal guardian, unless they are accommodated in a licensed hostel.

(2) This clause applies in addition to the requirements set out in clauses 22 and 23.

25 **Process: international students at risk or with special needs**

(1) Each signatory must—

(a) take steps to identify international students at risk or with special needs; and

(b) ensure that appropriate measures are put in place to address the needs and issues of students that the signatory has reasonable grounds to be students at risk or with special needs; and

(c) ensure that issues relating to the students are reported to relevant agencies such as the New Zealand Police and Child, Youth and Family, and to the code administrator.

(2) A student is at risk if either or both the following apply:

(a) the student is unable to adequately protect himself or herself against significant harm or exploitation:

(b) the student is unable to adequately safeguard his or her personal welfare.
This clause applies in addition to the requirements set out in clause 22.

26 Process: accommodation

(1) In relation to an international student under 18 years who lives in accommodation provided or arranged by a signatory, the signatory must—
   (a) ensure that the student’s accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and
   (b) ensure that a safety check in accordance with Part 3 of the Vulnerable Children Act 2014 has been completed for every person over 18 years who supervises, or lives in the same accommodation as, the student; and
   (c) maintain effective communications with the student and his or her parents or legal guardian when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities and moving students to appropriate accommodation.

(2) In relation to an international student 18 years or over who lives in accommodation provided or arranged by a signatory, the signatory must—
   (a) ensure that the student’s accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and
   (b) maintain effective communications with the student when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities.

(3) In relation to an international student 18 years or over who arranges accommodation for himself or herself, the signatory must ensure that the student is directed to relevant advice and information that will enable the student to understand his or her rights and obligations as a tenant in New Zealand.

(4) In this clause, accommodation issues includes issues of health and well-being arising from a student’s accommodation or connected with it.

Student support, advice, and services

27 Outcome 7

Signatories must ensure that international students are fully informed about relevant advice and services to support their goals and progression during, and for a reasonable period following, their study.

28 Process

Each signatory must—
   (a) ensure that information and advice provided by the signatory to international students is accurate, age-appropriate, and up to date; and
   (b) provide its international students with information about their legal rights and obligations and, where possible, the possible risks when students receive or accept advice or services; and
(c) provide its international students with information and advice on—
   (i) how to effectively interact with persons from different cultural backgrounds; and
   (ii) the cultural and community support available to them; and
(d) ensure that its international students are provided with information and advice on pathways for further study or career development, where appropriate; and
(e) ensure that its international students have access to information and advice on—
   (i) minimum wages and labour conditions in New Zealand; and
   (ii) maximum hours of work permitted under visa conditions.

Managing withdrawal and closure

29 Outcome 8

Signatories must ensure that the fees paid by international students for educational instruction in New Zealand are secure and protected in the event of student withdrawal or the closure of a course of educational instruction or a signatory.

30 Process

(1) Each signatory must ensure that—
   (a) its refund policies are reasonable and in accordance with legislative requirements and
   (b) it provides its international students 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 a student to obtain a study visa:
   (b) voluntary withdrawal by a student:
   (c) the signatory ceasing to provide a course of educational instruction as contracted with a student, whether it stops of its own accord or as required by an education quality assurance agency in accordance with the Act:
   (d) the signatory ceasing to be a signatory:
   (e) the signatory ceasing to be a provider.

(3) In the situation in subclause (2)(c) or (d), the signatory must deal with fees paid for services not delivered to a student, or the unused proportion of fees paid by a student, as follows:
   (a) refund the amount in question to the student; or
(b) if directed by the student or the code administrator or the agency responsible for fee protection mechanisms, transfer the amount to another signatory as agreed with the student.

**Grievance procedures**

**31 Outcome 9**
Signatories must ensure that all international students have access to proper and fair procedures for dealing with grievances.

**32 Process**
(1) Each signatory must ensure that—
   (a) it has an effective internal process for addressing grievances by its international students; and
   (b) its international students are informed about that process.

(2) Each signatory must advise its international students—
   (a) of the availability of recourse to the code administrator or DRS or any other relevant authority if a student cannot access the internal grievance process or is dissatisfied with the outcome or experience of using that process; and
   (b) how to make a complaint to the code administrator or to seek resolution of a financial dispute under the DRS.

**Compliance with International Student Contract Dispute Resolution Scheme**

**33 Outcome 10**
Signatories must comply with the DRS rules.

**34 Process**
(1) Each signatory must ensure that it is familiar with the DRS rules and ensure compliance with those rules in a dispute to which it is a party.

(2) Failure to comply with the DRS rules is a breach of this code and may trigger sanctions by the code administrator.

**Part 5**

**Breaches of code**

**35 Reporting breach of code**
(1) Any person may—
   (a) complain to the code administrator that the code has been breached; or
   (b) refer any issue relating to breach of the code to the administrator.

(2) The code administrator—

14
(a) must publish its processes for receiving and dealing with a complaint or referral; and

(b) may prescribe forms for use in making a complaint or referral.

36 Code administrator’s response to complaint or referral

(1) On receiving a complaint or referral under clause 35, the code administrator must decide whether the complaint or referral appears to involve a breach of the code warranting further investigation.

(2) If the code administrator decides that further investigation is warranted, it must—

(a) make a record of, and investigate the apparent breach; and

(b) notify the person who made the complaint or referral of the decision to investigate.

(3) If the code administrator decides that further investigation is not warranted, it must consider the following options and act accordingly:

(a) refer the complaint or referral to another agency:

(b) deal with the complaint or referral informally:

(c) terminate the complaint or referral.

(4) In investigating a complaint or referral, the code administrator may assist the person making the complaint or referral (or refer that person to assistance) if assistance is necessary for facilitating the investigation (for example, assistance to overcome a language barrier).

37 Monitoring compliance with code

(1) Each signatory must undertake and document self-reviews (at the frequencies specified by the code administrator) of its performance against the required outcomes and processes set out in this code.

(2) The code administrator must monitor each signatory’s performance against the required outcomes and processes by scrutinising the signatory’s self-review reports and any other information that the code administrator considers appropriate.

(3) The code administrator may investigate the performance of a signatory if it is concerned that the signatory does not comply, or is at risk of not complying, with this code.

(4) An investigation—

(a) may be undertaken whether on the code administrator’s own initiative or as a result of information provided to it, including a complaint or report of a breach of this code; and

(b) may include (but is not limited to) the following steps by the code administrator, subject to the consent of the signatory to each of these steps:
(i) making a site visit:
(ii) inspecting and obtaining relevant documents held by the signatory:
(iii) interviewing staff and students as appropriate.

(5) A signatory must comply with reasonable requests by the code administrator in the course of an investigation for access to documents, staff, and students.

(6) The code administrator may—
(a) if practicable and appropriate, consult and share information with other government agencies for the purpose of agreeing interventions for the improvement of the code or compliance with it; and
(b) receive and consider information provided by other government agencies for the same purpose.

38 Sanctions for breach of code
The code administrator may impose a sanction for breach of this code in accordance with section 238G of the Act.

Part 6
Code administrator

39 Reporting and publishing obligations
(1) The code administrator must include in its annual report a report on its activities in administering this code.

(2) If the code administrator in the course of investigation finds any systemic issue related to education quality or a serious breach of this code, the code administrator must report that issue or breach to other education quality assurance agencies and any other relevant government agency.

(3) The code administrator may, for the limited purposes set out in subclause (4), disseminate or otherwise publish a summary of the investigation and outcome of a breach of this code, subject to appropriate safeguards and redactions for protection of privacy.

(4) The purposes referred to in subclause (3) are—
(a) keeping education providers, students, and other educational interest groups informed; and
(b) demonstrating the process of investigation and decisionmaking under this code.

(5) The code administrator must take reasonable steps to publicise this code to education providers and to international students.
Dated at Wellington this day of 2015.

Minister for Tertiary Education, Skills and Employment.