



STUDENT VISA CANCELLATIONS

This fact sheet answers questions about an AAT review of decisions by the Department of Home Affairs (the Department) to cancel a student visa on the basis that you did not comply with the **visa condition 8202**.

What is condition 8202

Condition 8202 requires the visa holder to adhere to certain course enrolment, attendance and academic progress requirements.

What does the AAT need to decide?

If your student visa has been cancelled on the basis that course enrolment requirements were not met, the AAT will need to decide whether:

- you have continuing enrolment in a full time registered course, or
- you are enrolled in a full time course of study or training, if you are a secondary exchange student, Foreign Affairs student or Defence student, or
- your education provider has certified that you have not achieved satisfactory course progression or attendance.

If a student visa has been cancelled on the basis that you have not met these requirements, the AAT will need to decide whether or not you have complied with condition 8202.

How does the AAT decide if my visa should be cancelled?

The **first stage** of the decision process is to decide whether you have breached condition 8202.

The **second stage** of the decision process is to decide whether to cancel the visa. If satisfied that you have breached the condition, the AAT must consider whether the visa should be cancelled. In deciding whether the visa should be cancelled, the types of matters the AAT will look at include:

- Why you came to Australia and whether there is a need for you to stay in Australia
- Your compliance with visa conditions in the past
- What problems you or your family may face if your visa is cancelled
- Reasons for the breach and in particular anything outside of your control
- Your past and present behaviour towards the Department
- Whether the visa of anyone else might be cancelled because your visa has been cancelled
- The consequences of the cancellation such as whether you will be detained or become unlawful
- Whether Australia has international obligations that would be breached as a result of your visa cancellation
- Any other relevant matters for example, any reasons that you raise as to why the visa should not be cancelled.

This fact sheet provides general information only. It is not legal advice about your case. If you have a question about the law or how it applies to your case, you should seek legal advice.

What information can I give the AAT to support my review?

You can give us any information that supports your case.

Examples of the most helpful information to give us in relation to meeting requirements of condition 8202 might include:

- Confirmation of your enrolment in a registered course
- Evidence that explains why specific information in the Department decision is incorrect.

Examples of the most helpful information to give us in relation to whether to cancel the visa might include:

- A statement that is signed by you about your circumstances
- Academic timeline, transcripts, attendance records and information that explains any gaps in your study history, such as medical reports that you have been unwell
- Any documents from your education provider that confirm you have sought a deferment of your studies
- Any evidence to support your claims, such as medical reports, official documents
- Information about any defects in the process leading to your education provider certifying your academic progress or result as unsatisfactory
- Statements from other people who can confirm or support your case
- Any other information or documents that support your claims as to why the visa should not be cancelled, by addressing the relevant factors the AAT will look at in the second stage of the decision process.

When should I give my information to the AAT?

You should give us the information as soon as possible. If the AAT is satisfied with the information you give us, a favourable decision might be possible without the need for a hearing. This means you might be able to get an outcome to your application sooner.

Giving evidence at a hearing

If you are required to attend a hearing, an AAT Member will ask you about your application and consider all of the information that you present. Generally, this will include the documents you have given us about your case. You should give us any information no later than 7 days before the hearing, or if we ask you to give us any information earlier, by the date we tell you.

Any information you present to the AAT Member is important evidence. Preparing this evidence well in advance of the hearing can assist you to present your case and help the AAT Member to make a decision.

CONTACT US IF YOU HAVE ANY QUESTIONS

- Telephone: 1800 228 333
- Email: mrdivision@aat.gov.au
- www.aat.gov.au
- National Relay Service www.relayservice.gov.au
- Translating and Interpreting Service (TIS): 131 450

When this Fact Sheet refers to "You" it means the applicant, and includes his or her nominee, representative or support person. When it refers to "We" or "Us" it means the AAT.

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