

# Regulating Education Agent Behaviour: New Zealand versus Australian National Codes

"In looking for people to hire, you look for three qualities: integrity, intelligence, and energy. And, if they don't have the first, the other two will kill you." (Warren Buffet)

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On a scale of 1 to 5, how confident are you that all your contracted agents act in an ethical manner and in the best interest of your institution?

5 (highly confident)

4 (confident)

3 (somewhat confident)

2 (not confident)

1 (not at all confident)

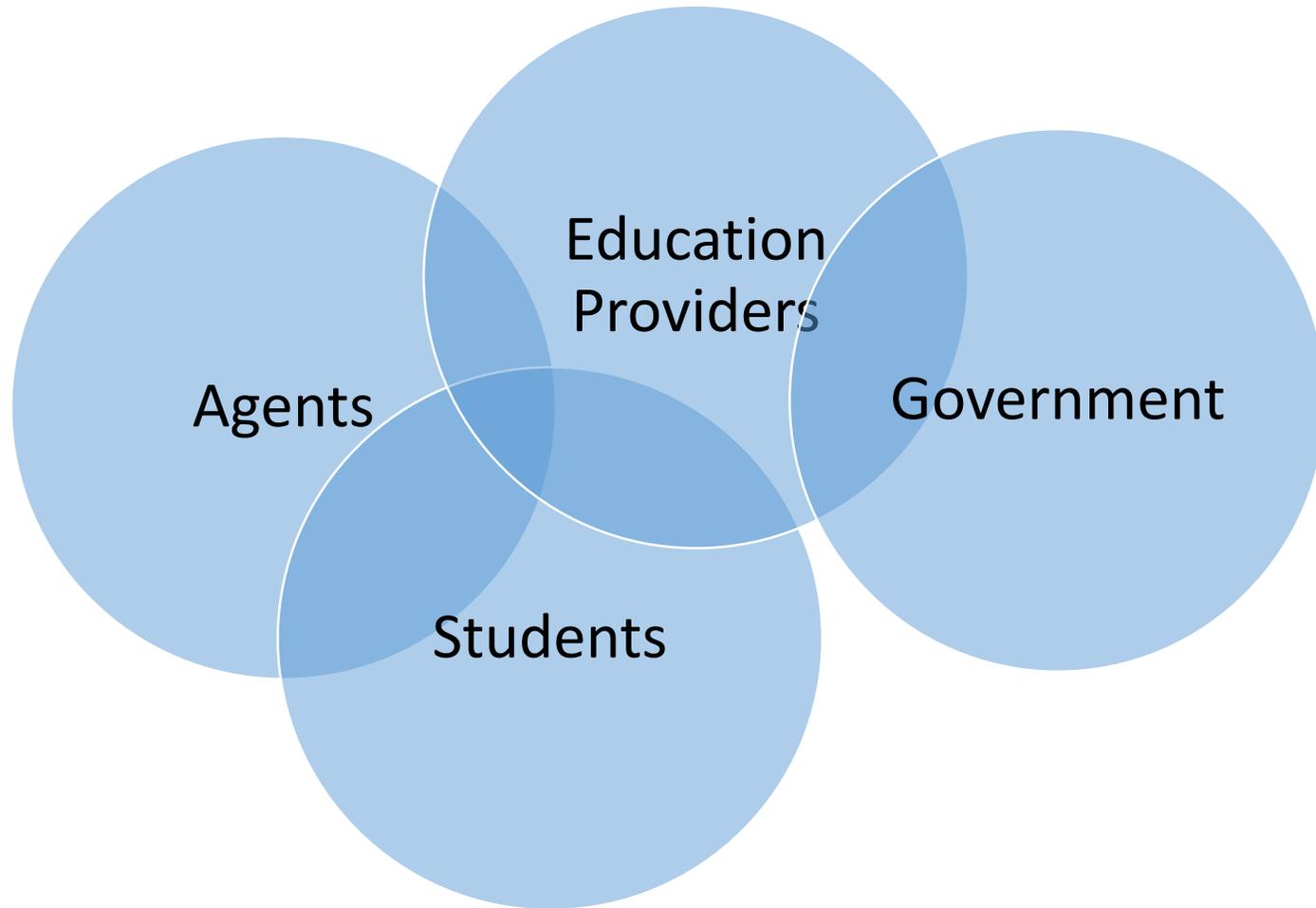
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# Regulation



Nikula, P-T. & Kivisto, J. (2017). Hiring Education Agents for International Student Recruitment: Perspectives from Agency Theory. *Journal of Higher Education Policy*. Advanced online publication

Nikula, P-T. & Kivisto, J. (2018 pending revisions). Efficient monitoring of education agents engaged in international student recruitment: perspectives from the agency theory. Submitted for *Journal of Studies in International Education*

Nikula, P-T. (2018). *Recruiting international students with the help of third-party representatives: the issues in incentivising and monitoring education agents*. Centre for Research in International Education Conference, Auckland, January 2018.

Nikula, P-T. & Kivisto, J. (2018). *Controlling third-party recruiter behaviour in Australian and New Zealand export education industries*. Paper approved for ANZAM Conference, December 2018.

# Good behaviour

## **EDUCATION AGENTS**

- Responsible business ethics
- Accurate information
- Transparency (written agreements)
- Interests of minors
- Informed choices (agents)
- PD & raising ethical standards

## **EDUCATION PROVIDERS**

- Selection/due diligence
- Contracts
- Transparency
- Training and communication
- Monitoring
- Termination

*Providers will be responsible under this code for the actions of their appointed agents in relation to the marketing of services to, and the application processes for, international students and will make every reasonable effort to ensure that at all times these agents act in the best interests of the applicant and the provider.*

‘Code of Practice in the Provision of International Education and Training Services’, 1994  
By the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA)

## National Code 2001

49 Not accept overseas students recruited by an agent, or authorise an agent to use PRISMS, if they know, or reasonably suspect the agent to be:

49.1 Engaged in dishonest practices, including suggesting to students that they come to Australia on a student visa with a purpose other than full-time study

49.2 Facilitating the enrolment of overseas students who do not comply with the conditions of their student visas

49.3 Engaged in false or misleading advertising and recruitment practices

49.4 Using PRISMS to create eCoEs for other than bona fide students

## National Code 2007

All reasonable measures to use agents that have an appropriate knowledge of the Australian international education industry and have integrity

- Written agreements (inc. responsibilities, monitoring and termination) (4.1)
- Access to up-to-date and accurate marketing information (4.2)
- 2001 Code + Standard 7 (Transfers) and unauthorised immigration advise (4.3)
- Termination if aware of breaches in standard 4.3 (4.4.)
- Immediate corrective and preventative action if aware of any negligent, careless, incompetent, false, misleading, unethical or harmful practices (4.5)

## National Code 2018

- Maintaining the education agent's details in PRISMS (4.1)
- More detailed agreement content (4.2)
- Providers must require education agents to (4.3)
  - declare in writing and take reasonable steps to avoid conflicts of interests with its duties as an education agent of the registered provider (4.3.1)
  - observe appropriate levels of confidentiality and transparency in their dealings with overseas students or intending overseas students (4.3.2)
  - act honestly, in good faith, and in the best interests of the student (4.3.3)
- Immediate corrective action if aware of breaches in 4.2 or 4.3 (4.4)
- Termination if aware of false or misleading recruitment practices (4.5)

# The 2018 changes to the National Code 's Standard 4 (Agents) were a step in the right direction

Strongly agree **A**

Agree **B**

Indifferent **C**

Disagree **D**

Strongly disagree **E**

## New Zealand

- |      |   |
|------|---|
| 2002 | <ul style="list-style-type: none"><li>* Acknowledge that ethical performance of agents is of paramount importance</li><li>* React to 'false, misleading or deceptive conduct'</li><li>* Provide a copy of the code</li><li>* Termination rules</li></ul>  |
| 2010 | <ul style="list-style-type: none"><li>* Must have a written contract</li><li>* React to false...conduct 'whether intentional or not'</li></ul>  |
| 2016 | <p>Must effectively manage and monitor their agents to ensure that those agents</p> <ul style="list-style-type: none"><li>a) provide international students with reliable information and advice about studying, working, and living in New Zealand; and</li><li>b) act with integrity and professionalism towards prospective international students</li></ul> |

## **NZ Code (2016) Agent process. Each signatory must—**

- (a) carry out and record reference checks on potential agents to ensure as far as possible that they have not been involved in any conduct that is false, misleading, deceptive, or in breach of the law (FMDIBL); and
- (b) enter into written contracts with each of its agents; and
- (c) terminate contracts with agents if there is evidence suggesting that those agents or their subcontracted agents (i) have been involved in any serious, deliberate, and ongoing conduct that is FMDIBL; or (ii) jeopardised the signatory's compliance with this code;
- (d) ensure that its agents have access to, and maintain, up-to-date information relevant to their duties as specified in the contracts

# The Codes

## **Commonalities**

- Provider's responsibility
- Written contracts
- 'No false or misleading' practices
- Monitoring requirement (\*)
- Termination rules (\*)

## **Key differences**

- Transparency (AU)
- Confidentiality (AU)
- Conflicts of interests (AU)
- 'Student's best interest' (AU)
- Selection due diligence (NZ)

Missing and/  
or vague rules

Inefficient  
monitoring



Unrealistic  
expectations?

Reporting  
misbehaviour

# Next steps?

- Protecting international students' rights and well-being
- Can strict legislative frameworks harm Australia/NZ as study destinations?
- New competitors without similar legal obligations
- Advocating for best practice to enhance ethical behaviour globally

“The world is in greater peril from those who tolerate or encourage evil than from those who actually commit it”  
(Albert Einstein, 1953)

# Research agenda

- Nikula, P-T. & Kivisto, J. (2017). Hiring Education Agents for International Student Recruitment: Perspectives from Agency Theory. *Journal of Higher Education Policy*. <https://doi.org/10.1057/s41307-017-0070-8>
- Nikula, P-T. & Kivisto, J. (2018). Efficient monitoring of education agents engaged in international student recruitment: perspectives from the agency theory. Paper under review in the *Journal of Studies in International Education*
- Nikula, P-T. (2018). Recruiting international students with the help of third-party representatives: the issues in incentivising and monitoring education agents. Paper presented at the Centre for Research in International Education Conference in Auckland, January 2018.
- Nikula, P-T. & Kivisto, J. (2018). Controlling third-party recruiter behaviour in Australian and New Zealand export education industries. Full paper approved for ANZAM Conference in Auckland, Dec 2018.