

GUIDANCE RELATING TO RESPONSIBILITY FOR STUDENTS DURING THE 2020 SUMMER HOLIDAYS

NOTES

This guidance is supported by the SIEBA resource for managing the summer holidays, which provides wording for communication with parents, a form to capture students' plans, and an Accommodation Agreement to capture responsibility where a student lives in a school homestay during the summer.

This guidance aims to help schools understand their responsibility for students during the 2020 summer holidays in the unusual circumstances created by the Covid-19 pandemic.

As self-managing schools, deciding where responsibility rests for students during this time, is for each school to determine. Circumstances for each student, family and school will differ and schools should consider agreements they have signed with families in deciding where responsibility lies.

This guidance aims to bring attention to factors that should be considered when making decisions relating to the care and wellbeing of students that remain in New Zealand over the summer break.

TRANSFER OF CARE

23(1)(e) of the Code requires schools to have a transfer-of-care plan in place for when enrolment ends or at other times when parents take back responsibility for their under-18 child during enrolment. The opportunity to transfer care within the Code is relevant to the circumstances that this guidance relates to.

When making transfer-of-care arrangements, it is helpful to view the idea of transferring care as a concept rather than as a single action that can be captured in one form. Where there is a transfer of care, the Code requires that a transfer is to a person and that there is a plan in place that is notified to parents. The Code does not specify whom that person should be or the form that such a plan should take. That is because the circumstances of each transfer will be particular to each student, family, and school. The essential understanding is that the plan clarifies where responsibility for pastoral care sits and that this is made clear and understood by everyone involved in the plan.

Where a transfer of care is appropriate, a plan may be a collection of documents, emails, or other communication. These could include:

- Confirmation of Arrangements for the summer holidays (there is a SIEBA template for this)

- Details in writing of other arrangements such as accommodation while transiting to an outbound flight
- Arrangements where there may be an interruption to an agreed plan
- Accommodation agreements where these are appropriate
- Other arrangements that have been made with parents before or during the transfer period

The remainder of this guidance will be based on factors to be considered for specific scenarios over the summer break period. We describe some situations that may arise to illustrate factors to be considered, however this is not an exhaustive list and there will be other situations that arise that are not mentioned here. Please get in touch if you have specific concerns about any arrangements that are being considered.

WHAT DOES OR DOES NOT DETERMINE RESPONSIBILITY?

THE CODE

Responsibility for students enrolled in schools is determined by the Education (Pastoral Care of International Students) Code of Practice 2016 (the Code). The Code holds schools directly responsible when a student is enrolled under a contract of enrolment.

AGREEMENTS

A school will be bound by written agreements it makes with parents and students relating to the summer holidays. This will most likely relate to accommodation for periods outside of enrolment at the school.

TRANSFER-OF-CARE PLAN

Where enrolment has come to an end, a transfer-of-care plan is required for students under 18 years of age to make clear who is responsible. This should be by agreement with the student's parents.

REASONABLE DUTY OF CARE

Although schools may not have a Code-mandated responsibility during the holidays where those holidays fall outside of a period of enrolment, parents can reasonably expect schools to continue providing care and support to their child and to assist with making arrangements at this time. This is particularly important where students may have been encouraged by the school to remain in New Zealand.

Schools therefore have a duty to take all reasonable steps to ensure students continue to have a safe and positive experience while in New Zealand. This includes ensuring there is effective communication with parents and ensuring appropriate permissions for activities and trips is provided.

STUDENT VISA

A student visa provides the legal right for a student to remain in New Zealand and grants the student a right to study at a school. The student visa does not determine who is responsible for the pastoral care or wellbeing of a student while they are in New Zealand.

WHEN SHOULD A TRANSFER OF CARE BE USED TO MANAGE RESPONSIBILITY?

Transfer of care is required by the Code to ensure there is a clear plan, communicated to parents for times when the school is not responsible for a student who is under 18 years of age. This may be either after enrolment ends or at other times when responsibility is passed back to parents.

Schools are required to have a transfer-of-care plan for all under-18 students who will finish an enrolment period in November or December 2020, regardless of what their plans are in the weeks that follow.

This plan may be captured and communicated via emails, via the form SIEBA included in our resource for managing the summer holidays, or in other communications with parents. Of utmost importance though, is that in forming a transfer-of-care plan, risks are identified and managed, the plan is clear and is effectively communicated to parents. Parents are likely to be anxious about the wellbeing of their children during the summer break and effective communication of transfer of care arrangements can help to allay these fears.

WHEN IS A SCHOOL RESPONSIBLE FOR STUDENTS DURING THE 2020 SUMMER HOLIDAYS?

To assist answering this question in relation to students in your care, we offer the following scenarios:

A student will remain enrolled with your school during the December/January period

An example of this is a student who enrolled in February 2020, has an offer of place until April 2021, and fees are paid for that period.

The school is responsible for students falling into this category and is required to comply with all requirements of the Code, including those relating to pastoral support, 24/7 availability, accommodation, and safety.

Students under 18 whose 2020 enrolment ends in late November/early December, and who will be in the care of their designated caregiver, or other relative or friend, selected by their parents for the summer holiday period.

A transfer-of-care plan is required at the end of enrolment. The transfer-of-care plan should pass responsibility to the person nominated by the parents. Where the plan is clear and communicated to the parents, the school is not responsible for the student. There may be students who fall into this category for part of the summer holidays or for the whole time.

Students under 18 whose 2020 enrolment ends in late November/early December, and who will return to study with you for a new term of enrolment in 2021, and who wish to remain in your homestay for the summer holidays.

A transfer-of-care plan is required at the end of enrolment. The transfer-of-care plan will clarify the arrangements that have been made for the holiday period by the parents, homestay family and the school. While the school does not have a Code-mandated responsibility prior to the new period of enrolment under this arrangement, an accommodation agreement for this period will capture expectations and set out responsibility for the student while living in the school's homestay. Furthermore, a reasonable duty of care exists that would expect the school to ensure continued pastoral care and support to both the student and host family during the holidays.

Students under 18 whose 2020 enrolment ends in late November/early December and who are transferring to another school provider in 2021.

A transfer-of-care plan is required at the end of enrolment. The transfer-of-care plan should make clear who is responsible for the student prior to enrolment at the new school. While the current school no longer has a Code-mandated responsibility for the student under this arrangement, a reasonable duty of care exists that would expect both schools to work together to ensure that pastoral care and support is in place for the student throughout the holidays.

Students under 18 who will be new to your school in 2021 after transferring from another provider and will move into your homestay early.

A transfer-of-care plan is required at the end of enrolment and this is the responsibility of the previous school. An accommodation agreement that covers the period of homestay before enrolment begins will capture expectations and set out responsibility for the student while living in the school homestay.

A reasonable duty of care exists that would expect both schools to work together to ensure that pastoral care and support is in place for the student throughout the holidays.

Students under 18 whose 2020 enrolment ends in late November/early December and who are transferring to a tertiary provider in 2021

A transfer-of-care plan is required at the end of enrolment. The transfer-of-care plan should make clear who is responsible for the student prior to enrolment at the tertiary provider. While neither the school nor the tertiary provider has a Code-mandated responsibility for a

student under this arrangement, a reasonable duty of care would expect the two institutions to work together to ensure that pastoral care and support continues for the student during the holidays.

An accommodation agreement will assist in this situation to make clear expectations and obligations while the student is in accommodation prior to enrolment with the tertiary provider.

Where the tertiary provider is not known and arrangements cannot be made with the tertiary provider until the student receives their exam results, the school and the parents should agree on care and accommodation arrangements for the entire holiday period. These arrangements should be captured in the transfer-of-care plan and accommodation agreement.

A student under 18 who has not been offered a place beyond the end of their 2020 enrolment and where the school is unwilling or unable to provide ongoing care due to the student's conduct or needs and has recommended they return home as soon as possible after the end of enrolment.

A transfer-of-care plan is required at the end of enrolment. The plan should clearly document the risks to the student and ensure that those risks have been considered and support for the student is in place.

Arrangements should be made for the student to return home or other arrangements made if the student is to remain in New Zealand.

Where the risks to the student cannot be managed through a transfer-of-care plan, the school may seek support for the student from relevant government agencies or social services.

Students aged 18 or over whose 2020 enrolment ends in late November/early December and who may or may not intend to study with you in 2021, who wish to go flatting, travel or make their own plans during the summer holidays.

A transfer-of-care plan is not required as the student is 18 years of age or over. The school is not responsible for the care and wellbeing of the student. However, a reasonable duty of care would expect the school to ensure that the student was aware of any risks posed by arrangements that the student is considering and that the student has access to appropriate and reasonable pastoral care and support during the summer holidays.

Students aged 18 or over whose 2020 enrolment ends in late November/early December and who are changing provider in 2021 but wish to remain in their school homestay during the summer holidays.

A transfer-of-care plan is not required as the student is 18 years of age or over. While the school does not have a Code-mandated responsibility for a student under this arrangement,

a reasonable duty of care would expect the school to work with both the homestay and student to make arrangements and ensure that there is appropriate and reasonable pastoral care and support available to the student and homestay during this time.

An accommodation agreement will assist in this situation to make clear expectations and obligations while the student is in this arrangement.

A STUDENT WISHES TO PARTICIPATE IN TRIPS OR ACTIVITIES DURING THE HOLIDAYS

1. Where the student remains enrolled at the school during the summer break, all conditions set out in the contract of enrolment and accommodation agreement apply and the school is responsible.
2. Where the student is not enrolled, the school, homestay parent or nominated person caring for the student has a reasonable duty of care to ensure that parents are made aware of all arrangements and risks relating to a trip or activity, including arrangements for accommodation, transport and other arrangements. Where the student is under 18 years of age, the school should ensure that consent is provided for such trips or activities.
3. Where students will participate in day or overnight trips arranged by the school itself, usual requirements for school trips, including RAMS, permissions, supervision should apply.

A STUDENT WISHES TO ENROL WITH ANOTHER PROVIDER FOR A SHORT COURSE DURING THE HOLIDAYS

1. A student may study for up to 12 weeks with another provider without the need to apply for a new student visa, or a variation of conditions. Nothing is required regarding immigration requirements.
2. An agreement between the two institutes will assist to clarify who is responsible for the pastoral care of the student, for accommodation provision, and the duration of the arrangement.
3. The temporary provider should sign a contract of enrolment with the student/parents and meet Code requirements.