Information session – Changes to the Student Visa Program

(STO) Student Integrity Unit
NAME/s
Changes to the Student Visa Program
Of the 41 recommendations two relate directly to Student Integrity:

Recommendation 24:
- Automatic cancellation of student visas should be abolished and replaced by a system in which information conveyed by SCVs is used as an input into a more targeted and strategic analysis of non-compliance.

Recommendation 25:
- The mandatory cancellation requirement for unsatisfactory attendance, unsatisfactory progress and working in excess of the hours allowed should be removed, giving DIAC officers the discretion to determine cancellation in particular cases on their merits.
## Changes to the Student Visa Cancellation framework

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<th>Automatic and mandatory student visa cancellations are being abolished</th>
<th>Discretionary cancellation replaces the automatic and mandatory cancellation framework</th>
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<td><strong>Automatic Cancellation</strong>&lt;br&gt;Automatic cancellation occurs when a student visa holder is reported by their education provider for not maintaining satisfactory course progress or class attendance. Students who do not contact DIAC within the 28 days will have their visa automatically cancelled.</td>
<td><strong>Discretionary Cancellation</strong>&lt;br&gt;Discretionary cancellation involves a DIAC decision maker examining a case and taking the individual circumstances, including the past, present and future circumstances of the student into account when making a decision on whether or not to cancel a visa. The move from automatic and mandatory cancellation to discretionary cancellation will lead to fairer outcomes for student visa holders.</td>
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**Mandatory Cancellation**<br>Mandatory cancellation requires a DIAC decision maker to cancel the visa unless exceptional circumstances apply.
Impact of these changes: Discretionary Cancellation Framework

**Student visa cancellation regime for breaches of condition 8202 (attendance and progress) once automatic cancellation is ceased**

- Provider identifies student at risk of failing to meet progress or attendance requirements
- Provider intervenes to assist. If no improvement, ESOS National Code requires they give the student 20 days in which to access complaints and appeals before reporting them.
- Provider reports a student through PRISMS under section 19 of the ESOS Act.
- DIAC considers the circumstances of students through PRISMS information. DIAC may issue a NOICC to students most recent contact details.
- DIAC may receive response from student visa holder. **Considers cancellation under discretionary powers** in section 116 of the Migration Act.
- If breach found not to have occurred and cancellation considered warranted, visa cancelled.
- If breach found to have occurred or cancellation determined to be unwarranted, visa remains active.
- Individual may apply for MRT Merits Review.

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**Education Services for Overseas Students Act 2000 (ESOS Act)**

**Migration Act 1958 and Migration Regulations 1994**
## Impact of the changes: Difference between the two frameworks

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<th>Current Regime</th>
<th>New Regime</th>
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<td>Education Providers are required under the ESOS Act and National Code to enter details of an alleged breach of academic progress or attendance requirements in PRISMS.</td>
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<td>When an alleged breach of academic progress or attendance requirement is entered into PRISMS a s20 notice is generated. The Education Provider sends this notice to the student.</td>
<td>When an alleged breach of academic progress or attendance requirement is entered into PRISMS a s20 notice will not be generated.</td>
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<td>If a student attends a DIAC office in person, DIAC currently has a limited ability to consider circumstances of breaches, including whether to cancel a visa.</td>
<td>DIAC will be able to support fairer outcomes for students with the ability to differentiate between genuine and non-genuine students.</td>
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Impact of changes for Education Providers

Correspondence
- Review your correspondence templates to ensure they do not refer to automatic cancellation
- You are still required to send the Intention to Report letter to the student
- Update PRISMS with the last known contact details of the student

What stays the same?
- Student visa holders are still required to abide by the conditions of their visa, maintain course progress and attendance as well as monitor their work hours.
- Education Providers are still required to advise a student through the intention to report letter if they breach their visa conditions and to report this information in PRISMS for DIAC to take appropriate action.
Benefits of the new regime

Shared responsibility – working together

- Education Providers work proactively with DIAC to manage the visa outcomes of students – eg encouraging students to comply with visa conditions.
- Education Providers support DIAC by promptly reporting breaches via PRISMS and updating contact details in PRISMS.
- DIAC will continue to support the integrity of the student visa program through a range of activities and work in partnership with Education Providers to address risks.
- The cessations of automatic and mandatory cancellation and the introduction of discretionary cancellation will support fairer outcomes for students.
The way the department will interact with Student Visa holders in the future

How we will communicate

- The DIAC website will be updated for students, education providers, peak bodies and migration agents. This will include fact sheets and FAQ’s.
- Key messages will be promoted through DIAC’s social media channels - Facebook and Twitter.
- Information for education providers to pass onto students will be communicated via a monthly newsletter.
- Via email <Student Integrity STO Inbox>
- Through information sessions such as this forum
MINORS (visa holders under 18yo)

How the changes impact education providers reporting on student minors:

- When entering a SCV 8 (unsatisfactory course attendance) or SCV 10 (unsatisfactory course progress) for a minor please contact DIAC <enter email address> to notify us of the issue.

Other work the Department is involved in:

- Providing input to DIISRTE on changes for Standard 5 of the National Code to strengthen the regulatory framework for the welfare arrangements of student minors
- Seeking early advice of college closures from the relevant agencies to support the continued education of student minors.
- Member of the Joint Committee on International Education (JCIE) and using this forum to work toward these improvements.
When will these changes take effect?

From midnight on 13 April, Section 20 notices can no longer be issued.

Students have 28 days to present to DIAC to stop automatic cancellation.

The last Section 20 notice can be issued at 11.59pm on 12 April 2013.

On the 29th day automatic and mandatory cancellation framework ceases.
Helpful contacts

• To contact us: <STO SI Inbox>
• To find additional information about these changes: http://www.immi.gov.au/students/knight/
• For questions about the ESOS Act: AEI@innovation.gov.au.
• For help with PRISMS: prisms@innovation.gov.au
Questions