



## POLICY TITLE: INTERNATIONAL STUDENT MARKETING POLICY

### DEVELOPED / REVIEWED BY

Policy Committee  
Director of Business Services and Advancement  
Head of Admissions  
Human Resources Manager  
Risk and Compliance Manager

### REVIEW SUMMARY

Policy to be presented to the Policy Committee for the first time at the May 2024 meeting. Policy to be reviewed in the first twelve months to ensure accuracy to current legislative components.

### DOCUMENT DEVELOPMENT PROCESS

This document was first developed by Director of Business Services and Advancement and the Head of Admissions in 2024.

### RATIONALE

Standard 1.1 of the National Code of Practice for Providers of Education and Training to Overseas Students 2018 requires the College to ensure that the marketing and promotion of its education services in connection with the recruitment of international students or intending international students, including through an Education Agent, is not false or misleading, and is consistent with the Australian Consumer Law (ACL).

Sections 18 and 29 in Schedule 2 of the Competition and Consumer Act 2010 (Cth) (the Australian Consumer Law) respectively prohibit the College from, in trade or commerce, engaging in conduct that is misleading or deceptive or is likely to mislead or deceive, and from making false or misleading representations about its goods or services.

This applies to the College when it is conducting its marketing and promotional activities, as well as its provision of educational services to international students.

Any breach of Standard 1 may require enforcement action by the Cth Department of Education (DoE), including sanctions for non-compliance.

### DEFINITIONS

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<p><b>Trade or Commerce</b></p>	<p>In "trade or commerce" refers to conduct, which in itself, has an aspect or element of activities or transactions which are commercial in nature: <i>Concrete Construction v Nelson</i> (1990) 169 CLR 594.</p> <p>Under the ACL, transactions between the College and international students and their parents/guardians for the purposes of enrolment and tuition payments are dealings in trade or commerce.</p>
<p><b>Misleading or Deceptive Conduct</b></p>	<p>The ACL does not define the terms "misleading" or "deceptive".</p> <p>To determine what is misleading or deceptive conduct, a court will assess an action or omission by considering whether the overall conduct induces or is capable of inducing an ordinary person in the position of an international student or intending international student into error.</p>
<p><b>Unconscionable Conduct</b></p>	<p>The Australian Competition and Consumer Commission (ACCC) provides guidance on unconscionable conduct.</p> <p>Unconscionable conduct is described as business behaviour that is harsh or oppressive and goes beyond commercial bargaining.</p> <p>To be considered unconscionable, the conduct must be more than simply unfair – it must be against conscience as judged against the norms of society.</p>
<p><b>Unfair Contract Terms</b></p>	<p>The ACCC has provided guidance on the characteristics of unfair contract terms.</p> <p>Common examples of unfair contract terms include terms that:</p> <ul style="list-style-type: none"> <li>• enable one party (but not another) to avoid or limit their obligations under the contract</li> <li>• enable one party (but not another) to terminate the contract</li> <li>• penalise one party (but not another) for breaching or terminating the contract</li> <li>• enable one party (but not another) to vary the terms of the contract.</li> </ul> <p>In the context of international students, unfair contract terms are terms that:</p> <ul style="list-style-type: none"> <li>• cause a significant power imbalance between the international student and the College</li> <li>• are not reasonably necessary to protect the legitimate interests of the College</li> <li>• would cause the international student's detriment (financial or non-financial) if the College tried to enforce it</li> <li>• are not transparent.</li> </ul>
<p><b>False or Misleading</b></p>	<p>The ACCC provides guidance on what is false or misleading. It is illegal for the College to make representations that are incorrect or are likely to create a false impression.</p> <p>This includes any representations in print, radio, television, social media or other advertising mediums, and includes any statement made by a person representing the College.</p>



## PRINCIPLES / GUIDING PRINCIPLES

It is the College's policy that when seeking to enter into written agreements with international students or intending international students, we are completely honest and accurate in our communications and do not provide any false or misleading information on:

- associations with any other providers, persons or organisations the College has arrangements with for the delivery of the course in which the student intends to enrol or may apply to enrol
- any work-based training a student is required to undertake as part of the course
- any prerequisites – including English language proficiency – for entry to the course
- any information relevant to the College, its courses or outcomes associated with those courses

The College will not:

- claim to commit to secure for the student, or on the student or intending student's behalf, a migration outcome from undertaking any course offered by the College
- guarantee a successful education assessment outcome for the student or intending student.

This Policy is made available on the College's website to demonstrate our commitment to transparent and truthful communications with potential international students.

## PROCEDURES

### **Approval of Materials**

Before any marketing or pre-enrolment materials are released by the College, all marketing materials must be approved by the Principal.

The Principal must ensure that any statements made in the College's marketing materials are not false or misleading.

### **Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) Requirements**

The College must include the College's name, College's CRICOS registration number (and the name of the CRICOS registered provider, if not the College) on any written or online material that it distributes or makes publicly available for the purposes of:

- providing or offering to provide a course to an overseas student
- inviting an overseas student to undertake or apply for a course
- indicating it is able to provide a course to overseas students.

It is the College's policy that our registration number is permanently displayed in the footer of our public website.

It is a criminal offence under section 107 of the ESOS Act, with a penalty of imprisonment for six months, if a person fails to include the required information in any written or online materials.

### **Discipline for Breach of Policy**

Where a staff member or representative of the College breaches this Policy, the College may take disciplinary action.

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### Record keeping

The College maintains evidence of compliance with this policy by maintaining records of marketing and other materials used in relation to international students. Records will be maintained in accordance with our **International Student Records Management and Retention Policy**.

## RESPONSIBILITY

- Principal
- Director of Business Services and Advancement
- Head of Admissions
- Head of Development

## RELATED LEGISLATION

### **Australian Consumer Law (ACL) Protections**

The College ensures that we abide by the provisions of the ACL and provide information to international students and their parents/guardians about the consumer protections afforded to international students.

The College ensures that we do not in trade or commerce:

- engage in conduct that is misleading or deceptive or is likely to mislead or deceive
- engage in unconscionable conduct
- have unfair contract terms within our contracts with international students
- provide false or misleading representations about goods or services provided by the College

## RELATED SIENA COLLEGE POLICIES

- International Students Records Management and Retention Policy

## RISK

In the Committee's deliberations it is important to consider the College's main strategic processes and the identification of associated risks. Some sample questions are included for referral. Answers are to be documented as part of the policy.

1. **Faith and Catholic Identity.** Identify any risks to Catholic Identity or Dominican charism of the school. How will this policy harm or enhance either?
2. **Reputation.** Identify if there are any reputational risks to the College. How will this policy impact Siena and wider communities?
3. **Financial.** Identify any financial risks to the College. How will this policy impact the financial stability of the College?



4. **Contemporary Learning and Teaching.** Identify any risks to learning and teaching. How will this policy impact the academic performance of the College.
5. **Wellbeing.** Identify any risks to safety and wellbeing. How will this policy impact the mental and physical wellbeing of the College community?
6. **Community Engagement.** Identify any risks to building community engagement. How will this policy impact community relationships?
7. **Governance and Leadership.** Identify any risks to governance and leadership in the College. How will this policy affect the strategic direction of the College?

Do any risks identified above warrant changes to the proposed policy? If so the policy should be referred back to the developer/s.

#### NEXT REVIEW

May 2025

#### POLICY LOCATION

<https://sienacentral.siena.vic.edu.au/homepage/3452>  
[www.siena.vic.edu.au](http://www.siena.vic.edu.au)