

Developing Agent Contracts (Samples Included)

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Once a program has properly vetted an agent, the program must work with the agent to develop a mutual understanding of the nature of the relationship. Though some programs choose to work with some or all agents in an informal manner, it is advisable to enter into a contractual agreement in order to ensure transparency and clarity of the business relationship. While the program may elect to allow non-contracted agents to continue to refer students, a contract is a way to distinguish those agents who have been vetted, formally convey the program's commitment to supporting the agent, and establish the expectations and responsibilities of both parties.

Guidelines for Developing an Agent Contract

If the program has a legal department or is part of a larger institution that has a legal department available, it is wise to have the legal department review your template contract. Often there are requirements for statements regarding liability or breach of contract.

Contracts should contain the following elements:

Expectations and Responsibilities

Outline all expectations and responsibilities including training of counselors, contact with the program, whether a visit to the campus is required, etc. Some programs also include their responsibilities to the agent. Make sure to include provisions regarding the following:

Exclusivity - The program must determine whether they will contract with agents as the exclusive representative in the home country, or if they will contract on non-exclusive basis. Many agents tout themselves as THE ONLY representative of a program so it is important to state specifically if that is not the case.

Minimum Referrals - Some programs choose to set a minimum number of referrals required to maintain the status of the agent. For example, they may require three student referrals per year and if the minimum is not met, the contract is terminated.

Representation of Institution or Program - If the program is based on a university campus or is part of a larger institution, it is important to note whether or not the agent has the right to represent any other part of the university or institution.

Logo Usage and Marketing - The program should detail the rules regarding usage of the program logo and information. It is advisable to require that the agent submit any marketing materials to the program for approval prior to publishing. The program must determine whether they will require the agent to translate the material into English or whether they will find someone on staff capable of translating.

Recognition of Agent Status

Most programs supply their contracted agents with a certificate that can be displayed in their office as proof of their agent status.

Commission

It is essential to include language in the contract that specifies the amount of commission (percentage or flat fee) to be awarded and for which courses (e.g. commission may be higher for a technical versus general

English course). The manner in which commission will be awarded should also be detailed. Also be sure to include language on when the commission will be awarded (some programs only award commission after their session has started), whether the agent is required to return commission on canceled sessions, and how many sessions are eligible for commission (first session only or all sessions attended by the referred student).

The program must also decide whether to require agents to tell their students that they are receiving commission. Please note that some agents, in addition to receiving commission, charge the student an advising fee. It is important to state in the contract

- a) whether the agent must disclose this amount to the program and
- b) whether the agent is expected not to charge the student an additional fee.

Commission Structure - Some typical commission structures include a flat fee referral amount (e.g. \$150 per student), tiered system (i.e. commission amount goes up as the number of referrals increase), timed support (i.e. quarterly or yearly payment to the agent, regardless of number of referrals) or set percentage. In surveys of Intensive English Programs, 15% is consistently given as the average compensation. Programs vary on whether tuition is granted on tuition only or the total package. Most programs make this determination based upon their structure and what costs they can control.

Method of Awarding - The three main methods of awarding commission are:

1. By application - With each student enrollment, the agent collects commission by collecting the gross fees from student and forwarding the net amount to the school or by collecting the commission from the student as a deposit, and directing the student to pay the net amount directly to the school.
2. By session - At the start or end of the program's session, the agent invoices the program for all referrals for that session.
3. By time period (quarter, year) – The program pays a set amount to the agent at timed periods, regardless of the number of referrals, or the program pays the agent on a per-student basis but only at certain times of the year (i.e., the program pays for all students referred in the academic year at the end of the year).

Please note that the method of awarding commission may vary by country, depending on the country's laws regarding money leaving or entering the country and associated fees. It is best to discuss the options you have available with the agent to determine whether your methods will work within the parameters of that country's laws.

The program must be realistic about their own administrative capacity and determine a method for tracking and verifying agent referrals.

Length of Contract

Most programs have a specified end date on their contract. The contract can easily be renewed at the end of the agreement, based on agent performance. Most programs' contracts are written for one- to three-year periods. Some programs elect to start the agent with an initial one-year contract and renew for a longer period once they have determined that the agent is performing well and to the standards of the program.

Standards

If the program is a member of a professional organization (such as AAIEP, UCIEP, CEA and NAFSA), it is important to note the standards of those organizations or include language that will help the agent adhere to the recruiting standards that your program is expected to follow. For example, the Commission on English Language Program Accreditation specifies, "If there are agreements with a recruiting agent, the institution or program ensures that it has complete information about the agent and assumes the responsibility for monitoring the agent and terminating the agreement if necessary."

<http://www.cea-accredit.org/standards.php#recruiting>

Conditions for Termination

It is essential to include language that allows either party to terminate the contract with sufficient notice. The program can determine whether to leave this statement ambiguous or describe the conditions that would lead to termination. If the program has a grievance procedure for agents, describe it in the contract.

Sample Contracts

See attachments:

PRagent_agreement.pdf

PRagent_agreementESL.pdf

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