

# Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021

Pursuant to section 534 of the Education and Training Act 2020, the Minister of Education makes the following code of practice.

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## **Part 1**

### **Introduction**

#### **1. Title**

This code is the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021.

#### **2. Commencement**

This code comes into force on 1 January 2022.

#### **3. Application of Code**

- (1) This code specifies the role of providers in ensuring the organised and formal provision of practices to support the wellbeing and safety of –
  - (a) all tertiary learners generally; and
  - (b) tertiary learners residing in student accommodation; and
  - (c) international tertiary learners; and
  - (d) international school learners.
- (2) Providers must implement all processes in this code in a way that appropriately responds to the needs of learners within particular learning, communal and residential contexts and is consistent with code administrator expectations.
- (3) For tertiary providers this code applies to –
  - (a) the activities provided or organised by, or on behalf of, a provider for domestic and international tertiary learners enrolled with an education provider, whether learners are in New Zealand or offshore; and
  - (b) student accommodation which is exempt under section 5B of the Residential Tenancies Act 1986 (RTA), including where there is a written agreement between the tertiary provider and the accommodation provider under section 5B(1)(b)(ii) of the RTA.
- (4) For school signatories, this code applies to the activities provided or organised by, or on behalf of, a signatory for international school learners, whether learners are in New Zealand or offshore.
- (5) The code administrator may exempt the following learners from the application of specific processes of this code –
  - (a) a school learner who changes status from domestic learner to international learner; or
  - (b) domestic tertiary learners or school or tertiary international learners where appropriate, with due consideration for wellbeing and safety, and on approval of the Minister of Education.

- (6) This code does not override the responsibilities of education and accommodation providers under the Privacy Act 2020 or the Health Information Privacy Code made under that Act.
- (7) This code contributes to an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships in accordance with section 4(d) of the Education and Training Act 2020.

#### **4. Approval and removal of signatory status**

- (1) Providers (that is, tertiary education providers and schools) may make an application to the code administrator to become signatories under Parts 6 and 7 of this code.
- (2) The criteria for an applicant to become a signatory to this code are the following –
  - (a) the applicant is a provider; and
  - (b) the applicant provides, or is intending to provide, educational instruction; and
  - (c) the applicant has acceptable financial management practices and performance; and
  - (d) the applicant has policies and procedures in place that will enable it to achieve the outcomes sought and processes required by this code; and
  - (e) the code administrator does not otherwise consider the applicant to be unsuitable for approval as a signatory to this code.
- (3) At the request of a signatory, or as a result of sanctions set out in Section 535 of the Education and Training Act 2020, the code administrator may remove a provider as a signatory to this code.

## **Part 2**

### **How to read this code**

#### **5. Definitions**

- (1) In this code, unless the context otherwise requires, –

**accommodation staff** means any worker as defined by section 19 of the Health and Safety at Work Act 2015 who carries out work for an accommodation provider in student accommodation

**Act** means the Education and Training Act 2020

**code administrator process** relates to Part 8 of this code and has the same meaning as 238H of the Education Act 1989 which is saved by Schedule 1, clause 7(3) of the Education and Training Act 2020

**contract of enrolment between international learners and signatories** –

- (a) in relation to a signatory that is a State school, has the same meaning as contract of enrolment in section 10(1) of the Act; or
- (b) in relation to other signatories, means a written contract that is entered into between an international learner (or the learner’s parent or legal guardian, if the learner is under 18

years) and the signatory that entitles the learner to receive educational instruction provided by that signatory

**designated caregiver** means a relative or close family friend designated in writing by a parent or legal guardian of an international learner under 18 years as the caregiver and accommodation provider for that learner

**disabled or disability** includes those who have long-term physical, mental, intellectual, or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others (UN Convention on the Rights of Persons with Disabilities)

**Dispute Resolution Scheme** means the student contract Dispute Resolution Scheme established under section 536 of the Act

**diverse** means various backgrounds, experiences, and beliefs and a variety of needs across a range of learning contexts. Diversity in the learner population includes, but is not limited to, learners of varying ages, cultures, religions, sexual orientation, gender identities, international learners, refugee background learners, disabled learners, distance learners, and learners with care-experience

**education agent** means a person, body, or organisation acting on behalf of a signatory in relation to any aspect of their international learners' enrolment and study, including accommodation, and includes a subcontracted agent

**educational instruction** includes any –

- (a) class, course or programme approved under section 524;
- (b) approved programme that a provider is accredited to provide under section 441;
- (c) training scheme approved under section 445;
- (d) consent to assess against standards granted under section 449.

**education quality assurance agency** means an agency or agencies authorised by the Act to exercise quality assurance functions in respect of providers

**expatriation** in relation to international learners means the process of moving a person from one country or locality to another

**fee protection mechanism** means a mechanism approved in rules made under section 452(1)(e) of the Act

**homestay** means accommodation provided to an international learner in the residence of a family or household in which no more than 4 international learners are accommodated

**house rules** mean the house rules put in place by an accommodation provider of exempt student accommodation under section 5B of the Residential Tenancies Act 1986

**learner** means a domestic tertiary student, an international student (either a tertiary or school student), or an industry trainee or apprentice enrolled with a tertiary provider

**learner ‘at risk’** means that a tertiary provider or school has reasonable grounds to believe that there is a serious issue relating to the learner’s health, safety, or wellbeing, including for example, the learner is unable to –

- (a) adequately protect themselves against serious harm; or
- (b) adequately safeguard their personal welfare

**learning environment** refers to the diverse physical and digital locations (e.g. teaching and learning, communal, and student accommodation), contexts, and cultures in which students learn

**legal guardian** means a person who, by court or testamentary appointment, is responsible for the learner’s wellbeing and safety and financial support, and provides for the care of the learner or international learner in their home country

**licensed hostel** means a school hostel that is licensed under the Education (Hostels) Regulations 2005

**mana** means a person’s intrinsic value and inherent dignity, whether derived from a person’s whakapapa (genealogy) and their belonging to a whānau, hapū, iwi, or family group, in accordance with tikanga Māori or its equivalent in the person’s culture

**practices** mean the policies and processes implemented by the institution to realise the outcomes set out in this code

**resident** means a learner who resides in student accommodation

**residential caregiver**, of an international learner aged under 18, means –

- (a) a homestay carer; or
- (b) a licensed school hostel manager or other person responsible for the care of international learners in a licensed school hostel; or
- (c) a designated caregiver; or
- (d) a manager of tertiary student accommodation that is exempt from the Residential Tenancies Act 1986 and covered by Part 5 of this code; or
- (e) in the case of temporary accommodation, a supervisor who is responsible for the care of international learners

**routine check** means a room visit and entry by a staff member of the provider where the provider has no cause for concern about the wellbeing or safety of the resident or another individual

**signatory** means a provider that has been approved by this code administrator to enrol international learners as a signatory to this code

**stakeholders** mean learners, staff, whānau, local communities, employers, iwi, and others who share a meaningful interest in the wellbeing and safety of learners enrolled with the provider

**student accommodation** means student accommodation which is exempt under section 5B of the Residential Tenancies Act 1986

**tikanga** means Māori customary systems of values and practices

**wellbeing and safety** means having a positive frame of mind, resilience, satisfaction with self, relationships, and experiences and progressing towards learning outcomes sought. It also means being healthy and feeling secure

**welfare check** means a room visit and entry by a staff member of the provider where the provider, having attempted to obtain the consent of the resident for the entry, has serious concerns about the wellbeing or safety of the resident or another individual

**welfare management plan** means a plan put in place by the provider that sets out the steps to be taken to ensure the wellbeing and safety of a resident who is assessed to be at risk

- (2) In this code, a reference to the age of a person is a reference to the age of the person on their last birthday.

### **Part 3**

#### **Organisational structures to support a whole-of-provider approach to learner wellbeing and safety**

*(All requirements relate to domestic and international tertiary learners and are signatory requirements where they relate to international tertiary learners)*

##### **6. Outcome 1: A learner wellbeing and safety system**

Providers must take a whole-of-provider approach to maintain a strategic and transparent learner wellbeing and safety system that responds to the diverse needs of their learners.

##### **7. Process 1: Strategic goals and strategic plans**

- (1) Providers must have strategic goals and strategic plans for supporting the wellbeing and safety of their learners across their organisation, including student accommodation, describing how they will –
- (a) give effect to the outcomes sought and processes required by this code; and
  - (b) contribute to an education system that honours Te Tiriti o Waitangi and supports Māori–Crown relations.
- (2) Providers must –
- (a) regularly review their learner wellbeing and safety strategic goals and strategic plans as described in subclause (1); and
  - (b) make amendments to their learner wellbeing and safety strategic goals and strategic plans within a reasonable timeframe following the review.
- (3) Providers must work proactively with learners and stakeholders (and document this work) when –



- (a) developing their learner wellbeing and safety strategic goals and strategic plans described in subclause (1); and
- (b) reviewing their learner wellbeing and safety strategic goals and strategic plans described in subclause (2).

#### **8. Process 2: Self-review of learner wellbeing and safety practices**

- (1) Providers must use strategic goals and strategic plans described in clause 7(1) to regularly review the quality of their learner wellbeing and safety practices to achieve the outcomes and practices of this code, at a frequency or by a date determined by the code administrator.
- (2) Providers must review their learner wellbeing and safety practices using –
  - (a) input from diverse learners and other stakeholders; and
  - (b) relevant quantitative and qualitative data (including from learner complaints) that is, as far as practicable, and consistent with the provider's obligations under current privacy legislation, disaggregated by diverse learner groups.
- (3) Providers must, in a timely manner, following a review described in subclauses (1) and (2) take appropriate action to address any deficiencies in learner wellbeing and safety practices.

#### **9. Process 3: Publication requirements**

Providers must make the following information readily available, in accessible formats, to learners, staff and the general public, including on their websites (where available) –

- (a) strategic goals and strategic plans for supporting the wellbeing and safety of learners described in clause 7(1); and
- (b) revisions to strategic goals and strategic plans for supporting the wellbeing and safety of learners described in clause 7(2); and
- (c) self-review reports on the quality of their learner wellbeing and safety practices described in clause 8.

#### **10. Process 4: Responsive wellbeing and safety systems**

- (1) Providers must gather and communicate relevant information across their organisation (including student accommodation) and from relevant stakeholders to accurately identify emerging concerns about learners' wellbeing and safety or behaviour and take all reasonable steps to connect learners quickly to culturally appropriate social, medical, and mental health services.
- (2) Providers must provide staff with ongoing training and resources tailored to their roles in the organisation, in relation to –
  - (a) Te Tiriti o Waitangi; and
  - (b) the provider's obligations under this code; and
  - (c) understanding the welfare issues of diverse learner groups and appropriate cultural competencies; and

- (d) identifying and timely reporting of incidents of racism, discrimination, and bullying; and
  - (e) physical and sexual violence prevention and response, including how to support a culture of disclosure and reporting; and
  - (f) privacy and safe handling of personal information; and
  - (g) referral pathways (including to local service providers) and escalation procedures; and
  - (h) identifying and timely reporting of incidents and concerning behaviours; and
  - (i) wellbeing and safety awareness and promotion topics, including –
    - (i) safe health and mental health literacy and support; and
    - (ii) suicide and self-harm awareness; and
    - (iii) promoting drug and alcohol awareness; and
    - (iv) promoting healthy lifestyles for learners.
- (3) Providers must have plans for assisting learners, and responding effectively, in emergency situations in the learning or residential community (whether localised or more widespread), including –
- (a) making these plans readily available to learners when they begin their study; and
  - (b) ensuring that there are suitably prepared staff members available to be contacted by a learner, or learners, in the event of an emergency; and
  - (c) co-ordinating decision-making across the provider when responding to emergencies; and
  - (d) disseminating timely, accurate, consistent, and accessible information to learners and staff during emergencies; and
  - (e) ensuring all relevant staff are aware of the indicators of imminent danger to a learner or others and what action they can reasonably provide to help make them safe; and
  - (f) keeping a regularly updated critical incident and emergencies procedures manual which guides staff involved in emergency situations which contains the immediate and ongoing actions required including –
    - (i) engaging with relevant government agencies (e.g. the New Zealand Police, Ministry of Health, New Zealand Qualifications Authority, Tertiary Education Commission); and
    - (ii) the follow-up de-briefing processes to support all learners and relevant staff; and
  - (g) recording critical incidents and emergencies and reporting these back annually (at an aggregate level and, as far as practicable, disaggregated by diverse learner groups) to provider management, learners, other stakeholders, and the code administrator.

## **11. Outcome 2: Learner voice**

Providers understand and respond to diverse learner voices and wellbeing and safety needs in a way that upholds their mana and autonomy.

## **12. Process 1: Learner voice**

Providers must have practices for –

- (a) proactively building and maintaining effective relationships with diverse learner groups within their organisation; and
- (b) working with diverse learners and their communities to develop, review, and improve learner wellbeing and safety strategic goals, strategic plans and practices; and
- (c) providing formal and informal processes for actively hearing, engaging with, and developing the diverse range of learner voices and those of their communities; and
- (d) providing timely and accessible resources to learners to support them and their learner communities to develop the necessary skills to enable them to participate fully in decision-making processes; and
- (e) providing timely and accessible information to learners to increase transparency of providers' decision-making processes.

### **13. Process 2: Learner complaints**

Providers must –

- (a) work with learners to effectively respond to, and process complaints (including appropriate engagement with support people); and
- (b) inform learners on how the complaint will be handled and how it is progressing; and
- (c) handle complaints in a timely and efficient way, including having practices that –
  - (i) are appropriate to the level of complexity or sensitivity of the complaint; and
  - (ii) consider the issues from a cultural perspective; and
  - (iii) include the provision of culturally responsive approaches that consider traditional processes for raising and resolving issues (for example, restorative justice); and
  - (iv) comply with the principles of natural justice; and
- (d) ensure that the complaints process is easily accessible to learners (and those supporting them), including having practices for –
  - (i) providing learners with clear information on how to use the internal complaints processes (including the relevant people to contact), and the scope and possible outcomes of the processes; and
  - (ii) addressing barriers to accessing this information (for example, due to language, lack of internet access, fear of reprisal, desire for anonymity), such as providing alternative ways of raising a complaint; and
  - (iii) providing an opportunity for a support person or people (who can be chosen by the learner) to guide and support the learner through the complaints process; and
  - (iv) providing the opportunity for groups of learners to make joint complaints; and
- (e) record complaints; and
- (f) report annually to provider management, learners, other stakeholders, and the code administrator (including on provider websites where available) on –
  - (i) the number and nature of complaints made and their outcomes (at an aggregate level and, as far as practicable, disaggregated by diverse learner groups); and
  - (ii) learner experience with the complaints process and the outcome of their complaint; and
- (g) promote and publicise complaint and dispute resolution processes available to learners including, but not limited to, the provider's internal complaints process, the education

- quality assurance agency complaints process, the code administrator's complaints process, and the Dispute Resolution Schemes; and
- (h) advise learners, on the next steps available to them if the provider does not accept the complaint (or the learner or provider perceives that the provider does not have the cultural competency to deal with it), or the learner is not satisfied that the provider has made adequate progress towards resolving the complaint, or the learner is not satisfied with the provider's internal complaints process or outcome, including –
- (i) how to seek resolution of a contractual or financial dispute by way of a complaint or referral to an appropriate body or agency depending on the subject matter of the dispute, for example, the code administrator, the Dispute Resolution Scheme, the Disputes Tribunal, the Human Rights Commission or the Ombudsman; and
  - (ii) how to make a complaint to the code administrator if a learner believes that the provider is failing to meet the outcomes or requirements of this code.

#### **14. Process 3: Compliance with the Dispute Resolution Scheme**

- (1) Providers must ensure they are familiar with the relevant Dispute Resolution Scheme rules for domestic and international learners and ensure compliance with those rules in a dispute to which it is party.
- (2) Failure to comply with the relevant Dispute Resolution Scheme rules is a breach of this code and may trigger sanctions by the code administrator.

### **Part 4**

#### **Wellbeing and safety practices for all tertiary providers**

*(All requirements relate to domestic and international tertiary learners and are signatory requirements where they relate to international tertiary learners)*

##### *Physical and digital learning environments*

#### **15. Outcome 3: Safe, inclusive, supportive, and accessible physical and digital learning environments**

Providers must foster learning environments that are safe and designed to support positive learning experiences of diverse learner groups.

#### **16. Process 1: Safe and inclusive communities**

- (1) Providers must have practices for –
  - (a) reducing harm to learners resulting from discrimination, racism (including systemic racism), bullying, harassment and abuse; and
  - (b) working with learners and staff to recognise and respond effectively to discrimination racism (including systemic racism), bullying, harassment and abuse; and
  - (c) promoting an inclusive culture across the learning environment; and

- (d) upholding the cultural needs and aspirations of all groups throughout the learning environment; and
- (e) providing all learners with information –
  - (i) that supports understanding, acceptance, and connection with all learners, and collective responsibility for an inclusive learning environment; and
  - (ii) about the cultural, spiritual, and community supports available to them; and
- (f) providing learners with accessible learning environments where they can connect with others, build relationships, support each other, and welcome their friends, families, and whānau.

### **17. Process 2: Supporting learner participation and engagement**

- (1) Providers must provide learners with opportunities to –
  - (a) actively participate and share their views safely in their learning environment; and
  - (b) connect, build relationships and develop social, spiritual and cultural networks; and
  - (c) use te reo and tikanga Māori to support Māori learners' connection to identity and culture.
- (2) Providers must have practices for supporting learners through their studies, including –
  - (a) enabling learners to prepare and adjust for tertiary study, and
  - (b) maintaining appropriate oversight of learner achievement and engagement; and
  - (c) providing the opportunity for learners to discuss, in confidence, any issues that are affecting their ability to study and providing learners with a response to their issues; and
  - (d) providing learners with advice on pathways for further study and career development, where appropriate.

### **18. Process 3: Physical and digital spaces and facilities**

Providers must have practices for–

- (a) providing healthy and safe learning environments; and
- (b) identifying and, where possible, removing access barriers to provider facilities and services; and
- (c) involving learners in the design of physical and digital environments when making improvements; and
- (d) engaging with Māori and involving Māori in the design of physical and digital environments where appropriate.

### **19. Outcome 4: Learners are safe and well**

Providers must support learners to manage their physical and mental health through information and advice, and identify and respond to learners who need additional support.

## **20. Process 1: Information for learners about assistance to meet their basic needs**

- (1) Providers must have practices for enabling all learners and prospective learners to identify and manage their basic needs (the essential material requirements to support wellbeing and safety including housing, food and clothing), including providing accurate, timely and tailored information on how they can –
  - (a) access services through the provider or through community and public services that will help them maintain reasonable standards of material wellbeing and safety; and
  - (b) access suitable accommodation and understand their rights and obligations as a tenant in New Zealand; and
  - (c) maintain a healthy lifestyle.
- (2) If food is made available by the provider on campus or in student accommodation, the provider must ensure that the food available includes a range of healthy food options that is obtainable at a reasonable cost.

## **21. Process 2: Promoting physical and mental health awareness**

Providers must have practices for –

- (a) providing opportunities and experiences for learners that improve their physical and mental health and wellbeing and safety; and
- (b) promoting awareness of practices that support good physical and mental health that are credible and relevant to learners; and
- (c) supporting learners' connection to their language, identity, and culture; and
- (d) providing accurate, timely information and advice to learners about –
  - (i) how they can access medical and mental health services through the provider or through community and public services, including culturally responsive services; and
  - (ii) how they can report health and safety concerns they have for their peers; and
  - (iii) how to respond to an emergency and engage with relevant government agencies; and
  - (iv) how they can make positive choices that enhance their wellbeing.

## **22. Process 3: Proactive monitoring and responsive wellbeing and safety practices**

- (1) Providers must have practices for –
  - (a) requesting that domestic learners 18 years and over provide a name and up-to-date contact details of a nominated person; and
  - (b) describing the circumstances in which the nominated person referred to in paragraph (a) should be contacted in relation to their wellbeing and safety; and
  - (c) contacting the person nominated by domestic learners 18 years and over, in the circumstances described in accordance with paragraph (b), or where the provider has reasonable grounds for believing that the disclosure is necessary to prevent or lessen a serious threat to the student's life or health; and
  - (d) enabling learners to communicate health and mental health needs with staff in confidence, including accommodation staff, so that the provider can proactively offer them support; and

- (e) providing opportunities for learners to raise concerns about themselves or others in confidence; and
  - (f) identifying learners at risk and having clear and appropriate pathways for assisting them to access services when they need it; and
  - (g) identifying learners who are at risk of harming others, and –
    - (i) having clear and appropriate pathways for assisting them to access services when they need it; and
    - (ii) protecting learners and staff who experience harm from other learners and/or staff, including sexual assault; and
  - (h) making arrangements with disabled learners or those affected by health and wellbeing difficulties to accommodate learning needs, including for study off-campus; and
  - (i) responding to disruptive and threatening behaviour in a way that is sensitive to a learner's situation; and
  - (j) supporting learners whose study is interrupted due to circumstances outside their control, and providing inclusive, accessible re-entry processes for their transition back into tertiary study.
- (2) Providers must have up-to-date contact details and next of kin for domestic tertiary learners under 18 and international tertiary learners.
  - (3) Providers must contact the next of kin for domestic tertiary learners under 18 years and international tertiary learners if there is concern regarding the wellbeing or safety of a learner.
  - (4) Providers must maintain a record of reported risks, including any concerns raised in relation to the effective administration of this code.

## **Part 5**

### **Additional wellbeing and safety practices in tertiary student accommodation (in relation to domestic and international tertiary learners)**

*(All requirements relate to domestic and international tertiary learners and are signatory requirements where they relate to international tertiary learners. Tertiary providers are responsible for ensuring requirements are met in student accommodation)*

#### **23. Outcome 5: A positive, supportive and inclusive environment in student accommodation**

Providers must ensure that student accommodation promotes and fosters a supportive and inclusive community which support the wellbeing and safety of residents.

#### **24. Process 1: Information and promotional activities**

- (1) Providers must ensure student accommodation has practices for –

- (a) ensuring residents receive clear, sufficient, accurate and transparent information and advice about the type and nature of student accommodation and services provided; and
  - (b) using information provided by prospective residents at the time of application, to help plan their transition into student accommodation; and
  - (c) working with residents to develop and provide information and tools that help residents understand their responsibilities within a communal living environment, including those relating to diversity; and
  - (d) providing residents with learning and peer support, and information on –
    - (i) self-care and positive wellbeing and safety; and
    - (ii) how to access wellbeing services on campus and in the community; and
    - (iii) how to provide peer support to other residents; and
  - (e) providing residents with information and advice on what action to take in an emergency and the mechanisms for reporting incidents and raising health and safety concerns.
- (2) The information required by this clause must be readily available, accessible, and promoted to residents.

**25. Process 2: Accommodation staff**

Providers must ensure that –

- (a) accommodation staff are provided with ongoing training and resources that are appropriate for their role as set out in clause 10(2); and
- (b) the experience and training of accommodation staff is appropriate for the type and nature of accommodation that is being provided; and
- (c) there is managerial oversight of accommodation staff at all times (24 hours a day, 7 days a week) so that issues can be escalated when they occur; and
- (d) the level of live-in accommodation staffing provides appropriate oversight and support for residents based on the type and nature of accommodation (for example, a higher level of staffing for halls of residence primarily intended for first-year learners); and
- (e) there is ongoing wellbeing support for accommodation staff.

**26. Process 3: Accommodation staff must be fit and proper persons**

Providers must take all reasonable steps to ensure that each member of the accommodation staff –

- (a) is suitable for employment in student accommodation; and
- (b) are the subject of a Police vet where required under the Children’s Act 2014 if the accommodation includes learners who are under 18.

**27. Process 4: Proactive monitoring of residents’ wellbeing and safety and responsive wellbeing and safety practices**

- (1) Providers must ensure student accommodation has practices for –



- (a) working with residents to evaluate their needs and planning how these can be reasonably and practicably met and monitored; and
  - (b) having clearly defined processes within the student accommodation for –
    - (i) residents, staff, or visitors to be able to report a cause for concern about a resident’s behaviour; and
    - (ii) referring and responding to instances of resident behaviours that are a risk to self or others; and
  - (c) having appropriate welfare safeguards, including –
    - (i) developing and implementing a welfare management plan for residents assessed as being at risk, that includes welfare checks and which could include referral to external services; and
    - (ii) systems to regularly check that residents continue to be active within their student accommodation and, if a resident is identified as being at risk, developing and implementing a welfare management plan; and
    - (iii) appropriate arrangements for residents under 18, including for effective communication with a parent or legal guardian regarding wellbeing and safety; and
    - (iv) welfare checks, which may be undertaken where reasonable in the circumstances (this information must be clearly set out in the house rules for residents); and
    - (v) routine checks providing 24 hours’ notice to a resident if staff members will be entering a resident’s room.
- (2) Providers must have a link between student accommodation and its organisation’s wider information gathering and communication system described in clause 10(1), to report any emerging concerns about a resident’s wellbeing or their behaviour, so residents can be connected quickly to the appropriate services.
- (3) Providers must ensure that there is a critical incident and emergency procedures manual in student accommodation which –
- (a) is consistent with the provider’s wider organisational manual described in clause 10(3)(e); and
  - (b) includes plans for residents when it becomes unsuitable or unsafe for them to remain in student accommodation in an emergency.

**28. Process 5: A safe and inclusive residential community**

In addition to the requirements described in outcome 3, providers must ensure student accommodation has practices for –

- (a) ensuring that house rules are clear, reasonable, and accessible to residents, and that they promote and encourage –
  - (i) resident safety; and
  - (ii) a sense of community and association with fellow residents; and
  - (iii) learning and personal growth; and

- (iv) residents and staff working together to ensure a positive and respectful community; and
- (b) working with residents to –
  - (i) develop and improve house rules; and
  - (ii) develop and maintain appropriate initiatives to build a sense of community within student accommodation; and
  - (iii) promote responsible social behaviour and academic success.

## **29. Outcome 6: Accommodation administrative practices and contracts**

Providers must ensure that student accommodation contracts and practices are transparent, reasonable, and responsive to the wellbeing and safety needs of residents.

## **30. Process 1: General principles**

Providers must ensure that student accommodation providers have practices that include –

- (a) disclosing on its website –
  - (i) the ownership structure and operator details of its student accommodation arrangements; and
  - (ii) the details of the wellbeing and safety practices offered at each student accommodation facility; and
- (b) a human resource strategy which –
  - (i) requires the job descriptions for all accommodation staff to clearly describe –
    - a. the duties and responsibilities of the role in relation to the learner wellbeing and safety; and
    - b. the relevant competencies and attributes that a person must demonstrate to be able to fulfil that role, and the ongoing training that will be available to develop these competencies; and
  - (ii) sets out the support services that are available to ensure the wellbeing and safety of accommodation staff in carrying out their duties and responsibilities.

## **31. Process 2: Student accommodation contracts**

- (1) Providers must ensure that a student accommodation contract with a resident –
  - (a) is clear, accessible and concise; and
  - (b) sets out the responsibilities of the provider and the resident; and
  - (c) advises residents of the requirements for –
    - (i) information sharing across the provider; and
    - (ii) the regular processes for checking on residents; and

- (d) sets out the deposit, bond components, fees, refund policy and penalties; and
  - (e) sets out the complaints, conflict resolution, and disciplinary processes in relation to residents.
- (2) Providers must ensure that the student accommodation contract used with residents is reviewed and updated regularly to ensure it remains fit for purpose in relation to wellbeing and safety matters, taking into account the views of learners and their representative bodies.
  - (3) Providers must ensure student accommodation refund policies –
    - (a) are reasonable; and
    - (b) provide residents (or a parent or legal guardian of residents under 18 years) with sufficient information to understand their rights and obligations under those refund policies.
  - (4) Providers must ensure student accommodation providers give prospective residents a copy of the house rules, and information about the complaints process and the Dispute Resolution Scheme before they sign the accommodation contract.
  - (5) Providers must ensure that accommodation providers keep a log of complaints received from residents concerning a breach or breaches of this code in relation to student accommodation and make this log available to the residents.

### **32. Outcome 7: Student accommodation facilities and services**

Providers must ensure that student accommodation facilities and services are maintained to a standard sufficient to support residents' wellbeing and safety and educational success.

### **33. Process:**

- (1) Providers must ensure that student accommodation facilities and services –
  - (a) respond effectively to the diverse needs of residents and make necessary adjustments where practicable; and
  - (b) provide accessible spaces for a range of interests, activities and needs; and
  - (c) are secure, clean, dry, warm, comfortable, accessible, and is conducive to study and a variety of learning styles; and
  - (d) provide utilities, services and other facilities that are adequate and appropriate for the character and size of the residential community; and
  - (e) have appropriate insurance cover; and
  - (f) are funded adequately to carry out strategic goals and strategic plans for student accommodation, including repairs, replacement, and improvements; and
  - (g) have adequate and appropriate controls in place to ensure accountability for financial processes including –
    - (i) providing receipts for all financial transactions with the resident; and
    - (ii) providing residents with up-to-date information on what they owe to the accommodation provider.

- (2) Providers must ensure that any alterations, maintenance and repairs to student accommodation are undertaken in a timely manner that minimises interference with the quiet enjoyment of the residents.

## **Part 6**

### **Additional wellbeing and safety practices for tertiary providers (signatories) enrolling international learners**

*(These requirements for providers enrolling international tertiary learners are in addition to the requirements for Part 3, Part 4, and Part 5)*

#### **34. Outcome 8: Responding to the distinct wellbeing and safety needs of international tertiary learners**

Signatories must ensure that practices under this code respond effectively to the distinct wellbeing and safety needs of their diverse international tertiary learners.

#### **35. Process:**

Signatories must engage with diverse international tertiary learners to understand their wellbeing and safety needs under the outcomes of Parts 3, 4 and 5 of this code.

#### **36. Outcome 9: Prospective international tertiary learners are well informed**

Signatories ensure that prospective international tertiary learners receive clear, accessible, accurate and sufficient information, and make informed choices about the study and services a signatory provides before they begin their study.

#### **37. Process 1: Marketing and promotion**

Each signatory must have marketing and promotion practices, that include –

- (a) proactively seeking to understand the information needs of prospective international tertiary learners; and
- (b) developing and providing information to prospective international tertiary learners and reviewing the information to ensure it is kept up to date; and
- (c) ensuring that prospective international tertiary learners receive, as a minimum, up-to-date accessible and timely information about the following –
  - (i) the signatory’s quality assurance evaluations; and
  - (ii) the educational instruction, staffing, facilities, and equipment available to international tertiary learners; and
  - (iii) the Dispute Resolution Scheme; and
  - (iv) potential learning outcomes for international tertiary learners, including pathways for further study, employment, and residency where applicable; and
  - (v) estimated study and living costs for international tertiary learners, including any additional fees or levies that are on top of the basic tuition fee; and
  - (vi) accommodation and transport, or ways to obtain such information.

### **38. Process 2: Managing and monitoring education agents**

Signatories must have practices for effectively managing and monitoring the performance and conduct of education agents in relation to learner safety and wellbeing under this code, including –

- (a) carrying out and recording reference checks on potential education agents to ensure as far as possible that they are not involved in any conduct that is false, misleading, deceptive, or in breach of the law; and
- (b) entering into written contracts with each of its education agents; and
- (c) during the term of a contract, monitoring the activities and performance of its education agents in relation to –
  - (i) their obligations as specified in the contract; and
  - (ii) whether they provide prospective and enrolled international tertiary learners with reliable information and advice about studying, working, and living in New Zealand; and
  - (iii) whether they act with integrity and professionalism in their dealings with prospective and enrolled international tertiary learners; and
  - (iv) whether they have engaged in any activity or conduct that, in the opinion of the signatory, is or may be in breach of the law or that jeopardises the signatory's compliance with this code; and
- (d) managing the education agents by –
  - (i) terminating contracts with an agent if there is evidence which, on balance of probabilities, shows that the education agent –
    - a. has been involved in any serious, deliberate, or ongoing conduct that is false, misleading, deceptive, or in breach of the law; or
    - b. has jeopardised the signatory's compliance with this code; or
  - (ii) taking appropriate action to address misconduct by act or an omission by an education agent in relation to the other matters described in subclause (c); and
- (e) ensuring that its education agents have access to, and maintain, up-to-date information relevant to their duties as specified in the contracts with the signatory.

### **39. Outcome 10: Offer, enrolment, contracts, insurance and visa**

Signatories must have practices for enabling learners to make well-informed enrolment decisions in relation to the educational outcomes being sought by the learner and ensuring that all relevant parties are clear about their interests and obligations prior to entering into the enrolment contract.

### **40. Process 1: Offer of educational instruction**

Signatories must ensure that the educational instruction offered to international tertiary learners is in accordance with the Act and is appropriate for international tertiary learners' expectations, English language proficiency, academic ability, and the educational outcomes being sought.

#### **41. Process 2: Information to be provided before entering contract**

- (1) Signatories must have practices that ensure prospective international tertiary learners (or the parents or legal guardian of international students under 18 years) receive, as a minimum, accurate, timely and tailored information about the following before entering into a contract with the learner –
  - (a) the most recent results of their evaluations by education quality assurance agencies; and
  - (b) quality improvement or compliance notices and conditions imposed under the Act that the code administrator directs must be disclosed to prospective international tertiary learners; and
  - (c) the education provided and its outcome, for example, whether a qualification is granted; and
  - (d) refund conditions that comply with the process in clause 46; and
  - (e) staffing, facilities, and equipment; and
  - (f) available services and supports; and
  - (g) insurance and visa requirements for receiving educational instruction from the signatory; and
  - (h) this code and the relevant Dispute Resolution Scheme Rules; and
  - (i) full costs related to an offer of educational instruction.
- (2) Each signatory must ensure that, before entering into a contract of enrolment or enrolling with the signatory, each international tertiary learner (or the parents or legal guardian of international students under 18 years) is informed of the learner's rights and obligations in relation to receiving educational instruction from the signatory, including the rights under this code.

#### **42. Process 3: Contract of enrolment**

- (1) Each signatory must ensure that a contract of enrolment is entered into between the signatory and each international tertiary learner (or the parents or legal guardian of international students under 18 years) that includes the following information and terms –
  - (a) clear information about the beginning and end dates of enrolment; and
  - (b) the grounds for terminating the contract of enrolment; and
  - (c) the circumstances under which the learner's conduct may be in breach of the contract of enrolment; and
  - (d) the type of disciplinary action short of termination of the contract of enrolment, that may be taken by the signatory against the student (for example suspension or exclusion); and
  - (e) the process that the signatory must follow when seeking to terminate the contract of enrolment under paragraph (b) or to take disciplinary action under paragraph (d).
- (2) Each signatory must ensure that the contract of enrolment is fair and reasonable.

#### **43. Process 4: Disciplinary action**

Any process undertaken under clause 42(1)(e) for terminating the contract of enrolment under clause 42(1)(b) or for taking disciplinary action under clause 42(1)(d) must be in accordance with the principles of natural justice (which includes those necessary to ensure the prompt, considered, and fair resolution of the matter that is the subject of the action).

#### **44. Process 5: Insurance**

- (1) Each signatory must have practices that ensure, as far as practicable, each international tertiary learner who is enrolled with the signatory for educational instruction of 2 weeks' duration or longer has appropriate insurance covering –
  - (a) the international tertiary learner's travel –
    - (i) to and from New Zealand; and
    - (ii) within New Zealand; and
    - (iii) if the travel is part of the educational instruction, outside New Zealand; and
  - (b) medical care in New Zealand, including diagnosis, prescription, surgery, and hospitalisation; and
  - (c) repatriation or expatriation of the international tertiary learner as a result of serious illness or injury, including cover of travel costs incurred by family members assisting repatriation or expatriation; and
  - (d) death of the international tertiary learner, including cover of –
    - (i) travel costs of family members to and from New Zealand; and
    - (ii) costs of repatriation or expatriation of the body; and
    - (iii) funeral expenses.
- (2) Subclause (1)(a)(i) and (ii) includes the international tertiary learner's travel to and from their country of origin or citizenship before their educational instruction begins and after it ends (which may be outside of the enrolment period).
- (3) Subclause (1)(a)(i) does not include the international tertiary learner's travel to other countries unless that travel is primarily for the purpose of embarking on connecting flights to and from New Zealand.

#### **45. Process 6: Immigration matters**

Signatories must have practices that as far as possible will ensure that international tertiary learners are entitled to study in New Zealand under the Immigration Act 2009, including –

- (a) ensuring that each international tertiary learner who enrolls with the signatory has the necessary immigration status for study in New Zealand; and
- (b) reporting to Immigration New Zealand known or suspected breaches of visa conditions by international tertiary learners; and
- (c) notifying Immigration New Zealand of terminations of enrolment.

#### **46. Process 7: Student fee protection and managing withdrawal and closure**

- (1) Signatories must ensure that –
  - (a) fees paid by international tertiary learners are secure and protected in the event of student withdrawal or the ending of educational instruction or the closure of a signatory; and
  - (b) its refund policies are fair and reasonable; and

- (c) it provides its international tertiary learners (or the parents or legal guardian of international tertiary learners under 18 years) with sufficient information to understand their rights and obligations under those refund policies.
- (2) A refund policy must include refund conditions for the following situations –
- (a) failure by an international tertiary learner to obtain a study visa; and
  - (b) voluntary withdrawal by an international tertiary learner; and
  - (c) the signatory ceasing to provide a course of educational instruction as contracted with an international tertiary learner, whether as the result of a decision by the signatory or as required by an education quality assurance agency; and
  - (d) the signatory ceasing to be a signatory; and
  - (e) the signatory ceasing to be a provider.
- (3) In the situation in subclause (2)(c) or (d), the tertiary signatory must deal with fees paid for services not delivered or the unused portion of fees paid as follows –
- (a) refund the amount in question to the international tertiary learner (or the learner’s parent or legal guardian); or
  - (b) if directed by the international tertiary learner or the code administrator or the agency responsible for fee protection mechanisms, transfer the amount agreed with the student (or the student’s parent or legal guardian if the student is under 18 years) to another signatory.

**47. Outcome 11: International learners receive appropriate orientations, information and advice**

Signatories must ensure that international tertiary learners have the opportunity to participate in well-designed and age-appropriate orientation programmes and continue to receive relevant information and advice to support achievement, wellbeing and safety.

**48. Process: Provision of information**

Signatories must –

- (a) ensure that information and advice provided by the signatory to international tertiary learners is accurate, age-appropriate, up to date and presented in a way that meets the ongoing needs of diverse learners; and
- (b) ensure that ongoing provision of information and advice is appropriate to the needs of the learner (or the parents or legal guardian of international learners under 18 years) within the particular learning, communal and residential context; and
- (c) provide the names and contact details of designated staff members responsible for international tertiary learner support; and
- (d) provide appropriate information relating to health and safety of international tertiary learners (including in relation to any disabilities or impairments a learner may have); and
- (e) provide information about the termination of enrolment; and
- (f) provide information to international tertiary learners (or the parents or legal guardian of international learners under 18 years) about their legal rights and obligations and, where possible, the risks when learners receive or accept advice or services; and



- (g) provide information about the international tertiary learner's rights and entitlements, including any entitlement to a fee refund, if the learner voluntarily withdraws from the educational instruction; and
- (h) provide each international tertiary learner with full information and advice on –
  - (i) all relevant policies of the signatory; and
  - (ii) the services, support, and facilities that the signatory offers; and
  - (iii) where applicable, how to adjust to a different cultural environment; and
  - (iv) where applicable –
    - a. minimum wages and labour conditions in New Zealand
    - b. maximum hours of work permitted under visa conditions; and
    - c. how to access information and support regarding employment; and
    - d. how to report misconduct by employers; and
- (i) for an international tertiary learner under 18 years ensure where applicable, that any parent, legal guardian, or residential caregiver of the learner has access to the information, advice or programme that has been provided to the learner.

#### **49. Outcome 12: Safety and appropriate supervision of international tertiary learners**

Signatories ensure that international tertiary learners are safe and appropriately supervised in their accommodation and effectively communicate with the parents or legal guardian of learners under 18 years.

#### **50. Process 1: International tertiary learners under 18 years**

- (1) In relation to international tertiary learners under 18 years, each signatory must have additional practices including –
  - (a) not enrolling an international tertiary learner 10 years or older but under 18 years who does not live with a parent or legal guardian unless –
    - (i) the learner is in a properly supervised group of learners whose educational instruction is not for more than 3 months; or
    - (ii) the learner is in the care of the manager of tertiary student accommodation covered in Part 5 of this code; or
    - (iii) the learner is in the care of a residential caregiver; and
  - (b) maintaining effective communications with the parents, legal guardian, or residential caregivers of international tertiary learners concerning their wellbeing and progress in study; and
  - (c) ensuring that at least 1 staff member is designated to proactively monitor and address any concerns about international tertiary learners under 18 years; and
  - (d) if the international tertiary learner is in the care of a residential caregiver, –
    - (i) ensuring that a plan is in place for the transfer of care of the learner from the residential caregiver to the learner's parent or legal guardian, or another person approved by the parent or legal guardian, for –

- a. each transfer that occurs during the period of enrolment; and
  - b. the transfer that occurs at the end of enrolment; and
- (ii) ensuring that the parent or legal guardian is notified of each transfer plan.

**51. Process 2: International tertiary learners under 10 years**

- (1) Each signatory must ensure that its international tertiary learners under 10 years live with a parent or legal guardian.
- (2) The requirements in clauses 49 and 50 apply, in addition to this clause, to international tertiary learners who are under 10 years.

**52. Process 3: Decisions requiring written agreement of parent or legal guardian**

Each signatory must ensure that, where appropriate, it obtains the written agreement of the parent or legal guardian of an international tertiary learner under 18 years with respect to decisions affecting the learner.

**53. Process 4: Accommodation for international tertiary learners under 18 years**

- (1) In relation to an international tertiary learner under 18 years who is in the care of a residential caregiver while living in accommodation that is **not subject to Part 5** of this code, the signatory must –
  - (a) ensure that the learner’s accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and
  - (b) ensure that the safety check referred to in clause 54 is completed and is up to date; and
  - (c) ensure that an appropriate check is completed and is up to date for each person who is 18 years or over and who resides at the residential caregiver’s accommodation, for the purpose of ensuring the safety of the learner; and
  - (d) have a written agreement with the residential caregiver that specifies the role and responsibilities of each party in relation to the care of the learner; and
  - (e) maintain effective communication with the learner and the learner’s parent or legal guardian when accommodation issues arise, and take responsibility for addressing those issues, including reporting them to relevant authorities and moving learners to appropriate accommodation; and
  - (f) conduct sufficient learner interviews and home visits to monitor and review the quality of residential care, taking into consideration the age of the learner, the length of the stay, and other relevant factors; and
  - (g) if the learner’s residential caregiver is a designated caregiver ensure that the parent or legal guardian of the learner has provided written agreement that the designated caregiver will be subject to the signatory’s approval and that the signatory is not responsible for the learner’s day-to-day care when the learner is in the custody of the designated caregiver; and
  - (h) if the learner’s residential caregiver is a supervisor described in clause 54(3), ensure that the parent or legal guardian of the learner has provided written agreement that the signatory is not responsible for the learner’s day-to-day care when the learner is in the custody of that supervisor; and
  - (i) ensure that there is appropriate separation of international tertiary learners from others of different ages in the accommodation; and

- (j) ensure that the learner is appropriately supervised in the accommodation.
- (2) For the purposes of clause 53(1)(c), a person who is 18 years or over and who resides at the residential caregiver's accommodation includes a person of that age who –
    - (a) temporarily resides at that accommodation; or
    - (b) is or will be residing at that accommodation for 1 or more periods in any month (whether or not for valuable consideration), each period of which is 5 or more consecutive nights.
  - (3) To avoid doubt, if the residential caregiver is a supervisor described in clause 54(3) or a designated caregiver, the signatory must meet the requirements of this clause and ensure the safety, health, and wellbeing of the international tertiary learner.

**54. Process 5: Safety checks and appropriate checks for learners under 18 years**

- (1) The safety check for the residential caregiver referred to in clause 53(1)(b) must include –
  - (a) a confirmation of identity; and
  - (b) a reference check that includes contacting at least 1 of the following persons or bodies for the purpose of obtaining information that the signatory considers relevant to a risk assessment –
    - (i) the residential caregiver's current or previous employer, professional body, or registration authority; and
    - (ii) the licensing authority that is relevant to the residential caregiver's business or professional activities; and
    - (iii) a person who is not related to the residential caregiver; and
  - (c) a police vet, to obtain information that is relevant to a risk assessment; and
  - (d) an interview with the residential caregiver, to obtain information that the signatory considers relevant to a risk assessment; and
  - (e) a risk assessment that takes into account all of the information that was obtained under paragraphs (a) to (d), to determine whether the residential caregiver poses a risk to the safety of the international tertiary learner; and
- (2) The safety check for the residential caregiver referred to in clause 53(1)(b) is **up to date** if it is completed within 3 years after the date of the latest safety check.
- (3) Subclause (1)(b) to (e) does not apply to a residential caregiver who –
  - (a) is a supervisor referred to in paragraph (e) of the definition of residential caregiver in clause 5(1); and
  - (b) is not a resident of New Zealand; and
  - (c) is travelling with, and accompanying, the international tertiary learner for the purpose of supervising them during the learner's educational instruction.
- (4) An appropriate check referred to in clause 53(1)(c) is **up to date** if it is completed within 3 years after the date of the latest check.

**55. Process 6: Accommodation for international tertiary learners 18 or over**

- (1) In relation to an international tertiary learner 18 years or over who lives in accommodation provided or arranged by a signatory and **not subject to Part 5**, the signatory must –
  - (a) ensure that the learner’s accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and
  - (b) maintain effective communication with the learner when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities.
- (2) In this clause, accommodation issues include issues of health and wellbeing arising from a learner’s accommodation or connected with it.

**Part 7**

**Wellbeing and safety practices for schools enrolling international learners**

*What signatories must do*

**56. Outcome 13: Marketing and promotion**

Signatories must ensure that the marketing and promotion to prospective international school learners of services provided by signatories includes clear, sufficient, and accurate information enabling those learners to make informed choices about the services provided.

**57. Process:**

Each signatory must –

- (a) proactively seek to understand the information needs of prospective international school learners; and
- (b) develop and provide information to prospective international school learners and review the information to ensure it is kept up to date; and
- (c) ensure that prospective international school learners receive, as a minimum, up-to-date and timely information about the following –
  - (i) the signatory’s quality assurance evaluations; and
  - (ii) the educational instruction, staffing, facilities, and equipment available to international learners; and
  - (iii) the relevant Dispute Resolution Scheme Rules; and
  - (iv) potential learning outcomes for international learners, including pathways for further study, employment, and residency where applicable; and
  - (v) estimated study and living costs for international learners; and
  - (vi) accommodation and transport, or ways to obtain such information.

## **58. Outcome 14: Managing and monitoring education agents**

Signatories must effectively manage and monitor their education agents to ensure that those education agents –

- (a) provide international school learners with reliable information and advice about studying, working, and living in New Zealand; and
- (b) act with integrity and professionalism towards prospective international school learners; and
- (c) do not breach the law or jeopardise the signatory's compliance with this code.

## **59. Process:**

Each signatory must –

- (a) carry out and record reference checks on potential education agents to ensure as far as possible that they have not been involved in any conduct that is false, misleading, deceptive, or in breach of the law; and
- (b) enter into written contracts with each of its education agents; and
- (c) during the term of a contract, monitor the activities and performance of its education agents in relation to –
  - (i) their obligations as specified in the contract; and
  - (ii) whether they provide international school learners with reliable information and advice about studying, working, and living in New Zealand; and
  - (iii) whether they act with integrity and professionalism in their dealings with prospective international school learners; and
  - (iv) whether they have engaged in any activity or conduct that, in the opinion of the signatory, is or may be in breach of the law or that jeopardises the signatory's compliance with this code; and
- (d) manage the education agents by –
  - (i) terminating contracts with an education agent if there is evidence which, on balance of probabilities, shows that the agent –
    - a. has been involved in any serious, deliberate, or ongoing conduct that is false, misleading, deceptive, or in breach of the law; or
    - b. has jeopardised the signatory's compliance with this code; or
  - (ii) taking appropriate action to address conduct or an omission by an education agent in relation to the other matters described in subclause (c); and
- (e) ensure that its education agents have access to, and maintain, up-to-date information relevant to their duties as specified in the contracts with the signatory.

## **60. Outcome 15: Offer, enrolment, contracts, and insurance**

Signatories must –

- (a) support international school learners (or the parents or legal guardian of international school learners under 18 years) to make well-informed enrolment decisions that are appropriate to the educational outcomes sought; and
- (b) ensure that international school learners (or the parents or legal guardian of international school learners under 18 years) have the information required to understand their interests and obligations before entering into a legally binding contract with a signatory; and
- (c) ensure that each contract of enrolment is fair and reasonable; and
- (d) ensure that any disciplinary action is taken in accordance with the principles of natural justice; and
- (e) ensure that international school learners have the appropriate insurance coverage, including insurance covering travel costs, medical care, and costs associated with repatriation, expatriation, and funeral expenses; and
- (f) ensure that proper documentation is kept and, where appropriate, provided to international school learners (or the parents or legal guardian of international school learners under 18 years).

**61. Process 1: Offer of educational instruction**

Each signatory must ensure that the educational instruction on offer is in accordance with the Act and is appropriate for international school learners' expectations, English language proficiency, and academic capability.

**62. Process 2: Information to be provided before entering contract**

- (1) Each signatory must ensure international school learners receive, as a minimum, information about the following before entering into a contract with the learner –
  - (a) the most recent results of their evaluations by education quality assurance agencies; and
  - (b) compliance notices and conditions imposed under the Act that the code administrator directs must be disclosed to prospective international school learners; and
  - (c) the education provided and its outcome, for example, whether a qualification is granted; and
  - (d) refund conditions that comply with the outcome and process in clauses 80 and 81; and
  - (e) staffing, facilities, and equipment; and
  - (f) available services and supports; and
  - (g) insurance and visa requirements for receiving educational instruction from the signatory; and
  - (h) this code and the relevant Dispute Resolution Scheme Rules; and
  - (i) full costs related to an offer of educational instruction.
- (2) Each signatory must ensure that, before entering into a contract of enrolment or enrolling with the signatory, each international school learner (or the parents or legal guardian of international students under 18 years) is informed of the learner's rights and obligations in relation to receiving educational instruction from the signatory, including the rights under this code.

**63. Process 3: Contract of enrolment**

- (1) Each signatory must ensure that a contract of enrolment is entered into between the signatory and each international school learner that includes the following information and terms –

- (a) clear information about the beginning and end dates of enrolment; and
  - (b) the grounds for terminating the contract of enrolment; and
  - (c) the circumstances under which the school learner's conduct may be in breach of the contract of enrolment (including conduct that occurs while the learner is not under the immediate supervision or control of the signatory); and
  - (d) the type of disciplinary action short of termination of the contract of enrolment that may be taken by the signatory against the student (for example suspension or exclusion); and
  - (e) the process that the signatory must follow when seeking to terminate the contract of enrolment under paragraph (b) or to take disciplinary action under paragraph (d).
- (2) Each signatory must ensure that the contract of enrolment is fair and reasonable.

**64. Process 4: Disciplinary action**

Any process undertaken under clause 63(1)(e) for terminating the contract of enrolment under clause 63(1)(b) or for taking disciplinary action under clause 63(1)(d) must be in accordance with the principles of natural justice (which includes those necessary to ensure the prompt, considered, and fair resolution of the matter that is the subject of the action).

**65. Process 5: Insurance**

- (1) Each signatory must ensure that, as far as practicable, each international school learner who is enrolled with the signatory for educational instruction of 2 weeks' duration or longer has appropriate insurance covering –
- (a) the school learner's travel –
    - (i) to and from New Zealand; and
    - (ii) within New Zealand; and
    - (iii) if the travel is part of the educational instruction, outside New Zealand; and
  - (b) medical care in New Zealand, including diagnosis, prescription, surgery, and hospitalisation; and
  - (c) repatriation or expatriation of the school learner as a result of serious illness or injury, including cover of travel costs incurred by family members assisting repatriation or expatriation; and
  - (d) death of the school learner, including cover of –
    - (i) travel costs of family members to and from New Zealand; and
    - (ii) costs of repatriation or expatriation of the body; and
    - (iii) funeral expenses.
- (2) Subclause (1)(a)(i) and (ii) includes the school learner's travel to and from their country of origin or citizenship before their educational instruction begins and after it ends (which may be outside of the enrolment period).

- (3) Subclause (1)(a)(i) does not include the school learner's travel to other countries unless that travel is primarily for the purpose of embarking on connecting flights to and from New Zealand.

**66. Process 6: Decisions requiring written agreement of parent or legal guardian**

Each signatory must ensure that, where appropriate, it obtains the written agreement of the parent or legal guardian of an international school learner under 18 years with respect to decisions affecting the learner.

**67. Outcome 16: Immigration matters**

Signatories must –

- (a) ensure that they do not allow or continue to allow a person to undertake educational instruction if that person is not entitled under the Immigration Act 2009 to undertake the educational instruction; and
- (b) take reasonable precautions and exercise due diligence in ascertaining whether international school learners are entitled under the Immigration Act 2009 to undertake the educational instruction for which they enrol.

**68. Process:**

Each signatory must –

- (a) ensure that each international school learner who enrolls with the signatory has the necessary immigration status for study in New Zealand; and
- (b) report to Immigration New Zealand known or suspected breaches of visa conditions by international school learners; and
- (c) notify Immigration New Zealand of terminations of enrolment.

**69. Outcome 17: Orientation**

Signatories must ensure that international school learners have the opportunity to participate in a well-designed and age-appropriate programme that provides the information and advice necessary for a learner at the outset of their educational instruction.

**70. Process:**

- (1) Each signatory must ensure its orientation programme –
  - (a) provides each international school learner with full information and advice on all relevant institutional policies; and
  - (b) provides each international school learner with full information and advice on the services, support, and facilities that the signatory offers; and
  - (c) provides the names and contact details of designated staff members responsible for international school learner support; and
  - (d) provides appropriate information relating to health and safety of international school learners; and



- (e) provides information about complaints procedures for international school learners, both internal and external; and
  - (f) provides information about the termination of enrolment; and
  - (g) provides information about the school learner's rights and entitlements, including any entitlement to a fee refund, if the learner voluntarily withdraws from the educational instruction.
- (2) For an international school learner under 18 years, a signatory must ensure, where applicable, that any parent, legal guardian, or residential caregiver of the learner who is in New Zealand and accompanying the learner has access to the orientation information or programme that has been provided to the learner.

**71. Outcome 18: Safety and wellbeing**

Signatories must –

- (a) provide a safe study environment for international school learners; and
- (b) provide adequate support for the wellbeing of international school learners; and
- (c) as far as practicable, ensure that international school learners live in a safe environment.

**72. Process 1: General**

Each signatory must –

- (a) respond fairly and effectively to instances of inappropriate behaviour by, or impacting on, an international school learner; and
- (b) develop and maintain policies for managing inappropriate behaviour that are communicated to staff and learners and effectively implemented; and
- (c) advise international school learners on how to –
  - (i) report and address health and safety issues (for both on campus and off campus activities); and
  - (ii) respond to an emergency (for both on campus and off campus activities); and
  - (iii) access health and counselling services; and
  - (iv) engage with relevant government agencies such as the New Zealand Police and the department responsible for administering the Oranga Tamariki Act 1989; and
- (d) have up-to-date contact details for each international school learner and their next of kin; and
- (e) ensure that at all times there is at least 1 staff member available to be contacted by an international school learner in an emergency.

**73. Process 2: International school learners under 18 years**

- (1) In relation to international school learners under 18 years, each signatory must –
- (a) not enrol an international school learner 10 years or older but under 18 years who does not live with a parent or legal guardian unless –

- (i) the school learner is in a properly supervised group of learners whose educational instruction is not for more than 3 months; or
  - (ii) the school learner is in the care of a residential caregiver; and
- (b) have up-to-date contact details for the learners' parents, legal guardian, and residential caregivers; and
  - (c) maintain effective communications with the parents or legal guardian, and residential caregivers (if any) of learners concerning their wellbeing and progress in study; and
  - (d) [deleted]
  - (e) ensure at least 1 staff member is designated to proactively monitor and address any concerns about international school learners under 18 years; and
  - (f) if the school learner is in the care of a residential caregiver, –
    - (i) ensure that a plan is in place for the transfer of care of the learner from the residential caregiver to the learner's parent or legal guardian, or another person approved by the parent or legal guardian, for –
      - a. each transfer that occurs during the period of enrolment; and
      - b. the transfer that occurs at the end of enrolment; and
    - (ii) ensure that the parent or legal guardian is notified of each transfer plan.
- (2) The requirements in clause 72 apply, in addition to this clause, to international school learners who are 10 years or older but under 18 years.

**74. Process 3: International school learners under 10 years**

- (1) Each signatory must ensure that its international school learners under 10 years live with a parent or legal guardian, unless they are accommodated in a school hostel.
- (2) The requirements in clauses 72 and 73 apply, in addition to this clause, to international school learners who are under 10 years.

**75. Process 4: International school learners at risk or with additional learning needs**

- (1) Each signatory must ensure that –
  - (a) appropriate measures are put in place to address the needs and issues of international school learners at risk or with additional learning needs; and
  - (b) the parent or legal guardian of a school learner under 18 years or the next of kin of a learner 18 years or over is aware of any situation where the learner is at risk or has additional learning needs; and
  - (c) where appropriate and in compliance and subject to the principles of the Privacy Act 2020, issues relating to the learners are reported to relevant agencies such as the New Zealand Police and the department responsible for administering the Oranga Tamariki Act 1989, and to the code administrator.

- (2) A learner is at risk if the signatory has reasonable grounds to believe that there is a serious issue relating to the learner’s health, safety, or wellbeing, including, for example, –
  - (a) the learner is unable to adequately protect themselves against significant harm or exploitation; and
  - (b) the learner is unable to adequately safeguard their personal welfare.
- (3) A learner with additional learning needs includes a learner who –
  - (a) is a disabled learner; or
  - (b) experiences other difficulties which affect the learner’s ability to participate, learn, and achieve; and
  - (c) requires the provision of adapted programmes or learning environments, or specialised equipment or materials to support the learner to access the curriculum, participate, learn, and achieve.
- (4) This clause applies in addition to the requirements set out in clauses 72, 73 and 74.

**76. Process 5: Accommodation**

- (1) In relation to an international school learner under 18 years who is in the care of a residential caregiver, the signatory must –
  - (a) ensure that the learner’s accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and
  - (b) ensure that the safety check referred to in clause 77(1) is completed and is up to date; and
  - (c) ensure that an appropriate check is completed and is up to date for each person who is 18 years or over and who resides at the residential caregiver’s accommodation, for the purpose of ensuring the safety of the learner; and
  - (d) have a written agreement with the residential caregiver that specifies the role and responsibilities of each party in relation to the care of the learner; and
  - (e) maintain effective communication with the learner and the learner’s parent or legal guardian when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities and moving learners to appropriate accommodation; and
  - (f) conduct sufficient learner interviews and home visits to monitor and review the quality of residential care, taking into consideration the age of the learner, the length of the stay, and other relevant factors; and
  - (g) if the learner’s residential caregiver is a designated caregiver ensure that the parent or legal guardian of the learner has provided written agreement that the designated caregiver will be subject to the signatory’s approval and that the signatory is not responsible for the learner’s day-to-day care when the learner is in the custody of the designated caregiver; and
  - (h) if the learner’s residential caregiver is a supervisor described in clause 77(2), ensure that the parent or legal guardian of the learner has provided written agreement that the signatory is not responsible for the learner’s day-to-day care when the learner is in the custody of that supervisor; and

- (i) ensure that there is appropriate separation of international learners from others of different ages in the accommodation; and
  - (j) ensure that the learner is appropriately supervised in the accommodation.
- (2) For the purposes of clause 76(1)(c), a person who is 18 years or over and who resides at the residential caregiver’s accommodation includes a person of that age who –
- (a) temporarily resides at that accommodation; or
  - (b) is or will be residing at that accommodation for 1 or more periods in any month (whether or not for valuable consideration), each period of which is 5 or more consecutive nights.
- (3) In relation to an international school learner 18 years or over who lives in accommodation provided or arranged by a signatory, the signatory must –
- (a) ensure that the learner’s accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and
  - (b) maintain effective communication with the learner when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities.
- (4) In relation to an international school learner 18 years or over who arranges accommodation for themselves, the signatory must ensure that the learner is directed to relevant advice and information that will enable the learner to understand their rights and obligations as a tenant in New Zealand.
- (5) To avoid doubt, if the residential caregiver is a supervisor described in clause 77(2) or a designated caregiver, the signatory must meet the requirements of this clause and ensure the safety, health, and wellbeing of the learner.
- (6) In this clause, **accommodation issues** include issues of health and wellbeing arising from a learner’s accommodation or connected with it.

**77. Process 6: Safety checks and appropriate checks**

- (1) The safety check for the residential caregiver referred to in clause 76(1)(b) –
- (a) must include –
    - (i) a confirmation of identity; and
    - (ii) a reference check that includes contacting at least 1 of the following persons or bodies for the purpose of obtaining information that the signatory considers relevant to a risk assessment –
      - a. the residential caregiver’s current or previous employer, professional body, or registration authority;
      - b. the licensing authority that is relevant to the residential caregiver’s business or professional activities;
      - c. a person who is not related to the residential caregiver; and

- (iii) a police vet, to obtain information that is relevant to a risk assessment; and
  - (iv) an interview with the residential caregiver, to obtain information that the signatory considers relevant to a risk assessment; and
  - (v) a risk assessment that takes into account all of the information that was obtained under paragraph (a)(i) to (iv), to determine whether the residential caregiver poses a risk to the safety of the learner; and
- (b) is **up to date** if it is completed within 3 years after the date of the latest safety check.
- (2) Subclause (1)(a)(ii) to (v) does not apply to a residential caregiver who –
- (a) is a supervisor referred to in paragraph (e) of the definition of residential caregiver in clause 5(1); and
  - (b) is not a resident of New Zealand; and
  - (c) is travelling with, and accompanying, the international school learner for the purpose of supervising them during the learner’s educational instruction.
- (3) An appropriate check referred to in clause 76(1)(c) is **up to date** if it is completed within 3 years after the date of the latest check.

**78. Outcome 19: Learner support, advice and services**

International school learners are fully informed by, and receive relevant advice from, their signatories on services to support their educational outcomes.

**79. Process:**

Each signatory must have practices for –

- (a) ensuring that information and advice provided by the signatory to international school learners is accurate, age-appropriate, and up to date; and
- (b) providing its international learners with information about their legal rights and obligations and, where possible, the possible risks when learners receive or accept advice or services; and
- (c) providing its international school learners with information and advice on –
  - (i) how to effectively interact with persons from different cultural backgrounds; and
  - (ii) the cultural and community support available to them; and
  - (iii) how to adjust to a different cultural environment in New Zealand; and
- (d) ensuring that its international school learners are provided with information on education and residency pathways and advice on pathways for further study or career development, where appropriate; and
- (e) ensuring that, where applicable, its international school learners have access to information and advice on –
  - (i) minimum wages and labour conditions in New Zealand; and
  - (ii) maximum hours of work permitted under visa conditions; and
  - (iii) how to access information and support regarding employment; and

- (iv) how to report misconduct by employers.

**80. Outcome 20: Managing withdrawal and closure**

Signatories must ensure that the fees paid by international learners for educational instruction in New Zealand are secure and protected in the event of learner withdrawal or the ending of educational instruction or the closure of a signatory.

**81. Process:**

- (1) Each signatory must ensure that –
  - (a) its refund policies are reasonable and in accordance with legal requirements; and
  - (b) it provides its international learners (or the parents or legal guardian of international learners under 18 years) with sufficient information to understand their rights and obligations under those refund policies.
- (2) A refund policy must include refund conditions for the following situations –
  - (a) failure by a learner to obtain a study visa; and
  - (b) voluntary withdrawal by a learner; and
  - (c) the signatory ceasing to provide a course of educational instruction as contracted with a learner, whether it stops of its own accord or as required by an education quality assurance agency; and
  - (d) the signatory ceasing to be a signatory; and
  - (e) the signatory ceasing to be a provider.
- (3) In the situation in subclause (2)(c) or (d), the signatory must deal with fees paid for services not delivered or the unused portion of fees paid as follows –
  - (a) refund the amount in question to the learner (or the learner’s parent or legal guardian);  
or
  - (b) if directed by the learner or the code administrator or the agency responsible for fee protection mechanisms, transfer the amount to another signatory as agreed with the learner (or the learner’s parent or legal guardian).

**82. Outcome 21: Dealing with complaints**

Signatories must ensure that all international school learners have access to proper and fair procedures for dealing with complaints.

**83. Process:**

- (1) Each signatory must ensure that –
  - (a) it has an effective internal process for addressing complaints by its international learners; and
  - (b) its international learners are informed about that process.

- (2) Each signatory must advise its international learners –
  - (a) of the availability of recourse to the code administrator or relevant Dispute Resolution Scheme or any other relevant authority if a learner cannot access the internal complaints process or is dissatisfied with the outcome or experience of using that process; and
  - (b) how to make a complaint to the code administrator or to seek resolution of a financial dispute under the relevant Dispute Resolution Scheme.

**84. Outcome 22: Compliance with international learner contract Dispute Resolution Scheme**

Signatories must comply with the relevant Dispute Resolution Scheme rules.

**85. Process:**

- (1) Each signatory must ensure that it is familiar with the relevant Dispute Resolution Scheme rules and ensure compliance with those rules in a dispute to which it is a party.
- (2) Failure to comply with the relevant Dispute Resolution Scheme rules is a breach of this code and may trigger sanctions by the code administrator.

## **Part 8**

### **Code administrator**

**86. Reporting and publishing obligations**

- (1) The code administrator must include in its annual report a report on its activities in administering this code.
- (2) If the code administrator, in the course of investigation, finds any systemic issue related to the wellbeing, educational achievement or rights of learners, or a serious breach of this code, the code administrator must report that issue or breach to education quality assurance agencies and any relevant government agency.
- (3) The code administrator may, for the limited purposes set out in subclause (4), disseminate or otherwise publish a summary of the investigation and outcome of a breach of this code, subject to appropriate safeguards and redactions for protection of privacy.
- (4) The purposes referred to in subclause (3) are –
  - (a) keeping providers, learners, and other educational interest groups informed; and
  - (b) demonstrating the process of investigation and decision-making under this code.
- (5) The code administrator must take reasonable steps to publicise this code to providers and to learners, including publishing guidelines for providers.

## **87. Reporting breach of code**

- (1) The code administrator –
  - (a) can receive complaints or referral that the code has been breached from any person; and
  - (b) must decide whether the complaint or referral appears to involve an outcome, process or other code requirement not being met, warranting further action.
- (2) The code administrator –
  - (a) must publish its processes for receiving and dealing with a complaint or referral; and
  - (b) may prescribe forms for use in making a complaint or referral.

## **88. Responding to a complaint**

- (1) If the code administrator decides that further investigation is warranted, it must –
  - (a) make a record of, and investigate any alleged outcome, process or other code requirement not being met; and
  - (b) notify the person who made the complaint or referral of the decision to investigate.
- (2) If the code administrator decides that further investigation is not warranted, it must consider the following options and act accordingly within a reasonable timeframe –
  - (a) refer the complaint or referral to another agency; or
  - (b) deal with the complaint or referral informally; or
  - (c) terminate the complaint or referral.
- (3) In investigating a complaint or referral, the code administrator may assist the person making the complaint or refer that person to someone who is able to provide assistance, if such assistance is reasonably necessary to adequately respond to, or investigate the complaint in a fair and impartial manner (for example, by overcoming a language barrier, or supporting that person's wellbeing and safety during the complaints process).

## **89. Monitoring, investigating, and receiving and sharing information**

- (1) The code administrator is responsible for monitoring and investigating tertiary education providers and school signatories in relation to –
  - (a) their giving effect to the code; and
  - (b) the steps they are taking to improve their giving effect to the code (including improvements arising out of self-reviews of their own performance) and addressing issues raised with them by the code administrator.
- (2) The code administrator may consider any information it considers appropriate to fulfil its monitoring and investigating roles including, but not limited to –



- (a) strategic goals and strategic plans; and
  - (b) self-review reports, attestations, policies and procedures and evidence of their implementation; and
  - (c) complaints and referrals; and
  - (d) information from its other quality assurance activities; and
  - (e) information from other education quality assurance agencies and other relevant government agencies; and
  - (f) the Disputes Resolution Scheme reports.
- (3) The code administrator’s monitoring and investigation roles may be undertaken either on the code administrator’s own initiative or as a result of information provided to it, including a complaint or referral of a code outcome, process or other code requirement not being met.
- (4) The code administrator, for the purpose of monitoring and investigating compliance with the code, may –
- (a) request a tertiary education provider or school signatory to provide to the code administrator, by a date specified in the notice (which must be within a reasonable time), an attestation of their giving effect to all or any part of this code and/or of ongoing self-review, using the attestation form published on the code administrator’s website; and
  - (b) request access to any of the provider’s facilities or premises; and
  - (c) request access to relevant documents held by the tertiary education provider (or the accommodation provider) or school signatory; and
  - (d) request access to interview staff and students as appropriate.
- (5) A tertiary education provider or school signatory must –
- (a) provide all reasonable assistance to a code administrator in the course of monitoring or investigating compliance with the code; and
  - (b) respond in a timely manner to requests by the code administrator under subclause (4) of this clause; and
  - (c) provide reasonable access to any site, staff and students the code administrator considers necessary in relation to monitoring and investigating compliance with the code.
- (6) The code administrator must –
- (a) consult and share appropriate information with education quality assurance agencies and relevant government agencies for the purpose of agreeing interventions for the improvement of the code or compliance with it; and
  - (b) receive and consider information provided to the code administrator by education quality assurance agencies and relevant government agencies for the same purpose.

**90. Working with Dispute Resolution Scheme operator(s)**

The code administrator must work in collaboration with the Dispute Resolution Scheme operator –

- (a) when the Dispute Resolution Scheme operator seeks information relevant to a dispute from a tertiary provider or school signatory; and

- (b) when obtaining information from the Dispute Resolution Scheme to consider the action needed by a tertiary provider or school signatory to support the wellbeing and safety of the learner.

**91. Requirements for entry to inspect student accommodation**

- (1) The following provisions apply to a code administrator's powers of entry into student accommodation in addition to section 633 of the Act.
- (2) The code administrator needs to provide evidence of identity at arrival and when requested at any later time. They should also provide evidence of authorisation, including reference to –
  - (a) the full name of the person or people who are authorised; and
  - (b) a statement of the powers conferred on that person; and
  - (c) section 633 of the Act; and
  - (d) this code; and
  - (e) the scope of the visit, for example monitoring performance or investigating a complaint.
- (3) If any documents are removed from premises, the person who removes them must –
  - (a) leave at the premises a list of the documents removed; and
  - (b) return the documents, or a copy of them, to the premises as soon as practicable, unless to do so would prejudice any investigation being or to be carried out by the code administrator.

**92. Indemnification for code administrator costs**

Providers may be required by the code administrator to reimburse the code administrator for –

- (a) the actual costs, disbursements and expenses reasonably incurred by the code administrator in undertaking compliance visits and investigations for the purposes of monitoring and enforcing this code;
- (b) the legal and other expenses arising from any further action undertaken by the code administrator as the consequence of a breach of this code;
- (c) any costs arising from the enforcement of this indemnity.

**93. Revocation of 2016 Code**

- (1) The Education (Pastoral Care of International Students) Code of Practice 2016 (2016 Code) is revoked.
- (2) A complaint, investigation or other action commenced under the 2016 Code may be completed under the provisions of that Code.