

### **Overview**

A student who is, or would be, eligible for a VET Student Loan and has requested VET Student Loan Assistance, who withdraws from a unit on or before the census date will not incur a VET Student Loan debt for the tuition fees for that unit.

Students who have requested VET Student Loan Assistance who remain enrolled after the published census date will incur a VET Student Loan debt for the units they are enrolled in. A student who withdraws from a unit after the published census date for that Unit will incur a VET Student Loan debt for that unit.

Students may find they have to withdraw from their studies after the census date or have been unable to complete their studies due to certain special circumstances. Students in this situation may apply to have their FEE-HELP balance re-credited as per Part 6 and Section 68 of the VET Student Loans Act 2016.

A student may apply to the Secretary for the student's HELP balance to be re-credited under Section 71 of the Act because:

- ABC, or a person acting on ABC's behalf, engaged in unacceptable conduct in relation to the student's application for the VSL, or
- ABC has failed to comply with the ACT or an instrument under the ACT and the failure has adversely affected the student.

The Secretary may re-credit a student's HELP balance in relation to special circumstances if ABC Training and Consulting (ABC) 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.

### **Definitions:**

**The Act:** Refers to the VET Student Loans Act 2016.

**Census Day:** A date by which a student's enrolment in the course or part of the course can be cancelled without the student incurring tuition fees for the course or part of the course.

**Tuition Fees:** Fees paid for a VET Unit of Study that is approved for VET STUDENT LOAN and applies to students who are or would be entitled to VET Student Loan assistance under Section 9 of the Act.

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

**The Department:** The Commonwealth of Australia is represented by the department which has the responsibility for administering the Higher Education Support Act 2003 and the VET Student Loans Act 2016.

**Special Circumstances:** Circumstances are special circumstances under the Act, if a student can demonstrate to the satisfaction of ABC that the circumstances were:

- Beyond the student's control

- Did 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
- Made it impracticable for the student to complete the requirements for the course, or part of the course, during the student's enrolment.

### **Special circumstances beyond a person's control**

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

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:

- On or before the census day, but worsen after that day
- On or 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 on or before to the census day.

### **Special circumstances arising from pre-existing conditions**

A circumstance that first occurred on or 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 on or before the census day for a course, but the 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.

ABC will 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 which may have affected the person on or after the census day.

### **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. 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, ABC will consider:

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- 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.

Circumstances which 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 they are 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.

### **Re-crediting a FEE-HELP Balance because of Special Circumstances**

Students who withdraw from a unit after the published census date, or fail to complete a unit, may apply to have their FEE-HELP balance re-credited with respect to the unit if they believe special circumstances apply in accordance with the following procedures.

### **Special Circumstances**

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 FEE-HELP balance re-credited for the affected unit/s.

ABC 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.

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

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which the student is not responsible. The situation must be unusual, uncommon or abnormal to be considered special circumstances.

ABC will also have regard to the following when determining special circumstances:

- Whether a student could do enough private study, attend training sessions and other activities to meet the course requirements;
- Whether the student could complete any assessments or demonstrate competency;
- Whether the student could complete any other requirements arising because of the student's inability to do the above.

ABC may have regard to the following when determining special circumstances:

- Medical circumstances of the student;
- Circumstances that relate to the student personally or the student's family;
- Circumstances relating to the student's employment;

Special circumstances do not include:

- lack of knowledge or understanding of requirements for VET Student Loan assistance; or
- a student's incapacity to repay a VET Student Loan debt (repayments are income contingent and the student can apply to the Australian Taxation Office (ATO) for a deferral of a compulsory repayment in certain circumstances.

### **Re-credit of a Student's FEE-HELP Balance - The Process**

Each application for re-credit of a student's FEE-HELP balance will be considered on its merits together with all supporting documentation substantiating the special circumstances claim. ABC will consider the students' application and notify the student of the decision and the reasons for making the decision as soon as practicable.

ABC's General Manager is the designated officer responsible for the assessment of a student's request for a re-credit of their FEE-HELP balance due to special circumstances and for the initial decision regarding the request.

A student must apply in writing to:

General Manager  
ABC Training and Consulting  
PO Box 1161  
MILTON QLD 4064

The claim is to be within 12 months of the census date for the course, or if the student has not withdrawn, within 12 months of the specified completion date of the unit.

ABC 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.

The application for re-crediting a FEE-HELP balance must include details of the:

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- unit(s) for which a student is seeking to have a FEE-HELP balance re-credited and
- special circumstances as referred to above, including supporting documentation.

ABC will consider each application within 28 days of receipt of the application. It will consider each request to re-credit a FEE-HELP balance in accordance with the requirements of Part 6 – Re-crediting FEE-HELP balances of the Act. Applicants will be notified in writing of the decision within 28 days.

The Secretary of the Department may re-credit a student's FEE-HELP balance in relation to special circumstances if a provider:

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

Re-crediting a student's FEE-HELP balance because of unacceptable conduct

Students may apply to the Secretary of the Department for their FEE-HELP balance to be recredited under Section 71 of the Act.

Section 71 allows for the Secretary to re-credit a student's FEE-HELP balance if:

- The provider or a person acting for the provider engages in unacceptable conduct in relation to the student's application for a VET Student Loan, or
- The provider fails to comply with the Act or an instrument of the Act and the failure has adversely affected the student.

Applications for re-crediting under Section 71 of the Act must be made within 5 years of the census day for the course unless the Secretary allows a longer period.

### Review of Decisions

Where ABC makes a decision NOT to re-credit a student's FEE-HELP balance that decision may be subject to review, if a student is not satisfied with the decision made by ABC, the student may apply, within 28 days of the receipt of the original decision, for a review of the decision. There is no charge for reconsideration or review of decisions, other than review by the Administrative Appeals Tribunal (AAT)

The application for review will:

- 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.

Applications should be made in writing to:

CEO  
ABC Training and Consulting  
PO Box 1161  
MILTON QLD 4064

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The CEO is the designated Review Officer of any decisions relating to a request for re-crediting of a FEE-HELP 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.

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.

The Review Officer will then:

- Review the information from the original decision and then assess any new evidence provided by the student; and
- Provide written notice to the student of the decision, setting out the reasons for the decision (to confirm, vary or set the decision aside and substitute a new decision); and
- 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).

### **Reconsideration by the Administrative Appeals Tribunal**

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.

Full details of the application process and fees payable are available on the AAT's website: [www.aat.gov.au](http://www.aat.gov.au). An application fee may have to be paid in the amount of \$884 (from 1 July 2016) 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.

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 ABC 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.

**Review process:**

