

Statutory Declaration under the New South Wales *Oaths Act 1900* for school providers

Statutory declaration on behalf of the Provider seeking approval to provide courses to overseas students in NSW schools under the following NSW and Commonwealth legislation and guidelines (henceforth 'NSW and Commonwealth legislation and guidelines'):

- *Education Act 1990*
- *Education Services for Overseas Students Act 2000 (amended 2016) ('the ESOS Act')*
- *ESOS Act Regulations 2019*
- *National Code of Practice for Providers of Education and Training to Overseas Students 2018 (the National Code)*
- *English Language Intensive Courses for Overseas Students (ELICOS) Standards 2018 (the ELICOS Standards)**

I,

[insert full name of Principal Executive Officer (PEO)]

of

[insert address]

in the State of New South Wales, solemnly and sincerely declare that:

1. In respect of

.....
[insert full proper name of the legal entity seeking approval] ('the Provider')

which trades as

.....
[insert trading name(s), if applicable, and attach a copy of any relevant Certificate of Registration of Business Name],

I am authorised to make this statutory declaration on behalf of the Provider (in any other case).

2. The Provider is seeking approval to provide courses to overseas students within New South Wales, with that approval forming the basis for registration by the Secretary ('the Secretary') of the Australian Government Department of Education under the NSW and Commonwealth legislation and guidelines.
3. In relation to the delivery to overseas students, I understand that the Secretary can register a Provider only if the Secretary receives from the designated state authority for New South Wales:
 - i. a certificate that the Provider complies with the National Code, established under Part 4 of the ESOS Act
 - ii. advice in writing that the Provider has satisfied the NSW Education Standards Authority (NESA) that the Provider is fit and proper to be registered under section 11 of the ESOS Act.

*only applicable if provider is delivering ELICOS

4. I understand that NESAs will rely on the completed Application for Renewal of Approval or Application for Initial Approval ('the Application') and on evidence tendered by the Provider in support of the Application (including this Statutory Declaration), and onsite visit(s) and inspection(s) in making its decision to certify the Provider's compliance with the ESOS Act and National Code as identified in the *Guidelines for Approved NSW School Providers Delivering Courses to Overseas Students* ('the Guidelines') and that the Provider is fit and proper to be registered. I understand that NESAs, in relation to applications for approval to deliver courses to overseas students, will share the information collected on the Provider's compliance with the Australian Government Department of Education in accordance with the regulatory requirements of the NSW and Commonwealth legislation and guidelines.
5. I have copies of the NSW and Commonwealth legislation and guidelines and I have read, understood and agree to abide by all the provisions therein. I have sought legal advice to clarify any aspects of the legislation and guidelines that I did not previously understand.
6. I declare that the Provider:
 - i. carries on business in Australia,
 - ii. has its central management and control in Australia, and
 - iii. if a company (or other body corporate) is incorporated in Australia.
7. I declare that the Provider:
 - i. complies with the NSW and Commonwealth legislation and guidelines as currently in force
 - ii. undertakes to comply with the NSW and Commonwealth legislation and guidelines as amended from time to time
 - iii. is fit and proper to be registered.
8. In relation to delivery to overseas students, I declare that neither the Provider, nor any associate of the Provider (*associate* as defined in section 6 of the ESOS Act), nor a high managerial agent of the Provider who has been, is or will be involved in the business of delivering programs to overseas students has:
 - i. been convicted of a criminal offence
 - ii. been convicted of an offence under the ESOS Act 2000 in the last five years
 - iii. ever had its CRICOS registration cancelled or suspended under the Commonwealth Acts
 - iv. ever been issued with an Immigration Minister's suspension certificate under the Commonwealth Acts
 - v. ever had conditions imposed on its registration under the Commonwealth Acts
 - vi. been bankrupt
 - vii. ever been disqualified from managing corporations under the Corporations Law
 - viii. ever been involved in the business of the provision of courses by another Provider who is covered by any of the above points.
9. Before making this declaration, I have examined the records of the Provider, any associate of the Provider and high managerial agent(s) of the Provider and have made all due and proper inquiries of the employees and agents of the Provider and any associate, so as to ensure that this Declaration is true and correct in every particular and does not omit any relevant information.

10. I declare that my employment history for the five years prior to taking up the position of Principal Executive Officer (PEO) of the Provider was as follows:

| Dates | | Position held | Legal name and location of previous employers | Trading name of previous employers |
|-------|----|---------------|---|------------------------------------|
| From | to | | | |
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11. Furthermore, as prescribed under the NSW and Commonwealth legislation and guidelines, I agree to undertake on behalf of and with the authority of the Provider:

- i. to notify NESAs in writing if the Provider or any associate of the Provider or high managerial agent of the Provider is convicted of an offence
- ii. to notify NESAs in writing if any associate of the Provider or a high managerial agent of the Provider has been made bankrupt or the Provider has gone into liquidation
- iii. to notify NESAs in writing of changes in Provider ownership, name, address, management status or a change to the Principal Executive Officer (or equivalent) of the Provider
- iv. in relation to delivery to overseas students, to notify NESAs and the Department of Home Affairs of changes in information about accepted students
- v. to market course provision in an ethical and responsible manner.

I make this solemn declaration, conscientiously believing the same to be true and by virtue of the *Oaths Act 1900*.

Declared at: on
[place] *[date]*

.....
[signature of declarant]

in the presence of an authorised witness¹, who states:

I, a
[name of authorised witness] *[qualification of authorised witness]*

certify the following matters concerning the making of this statutory declaration by the person who made it:

[please cross out any text that does not apply]*

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was
[describe identification document relied on]

.....
[signature of authorised witness]

.....
[date]

1 An authorised witness is either a justice of the peace, a solicitor or barrister with a current practicing certificate issued under S6 of the Legal Profession Act 2004 in NSW, a notary public, a commissioner of the courts for taking affidavits or any person authorised to administer an oath.