

STUDENT REVIEW PROCEDURES FOR RE-CREDITING A VET STUDENT LOANS BALANCE

Definitions

The Act: Refers to the *Higher Education Support Act 2003*.

Student: Refers to students, who are Australian citizens or permanent humanitarian visa holders who will be resident in Australia for the duration of their VET Units of Study, and who access FEE-HELP for VET Student Loans for payment of their tuition fees in respect of the VET Units of Study in which they are enrolled.

Census Date: A published date set by the provider, no earlier than 20% of the way through a VET Unit of Study.

Tuition Fees: Fees paid for a VET Unit of Study that is approved for VET Student Loans and applies to Students who are or would be entitled to VET Student Loans assistance under clause 43 of Schedule 1A of the Act.

Unit or VET Unit of Study: A VET Unit of Study approved for VET Student Loans that a Student may undertake with the provider, for which the Student may access VET Student Loans FEE HELP assistance to pay for all or part of their tuition fees.

The Department: The Commonwealth of Australia represented by the department which has the responsibility for administering the *Higher Education Support Act 2003*.

1.0 Incurring a VET STUDENT LOANS Debt

- 1.1 A Student who is, or would be, eligible for VET Student Loans and has requested VET Student Loans Assistance, who withdraws from a Unit on or before the census date will not incur a VET Student Loans debt for the tuition fees for that Unit.
- 1.2 Students who have requested VET Student Loans Assistance who remain enrolled after the published census date will incur a VET Student Loans debt for the Units in which they are enrolled. A Student who withdraws from a Unit after the published census date for that Unit will incur a VET Student Loans debt for that Unit.

2.0 Re-crediting a STUDENT LOANS Balance

- 2.1 Students may apply to the secretary within 5 years after the census day for the course for the FEE-HELP balance to be re-credited under section 71 of the ACT if the provider, or person acting on the provider's behalf, engage in unacceptable conduct in relation to the VSL application or the provider has failed to comply with the ACT and the failure has adversely affected the student.
- 2.2 Students who withdraw from a Unit after the published census date, or fail to complete a Unit, may apply to have their Student Loans balance re-credited with respect to the Unit if they believe special circumstances apply in accordance with the following procedures.

3.0 Special Circumstances

- 3.1 If a Student withdraws from a Unit after the published census date for that Unit, or has been unable to successfully complete a Unit, and believes this was due to special circumstances, the Student may apply to have their Student Loans balance re-credited for the affected Unit/s.

- 3.2 Kiama Community College Incorporated (“KCC”) will re-credit the Student’s FEE-HELP Balance if it is satisfied that special circumstances apply where:
- these circumstances were beyond the Student’s control; and
 - these circumstances did not make their full impact on the Student until on, or after the census date; and
 - these circumstances were such that it was impracticable for the Student to complete the requirements for the Unit in the period during which the Student undertook or was to undertake the Unit.
- 3.3 For circumstances to be beyond a Student’s control, the situation should be that which a reasonable person would consider is not due to the Student’s action or inaction, either direct or indirect, and for which the Student is not responsible. The situation must be unusual, uncommon or abnormal to be considered special circumstances.
- 3.4 Special circumstances do not include:
- lack of knowledge or understanding of requirements for VET Student Loans assistance; or
 - a Student’s incapacity to repay a VET Student Loans debt (repayments are income contingent and the Student can apply to the Australian Taxation Office for a deferral of a compulsory repayment in certain circumstances).
- 3.5 Any student that applies for re-crediting of their FEE-HELP Balance, seeks reconsideration of the decision or initiates the grievance process will not be victimised or discriminated against.

4.0 Re-credit of a Student’s FEE-HELP Balance - The Process

- 4.1 Each application for re-credit of a Student’s Student Loans FEE HELP balance will be considered on its merits together with all supporting documentation substantiating the special circumstances claim.
- 4.2 KCC’s Training Services Manager is the designated officer responsible for the assessment of a Student’s request for a re-credit of their Student Loans balance due to special circumstances and for the initial decision regarding the request.
- 4.3 A Student must apply in writing to the Training Services Manager at Kiama Community College, PO Box 52, Kiama NSW 2533 within 12 months of the withdrawal date, or if the Student has not withdrawn, within 12 months of the specified completion date of the Unit.
- 4.4 KCC has the discretion to waive this requirement if it is satisfied that it was not possible for the application to be made within the 12 month period. Relevant supporting documentation will be required to substantiate the claim.
- 4.5 The application for re-crediting a Student Loans balance must include details of the:
- Unit(s) for which a Student is seeking to have a Student Loans balance re-credited and
 - special circumstances as referred to above, including supporting documentation.
- 4.6 KCC will consider each application within 28 days of receipt of the application. It will consider each request to re-credit a Student Loans balance in accordance with the requirements of Schedule 1A of the Act. Applicants will be notified in writing of the decision within 28 days.
- 4.7 The secretary may re-credit a student’s FEE- HELP balance in relation to special circumstances if a course provider;

- Is unable to act or is being wound up or has been dissolved; or
- Has failed to act and the secretary is satisfied that the failure is unreasonable.

5.0 Review of Decision

5.1 Where KCC makes a decision NOT to re-credit a Student's Student Loans balance that decision may be subject to review at no cost to the student.

5.2 If a Student is not satisfied with the decision made by KCC, the Student may apply, within 28 days of the receipt of the original decision, for a review of the decision. The application for review must:

- be made within 28 days of receipt of the original decision;
- include the date of the original decision;
- state fully the reasons for applying for the review;
- include any additional relevant evidence.

5.3 Applications should be made in writing to the Executive Officer at Kiama Community College, PO Box 52, Kiama NSW 2533 as the designated Review Officer of any decisions relating to a request for re-crediting of a Student Loans balance. The Review Officer is senior to the designated officer responsible for the original decision and was not involved in making the original decision to be reviewed.

5.4 The Review Officer will:

- acknowledge receipt of the application for review of a decision in writing within 10 working days; and
- inform the Student that if the Review Officer has not advised them of a decision within 45 days of receipt of the application for review, it is taken that the Review Officer has confirmed the original decision.

5.5 The Review Officer will then:

- review the information from the original decision and then assess any new evidence provided by the Student;
- provide written notice to the Student of the decision, setting out the reasons for the decision;
- inform the Student of their right to apply to the Administrative Appeals Tribunal if they disagree with the Review Decision, and timelines involved (see below).

6.0 Reconsideration by the Administrative Appeals Tribunal

6.1 At the time of the original decision, and at the time of the subsequent review decision, the Student will be notified of their review rights and responsibilities. The relevant officer will inform a Student in writing of their right to appeal to the Administrative Appeals Tribunal (AAT) if they are not satisfied with the outcome and the contact details of the closest AAT office and the approximate costs of lodging an appeal. The application must be lodged at the AAT within 28 days of receiving written notice of the review decision. This time limitation can be extended in limited circumstances by order of the AAT.

6.2 Full details of the application process and fees payable are available on the AAT's website: www.aat.gov.au. An application fee may have to be paid in the amount of \$920 (from June 2019) and is subject to change. Applications cannot proceed until the fee has been paid or waived. Applications for fee waiver must be made to the AAT. Refer to the AAT website for more details.

- 6.3 Details of closest AAT office:
Administrative Appeals Tribunal
Level 6, 83 Clarence St
Sydney NSW 2000
Telephone 1800 228 333
- 6.4 The Secretary of the Department, or the Secretary's delegate, will be the respondent for cases that are brought before the AAT. Upon the Department's receipt of a notification from the AAT, the Department will notify KCC that an appeal has been lodged. Upon receipt of this notification from the Department, the Review Officer will provide the Department with copies of all the documents that are relevant to the appeal within ten business days.

7.0 Publication

- 7.1 These procedures are published on KCC's website: www.kcc.nsw.edu.au to ensure Students have up to date and accurate information publicly available to them.

8.0 Related Documents

Access and Equity Policy

Student Complaints Policy

VET Student Loans Withdrawal and/or Refund Debt Remittal Process