

VET Student Loan Re-Crediting & Review Procedures

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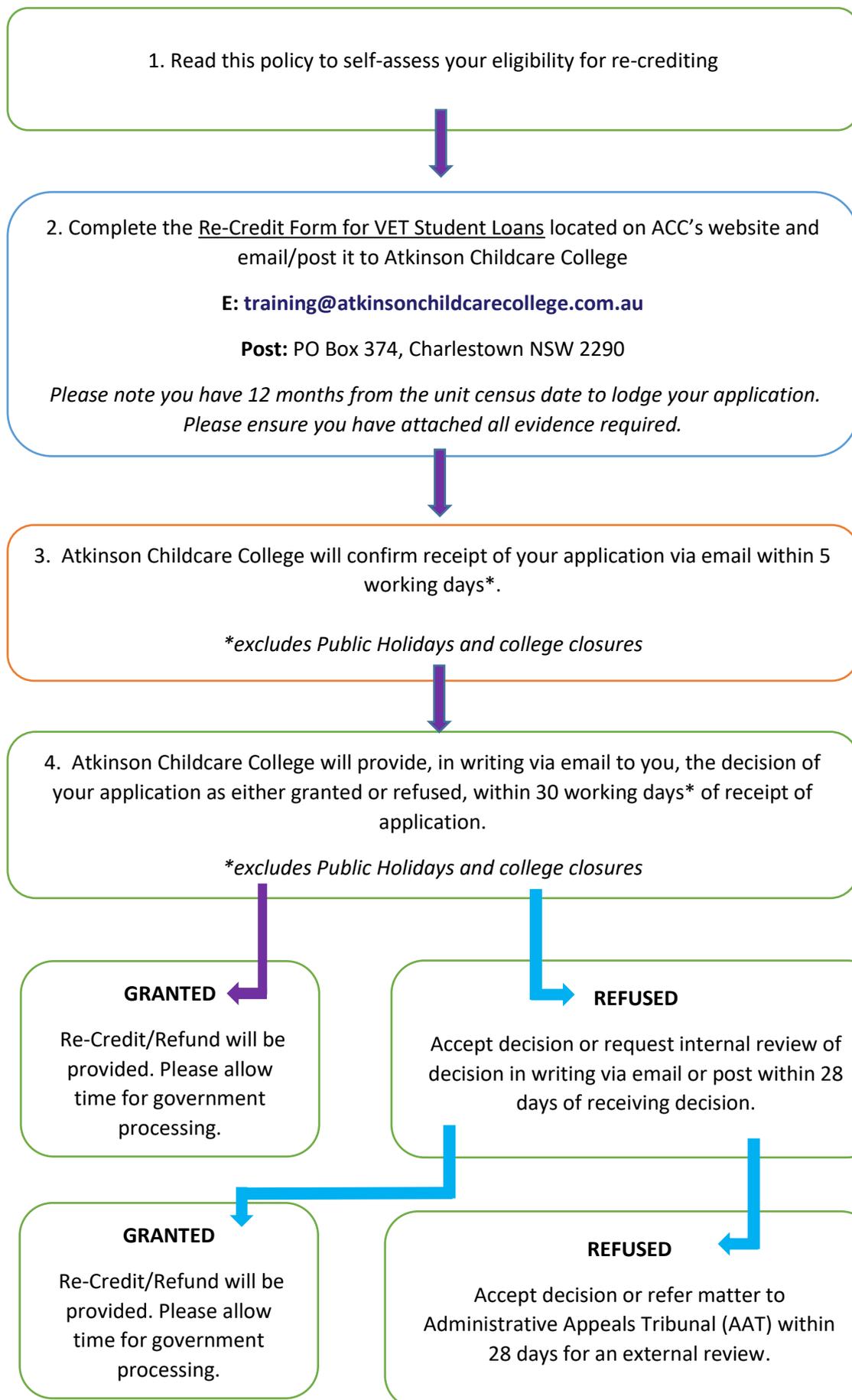
OVERVIEW

As an approved course provider, ACC must have processes and procedures for explaining the re-crediting of students' FEE-HELP balances under Part 6 of the Act. Students who meet the requirements for re-crediting of FEE-HELP balances are requested to follow the procedure below.

Includes:

- Re-Credit and Review Procedure
- Special Consideration requirements
- Unacceptable Conduct + Secretary Re-Credit Requirements

RE-CREDIT AND REVIEW PROCEDURE



SPECIAL CIRCUMSTANCES FOR RE-CREDITING A STUDENT'S FEE-HELP BALANCE

1. Special Circumstances

VET Student Loans Act (2016), Part 6, Division 2 (68)

Atkinson Childcare College must, on the Secretary's behalf, re credit a student's FEE HELP balance if:

- (a) the student applies to the provider in writing for the re credit; and
 - (b) the application is made within 12 months after the census day for the course, or the part of the course; and
 - (c) ACC is satisfied that special circumstances prevented, or will prevent, the student from completing the requirements for the course, or the part of the course.
- (3) Circumstances are special circumstances if they:
- (a) are beyond the student's control; and
 - (b) do not make their full impact on the student until on or after the census day for the course, or the part of the course; and
 - (c) make it impracticable for the student to complete the requirements for the course, or the part of the course, during the student's enrolment in the course, or the part of the course.
- (4) The amount re credited must equal the amount of the VET student loan that has been used to pay tuition fees for the student for the course, or the part of a course.
- (5) The course provider must, as soon as practicable:
- (a) consider an application for a student's FEE HELP balance to be re credited under this section; and
 - (b) notify the student of the provider's decision on the application.

The notice must include a statement of the reasons for the decision.

Special Circumstances

Applicant must provide sufficient evidence to support special circumstances as defined in the VET Student Loans Act (2016).

(a) Special circumstances beyond a person's control

Examples of circumstances that may be considered beyond a person's control might include a motor vehicle accident or the worsening of a serious illness may meet the criteria.

(b) Special circumstances that do not make full impact until on or after the census date

Circumstances could be considered not to make their full impact on the person until on or after the census day for the VET unit of study if the person's circumstances occurred:

- before the census day, but worsen after that day
- before the census day, but the full effect or magnitude did not become apparent until after that day or
- on or after the census day.

Students do not need to demonstrate they were unable to withdraw from the course prior to the census day.

Special circumstances arising from pre-existing conditions

A circumstance that first occurred before the census day may satisfy the special circumstances requirement where it worsens after that day or the full effect or magnitude does not become apparent until after that day.

For example, a person may have an illness or other underlying, pre-existing condition or incapacity prior to the census day for a course, but that condition may worsen, or the person may suffer from an aggravation, deterioration or serious episode, after the census date.

Alternatively, the full implications of a person's condition may not have been apparent until after the census day. This may be because recovery does not go to plan, or the degree of disability or incapacity for study is not fully realised until after the census day.

The provider must consider whether the person's circumstances changed on or after the census day and when the full effect or magnitude of the circumstances became apparent, taking into account any additional circumstances, including continuation of a pre-existing condition that may have affected the person on or after the census day.

(c) Circumstances that made it impracticable to complete a course

The term 'impracticable' is defined as 'not practicable, that which cannot be put into practice with the available means'. The provider should keep this definition in mind when deciding whether a student's circumstances made it impracticable for them to complete a course, or part of a course. In considering whether circumstances are special circumstances because they make it impracticable for the student to complete the requirements of the course, or part of the course, during the student's enrolment, the provider must consider:

- whether the student could do enough private study, or attend training sessions and other activities, or engage online, to meet course requirements
- whether the student could complete any required assessable work, or demonstrate competencies required, and
- whether the student could complete any other requirements arising from the student's inability to do the above [Rules s 145].
- Circumstances that make it impracticable for the person to complete the requirements for their course may include (among other things):
 - medical circumstances – for example where a person's medical condition has changed to such an extent that he or she is unable to continue studying
 - family or personal circumstances – for example death or severe medical problems within a family, or unforeseen family financial difficulties which affect the student to such an extent that it is unreasonable to expect a person to continue studies, or
 - the student's employment related circumstances – for example where a person's employment status or arrangements have changed so the person is unable to continue their studies and this change is beyond the person's control [Rules s 146].

Evidence of Special Consideration

Attach any independent evidence (original or certified copy of original) to support your claim. For example a letter from a doctor, psychologist, psychiatrist, registered counsellor. Please note that in cases of mental health issues, further documentation is required from treating mental health professionals as defined in our policy.

Special circumstances do not include:

2.1 Lack of knowledge or understanding of requirements for VET Student Loans assistance; or

2.2 A student's incapacity to repay a FEE-HELP debt, as repayments are income contingent and the student can apply for a deferral of a compulsory repayment in certain circumstances.

Special Circumstances does not cover an inability to repay student loans. If you would like to find out more about repaying your FEE-HELP debt please visit the Study Assist website www.studyassist.gov.au.

If you are unhappy with our college's decision regarding your application for Re-Credit of a FEE-HELP Balance, you need to inform us in writing within 28 days for an internal review of the decision. If you are unhappy with ACC's final internal review decision, you can apply to the Administrative Appeals Tribunal (AAT) within 28 days for an external review. For more information, visit www.aat.gov.au

UNACCEPTABLE CONDUCT

148 Unacceptable conduct relating to an application for a VET student loan

VET Student Loans Rules (2016), Part 8, Division 2 (148)

- (1) For the purposes of subsection 71(2) of the Act, the following is **unacceptable conduct** in relation to an application for a VET student loan for an approved course provided, or to be provided, by an approved course provider:
 - (a) unconscionable conduct (whether or not a particular individual is identified as having been disadvantaged by the conduct);
 - (b) misleading or deceptive conduct;
 - (c) the making of a representation with respect to any future matter, such as the doing of, or the refusing to do, any act, if the maker of the representation does not have reasonable grounds for making the representation;
 - (d) advertising tuition fees for the course where there are reasonable grounds for believing that the provider will not be able to provide the course for those fees;
 - (e) use of physical force, or harassment or coercion, in connection with the application or enrolment in the course.
- (2) Paragraphs (1)(a), (b), (c), (d) and (e) do not limit one another.
- (3) In deciding for the purposes of paragraph (1)(a) whether conduct is unconscionable, the Secretary may have regard to the following:
 - (a) the relative strengths of the bargaining positions of the persons concerned;
 - (b) whether the student was required to comply with conditions that were not reasonably necessary for the protection of the legitimate interests of another person;
 - (c) whether the student was able to understand any documents related to the application for the VET student loan;
 - (d) whether any undue influence or pressure was exerted on, or any unfair tactics were used against, the student or a person acting on behalf of the student;
 - (e) whether the provider, or person acting on the provider's behalf, failed to disclose anything to the student;
 - (f) the extent to which the provider, or person acting on the provider's behalf, acted in good faith.

71 When Secretary may re-credit FEE-HELP balance

VET Student Loans Act (2016), Part 6, Division 3 (71)

- (1) The Secretary may re-credit the student's FEE-HELP balance if the Secretary is satisfied that the course provider, or a person acting on the provider's behalf, engaged in unacceptable conduct in relation to the student's application for the VET student loan.
- (2) **Unacceptable conduct**, in relation to an application for a VET student loan, has the meaning given by the rules.
- (3) The Secretary may re-credit the student's FEE-HELP balance if the Secretary is satisfied of one or more of the following:
 - (a) the student is not an eligible student;
 - (b) the student is not a genuine student;
 - (c) the student does not have a tax file number;
 - (d) the student does not have a student identifier.
- (4) The Secretary may re-credit the student's FEE-HELP balance if the Secretary is satisfied that:
 - (a) the provider has failed to comply with this Act; and
 - (b) the failure has adversely affected the student.
- (5) The amount re-credited must not exceed the amount of the VET student loan that has been used to pay tuition fees for the student for the course, or the part of the course.
- (6) This section applies whether or not the student applies for the re-credit.

72 Student may apply for re-crediting by Secretary

- (1) A student may apply to the Secretary for the student's FEE-HELP balance to be re-credited under section 71.
- (2) The application must be in writing and meet any requirements set out in the rules.

149 Requirements for application to Secretary to re-credit student's FEE-HELP balance

VET Student Loans Rules (2016), Part 8, Division 2 (149)

- (1) For the purposes of subsection 72(2) of the Act, this section sets out requirements for an application for the Secretary to re-credit a student's FEE-HELP balance to be re-credited under section 71 of the Act.
- (2) The application must be made within 5 years after the census day for the course, or the part of the course, concerned.
- (3) The Secretary may extend the period of 5 years mentioned in subsection (2).
- (4) The application must set out the grounds on which the applicant's FEE-HELP balance is to be re-credited under section 71 of the Act.
- (5) The application must include the following to the extent that they are known to the applicant:
 - (a) details of the course to which the application relates;

- (b) details of the provider of that course;
- (c) the loan amount that is to be re-credited;
- (d) the applicant's student identifier (if any);
- (e) any documents supporting the application.