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editorial

The ATA membership has grown strongly this year and as of end of April have now 517 members – a rise of 54 members over December 2016 and our fourth successive month of growth. The growth of 11.7% is unprecedented in the ATA's history. Clearly this is satisfying as it means a larger number of organisations are accepting the industry body and the industry Code of Conduct. This Code is widely downloaded and assists in articulating best practice standards nationally. It helps protect consumers and boosts standards in the tutoring industry.

ATA Code of Conduct amendments for consideration / We are currently undergoing our annual review of the Code and accordingly will consider, as Board, the various propositions put forward by members and also arising in the course of our dealings with consumers.

One such change relates to the need to interview through face-to-face all employees. As a result of the rise in use of technology the Board will consider whether this requirement should be amended and if so what form any variation might take. A suggested variation may take the following form:

32. Members must ensure that interviews with tutors are conducted face-to-face and may involve the prospective tutors doing practice questions and answering questions related to child protection and education.

Proposed amendment / 32. Members must ensure that interviews with tutors are conducted face-to-face, or through relevant online video interview technologies. Where technology is utilised then any tutors appointed MUST complete the ATA Risk Management course. This course is available through Accredited Tutors (www.accreditedtutor.org)

Interviews / 32A Interviews should involve the prospective tutors doing practice questions to verify their academic standard

32B Interviews must involve prospective tutors answering questions related to child protection and child safety

32C Robust background checking must be in place with appropriate vetting procedures undertaken. (See ATA Recruitment Factsheet available from www.ata.edu.au)

Corporate partnerships / The ATA is currently finalising a further member benefit and will inform members via the email soon.

The difference between the Australian Tutoring Association (ATA) and Accredited Tutor (AT)

We are finding that a proportion of members are confusing the Australian Tutoring Association with our accreditation partner, Accredited Tutor. Please read below to find the differences between our organisations:

ATA (**Australian Tutoring Association**) is Australia's peak body that represents tutoring organisations and educational tutors nationally is the only organisation of our kind in Australia, we aim to represent tutoring organisations and educational tutors all across the country. Officially launched on 7th March 2005, the ATA has been formed in recognition of the need to unify the tutoring industry nationally. The ATA has members from around Australia. It aims to represent tutors and tutoring organisations, act as a lobby group and raise the standard of tutoring in Australia. The ATA website is www.ata.edu.au

AT (Accredited Tutor) is our accreditation partner. They provide accreditation to our members, which is an industry-based certification endorsed by the ATA (Australian Tutoring Association). On the 18th July 2013 the ATA Board ratified the use of Accredited Tutor as the partner who would assist in the roll out of an accreditation in the Australian market. The Accredited Tutor website is www.accreditedtutor.org

Discounted insurance is for ATA members only / When renewing your ATA membership go to the ATA website, NOT the Accredited Tutor website. The only way to access the discounted insurance is as an ATA member.

within tuition editorial

Mohan Dhall

Email mdhall@ata.edu.au

P 02 0704 5724 / M 0408 619 714

contacting us

For contributions and comments please email the ATA
Email office@ata.edu.au

australian tutoring association (ATA) Ltd.

PO Box 256, Croydon NSW 2132

Recruiting for Child Safety*

How could your organisation implement Child Safe practices in Recruitment?

Examples of how your organisation could implement this standard include the following:

- Design and adhere to recruitment and selection processes that focus on:
 - factors that may indicate a risk to child safety, such reluctance to undergo a Working with Children Check or to provide evidence of a Working with Children Check
 - understanding of child safety
 - understanding of and respect for Aboriginal culture
 - understanding of and respect for cultural and / or linguistic diversity
 - understanding of and respect for the needs of children with a disability
 - declaration of prior conduct, including of any disciplinary action taken against them by an employer, any finding of improper or unprofessional conduct by them by any court or tribunal of any kind, and/or any investigations they have been subject to by an employer, law enforcement agency, any integrity body, or similar in Australia or in another country
 - undertaking face-to-face interviews
 - police record checks (including personal identification checks)
 - checking referees and qualifications
 - use of probation periods
 - references to the organisation's commitment to child safety in recruitment advertisements.

Selection criteria / Developing appropriate selection criteria for the position is a valuable first step to reducing the risk of appointing someone who poses a child safety risk. It will also ensure that applicants have the specific knowledge and skills required for the position.

Examples of appropriate selection criteria may include:

'Must have experience working with children.'

'Must be able to demonstrate an understanding of appropriate behaviours when engaging with children.'

It is imperative that your organisation promotes the safety, participation and empowerment of all children, including those with a disability. A suggested approach may be:

'This organisation promotes the safety, wellbeing and inclusion of all children, including those with a disability. Applicants are welcome to elaborate on experience they may have working with children with a disability.'

It is important that your organisation be culturally safe for Aboriginal children, and encourage participation and empowerment of Aboriginal children. A suggested approach may be:

'This organisation promotes the safety and wellbeing of Aboriginal children, and encourages applications from Aboriginal peoples. Applicants are welcome to elaborate on experience they may have working with Aboriginal children and/or communities.'

It is important that your organisation promote the safety, participation and empowerment of children from culturally and/or linguistically diverse backgrounds. A suggested approach may be:

'This organisation promotes the safety and wellbeing of children from culturally and/or linguistically diverse backgrounds, and encourages applications from people from culturally and/or linguistically diverse background. Applicants are welcome to elaborate on experience they may have working with children from a culturally and/or linguistically diverse background.'

Advertising / Planning your advertisement and its placement provides a good opportunity to demonstrate your commitment to safeguarding children and deter would be offenders. It is imperative that your organisation promotes the safety, participation and empowerment of all children, including those with a disability. A suggested approach may be:

Does your advertisement include reference to your code of conduct and child safe policy?

Does your advertisement inform applicants that appropriate rigorous reference and background checking will be undertaken, including a Working with Children Check and police record and identity check?

Interviews / The interview process is a very important step in selecting the right people for your organisation and in identifying any people who may pose a risk to children. Give yourself sufficient time to plan and prepare for the interview process, and form an interview panel with the right mix of experience and skills to carry out the interview, ensuring that all panel members are clear on what the position requires.

Recruiting for Child Safety*

Take notice of your own thoughts and feelings when interacting with the applicant. Ask for more information if the applicant does not provide sufficient information in his or her responses.

An open-ended style of behavioural-based questioning will give you insight into the applicant's values, attitudes and understanding of professional boundaries and accountability. Some useful questions may include:

'Tell us about why you want to work with children?'

'Describe a time when you had to manage a child whose behaviour you found challenging?'

'Tell us about a time when you had to comfort a distressed child?'

Pre-employment screening / Screening applicants (including for paid and volunteer positions) is a good tool for helping to prevent people who may abuse children from entering your organisation.

Have you prepared a list of open_ended questions which will determine how the interviewee will behave in certain situations?

Are there unexplained lengthy gaps in employment history?

Is the applicant evasive or inconsistent in his or her answers?

Police checks / It is important to be upfront and ask the applicant if they have any criminal convictions, formal disciplinary action taken against them, or any finding of improper or unprofessional conduct. This could involve the applicant signing a declaration as part of an application form. You could also cover this in a face-to-face interview. This may be challenging for the interview panel, particularly if the person is already known to you, but the applicant's response should demonstrate a sufficient level of professionalism as well as an understanding of your obligations. To help introduce this difficult topic, you could say to the applicant that you have some specific questions about child safety because your organisation takes child safety seriously.

Referee checks / You should always talk to at least two referees as this can provide insight into the applicant's character and skills.

Line managers, particularly the most recent, are likely to provide you with the most accurate reference. Where possible, referees that can provide insights into the applicant's experience working with children should be contacted. Do the referees

When speaking with the referees, you should seek to establish the referee's relationship with the applicant, including:

- how long the applicant and referee worked together
- the specifics of the position
- the applicant's perceived strengths and weaknesses
- whether the referee would hire the person again, particularly in a role working with children, and
- whether they have any concerns about the applicant working with children.

Additional checks will confirm the identity of the applicant and that their responses have been truthful.

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Additional checks will confirm the identity of the applicant and that their responses have been truthful.

Have you checked the identity of the applicant (for example, that their driver's licence/passport has the same name they have provided you)?

Did you see a certified copy of the applicant's qualifications (if required)?

Probation periods / Confirming their permanent employment. If you have any concerns about the person working with children, you should seriously consider whether you want them to remain in the job and your organisation.

The length of probation periods can vary and are usually between three and six months. You should consider whether the person should receive closer supervision and additional training throughout the probation period. A probation period can offer an opportunity to set goals with new staff members and identity training, supervision and other support needs.

**Adapted from Source: Department of Health and Human Services (DHHS), Victoria, Recruitment for Child Safe Practice*

How Do I set up a Tutoring Business?

With the school year soon to be underway, many parents will be looking at sending their children to tutoring schools to improve grades in the classroom. Tutoring schools are now becoming lucrative businesses, with many education franchises now well-established across Australia. According to IBISWorld, there is a projected 1.6% growth over the next five years to drive the art and non-vocational education industry to \$6.1 billion, of which tutoring takes up 20%. Tutoring is an incredibly competitive industry. Whether you are tutoring one-on-one or are looking to set up a tutoring business, you should understand your legal obligations.

1. Check Restraint of Trade

If you are a teacher or employed as a tutor at an agency, make sure that you are not breaching a restraint of trade or non-compete clause in setting up a tutoring business. Your employment contract may state that you cannot work for, or set up, a tutoring business that competes with your employment agreement. Some restraint of trade clauses has a geographical limit (e.g. 50 kilometres from a particular location) or a time limit (e.g. not within three months of ending an employment relationship). An employment lawyer can assist you to understand whether the contract binds you to a particular restraint of trade clause.

2. Choose a Tutoring Business Structure

A key step in setting up a tutoring business is understanding what type of business structure you should establish. Many tutoring businesses start as small operators (hiring a few tutors) or are independent sole-proprietor tutors. If you are looking to set up a tutoring business as an individual, a sole trader structure will best suit your needs. Relatively easy to establish, a sole trader business structure allows you to have full control over your assets and business decisions. You can use your individual tax file number (TFN) to lodge tax returns, and you are not required to have a separate business bank account. If you are looking to set up a tutoring business with other tutors, a partnership or company structure may be more suitable. A partnership allows you to jointly run the tutoring business with another person (up to 20 people). You will be required to apply for an Australian Business Number if you are carrying on an enterprise. If you have plans to expand your tutoring business and have limited liability for the directors, a company structure will be more suitable. Franchising is now also a common expansion method for tutoring businesses. You can choose to buy a tutoring franchise if you do not want to establish your own business. The franchising model means that the franchisor controls the branding, marketing and management practices, allowing you to focus on the day-to-day operations of running the business.

3. Draft Tutoring Contracts

With the exception of a few large operators, most tutoring businesses are small and usually arranged privately with one-on-one sessions. As such, tutoring contracts in private settings are uncommon. However, where there is a delivery of a service between a tutor and a student, it is advisable to have a written tutoring agreement that clearly sets out the terms of the relationship. For tutoring businesses, contracts should disclose all associated fees (joining fees, cancellation fees, etc.) as well as a description of the delivery of the service. It is advisable parents read any contracts carefully before signing, particularly for tutoring services offered by overseas institutions or online platforms. Research the organisation, ensure they have contact information and are accredited. The Australian Tutoring Association (ATA) is the peak national body representing tutors and tutoring organisations. The ATA requires all its members, who are formally accredited, to abide by a Code of Conduct. If you are hiring tutors, make sure that all tutors sign an employment contract. Whether tutors work part-time or are higher education students, an employment contract with each tutor should be signed. Where the classification of tutors are as contractors, a contractor agreement should be drafted to ensure there are clear responsibilities and expectations of your tutors. Unlike tutors that are employed by the organisation, independent contractors set their fees and working arrangements and can work for more than one tutoring company.

Key Takeaways

Tutoring businesses continue to expand in popularity as parents seek to provide their children with a competitive advantage in the classroom. In the past five years, online tutoring business models have become readily accessible compared to traditional face-to-face tutoring services. If you are looking to set up a tutoring business, understand the business structures available to you, and whether you are breaching any potential restraints of trade. Moreover, you should have the right legal contracts drafted to protect you and your employees. If you have any questions about setting up a tutoring business, get in touch with LegalVision's business lawyers on 1300 544 755 or fill out the form on this page.

Source: Anthony Lieu, "How do I set up a tutoring business", <https://legalvision.com.au/how-do-i-set-up-a-tutoring-business/>

About Anthony Lieu

Anthony is a lawyer and the Head of Marketing at LegalVision. He has a keen interest in startup law, IT law and scaling fast-growing businesses. He has a strong understanding in how startups operate at all stages and navigating the myriad of legal issues surrounding online businesses. He has worked in the public and private legal sector, specialising in disputes and litigation, corporate advisory and tax controversy.

ATA in the News

Australian students turning to tutors to secure Ivy League university places

Pallavi Singhal

Seo Yoon Kim has not had a summer holiday since she was in year 10 and first set her sights on an Ivy League university.

"I just studied for the SATs [Scholastic Assessment Test] all day," said the 17-year-old, who was accepted into Cornell University last month after graduating from Manly Selective Campus.

Hitting the jackpot in college admissions

High school students in the US are on edge as they find out where they'll be going to university. A lucky few have their hands full with offers. The 3½-hour critical reading, writing and mathematics test, which Australian students have to take in addition to their year 12 exams to apply to US universities, is at the centre of a booming tutoring market for which some Sydney high schoolers are paying hefty prices.

A 28-hour course provided by SAT test preparation and admissions consulting firm Manhattan Review, which starts this Saturday, will set parents back nearly \$1600, and an *"all-inclusive education package"* provided by Crimson Education costs more than \$10,000.

In addition to coaching services, students are spending up to 20 hours a week on top of their high school workload to get involved in extracurricular activities and perfect personal essays for their overseas applications.

However, the chief executive of the Australian Tutoring Association, Mohan Dhall, said spending too much time on the process was *"not really healthy or recommended"* and could affect students' performance at high school.

"Typically, what I see in families is that once they make the decision that the American option is viable, they start to compromise in the HSC because their eggs are in the SAT basket," he said. *"And more than time pressure, there's a lot of mental pressure on students who are between two systems."*

Crimson Education co-founder Jamie Beaton got 25 university offers after high school.

There has been a significant rise in the number of Australians enrolled at US universities in recent years as students become more aware of the option and Ivy League institutions increasingly seek Australian students.

The number of Australian undergraduate students in the US rose 11.5 per cent in the year to 2015, reaching 2218 enrolments. A total of 4752 Australians were doing some form of study in the US in 2015.

Representatives of 18 universities, including Harvard, Yale and New York University came to Sydney last year *"to discuss the US application process on a more personal basis"*, according to a spokeswoman for the US consulate-general.

Mr Dhall said such information services and books that provide practice SAT tests and application tips for as little as \$40 were alternatives to expensive coaching services that parents could consider.

"We have a group of vulnerable parents who have the money to sustain fee-paying entry into an overseas uni, so it's not going to be a price point that's going to deter them," he said.

"There's an element of what these companies offer that's useful, but a really good career adviser at school should be able to [help] for free anyway."

Jamie Beaton, 22, who co-founded Crimson Education, said his own success with the process put him in a unique position to advise students. In the last year of high school, the Auckland resident applied to 25 of the top universities around the world, assuming he would eventually go to his local university.

"I was on a Skype call with mum when I opened the letter from Harvard," Mr Beaton said.

"I was speechless, she started crying. "Then I heard back from Cambridge, Yale, Princeton, Stanford, all 25 unis....As I got into more and more schools, it occurred to me that maybe I'd done something right."

Ms Kim, who received SAT coaching and application assistance from Crimson Education, said: *"You need to find someone who has been through the process to give you deadlines on when to submit things."*

"It's very hectic and stressful."

Source: <http://www.watoday.com.au/national/education/australian-students-turning-to-tutors-to-secure-ivy-league-university-places-20170412-gvj8vo.html>

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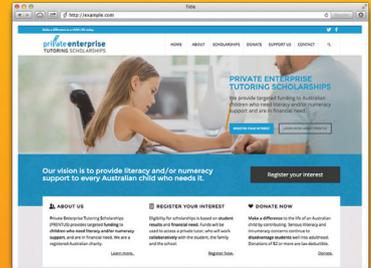
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