

Overseas Student Factsheet: Deferring or Suspending Your Study

Most students want to finish their studies quickly and without interruption. Unfortunately, there may be times when you need to delay your start date (known as ‘deferring your studies’), or take a break from your studies (known as ‘suspension of study’).

When dealing with a request to defer or suspend your study, educational providers must comply with the *Education Services for Overseas Students Act 2000 (Cth) (ESOS Act)* and the *National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code)*, available at:

<https://www.legislation.gov.au/Details/F2017L01182>.

When can I ask for a deferral or suspension of study?

You can ask your education provider to defer or suspend your studies if there are **compassionate or compelling circumstances** that make it very difficult or impossible for you to go to class or to complete your study (*National Code 9.2*).

You will have to fill in some paperwork to ask your provider to defer or suspend your study and, depending on your situation, you might have to provide some supporting evidence.

What are compassionate or compelling circumstances?

Compassionate or compelling circumstances are events that are generally beyond your control which make it difficult for you to attend class, progress in your course, or otherwise complete your study.

Compassionate and compelling circumstances can include:

- Serious illness or injury
 - You will need to see a doctor and get a medical certificate that explains your serious illness or injury and how this impacts your ability to attend class or study
- Sudden death of a family member
 - You may need to give your provider a death certificate
- Major political issues or natural disasters in your home country, which require you to travel back home as soon as possible
- A traumatic experience, such as watching, or being the victim of, a serious accident or violent crime
 - You will need some reports from a police officer or healthcare worker to explain how it affects your study
- Student Visa issues
 - You can’t start your course because there is a delay in receiving your student visa.

How long can I defer or suspend my studies for?

You can only defer or suspend your studies for a *reasonable* amount of time. Some education providers will also have a maximum period of time they allow for the deferral or suspension of studies.

Before you make a request for deferral or suspension, you should:

- read your provider's deferral and suspension policy; and
- check your student agreement, to see if there are any time limits for completing your entire course.

If you do not have a copy of these documents, or have any questions, talk to your education provider.

If you defer your studies before the start of your course, you may need to get a new Confirmation of Enrolment ('CoE') from your education provider, which contains your new start and end date.

Approved: My education provider has approved my deferral or suspension of study. Do I need to do anything?

After an education provider has approved a deferral or suspension of study, you will be exempt from your student visa attendance conditions during the time your studies are deferred or suspended (*National Code*, 8.1).

Your provider must tell you that any deferral or suspension can affect your student visa, and tell you to get help from the Department of Home Affairs (DoHA).

If your provider gives you a new CoE, make sure that your course end date is earlier than, or the same as, your student visa expiry date.

If your CoE date is after the expiry of your student visa, you should seek advice from a registered migration agent.

Refused: My education provider has not approved my deferral or suspension of study. What do I do now?

Your education provider will tell you if your request has been refused.

If you disagree with the decision, you can lodge a complaint. Every education provider must have an internal appeals or complaints process. This process must be easy to use, free, and cover a wide range of issues or complaints.

For more information about making a complaint about your education provider or appealing a decision made by your provider, please refer to the Redfern Legal Centre (RLC) factsheet on '*Making a complaint about your education provider*' (see: www.rlc.org.au).

Refusal and Cancellation of Enrolment

If your education provider refuses a deferral or suspension request AND tries to cancel your enrolment, they must tell you that they want to cancel your enrolment, and give you reasons why, *before* they cancel your enrolment (*National Code*, 9.4.1).

The notice of decision must include a statement saying that you can respond to the notice within 20 working days (*National Code*, 9.4.2).

If you choose to respond to the notice, you should follow the education provider's internal appeals or complaints process.

The provider is **not** allowed to notify tDoHA of any changes to your enrolment status, or otherwise take any action to suspend or cancel your studies, until the internal appeal process is complete (*National Code*, 9.6). The provider may notify DoHA if there is a risk to the health and wellbeing of you, or someone else.

For more information about making appealing a decision made by your provider, please refer to the RLC factsheet on 'Enrolment Cancellations: Your Options' (see: www.rlc.org.au). Tips

Before making any request to defer or suspend your studies:

- Read your provider's policy and procedure for deferral or suspension of study.
- Collect as much evidence as you can to support the reasons for your request to defer or suspend your studies. This can include medical certificates and other documents.

When requesting to defer or suspend your studies:

- Apply for your suspension or deferral at the earliest opportunity.
- Where possible, ensure that communications between you and your provider are in writing (and preferably in English), rather than by phone.
- If you speak to your education provider in person, make sure you keep a written record of the conversation, which includes:
 - the date and time of the conversation;

- who you spoke with;
- the name/s of anyone else who was with you;
- where the conversation occurred; and
- what was said.

Your agreement with the education provider

Your provider must enter into a written agreement with you, before accepting any fees from you. The agreement must be easy for you to understand (*National Code*, 3.1), and must contain the following, in simple language (*National Code*, 3.3):

- The course name, start date, location, and methods of study;
- A list of situations in which the education provider will give you a refund;
- A statement about the education provider's obligations to you;
- An itemised list of course fees, and other fees which you may incur;
- A statement about how your information will be shared between the education provider, the Australian Government, and other entities;
- A statement about your rights under the *Australian Consumer Law*; and
- The internal and external complaints and appeals processes available to you.

For the agreement to be effective, it must be signed and accepted by both you and your education provider.

Your agreement with your educational provider will also contain information about the processes for claiming a refund of fees paid (*National Code*, 3.4.2).

What to do if your education provider refuses to give you a refund

If your education provider refuses to give you a refund, you can challenge the decision using your provider's internal appeals or complaints process.

For more information about making a complaint about your education provider or appealing a decision they made, please refer to the RLC factsheet on 'Making a complaint about your education provider' (see: www.rlc.org.au).

Refunds and consumer law

The *Australian Consumer Law* provides students with certain protections in relation to paid education. Your education provider **must** follow the *Australian Consumer Law*.

If you have a consumer-related complaint, you should first try to resolve the issue using the provider's internal complaints and appeals process.

If the issue is not resolved, you may be able to complain to your local State or Territory consumer protection agency. For a list of State and Territory consumer protection agencies, see: <https://bit.ly/3qkn3Ze>

For Government-funded education providers in New South Wales (NSW), you can complain to the NSW Ombudsman using the form available at: <https://bit.ly/3tsnyCs>

For private education providers, you can also complain to the Office of the Commonwealth Ombudsman using the form available at: <https://bit.ly/3lI9Eq8>

Records

To help support any application for a refund, keep good records of the following:

- the written agreement you signed with your provider;
- invoices/receipts of fee payments you have made;
- bank statements or other funds transfer records showing your payment of tuition fees; and
- any other relevant correspondence about fees.

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This factsheet is not a substitute for legal advice. If you have a problem, please contact RLC's International Student Legal Service NSW at www.rlc.org.au/contact or phone 02 9698 7645.