

In this case, I am not satisfied that clause 500.212 in Schedule 2 of the Migration Regulations is satisfied. This clause provides that:

500.212

The applicant is a genuine applicant for entry and stay as a student:

- (a) *having regard to:*
 - (i) *the applicant's circumstances; and*
 - (ii) *the applicant's immigration history; and*
 - (iii) *if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and*
- (b) *because the applicant intends to comply with any conditions subject to which the visa is granted, having regard to:*
 - (i) *the applicant's record of compliance with any condition of a visa previously held by the applicant (if any); and*
 - (ii) *the applicant's stated intention to comply with any conditions to which the visa may be subject; and*
- (c) *because of any other relevant matter.*

This clause is also known as the genuine student criterion.

Ministerial Direction No 106 - *Assessing the genuine entry and stay requirements for Student visa and Student Guardian visa applications* sets out the factors that must be taken into account when assessing the genuine student criterion for Student visa applications. This Ministerial Direction is made in accordance with section 499 of the Migration Act. Further information is available at immi.homeaffairs.gov.au/Visa-subsite/files/direction-no-106.pdf

In summary, these factors include:

- the applicant's circumstances in their home country, including whether the applicant has sound reasons for not studying in their home country if a similar course is available, the nature of the applicant's personal ties to their home country, the applicant's economic circumstances, political and civil unrest in the applicant's home country and military service commitments that would present as a significant incentive for the applicant to want to leave their home country
- the applicant's potential circumstances in Australia, including the applicant's knowledge of living in Australia, knowledge of their course, whether the Student visa or the Student Guardian is being used to maintain residence for purposes other than study and whether the primary and secondary applicants have entered into a contrived relationship
- the value of the course to the applicant's future, including the course's consistency with the applicant's past employment and their current education level, whether the course will assist the applicant to gain employment in their home country or another country,

and remuneration and career prospects in the applicant's home country or another country to be gained from the course

- the applicant's immigration history, including visa and travel history for Australia and other countries, previous visa applications for Australia or other countries, and previous travels to Australia or other countries
- if the applicant is a minor, the intentions of a parent, legal guardian or spouse of the applicant
- the applicant's intention to comply with visa conditions, including the applicant's previous record of visa compliance (if any)
- any other matter relevant to the applicant's intention to stay in Australia.

These factors have been weighed up to make an overall decision.

In considering whether the applicant met the genuine student criterion I had regard to the following factors, consistent with clause 500.212 and Ministerial Direction No 106. The factors were used to weigh up the applicant's circumstances as a whole, in reaching a finding about whether they satisfy the genuine student criterion.

The applicant lodged a Student (subclass 500) visa application on 08 June 2024 and provided a Confirmation of Enrolment (COE) to undertake the following course of study:

Intensive Program
Bachelor of Psychology

The applicant provided various supporting documents including:

Academic history
Evidence of English language test scores
Evidence of family income
Statement of Purpose (SOP)

I acknowledge that the applicant has demonstrated some knowledge of living in Australia, their intended course of study and associated education provider and the benefits of completing the said course, however, I have given significant weight to the below:

I have considered the applicant's circumstances in their home country.

I note the applicant completed their Higher School Certificate in NSW.

The applicant has not provided evidence that they considered study options in their home country or region, including alternative study destinations, education providers or courses of study available to them. I cannot be satisfied they have seriously considered education options available to them which raises concerns regarding their intention to genuinely study in Australia.

Additionally, I have also considered the applicant's economic circumstances in their home country. The applicant has provided limited evidence of their current financial circumstances. Based on the information before me, I am concerned those circumstances would serve as a significant incentive for an applicant to apply for a Subclass 500 (Student) visa as a means of obtaining entry to Australia for purposes other than study.

I have also considered the applicant's potential circumstance in Australia.

I acknowledge that the applicant has demonstrated some knowledge of living in Australia and provided reasons for choosing Australia as their preferred study destination. However, the applicant has not demonstrated that they sufficiently researched their proposed course or education provider. While I accept the applicant may aspire to obtain an internationally recognised qualification, given their lack of consideration or research, I am not satisfied the applicant has demonstrated a commitment to study in Australia and to achieve their stated educational outcome.

I have considered the value of the course to the applicant's future.

The applicant stated that they would have an opportunity to work in their home country after completing their studies. The applicant stated, after completing the course they would be employed as psychological counsellor, health educator, mental health counsellor, or social program coordinator in esteemed organizations, but did not provide any convincing evidence to support this. I am not satisfied the applicant has demonstrated that the proposed course will assist them to obtain employment or improve employment prospects in their home country or another country.

Given the applicant's individual circumstances, I consider that the significant cost of the course is unlikely to be offset by the potential income derived by the applicant in their expected employment field. Accordingly, I am not convinced the proposed course will add value to the applicant's future. I give weight to apparent lack of value of the course to the applicant's future, which indicates that their primary motivation for pursuing this course may be other than the quality of education in Australia.

I have taken into consideration the applicant's previous immigration history.

Departmental records indicate that the applicant has previously travelled to Australia.

I have considered whether there is any other relevant matter, however in this case I have determined that there are no other relevant matters.

Conclusion

After weighing up these factors as a whole, I am not satisfied the applicant is a genuine applicant for entry and stay as a student visa holder.

Decision

As clause 500.212 is not met by the applicant, I find the criteria for the grant of a Student visa are not met by the applicant. Therefore, I refuse the application by the applicant for a Student visa.

Assessment against the criteria of other subclasses in class TU

As the application was not made on Form 157G (Application for a Student Guardian visa), I have not considered the application against the subclass 590 Student Guardian visa criteria in this visa class.