

5.4.16.1 Tuition Fee Refunds and Re-crediting of FEE-HELP Balances after Census Dates. Special Circumstances Exception Operating Policy and Procedures

1. Policy

It is the policy of the Navitas College of Public Safety that students who withdraw from a unit/units of study after the census date in any trimester due to special circumstances may have their tuition fees refunded or be granted a re-credit of their FEE-HELP balance, thus removing their FEE-HELP debt for the unit/units.

2. Purpose

The purposes of this policy are:

- to comply with the Higher Education Support Act 2003 (Cth) (herein after referred to as the Act), paragraphs 79-5 (1), the Student Learning Entitlements Guidelines Chapter 5, and the Higher Education Provider Guidelines which are made pursuant to this Act;
- to ensure the efficient, accurate and timely processing of special circumstances applications by students to have their tuition fees refunded or their FEE-HELP balance re-credited;
- to provide an avenue for review of the original decision regarding granting of a request for a fee refund or re-crediting of a FEE-HELP balance; and
- to ensure that the Department of Education, Employment and Workplace Relations (DEEWR) is notified of any decision to re-credit a FEE-HELP balance and that any FEE-HELP assistance the Navitas College of Public Safety received from the Commonwealth on the student's behalf is repaid.

3. Responsibility

The Registrar and General Manager (Public Safety) are responsible for compliance with this policy. The Registrar is responsible for decisions in the first instance, and the General Manager (Public Safety), who is senior to the Registrar, is responsible for reviewing original decisions.

4. Guidelines

4.1 Census Dates

Census dates are calculated no earlier than 20% from the commencement of the trimester. Census dates will normally fall in February, June and October each year. Census dates are published on the website, in enrolment materials and in the Student Diary and are available to all prospective and current students.

4.2 This policy also applies to situations of Leave of Absence, where the student intends to return to the College to continue their studies (refer to Policy 5.4.18 – Leave of Absence), but is NOT applicable to deferment, because deferment is only permitted prior to the census date (refer to Policy 5.4.17 – Deferment during the Program).

4.3 Withdrawal on or before the census dates.

A student who cancels their enrolment, withdraws from a unit or units of study or from the entire course, or who defers or takes Leave of Absence on or prior to the census dates, will not incur a FEE-HELP debt for that unit of study.

4.4 Withdrawal after the census date.

A student who withdraws from a unit or units of study or from the entire course, or who takes Leave of Absence after the census dates, is not entitled to a fee refund (if fees were paid directly to the College) or will incur a FEE-HELP debt for that unit of study, unless:

- the student has been unable to complete the requirements of a unit/units of study; and
- the student believes that this was due to special circumstances; and
- the student applies to the College for a tuition fee refund or to re-credit their FEE-HELP debt.

If the College is satisfied that special circumstances do apply, it must agree to the request, refund the fees or remove the FEE-HELP debt and refund to the Commonwealth the amount of FEE-HELP paid to the College on behalf of the student.

4.5 **Special Circumstances**

Pursuant to *the Act*, the Navitas College of Public Safety will be satisfied that *special circumstances* apply where the following three specified circumstances all occur. *Special circumstances* (as defined in the *Student Learning Entitlements Guidelines* Chapter 5) must be circumstances that are:

- a) Beyond the person's control (paragraph 79-5(1)(a) of the Act);
A person's circumstances are beyond that person's control if a situation occurs which a reasonable person would consider is not due to the person's action or inaction, either direct or indirect, and for which the person is not responsible.

This situation must be unusual, uncommon or abnormal.

AND

- b) Do not make their full impact on the person until on or after the census date for the unit of study in question (paragraph 79-5(1)(b) of the Act)
ie: a person's circumstances did not make their full impact on the person until on or after the census date for a unit of study if the person's circumstances occur:
 - before the census date, but worsen after that day; or
 - before the census date, but the full effect or magnitude does not become apparent until on or after that day; or
 - on or after the census date;

AND

- c) Make it impracticable for the person to complete the requirements for the unit of study during the period which the person undertook, or was to undertake, the unit (paragraph 79-5(1)(c) of the Act).
Special circumstances which would make it impracticable for the person to complete the requirements for the unit of study would include:
 - medical circumstances; or
 - family circumstances; or
 - personal circumstances; or
 - employment related circumstances; or
 - course related circumstances.

Each application will be considered and determined on its merits, but must satisfy all three of the above criteria.

4.6 **Applications**

Application for fee refunds or re-crediting of FEE-HELP balances in special circumstances must be received in writing by the Registrar within 12 months of the withdrawal or Leave of Absence date. The Registrar has the discretion to waive this requirement if they are satisfied that the application could not be made within the time limit. The written

application must be accompanied by independent supporting documentary evidence which substantiates the claims.

4.7 **Decisions**

Decisions are made by the Registrar. Each application is considered and determined on its merits and the Registrar must be satisfied that special circumstances apply (refer to Guideline 4.1 above) in order to grant the request.

The applicant must be notified in writing of the decision and the reasons for the decision within 45 days of receipt of the application.

This written notification must also advise the applicant of their rights for a review of the decision if the application is not granted.

4.8 **Review of Decisions**

If the original decision by the Registrar is not to refund the fees or re-credit an applicant's FEE-HELP balance, the applicant may apply in writing for a review of the original decision. Reviews are conducted by the College's General Manager (Public Safety). The written application for a review must be received by the General Manager (Public Safety) within 28 days of the applicant receiving notice of the original decision and must state the reasons why they are applying for a review. The reviewer must acknowledge receipt of an application for review of a decision in writing and inform the applicant that, if the reviewer has not advised the applicant of a decision within 45 days of receiving the application for review, the reviewer is taken to have confirmed the original decision.

The reviewer's options are:

- To confirm the decision;
- To vary the decision; or
- To set aside the decision and substitute a new decision.
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The reviewer will review the original decision and inform the applicant in writing of the decision and the reviewer's reasons for making the decision within 45 days. The reviewer must advise the applicant of their right to appeal to the Administrative Appeals Tribunal for a review of the reviewer's decision if the applicant is unsatisfied with the outcome.

4.9 **Reconsideration by the Administrative Appeals Tribunal (AAT).**

In the event that the College refuses to refund an applicant's tuition fees or re-credit an applicant's FEE-HELP balance, the applicant may appeal to the Administrative Appeals Tribunal for a review of the decision. The reviewer must provide the applicant with the contact details and address of the nearest AAT Registry and the approximate cost of lodging an appeal with the AAT.

The applicant may supply additional information to the AAT which they did not previously supply to the College, in either the original application, or the application for review.

4.10 **Successful Applications**

Notification to the Department of Education, Employment and Workplace Relations (DEEWR) and Refunding the Commonwealth.

In the case of a successful application to re-credit a FEE-HELP balance, an applicant's FEE-HELP debt is removed.

The College will electronically supply DEEWR with information of any re-crediting of FEE-Help balances via the HELP Variations File.

The College will refund to the Commonwealth the amount of FEE-HELP paid to the College on behalf of the student. This refund will be paid in the manner prescribed/required by the Commonwealth.

DEEWR will inform the Australian Taxation Office that the debt has been removed.

Refunds of Tuition Fees paid Direct to the College

In the case of a successful application to refund tuition fees, the refund will be paid in accordance with the procedure outlined in Policy 5.4.16 – Fee Refunds.

4.11 *Time Limits*

The College will publish the timeframe within which it will consider applications for re-crediting an applicant's FEE-HELP balance, and within which it will notify applicants of the decision. This timeframe will be published in the Student Diary and comprises the following time limits:

- I. Application for a refund of tuition fees or the re-crediting of a FEE-HELP balance due to special circumstances must be received within 12 months of the withdrawal date, or if the student has not withdrawn from the course, within 12 months of the end of the period of study in which the unit was, or was to be, undertaken.
- II. The application must be considered by the Registrar and the applicant notified of the decision within 45 days of receipt of the application.
- III. An application to review an original decision must be received in writing within 28 days of the applicant receiving notice of the original decision and must state the reasons why they are applying for a review.
- IV. The reviewer will review the original decision and inform the applicant in writing of the decision and the reviewer's reasons for making the decision within 45 days of receiving the application for review of the original decision. If the reviewer has not advised the applicant of a decision within 45 days of receiving the application for review, the reviewer is taken to have confirmed the original decision.

4.12 *Associated Penalties*

In the case of a successful application to have fees refunded or the FEE-HELP debt re-credited based on special circumstances after the census dates, the penalties for withdrawing are still payable, based on the charges for suspending studies after the commencement of the trimester, but on or prior to the census date. Refer to Policy 5.4.16 for information about the penalties and the procedure for paying them.

5. *Procedures*

- 5.1 A student who has withdrawn from the course or one or more units of study, or who has taken Leave of Absence after the census date in any trimester, may apply to have their tuition fees refunded or their FEE-HELP balance re-credited.

This application must be:

- made only when the student believes that special circumstances apply;
- in writing addressed to the Registrar;
- received within 12 months of withdrawing or taking Leave of Absence; and
- accompanied by independent supporting documentary evidence which substantiates the claims.

(Refer to Guidelines 4.5 and 4.6 above).

- 5.2 The Registrar will consider the application on its merits and if it satisfies all the requirements of special circumstances as outlined in the Act, will grant re-crediting of the FEE-HELP debt or refunding of the tuition fees paid up-front to the College.

- 5.3 The applicant will be notified of the Registrar's decision and the reasons for the decision in writing within 45 days of receipt of the application (refer to Guideline 4.7 above).
- 5.4 In the event that a refund is approved, the Registrar will proceed with the refund, pursuant to the procedures outlined in Policy 5.4.16 – *Fee Refunds*.
- 5.5 In the event that re-crediting is granted, the Registrar will inform DEEWR electronically via the *HELP Variations* File. The College will repay to the Commonwealth any FEE-HELP assistance the College received from it on the applicant's behalf, in the manner prescribed by the Commonwealth.
- 5.6 In the event that the applicant is not satisfied with the decision of the Registrar, they may seek review of the decision. This application for review must be in writing to the General Manager (Public Safety). The College will acknowledge in writing receipt of an application to review a reviewable decision and inform the applicant that, if the reviewer has not advised the applicant of a decision within 45 days of receiving the application for review, the reviewer is taken to have confirmed the original decision. This letter of acknowledgement will also advise the applicant that if they are not satisfied with the decision of the reviewer, that they have the right to apply to the Administrative Appeals Tribunal for a review of the decision; and the letter will provide the contact details of the nearest Administrative Appeals Tribunal Registry, and the approximate costs of lodging an appeal with the Administrative Appeals Tribunal.
- 5.7 The original decision will be reviewed by the General Manager (Public Safety) and the applicant informed in writing of the decision and the reasons for the decision within 45 days (refer to Guideline 4.8 above).
- 5.8 The applicant will be informed in the letter (see 4.8 above) that, if they are not satisfied by the decision of the reviewer, they have the right to apply to the Administrative Appeals Tribunal for a review of this decision (refer to Guideline 4.9 above). The letter must provide the applicant with the contact details and address of the nearest Administrative Appeals Tribunal Registry and the approximate cost of lodging an appeal with the Administrative Appeals Tribunal.

6. **Authority**

Authorised by the General Manager (Public Safety) to take effect in January 2005.

7. **Approval**

Approved by the Higher Education Board on 3 August 2004

8. **Related Policies**

Refer to Policy 5.4.14.1 – *Fee Payments – FEE-HELP*, for an explanation of the fee structure and the operational requirements of this fee payment option.

Refer also to NCPS Policies:

Policy 5.4.16 – *Tuition Fee Refunds*

Policy 5.4.17 – *Deferment during the Program*;

Policy 5.4.18 – *Leave of Absence*;

Policy 5.4.19 – *Subject Withdrawal*; and

Policy 5.4.20 – *Course Withdrawal*.

Refer also to:

Higher Education Support Act 2003 (Cth) paragraphs 79-5 (1);

Student Learning Entitlements Guidelines Chapter 5;

Higher Education Provider Guidelines

(retained by the College in hard copy in the FEE-HELP files, and available electronically at www.dest.gov.au/highered/hep)

Refer also to various DEEWR publications which outline provider obligations and data reporting mechanisms, such as:

Administrative Information for Providers 2005;

Full Specifications for the Data Requirements for Continuing and Commencing Students (www.dest.gov.au/highered/heims/); and

Higher Education Statistics Collections Specifications (www.dest.gov.au/highered/statspec.htm)

Amendments

Date	Modified by	Sections amended/added	Approved by HEB (if required)
22/05/09	Jodie Reeve	Logo changed	Minor change
24/08/09	Jodie Reeve	Formatting change	Minor change
09/11/09	Christine Ashton	Change of name and logo	Minor change