

International Student Factsheet

Deferring or suspending your study



This factsheet provides an overview of your rights and obligations when considering a deferral or suspension of study.

1. Introduction

Studying in Australia can be challenging and sometimes events beyond your control can prevent you from being able to study for a short period of time. Sometimes such events might even prevent you from commencing your course of study on the date anticipated.

Standard 9 and 13 of the National Code* set out some of the requirements that education providers must comply with, when considering a student's request to suspend or defer their study.

2. When can you ask for a deferral or suspension of study?

Education providers will usually only grant a student a deferral or suspension of study if compassionate or compelling circumstances exist that prevent the student from attending classes.

An education provider may also choose to defer or temporarily suspend the enrolment of a student when they have misbehaved.

What are compassionate and compelling circumstances?

Compassionate or compelling circumstances are generally those beyond your control, which affect your course progress or wellbeing. These could include, but are not limited to:

- Serious illness or injury, where you obtain a medical certificate that explains you are unable to attend classes,
- Bereavement of close family members such as parents or grandparents (where possible you

should provide a death certificate)

- Major political upheaval or natural disaster in the home country, requiring emergency travel which has affected your studies
- A traumatic experience, including a serious accident, or witnessing or being the victim of a serious crime, which has affected your studies (these cases should be supported by reports from the police or a psychologist)
- Where an education provider does not offer a pre-requisite unit, or
- Inability to begin studying on the course commencement date due to delay in receiving a student visa

Can I defer or suspend my studies for more than a year?

When determining how long is acceptable for a suspension of studies, providers will consider whether it would be reasonable to expect that you will be able to catch up in the study period/s for which you have requested the suspension.

Some providers limit the length of suspension or deferral periods. Your provider's deferral/suspension policies will usually indicate whether there is a cap on the period of time for which you might suspend or defer your studies.

Students who seek to defer their studies prior to the commencement of their course may need to obtain a new Confirmation of Enrolment ('CoE') from their provider. This will be the case where the length of the deferral period is so long as to ensure the student will no longer finish their studies on or before the end of course date listed on the student's original CoE. In this event, the provider must give the student a new CoE that reflects the student's new start and end date.

Can my provider authorise a retrospective period of deferral or suspension?

Retrospective deferral or suspension is possible, but

providers will normally only grant such requests where unusual circumstances exist. For example, if you are involved in a car accident while on holiday overseas and as a result of injuries sustained, do not attend class, your provider may grant a retrospective suspension request.

3. Do I need to do anything if my provider approves a deferral or suspension of study?

If your provider has approved a deferral or suspension of study, you will be exempt from your student visa attendance conditions during the authorised period of time of deferral or suspension.

Your provider is obligated to inform you that deferment or suspension of enrolment may affect your student visa. In particular, if your provider gives you a new CoE that has an end date that is beyond the expiry of your current student visa, you will have to apply for a new student visa to remain in Australia for the full duration of your course.

In the event that your new CoE lists an end of study date that falls after your current student visa expires, you should seek visa advice from a registered migration agent.

4. Options if your education provider refuses to grant you a deferral/suspension of study

If your provider refuses your deferral or suspension of study request, you may choose to access your provider's internal appeal/complaints process.

If your provider refuses to grant you a deferral or suspension of study and proceeds to cancel your enrolment, the provider must notify you of their intention to do so before they can actually cancel your enrolment.

Any notice received from your provider indicating that they intend to cancel your enrolment should include a statement that you can respond to the notice within 20 working days.

If you choose to respond to the notice of intention to cancel your enrolment, the provider must not notify the Department of Education of any changes to your enrolment status until the internal complaint/appeal process is complete.

To assess the merits of your claim, you should seek legal

advice before making a complaint or appeal against your provider.

For more details about making a complaint about provider or appealing a decision made by your provider, please refer to the RLC factsheet on 'Making a complaint about your education provider'.

5. Tips for resolving deferral/suspension disputes with an education provider

- Before making any request to defer or suspend your studies you should collect as much evidence as possible to support your reasons for the request. For medical issues, this includes getting a medical report or certificate from your treating doctor or psychologist
- Your provider must have a documented process for considering deferrals/suspension of study. You should ask for a copy of this to carefully review if you are considering a deferral or suspension of study
- If you are considering a retrospective suspension of study, you must be aware that if your provider monitors attendance, they are required to contact and counsel you if you have been absent for more than five consecutive days (Standard 11.4 of the National Code). If this applies to you, you may need to act quickly to avoid being reported for non-attendance

Produced by the Redfern Legal Centre.

This factsheet is not a substitute for legal advice. If you have a problem with an education provider, please seek legal advice from your local community legal centre or other legal advisors.

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* *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 (Cth)*. ESOS framework refers to the *National Code* and the *Education Services for Overseas Students Act 2000 (Cth)*.