



**ASSOCIATION OF
AUSTRALIAN EDUCATION
REPRESENTATIVE IN INDIA**

Registered under Societies Registration Act XXI 1860
Registration No. S-31213 of 1997

1018 Hemkunt Chambers
89 Nehru Place
New Delhi 110019
Tel : 011 4161 9596, 91 98 11 505 494
Web : www.aaeri.in
Email : aaeri@aaeri.in

AAERI's Advisory - Subagents as Third party "lead generation" only unless declared to Education Providers and listed on Education Provider's website. Principle Agency must be fully accountable for all processes including the lodgment of student visas.

Attention: AAERI Members, AAERI Associate AEPs, other Industry stakeholders.

Dated: 29 July 2019

Background and the reason for this advisory:

In recent weeks, AAERI has received enquires in regards to the subagent mechanism and how far it is accepted within the Education Services for Overseas Students Framework (ESOS) & the National code. It is a known fact that 'subagents or referral third-parties' are part of the lead generation & to an extent such referrals have been part of the recruitment process. **However, AAERI has observed that in some cases, subagents are not only referring clients for applications and admissions but also lodging the student visa files directly (or under the students' name) without the involvement of the principle agent.** AAERI has also observed that there are instances where 'subagents' are involved in the GTE assessments too. **This practice is concerning / dangerous trend where not only the interest of the student is compromised but also there is a risk to the 'Australian Education brand' in South Asian market.** Australian Education Provider (AEP) Agreements have clauses that can only apply to the principle agents. Australian Universities devote resources in educating and training their principle agents and their counsellors who are dealing with the students. However, these efforts are wasted and the intent fail when the principle agent purely acts like a "master agent with a back office" and who only works around technology and software that encourages a model that breeds and promotes "un-contracted agents" to simply route applications through the master agency and the visa too is handled by the subagent / un-contracted agent with no involvement or interaction of principle agents with the client students.

With advent of online platforms, an attempt is made by some online vendors to dress up subagents as B2B arrangements. **The key issue here is the use of unknown subagents well beyond lead generation and even for the critical visa processing (B2B is window dressing to make subagent use more palatable due to their noncompliant reputation).** AAERI advises that principal-agents are fully accountable and also be accountable for the visa lodgment and not merely applications. If the principal agent is using a subagent then it may only be for lead generation only and if the role of the subagent extends beyond this, then the subagents must be trained and educated by the AEPs and their details also be listed on the AEP's website.

AAERI is apprehensive that without suitable controls over subagent use and unchecked encouragement to the online platforms that remain unregulated, the industry will continue to endure service and compliance issues.

AAERI's Advisory to its Members and recommendation to other interested parties:

AAERI advises / recommends the following:

1. Principal agency (AAERI member having head & branch office - owned or franchised) is the one who has direct contractual relationship with the Australian Education providers & they are listed on the Australian Education providers website.
2. Principal agency should interact directly with the potential student, apply for admission, carry out GTE assessment and lodge appropriate student visa to the Australian Govt.
3. AAERI recommends that principal agencies abide by the clauses in their contract with the Universities and if the contract allows use of "sub-agents", the list of "engaged sub-agents" must be declared to the Universities. If the arrangement with the third party is solely of generating leads and the third party may be an education agent or otherwise, the third party must not go beyond making a referral and the full process applications and visa must be handled by the Principle agency. If the third party is handling a part of the process such as lodging the visa, it must be declared to the Universities by the Principle agents and the third party should ideally should be listed on the University website.
4. From the leads generated from sub agents, the Principal agency must remain responsible for admissions processing, GTE assessment and lodgment of appropriate student Visas. The Principle agents are the agents of the University and that is a responsibility that should not be outsourced.
5. While AAERI understands that the principal agent details will be entered into the PRISMS, it is our hope that the visa process ensures that the visa is lodged only by principal agent. If the agent differs then it is evident that the GTE checks and other compliance checks carried out by the principal agent (on behalf of the University) listed as the primary agent in the PRISMS is not valid.

Considering that this issue is an ongoing topic of concern for the sector, the AAERI executives have unanimously decided to issue an advisory / recommendation which will clarify AAERI's position in regards to the use of 'subagents' within the South Asian market.

This advisory is being released on 29th July 2019 by Mr. Ravi Lochan Singh, President AAERI on behalf of AAERI. The above has been coordinated by Mr. Rahul Gandhi as AAERI's Head of the Visa and Compliance Committee and after detailed consultation with subject experts and policy influencers including Australian Government Departments

Note: The references to the above are in subsequent pages.

OFFICE BEARERS:

President: Mr. Ravi Lochan Singh	Vice President: Mr. Bubbly Johar	General Secretary: Mr. C.G. Balaji	Treasurer: Mr. Kishore Beengi	Secretary: Mr. Rupesh Patel
--	--	--	---	---------------------------------------

Other Executive Members

Mr. Rahul A. Gandhi Head, Visa Committee	Mr. Nishidhar Reddy Executive	Mr. Rupesh Duggal Executive	Mr. Nirmal Chawla Head, Disciplinary Committee	Mr. Prasanna Acharya Head, New Applications Committee
---	----------------------------------	--------------------------------	---	--

Reference: ESOS Act and guidelines too are in line with AAERI belief on this issue.

ESOS National Code - Standard 4 - Education agents¹

4.1 The registered provider must enter into a written agreement with each education agent it engages to formally represent it, and enter and maintain the education agent's details in PRISMS.

4.2.3 the registered provider's processes for monitoring the activities of the education agent in representing the provider, and ensuring the education agent is giving students accurate and up-to-date information on the registered provider's services

4.3 A registered provider must require its education agent to:

4.3.1 declare in writing and take reasonable steps to avoid conflicts of interests with its duties as an education agent of the registered provider

4.3.2 observe appropriate levels of confidentiality and transparency in their dealings with overseas students or intending overseas students²

4.3.3 act honestly and in good faith, and in the best interests of the student

4.3.4 have appropriate knowledge and understanding of the international education system in Australia, including the Australian International Education and Training Agent Code of Ethics.

21A Obligations relating to the agents of registered providers

(1) A registered provider must:

(a) maintain a list of all the provider's agents; and

(b) publish that list:

(i) on its website; and

(ii) in any other manner prescribed by the regulations; and

(c) comply with any requirements of regulations made for the purposes of subsection (2).

Note: If a registered provider breaches this section, the ESOS agency for the provider may act under Division 1 of Part 6 against the provider.

AUSTRALIAN INTERNATIONAL EDUCATION AND TRAINING³

Agent Code of Ethics - Discloses all relevant partnerships, affiliations and agreements are disclosed, including, disclosure of sub agent representation agreements and a clearly articulated approach to managing these relationships is in place to ensure compliance with the ACE.

The Agent code of Ethics is based on 7 principles and they are:

1. Agents and consultants practice responsible business ethics.
2. Agents and consultants provide current, accurate and honest information in an ethical manner.
3. Agents and consultants develop transparent business relationships with students and providers through the use of written agreements.
4. Agents and consultants protect the interests of minors.
5. Agents and consultants provide current and up-to-date information that enables international students to make informed choices when selecting which agent or consultant to employ.
6. Agents and consultants act professionally.
7. Agents and consultants work with destination countries and providers to raise ethical standards and best practice.

Strategic Review of the Student Visa Program 2011, Michael Knight, Page 110 states the following: ⁴

I support the Baird Review's position that "It is important the message is clearly given to providers that if they contract with an education agent to represent them then they must conduct sufficient due diligence to be confident the education agent will accurately represent them, their courses and living in Australia". As Baird notes, the ESOS Act already makes Australian providers responsible for all their agents. Amending the ESOS Act to include protection against unethical marketing practices and establishing financial penalties for providers whose offshore agents can be shown to have acted unethically, as recommended by Baird, would reinforce this responsibility. I note that, following Baird, the government has already introduced a new requirement for providers to list on their websites the education agents with whom they have agreements. The government has also enabled the introduction of specific regulations concerning providers' use of agents. I support the promotion of agent professionalism and self-regulation by requiring providers to only use education agents who:

- belong to a professional association where one exists;
- have completed an appropriate training course; and
- comply with their home country requirements.

¹ ESOS act - <https://www.legislation.gov.au/Details/C2017C00263>

² National code of Practise - https://www.legislation.gov.au/Details/F2017L01182/Html/Text#_Toc487026948

³ Australian International Education & Training - <https://internationaleducation.gov.au/News/Latest-News/Documents/Australian%20International%20Education%20and%20Training%20-%20Agent%20Code%20of%20Ethics.pdf>

⁴ Knight review - <https://drive.google.com/file/d/1opiFmel5br6NjY1t81NG7tOnsazQC48i/view?usp=sharing>