



SUBMISSION NUMBER: 21

DATE RECEIVED: 13/10/2011



The Hon. Adrian Piccoli MP
Minister for Education

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Standing Committee on Education and Employment
House of Representatives
Parliament of the Commonwealth of Australia
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DGS 11/1608

Dear Secretary

RE: Submission on the Education Services for Overseas Students Legislation
Amendment (Tuition Protection Service and Other Measures) Bill 2011

The NSW Department of Education and Communities welcomes the Review of the Education Services for Overseas Students (ESOS) Act.

The amendments to the ESOS Act - Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011, however, raise some issues for NSW government schools and TAFE NSW.

The new compliance timeframes included in the Amendments are not practical for a large organisation such as the NSW Department of Education and Communities. The Amendments may also negatively impact on students, which is contrary to the intention of the reforms.

Details of these concerns and the Department's recommended amendments are outlined in the attached table.

Thank you for the opportunity to make this submission and bring these issues to your attention.

Yours sincerely

Adrian Piccoli MP
Minister for Education

DEPARTMENT OF EDUCATION AND COMMUNITIES
Submissions to the House of Representatives
ESOS Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011

Section of the Bill	Comments	Recommendation
Division 2 - Obligations on registered providers when a provider or student defaults Subdivision A – Provider defaults 46A When a registered provider defaults	It is requested that the inclusion of 'location' in the definition of provider default be amended for large providers with multiple campuses. Both NSW Government Schools and TAFE NSW are CRICOS providers with multiple campuses. In certain cases, a place offered to a student at a NSW Government School or a TAFE NSW institute campus may cease to be available on the agreed starting day or before a course is completed. However, a place at another school or in the same course at another TAFE NSW campus may be available. In these cases, the student is offered another location reasonably close to the original school or campus. Students may be satisfied with the alternative location and if not they may be released. In such circumstances, the provider should not be deemed to have defaulted.	It is recommended that an additional clause be added as follows: 46A (1) (a) (iii) <i>Where (i) and (ii) apply but the provider is able to offer the student an alternative location for the course, which is reasonably close to the original campus and is accepted in writing as a satisfactory alternative by the student, the provider does not default.</i>
46B registered providers to notify of provider default	Clause (2) requires providers who default to notify the Secretary and the TPS Director within 24 hours of the default occurring. This time frame is unrealistic for large providers such as NSW Government Schools and TAFE NSW, where communication of such situations goes from the school or college to the centralised international student unit to act upon.	It is requested that clause 46B (2) be amended as follows: <i>The provider must notify, in writing, the Secretary and the TPS Director of the default as soon as practicable and no later than 3 working days of the default occurring.</i>

Section of the Bill	Comments	Recommendation
Subdivision B – Student defaults 47A When a student defaults	Students may not start the course on the agreed starting day due to unforeseen but valid reasons including delays in visa processing and flight delays. If the student has not attended on the agreed day, 24 hours is not sufficient time to contact the student or agent and receive a reply as to the reason for non commencement and to then notify the Secretary and the TPS Director of the default. Hasty notification of a student default may result in the unnecessary cancellation of a student's visa and confirmation of enrolment, which may need to be reissued.	It is requested that 47A (1) (a) be amended as follows: <i>The course starts at the location on the agreed starting day, but the student does not start the course within 10 working days of the agreed starting day (and has not previously withdrawn).</i>
47C Registered provider to notify of student default	Clause (2) requires providers to notify the Secretary and the TPS Director within 24 hours of the default occurring. This time frame is unrealistic for large providers such as NSW Government Schools and TAFE NSW, where communication of such situations goes from the school or college to the centralised international student unit to act upon. For a student default, more time is required for the provider to confirm with the student any special circumstances that resulted in a delay in start date and to allow the student to commence the course.	It is requested that clause 47C (2) be amended as follows: <i>The provider must notify, in writing, the Secretary and the TPS Director of the default as soon as practicable and no later than 14 working days of the default occurring.</i>
Schedule 3 – Prepaid Fees Division 1 – Main amendments Section 22 – Requirement to provide for study periods Subsection (1) and (3)	The study period of 24 weeks is the usual study period for one year of a university course. NSW government schools have a 41 week study period for the school academic year, and tuition fees are set for the academic year. This would be consistent across all school sector providers. The 24 week maximum also is not applicable to English Language Intensive Courses for Overseas	It is requested that subsection (3) be amended as follows: <i>A study period must be no more than 24 weeks long for tertiary courses, no more than 41 weeks long for school courses and no more than 50 weeks for ELICOS courses.</i>

Section of the Bill	Comments	Recommendation
	Students (ELICOS). The practice is for study periods to be counted in 5 week blocks. Students can take ELICOS courses from 5 to 50 weeks in length. In the case of a 25 week ELICOS enrolment, it would be unnecessary additional work to invoice for two periods, one for 24 weeks and a second for 1 week.	
Division 2 – Prepaid fees Section 27 – Prepaid fees Subsection (1)	NSW government schools run short term study programs ranging from one term (12 weeks) to one year (41 weeks). The total tuition fees are paid upfront to save parents making further money transfer during the program. This would be consistent with the Section stating that in the case of courses of two-year duration or more, a provider can collect up to 50% of total fees, which would cover a period of one year.	It is requested that subsection (1) be amended as follows: <i>A registered provider must not collect in excess of one year tuition fee of the course or the total tuition fees of the course if the course is less than one year duration, before the student has begun the course.</i> Subsection (2) can be deleted if the suggested amendment (1) is accepted.
Subsection (3)	A provider may be requested by students to receive fees earlier than 2 weeks before the beginning of a study period for various reasons such as the student will be on holiday and will not return to Australia at the payment due date or when there is favourable exchange rate. A provider needs more than 2 weeks notice to plan for staffing and class timetabling for the next semester.	It is requested that subsection (3) be amended as follows: <i>A registered provider is prevented from receiving tuition fees for a course to be paid more than 4 weeks before the beginning of a study period for the course, unless requested by the students.</i>
Education Services for Overseas Students (TPS Levies) Bill 2011 Clause 4 – Interpretation Definitions	Overseas student tuition fees: It is not clear whether the fee received is a gross amount or a net amount which is the fee received less fees refunded. It should be the net amount that is subject to risk assessment.	It is requested that the interpretation be amended as follows: <i>Overseas student tuition fees for a registered provider for a year is the amount of tuition fees received less any fees refunded by the provider during the year in respect of an overseas student or intending overseas students.</i>