VET FEE-HELP - Re-crediting and Remission of FEE-HELP balances

Students who have accessed VET FEE-HELP to cover all or part of their tuition fees incur the liability and therefore the debt for their tuition fees after the census date. Students may find they have to withdraw from their studies after the census date or they have been unable to complete their studies due to certain circumstances. Students in this situation may apply to have their FEE-HELP balance re-credited.

If Ascet Tech determines that a student’s FEE-HELP balance is to be re-credited, Ascet Tech repays any amounts of VET FEE-HELP it received for the VET unit of study to the Commonwealth. Any VET FEE-HELP debt the student incurred for the VET unit of study is taken to be remitted.

1.1.1. The Re-crediting Process

Ascet Tech re-credits a student’s FEE-HELP balance with an amount equal to the amounts of VET FEE-HELP the student received for a VET unit of study if:

- The student has been enrolled in the VET unit of study with Ascet Tech; AND
- The student has not completed the requirements for the VET unit of study in the period the student undertook, or was to undertake the VET unit of study; AND
- Ascet Tech is satisfied that special circumstances apply to the student; AND
- The student applies in writing to Ascet Tech for re-crediting of the FEE-HELP balance; AND
- Either:
  - The application is made within 12 months of the student withdrawing from the VET unit of study or if the student has not withdrawn, within 12 months of the end of the period in which the VET unit of study was, or was to be, undertaken; OR
  - Ascet Tech waives the requirement the application be made before the end of the 12 months, on the ground that it would not be, or was not, possible for the application to be made before the end of the 12 months.

Ascet Tech ensures that it takes reasonable steps to ensure that Students, who withdraw from a VET unit of study after the census date, are aware they may apply, in writing to Ascet Tech, for a re-credit of their FEE-HELP balance. Reasonable steps include:

- Relevant information in Ascet Tech’s student Handbook;
- Providing information on Ascet Tech’s website; and
- Relevant information in the material provided to students.

1.2. Applying for a Re-credit and Remission

A student may apply to Ascet Tech for a re-credit of their FEE-HELP balance if they withdraw from their VET unit of study after the census date or the student has not completed the requirements for the VET unit of study.

An application for a re-credit or a remission must be made in writing. Where Ascet Tech allows a student to defer completion of their studies, the twelve-month period applies from the end of the extended period. Ascet Tech has the discretion to waive this requirement if it is satisfied the application could not be made within the time limits.

The student’s application should include any independent supporting documents, for example, a letter from the student’s doctor or counsellor, to support the student’s claims. Each application is examined and determined on its merits. Ascet Tech considers the student’s claims, together with any independent supporting documentary evidence that substantiates these claims.

1.2.1. Special Circumstances

Ascet Tech re-credits a student’s FEE-HELP balance if it is satisfied that special circumstances apply to the student that were:

- Beyond the student’s control; AND
- Did not make their full impact on the student until on, or after, the census date for the VET unit of study; AND
• Made it impracticable for the student to complete the requirements for the VET unit of study in the period the student undertook, or was to undertake, the VET unit of study.

Special circumstances do not include, for example:

• A lack of knowledge or understanding of requirements for VET FEE-HELP; or
• A student’s incapacity to repay a HELP debt, as repayments are income contingent and the student may apply for a deferral of a compulsory repayment in certain circumstances.

For special circumstances to apply, the circumstances must have made it impracticable for the student to complete the requirements of the VET unit of study. Special circumstances do not have to be the sole reason for not being able to complete the VET unit of study, but there must be a reason. If the student was unable to complete the VET unit of study before the circumstances arose, Ascet Tech may make a decision not to re-credit the related FEE-HELP balance. For example, if a student was required to obtain a pass mark for all assessment and the student failed an exam for reasons unrelated to the circumstances, the student would not be able to claim special circumstances if they fell ill after the exam.

Special circumstances beyond a student’s control
Circumstances could be considered beyond a student’s control if a situation occurs that a reasonable student would consider is not due to the student’s action or inaction, either direct or indirect, and for which the student is not responsible. This situation would generally be expected to be unusual, uncommon or abnormal.

For example, a lack of knowledge of how VET FEE-HELP works or the requirements regarding census dates would not be considered beyond a student’s control.

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 student until on or after the census date for the VET unit of study if the student's circumstances occurred:

• Before the census date, but worsen after that day;
• Before the census date, but the full effect or magnitude did not become apparent until after that day; or
• On or after the census date.

Students do not need to demonstrate they were unable to withdraw from the VET unit of study prior to the census date.

Special circumstances arising from pre-existing conditions
A circumstance that first occurred before the census date 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 student may have an illness or other underlying, pre-existing condition or incapacity prior to the census date for a VET unit of study, but that condition may worsen, or that student may suffer from an aggravation, deterioration or episode, after the census date.

Alternatively, the full implications of a student’s condition may not have been apparent until after the census date. This may be because recovery does not go to plan, or the degree of disability or incapacity for study are not fully realised until after the census date.

Ascet Tech considers whether the student’s circumstances changed on or after the census date 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, that may have affected the student on or after the census date.

Special circumstances that made it impracticable for the student to complete the VET unit of study
The term impracticable is defined as ‘not practicable, that which cannot be put into practice with the available means’. Ascet Tech keeps this definition in mind when deciding whether a student’s circumstances made it impracticable for them to complete a VET unit of study.

Circumstances that make it impracticable for the student to complete the requirements for their VET unit of study may include:
• Medical circumstances, for example where a student’s medical condition has changed to such an extent that he or she is unable to continue studying;
• Family/studental circumstances, for example death or severe medical problems within a family, or unforeseen family financial difficulties, so that it is unreasonable to expect a student to continue studies;
• Employment related circumstances, for example where a student’s employment status or arrangements have changed so the student is unable to continue their studies, and this change is beyond the student’s control; or
• Course related circumstances, for example, where Ascet Tech has changed the VET unit of study it had offered and the student is disadvantaged by either not being able to complete the VET unit of study, or not being given credit towards other VET units of study or courses.

Consideration is also given to whether at the time the student’s special circumstances emerged it was already not practicable for the student to meet the requirements of the VET unit of study.

A student is unable to complete the requirements for a VET unit of study, for example, if the student is unable to:

• Undertake the necessary private study required, or attend sufficient lectures or tutorials or meet other compulsory attendance requirements to meet their compulsory course requirements; or
• Complete the required assessable work to the required standard; or
• Sit the required examinations and obtain a required mark; or
• Complete any other course requirements because of their inability to meet the above.

1.3. Unacceptable Conduct

A student may apply for their FEE-HELP balance to be re-credited because of circumstances involving unacceptable conduct. Unacceptable conduct includes any circumstances where Ascet Tech and/or its agent or associate engaged in the following activities:

Publishing information suggesting VET FEE-HELP assistance not a loan

• Publishing information that suggested to the student that:
  – VET FEE-HELP assistance (however described) for the unit or course is not in the nature of a loan, or does not need to be repaid; or
  – the unit or course is free from any fees or charges.

Inappropriate marketing

• Any marketing, advertising or promoting that suggested that, if the student enrolled in the unit or course, a thing will:
  – be provided to the student or another student; or
  – be otherwise available for the student to use; and
  – it is reasonably likely that this suggestion induced the student to:
    ○ enrol in the unit or course; and
    ○ make the request for Commonwealth assistance; and
  – the student’s use of the thing was required or necessary for the student to externally complete all or part of the unit or course (having regard to the learning objectives and outcomes of the unit or course).

• Cold-called a student, or caused a student to be cold-called, when marketing, advertising or promoting the unit or course; and
  – in doing so, or as a result of doing so, the Ascet Tech suggested, or caused to be suggested, that VET FEE-HELP assistance (however described) could be available if the student were to enrol in the unit or course; and
  – it is reasonably likely that this suggestion induced the student to:
    ○ enrol in the unit or course; and
    ○ make the request for Commonwealth assistance.

Provision of information

• Did not provide the student with the required VET FEE-HELP information.

Inappropriate inducements

• Offered a student a benefit, or provided a student with a benefit; or
• Caused a student to be offered or provided with a benefit; and
• It is reasonably likely that this benefit induced the student to:
- enrol in the unit or course; and
- make the request for Commonwealth assistance.

**Failure to provide VET FEE-HELP notices**

- Failed to provide all required VET FEE-HELP notices.

**Failure to comply with student requests**

- Before the end of the census date for the unit, the student requested, in writing, Ascet Tech to:
  - cancel the student’s enrolment in the unit or course; or
  - withdraw the student’s request for Commonwealth assistance relating to the unit or the course; and
  - Ascet Tech:
    - failed to comply with the request before the end of the census date; or
    - charged the student a fee, or imposed a penalty, (however described) in order for the Ascet Tech to comply with the request.
- After the student withdrew from the unit or course, the Ascet Tech:
  - enrolled the student in a further VET unit of study without the student’s written permission given after the withdrawal; or
  - failed to confirm with the student whether the student wished to continue any enrolment in any other VET unit of study forming part of the course.

**Accepting requests for Commonwealth assistance etc. when student not entitled**

- The student is not entitled to VET FEE-HELP assistance for the unit, but the Ascet Tech treated the student as being so entitled.

**Failure to advise about requests**

- Enrolled the student in the unit less than 2 business days before the census date for the unit; and
- Before enrolling the student in the unit:
  - the student’s request for Commonwealth assistance relating to the course had not already been given to an appropriate officer of the Ascet Tech and Ascet Tech failed to advise the student that the student would not be able to receive VET FEE-HELP assistance for the unit.
- The student’s request for Commonwealth assistance relating to the unit or course was given to an appropriate officer of the Ascet Tech less than 2 business days after the student enrolled in the unit and before enrolling the student in the unit:
  - Ascet Tech failed to advise the student that VET FEE-HELP assistance for the unit could only be received if the request was given at least 2 business days after enrolling; or
  - Ascet Tech encouraged the student to give the request so that it would be given less than 2 business days after enrolling.

**Failure to apportion fees appropriately**

- Charged the student VET tuition fees for the unit; and
- The VET tuition fees were not charged in accordance with VET FEE-HELP fee requirements.

**Failure to publish fees**

- Charged the student VET tuition fees for the unit; and
- On the day before the student enrolled in the unit, the VET tuition fees were not available on the Ascet Tech’s website in a way that was readily accessible by the public.

### 1.3.1. Requirements for Making Decisions

Ascet Tech considers the student’s application as soon as practicable and notifies the student of its decision and the reasons for making the decision.

Decisions regarding re-crediting a student’s FEE-HELP balance are reviewable. In addition to notifying a student of its decision and the reasons for making the decision, Ascet Tech also advises the student of their rights for a review of the decision if the student is unsatisfied with the outcome. The student must be advised the time limit for applying for a review of a decision is 28 days from the day the student first received notice of the decision.

### 1.3.2. Notifying the Department of the Decision
Where a decision results in the re-crediting of a student’s FEE-HELP balance, the remission of a student’s HELP debt, and/or the refund of a student’s upfront payments, Ascet Tech notifies the department through the Revisions File. Ascet Tech is required to repay to the Commonwealth any amounts of VET FEE-HELP Ascet Tech received from the Commonwealth on the student’s behalf.

1.3.3. Re-crediting a Student’s FEE-HELP Balance

Where Ascet Tech is satisfied that special circumstances apply, Ascet Tech re-credits a student’s FEE-HELP balance with an amount equal to the amount of VET FEE-HELP the student received for the VET unit of study.

Ascet Tech has the discretion to refund any upfront payments the student made in respect of the VET unit of study in line with its own policies, which should be accessible to the student.

Students who withdraw on or before the census date, for any reason, do not incur a VET FEE-HELP debt, and accordingly, it is not necessary for them to seek a re-credit or establish special circumstances.

1.3.4. Reviewable VET Decisions

Decisions regarding re-crediting a student’s FEE-HELP balance are reviewable. A review of a decision may be requested by the student affected by the original decision or without a request if Ascet Tech is satisfied there is sufficient reason to do so.

Ascet Tech has appointed the following Review Officer to undertake reviews of decisions regarding re-crediting a student’s FEE-HELP balance.

Kim Oates
CEO
1300 655 544
kim@ascet.edu.au

The review officer does not review a decision they were involved in making and occupies a position that is senior to that occupied by any student involved in making the original decision.

1.3.5. Review by Review Officer

A student has the right to apply for a review of a decision to not re-credit their FEE-HELP balance. The student’s request must be made in writing and given to the Ascet Tech review officer within 28 days from the day the student first received notice of the original decision. In the written request, the student must state the reasons why they are asking for a review.

There is no fee or charge to students relating to applications for the review process by the Ascet Tech Review Officer.

If a full fee-paying student has paid their fees upfront, and did not request VET FEE-HELP assistance, the review procedures under HESA do not apply. In this instance, the student cannot under HESA request a review or refer the matter to the Administrative Appeals Tribunal (AAT).

The Ascet Tech review officer:

- Reconsiders the decision and either:
  - Confirms the decision; or
  - Varies the decision; or
  - Sets the decision aside and substitutes a new decision; and
- Notifies the student in writing of the decision and if applicable of the day the decision takes effect; and
  - The reasons for making the decision; and
  - Advises the student of their right to appeal to the AAT for a review of the reviewer’s decision if the student is unsatisfied with the outcome; and
  - Provides the applicant with the contact details and address of the nearest AAT registry and the approximate costs of lodging an appeal.
In circumstances where an application is made outside the application period the student will be advised the application has been refused on the basis the student has not satisfied one of the threshold criteria. The applicant will also be provided with written reasons why the application period was not waived.

In these circumstances, it is not necessary for Ascet Tech to address whether the special circumstances test has been satisfied. A decision made on this basis will be a reviewable decision under HESA and there is an obligation to inform the student of this and provide the student with the opportunity to seek reconsideration of the decision.

1.3.6. Review by the AAT

A student may apply to the Administrative Appeals Tribunal (AAT) for review of a review officer’s decision and may supply additional information to the AAT they did not previously supply to Ascet Tech, including the review officer.

The department will receive notification from the AAT that a student has lodged an application for a review of a review officer’s decision. The department is the respondent for cases that are before the AAT.

Once the department has received notification from the AAT the student has applied for the reconsideration under section 37 of the Administrative Appeals Tribunal Act 1975, the department must lodge the following documents with the AAT within 28 days:

- A statement setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision; and
- Every document or part of a document that is in the reviewer’s possession or under the reviewer’s control and is considered by the reviewer to be relevant to the review of the decision by the AAT.

The department will notify Ascet Tech, in writing, that an appeal has been lodged. To enable the department to meet the 28-day timeframe, Ascet Tech must, within a further five business days of being requested, provide the department with copies of all the documents it holds that are relevant to the appeal. These documents should be sent by courier or express post to meet the five-business day requirement. Ascet Tech will keep any originals and copies of the documents in line with its normal recording keeping practices.

Once receiving the documents the department may choose to review the original decision. Ascet Tech’s review officer may also reconsider the decision even though an appeal has been made to the AAT at any time up until the AAT makes a final decision. If a decision is made to re-credit a student’s FEE-HELP balance Ascet Tech must advise the department.

However, until a student withdraws their AAT appeal or the appeal is dismissed or otherwise dealt with by the AAT, the department is still required to comply with the requirement under section 37 of the Administrative Appeals Tribunal Act 1975 to lodge the statement, and relevant documents described in the two dot points above, with the AAT. Therefore, Ascet Tech must still forward all relevant documents to the department within five business days, unless advised not to do so by the department. The department will deal with cases from that point and advise Ascet Tech of the outcome.