

# Code of Practice for the Pastoral Care of International Students

## Newsletter May 2008

### **Kia ora koutou**

*Greetings Colleagues*

*We know that you have already had a busy few months, making every effort to provide the best level of care for our international students. In our May 2008 newsletter we have tried to include some really useful information which has arisen out of queries from you, the people on the front line! We hope that this is helpful and look forward to continuing to support you.*

*The Code of Practice Team.*

### **Ensuring that your policies and procedures meet with legislative requirements**

It is up to education providers and their legal advisers to make decisions on how they will meet the obligations imposed on them under the Education Act. That is: Providers need to talk to their own legal advisers on how they comply with all the various legislation that applies to their operations. The Ministry can suggest best practice but it is up to providers to conduct their businesses in accordance with the law. Please use this advice in ensuring that you have sound contractual arrangements and policies and procedures in place.

### **Code Review**

Submissions/feedback on the review of the Code of Practice for the Pastoral Care of International Students closed on 28 March. All the submissions will now be collated by the Ministry of Education. Following analysis, the Ministry of Education will advise Ministers on the outcome of consultation and seek their agreement to any recommended changes. It is planned that any revisions to the Code will be gazetted by 1 July 2008. The sector will have a period of up to six months to adjust to any significant Code changes, should this be required.

For further information and/or assistance please email: [code.feedback@minedu.govt.nz](mailto:code.feedback@minedu.govt.nz) or phone Deborah Tennet on 04 463 7098.

### **Information for Schools**

#### **Enrolments**

The Code office receives many inquiries from schools regarding enrolment of international students. Please refer to Circular - 2007/1 Updated - Eligibility for enrolment in New Zealand schools for the definitions of those who are classified as international and those classified as domestic. The circular also outlines which documents should be sighted and copies kept in student files. Click on the attached link to download your copy of the Circular.

[Circular - 2007/1 Updated - Eligibility for enrolment in New Zealand schools - Ministry of Education](#)

#### **Dependents of NZ Aid students**

If NZ Aid students are on commonwealth scholarships or enrolled in PhD programmes then their dependents are domestic students and they can be enrolled anywhere. If the NZ Aid students are not on commonwealth scholarships or enrolled in PhD programmes then their dependents are international students and must pay fees and attend a Code signatory school. This means that to determine whether NZ Aid dependents are domestic or not you need to know the scholarship programme of their parents.

#### **“Guardians”**

The only guardian mentioned in the Code is the parent/legal guardian. The Code Definition of Legal Guardian states “Legal



Guardian” means the person:

- a) with the legal right and responsibility to provide for the care (Including education and health) of an international student and appointed by a New Zealand or foreign court, or by testament: and
- b) usually providing for the care of the student in the student’s home country.

Some parents are going to the trouble and expense of getting a court-appointed “additional (legal) guardian”. However, the parents are still the legal guardians. Documents endorsed by a solicitor in which the parents appoint an additional “guardian” do not meet part (b) of the Code definition and do not negate the need for a student in Years 1-6 of a school or aged 10 and under in any other provider to live with a parent.

### The Education Act 1989 (28 Days)

At present many schools are using Part 1 Section 4(8) to keep a student on at school while waiting for a visa to be issued. Principals should consider the Immigration Act in such cases, which makes it an offence to allow someone to undertake study if they haven’t got the right visa. The school cannot use the Education Act to keep the student on if the school knows their student visa has expired. Schools must consult INZ if there are any questions about individual cases.

Please contact Linda Funnell on 06 952 7757 or email: [Linda.funnell@dol.govt.nz](mailto:Linda.funnell@dol.govt.nz)

### Misconduct outside school

The Code office has received inquiries regarding whether international students could be suspended or expelled for misconduct related to activity outside the school. This misconduct may involve the police. It is not appropriate for the Ministry to provide legal advice on these matters, and in any case the legal position of the school will depend on the facts of any particular case.

The expulsion provisions of the Education Act operate for international students in the same way as they do for domestic students, and these provisions apply in relation to conduct which is related to the school. A homestay contract on the other hand, is a separate legal arrangement and, depending on the provisions of that contract, a student could be required to leave school if there was a breach of that contract.

### Exchanges which are organised by a school

All exchanges organised by schools must be registered with Kate Ford at MOE even if they are private arrangements school to school. You can contact Kate by emailing her at the following address [Kate.ford@minedu.govt.nz](mailto:Kate.ford@minedu.govt.nz)

### Information for Private Training Establishments (PTEs)

When a student requests a refund under the 7 day refund policy of the Education Act, to whom should the refund be made?

It is up to education providers and their legal advisers to interpret the obligations imposed on providers under the Education Act and make decisions on how they will meet those obligations. On a plain reading of the relevant parts of section 236A of the Act, the Ministry’s view is that refunds are to be made to the student. Providers should discuss any legal issues arising from this particular obligation with their legal advisers. This may include some discussion about ways of covering obligations to parents or agents who may have made payments on behalf of the students and ways to address any pastoral care concerns about refunding to students directly. It is really important that your refund policy is not only clear about this aspect, but also sighted and understood by the student.

### Information for Flight Training Schools

As at 8 May 2008 NZCAA has new English Language Proficiency requirements for the following:

- Private Pilot Licence;
- Commercial Pilot Licence; or an
- Airline Transport Pilot Licence

Please check the Aviation Language Proficiency requirements at [www.caa.govt.nz](http://www.caa.govt.nz) and ensure that you update your information provided to prospective international students.



Contact Us	
Dot Bach:	(T) (09) 632 9511 (E) <a href="mailto:dot.bach@minedu.govt.nz">dot.bach@minedu.govt.nz</a>
Denise Berry:	(T) (09) 632 9436 (E) <a href="mailto:denise.berry@minedu.govt.nz">denise.berry@minedu.govt.nz</a>
Judy Simpson:	(T) (09) 632 9512 (E) <a href="mailto:judy.simpson@minedu.govt.nz">judy.simpson@minedu.govt.nz</a>
Yvonne Callaghan:	(T) (09) 632 9513 (E) <a href="mailto:yvonne.callaghan@minedu.govt.nz">yvonne.callaghan@minedu.govt.nz</a>
Emma Mackie:	(T) (09) 632 9481 (E) <a href="mailto:emma.mackie@minedu.govt.nz">emma.mackie@minedu.govt.nz</a>

