4. OPERATIONAL REQUIREMENTS

Operational Requirements
Quality Areas 1 to 7

ICONS LEGEND

National Laws and Regulations

Sections of the Education and Care Services National Law (National Law) or regulations from the Education and Care Services National Regulations (National Regulations).

Centre-based service

An education and care service other than a family day care service which includes most long day care, preschool and outside school hours care services that are delivered at a centre.

Birth to three

Children birth to three years of age.

Offence

Offences against the National Law that attract a penalty, for example a fine.

Family day care service

An education and care service that is delivered through the use of two or more educators to provide education and care to children and operates from two or more residences.

School age children

Includes children attending school in the year before grade 1, and above.

Sight

Authorised officers will sight documentation provided as evidence to support particular practices at the service (for example, records of attendance, enrolment records, policies and procedures, meeting minutes, safety checklists, newsletters, photos, collections of children's work and documentation of child assessments or evaluations).

Observe

Authorised officers will observe what children, families, educators, co-ordinators and staff members are doing (for example, engaging in caring, friendly and respectful interactions).

Discuss

Authorised officers will discuss why and how particular practices occur at the service, with the approved provider, nominated supervisor, educators, co-ordinators, family day care educators, assistants or staff members.

OPERATIONAL REQUIREMENTS

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Information in this chapter was last updated **March 2018**

OPERATIONAL REQUIREMENTS

This chapter sets out the requirements for operating an education and care service, including the responsibilities of approved providers, nominated supervisors, and family day care educators. It also includes guidance for regulatory authorities to help determine whether operational requirements are being complied with.

QUALITY AREA 1
EDUCATIONAL PROGRAM AND PRACTICE

1.1 APPROVED LEARNING FRAMEWORKS

National Law

Section 168

The approved provider and nominated supervisor of an approved service must ensure that a program is delivered to all children being educated and cared for by the service that:

- is based on an approved learning framework
- is delivered in accordance with that approved learning framework
- is based on the developmental needs, interests and experiences of each child
- is designed to take into account the individual differences of each child.

National Regulations

Regulation 73

An educational program is to contribute to the following outcomes for each child:

- the child will have a strong sense of identity
- the child will be connected with and contribute to his or her world
- the child will have a strong sense of wellbeing
- the child will be a confident and involved learner
- the child will be an effective communicator.

National Regulations

Regulation 254

There are two national approved learning frameworks that recognise children learn from birth, linked to the National Quality Standard (NQS). These are:

- *Belonging, Being and Becoming: The Early Years Learning Framework for Australia* ('Early Years Learning Framework')
- *My Time, Our Place: Framework for School Age Care in Australia* ('Framework for School Age Care').

There is also an approved learning framework specific to Victoria:

- *Victorian Early Years Learning and Development Framework, Department of Education and Victorian Curriculum and Assessment Authority*

The approved learning frameworks include principles, practices and learning outcomes that guide educational leaders and educators in their curriculum decision-making, and assist them in planning, delivering and evaluating quality programs in early and middle childhood settings.

The ages of children who attend an education and care service should determine which of the two national approved learning frameworks is used, rather than the service type or setting.

If children preschool age or under and children over preschool age regularly attend a service, educators are expected to use both frameworks as the basis for the educational program. This does not necessarily require that separate experiences or programs be offered; rather that consideration is given to the features of the frameworks in the implementation of the educational program.

For example, if one or more preschool age children regularly attend a service for school age children, the approved provider and nominated supervisor must ensure the *Early Years Learning Framework*, or relevant parts of a jurisdiction-specific approved learning framework, form the foundation for the interactions and environments provided for those preschool age children and their families.

In developing the program it is important to gather, analyse and interpret information about children that is:

- meaningful and relevant to children as individuals and in groups
- capturing an understanding of their identity, knowledge, strengths, ideas, culture (including popular culture), abilities and interests
- descriptive of what children are investigating and exploring
- an authentic example of what children know, can do and understand
- focused on learning, progress and achievements.

Authorised officers consider a range of factors when determining if a service meets the NQS and the National Law and Regulations, such as:

- how educators collect and interpret information about children for program development
- how services develop programs that are responsive to and promote children's wellbeing, development and learning
- how educators critically think about what is offered and why
- how documentation or information about the development of the program shows an ongoing cycle of planning and evaluation, informing children's experiences in the program.

1.2 INFORMATION TO BE KEPT AND AVAILABLE

National Regulations

Regulation 75

Information about educational program to be kept available

Information about the contents and operation of the educational program must be displayed at the education and care service premises at a place that is accessible to parents and families.

A copy of the educational program must be available at the following places for inspection on request:

- for a centre-based service, at the education and care service premises
- for a family day care service, at each family day care residence or venue.

National Regulations

Regulation 76

Information about educational program to be given to parents

The following information must be given to the parent of a child on request:

- information about the content and operation of the educational program as it relates to that child
- information about that child's participation in the program
- a copy of assessments or evaluations in relation to that child.

1.3 DOCUMENTATION

National Regulations

Regulation 74

Documenting of child assessments or evaluations for delivery of educational program

For a child of preschool age or under, this documentation must include:

- assessments of the child's developmental needs, interests, experiences and participation in the educational program
- assessments of the child's progress against the outcomes of the educational program.

For a child over preschool age, this documentation must include:

- evaluations of the child's wellbeing, development and learning.

The following apply in place of 74(1)(b)

NT Regulation 289A

NSW Regulation 274A

QLD Regulation 298A

Services in the Northern Territory, NSW and Queensland are not required to keep documentation of individual evaluations of school age children. To meet requirements the approved provider must ensure that, for the purposes of the educational program for a child over preschool age, evidence about the development of the program is documented.

In preparing the documentation, the approved provider must:

- consider the period of time that the child is being educated and cared for by the service
- consider how the documentation will be used by the educators at the service
- prepare the documentation in a way that is readily understandable by the educators at the service and the parents of the child.

The approved learning frameworks state that, in the early childhood context, *assessment* for children's learning refers to the process of gathering and analysing information as evidence about what children know, can do and understand (***Early Years Learning Framework***, p. 17). For school age children, *evaluation* for wellbeing and learning refers to processes such as scanning, monitoring, gathering and analysing information about how children feel and what children know, can do and understand (*Framework for School Age Care*, p. 16).

Educators can also use assessment and evaluation information to critically reflect on their own values, beliefs and teaching practices, and to communicate about children's learning with children and their families.

Type and amount of documentation to be kept

There is no prescribed method in the National Law or Regulations for documenting the educational program, assessments or evaluations. There are many different electronic, visual and paper based ways to document. A service can explore a range of styles and methods to determine what works best for their children, families and educators.

The National Law and Regulations do not prescribe how much documentation is needed for the educational program or for individual child assessments or evaluations over a set period of time. This will be influenced by the number, ages and capabilities of children and how often they attend the service, among other things.

Authorised officers consider a range of factors when determining if a service meets the NQS and regulation 74, with a focus on how the documentation is used to support the delivery of the educational program and quality outcomes for children, rather than the amount or type of documentation.

Authorised officers may discuss with the service:

- the phases of program planning and the information and documentation gathered at each phase and how it is used
- how the service decided what form of documentation is appropriate, and how the documentation is readily understood by families
- how educators draw upon various theoretical influences and perspectives to inform the program and maximise opportunities for all children to engage and participate
- how educators use the documentation to plan for each child's learning and to support quality outcomes for children
- how children are involved in documenting their own wellbeing, development and learning, and contribute to the development of the program.

Examples of educational program and assessment and evaluation documentation for all service types

There are many electronic, visual and paper based ways to document the educational program and assessments or evaluations, including individual and group observations. Some ideas:

- enrolment information and input from families
- details on children's strengths, ideas, abilities and interests along with ongoing evidence of children's engagement and participation in the program
- learning stories or narratives of key events
- photographs with captions, photographic sequences, video or audio recordings
- observations such as jottings, anecdotes or running records
- learning and/or reflective journals
- surveys and feedback forms
- notes from meetings or conversations with children, families, staff colleagues and other professionals
- communication or floor books

- portfolios or scrap books including samples of children's work, artwork and writings
- collection of children's feedback, ideas and suggestions including children's own documentation on the program
- visual displays including mind maps, diagrams, sketches and curriculum pathways
- quality improvement plans
- electronic records or Apps
- language transcripts and notes
- feedback from families and educators on the program and practice.

For more information, download the fact sheet *Documenting programs for school age children* from the ACECQA website at **www.acecqa.gov.au**.

ACT SA TAS VIC WA

Documentation proportionate to a child's pattern of attendance for school age children in ACT, South Australia, Tasmania, Victoria and Western Australia

In school age care services the focus is on children's wellbeing as well as recreation and leisure time. Educators collaborate with children to provide play and leisure opportunities that are meaningful to children and support their wellbeing, learning and development.

Documenting evaluations of a child's wellbeing, development and learning can be impacted by varying (and sometimes infrequent) attendance patterns of school age children in comparison to other service types.

Evaluation documentation can be collected proportionate to a child's pattern of attendance at the service.

Authorised officers consider a range of factors when determining if a service meets the NQS and regulation 74, including:

- children attending the service frequently, such as children who attend regular mornings and afternoons each week will have more information collected and used to inform curriculum decision-making and the program over the course of a year
- children attending the service infrequently, such as ad hoc days during school term or vacation care, or for short periods of time, will have less information collected and used to inform curriculum decision-making and the program.

National Regulations

NT Regulation 289A

NSW Regulation 274A

QLD Regulation 298A

Documentation for school age children in Northern Territory, NSW and Queensland

Services in the Northern Territory, NSW and Queensland are not required to keep documentation of individual evaluations of school age children. To meet requirements the approved provider must ensure that, for the purposes of the educational program for a child over preschool age, evidence about the development of the program is documented.

Services with a mix of school age children and children preschool age or under are still required to document individual child assessments for the children preschool age or under.

QUALITY AREA 2
CHILDREN'S HEALTH AND SAFETY

2.1 ADEQUATE SUPERVISION

National Law

Section 165

The approved provider, nominated supervisor and family day care educator must ensure all children being educated and cared for by the service are adequately supervised at all times.

Educator-to-child ratios alone do not achieve adequate supervision. Supervision is critical to the safety of children and helps to protect children from harm or hazards that may arise in their play and daily routines.

Adequate supervision means:

- that an educator can respond immediately, particularly when a child is distressed or in a hazardous situation
- knowing where children are at all times and monitoring their activities actively and diligently.

Educators should balance supervision and engagement by drawing on a range of skills such as positioning, using peripheral vision and monitoring changes in noise and stress levels.

Children of different ages and abilities need different levels of supervision. In general, the younger the children are, the more they need an adult close by to support and help them.

Centre-based care

Examples of adequate supervision of children in a centre-based service include:

- birth to three – educators can see and hear the children at all times, especially if sleeping
- young children – educators remain in close proximity to the children
- preschool age children – educators actively supervise indoor and outdoor environments
- over preschool age children – educators know where each child is and in a position to respond if necessary.

Family Day Care

In a family day care service, some children may be playing in different parts of the family day care residence or venue and the educator will need to consider how these children will be adequately supervised.

Consideration should be given to whether the age and developmental needs of individual children would allow them to play in areas of the family day care residence or venue where they are not directly supervised.

Factors affecting adequate supervision

Authorised officers may consider the following factors when considering the adequacy of supervision.

Factors affecting adequate supervision
Number, ages, abilities and individual needs of children
Number and positioning of educators
Each child's current activity
Areas where children are playing, in particular their visibility and accessibility
Risks in the environment and experiences provided to children
The educators' knowledge of each child and each group of children
The experience, knowledge and skill of each educator
In family day care, particular consideration should be given to the layout of the areas of care, the number of children attending, and supervision during periods of rest and in toileting/nappy change areas.

An authorised officer may discuss with the approved provider or nominated supervisor the importance of teamwork and good communication among staff for ensuring adequate supervision. For example, educators should let their colleagues know if they need to leave the area for any reason, such as to get a resource from another area, or to use the bathroom. The approved provider could develop a handover routine for changing shifts, which may include using a diary or communication book.

Family Day Care

When visiting or assessing family day care services, authorised officers may discuss with the approved provider how supervision is considered in risk assessments of family day care residences and venues, and how they work with educators in each residence or venue to ensure supervision is adequate and appropriate for the ages and needs of the children attending.

Family Day Care

Key times of the day and year

Staff must ensure that end-of-day duties, such as cleaning and securing premises, do not compromise adequate supervision of children. Services should develop a combination of systems which show when each child is absent, is in attendance or has left for the day. For example, in a long day care service there might be a magnetic board in each room indicating each child's presence or absence, which is updated when the child arrives and departs. This might be used in combination with sign in/out records. Educators should look for visual cues that a child may still be on the premises (for example, a backpack left on a hook) and physically check each area, including sleeping areas, to ensure no child is accidentally locked inside.

In family day care this may also include having a supervision strategy for the arrival and departure of children to and from the residence or venue depending on the nature of the residence and any concerns with access to and from the residence.

At times it may be appropriate to provide additional educators to adequately supervise and support children, for example, at the beginning of the year when a number of children are transitioning to new rooms. This could assist educators to respond to children's needs and foster children's sense of security and belonging.

Consideration should also be given to ensuring children are adequately supervised when educators are performing other tasks such as cleaning after meal times and at rest time. Additional educators may be required to ensure children's needs for safety and supervision are met.

National Regulations

Regulation 100–101

Excursions

Undertaking a risk assessment is part of planning a regular outing or excursion. The risk assessment will need to take into account the levels of supervision and number of adults needed. Services might consider how attendance numbers will be verified at certain times during the excursion, such as when leaving the premises or travelling on public transport. For example, strategies might include head counts or allocating a group of children to a particular adult or educator (see more information about *Excursions*, below).

A regular outing for a family day care service could include:

- going to or from a school to collect children who attend the service
- shopping
- visiting the local library
- attending a park or playground
- attending playgroup.

See more information about *Excursions* below.

Sleeping children

The circumstance and needs of each child should be considered to determine any risk factors that may impact on the adequate supervision of sleeping children. For example, babies or children with colds or chronic lung disorders might require a higher level of supervision while sleeping.

Sleeping children should always be within sight and hearing distance so that educators can assess the child's breathing and colour of their skin to ensure their safety and wellbeing. Rooms that are very dark and have music playing may not support adequate supervision of sleeping children. Supervision windows should be kept clear and not painted over or covered with curtains or posters.

Family Day Care

A family day care service should have an agreed and documented practice for the supervision of sleeping children, tailored to the unique layout and safety considerations of each family day care residence or venue as well as the ages and development stages of the children in care. For example, the service should ensure that children are not placed in the educator's bedroom if they would have access to medication or other dangerous items.

For more information download the *Guidance Note: Safe sleep and rest practices for early childhood education and care services* available on the ACECQA website (www.acecqa.gov.au). Policies and procedures on sleep and rest must also be in place (see *Sleep and rest*, below).

Nappy change

Preparing for a nappy change is essential to maintaining an adequate level of supervision. Educators should ensure the required equipment is available and within reach prior to beginning the nappy change. During a nappy change, a child should never be left alone on the change table and physical contact should always be maintained with the child.

Where older children with special needs require nappy changing the adequacy of supervision and the privacy needs of the child should be considered. The facilities that will be required to ensure hygienic practices of nappy changing areas should also be considered.

Family Day Care

Family day care services should have clear guidelines to ensure hygienic practices in nappy changing areas and these should consider proximity to hand washing facilities and supervision of all children. This should be included or considered in the assessment of family day care residences.

2.2 HARM AND HAZARDS

National Law

Section 167

Every reasonable precaution must be taken to protect children from harm and from hazards likely to cause injury.

The age of the children, their developmental needs and the way in which they are being supervised may impact on the level of harm posed by a risk or hazard.

Regular risk/benefit assessments should be conducted to identify and manage

potential hazards while children are being educated and cared for. Policies and procedures should be in place and kept up to date. The authorised officer may examine policies and procedures, particularly in relation to health and safety and providing a child safe environment (regulation 168(2)(a) and (h)).

Many factors may contribute to a hazard, such as a poor program, inadequate supervision and worn equipment. Approved providers, nominated supervisors and family day care educators should develop, implement and monitor procedures for identifying, mitigating and, where necessary, preventing hazards. For example, authorised officers may see the types of precautions outlined below being taken at the education and care service as evidence of meeting this requirement.

Approved providers, nominated supervisors and family day care educators:

- must be able to provide evidence to the authorised officer, that they have weighed the obligation to protect children from harm against the benefit of providing children with a stimulating play environment
- should show an ongoing awareness of safety and hazards and take reasonable steps to protect against these hazards as they arise.

Preventing harm and hazards
Daily safety checks of the environment and equipment
Secure storage of hazardous products including chemicals
An equipment maintenance schedule
Risk assessments, particularly for excursions
If staff consume hot drinks, they are made and consumed away from children
Equipment that meets Australian Standards – for example, cots and playground equipment and surfacing, and safety plugs in unused electrical outlets
Staff have current working with children checks or equivalent
Staff are given information and/or training about child protection law and any obligations they have under that law
Procedures for releasing children only into the care of authorised persons
In family day care residences and venues, an assessment or safety check of all indoor and outdoor equipment is regularly made, reviewed and monitored
Risk minimisation practices are in place for the management of medical conditions
Firearms and ammunition are stored securely and separately from each other
For family day care services, that there are adequate checks in place to ensure that each family day care residence and venue has a tailored evacuation plan specific to the residence type and that careful consideration has been given to the ability of the educator to evacuate all children in attendance at the residence at all times if alone
Hygiene, cleanliness and safety checks of furniture and equipment – for example, high chairs are clean and children are secured.

Family Day Care

Firearms in family day care services

Some family day care residences or venues may have firearms on the premises, particularly in rural areas. Firearms are regulated at the state and territory level under a uniform national approach, which covers licensing, permits and safe storage. Each state and territory has their own firearms registry administered by their police force.

Authorised officers visiting a residence or venue should sight the following to ensure the health, safety and wellbeing of children:

- the firearms licence
- that firearms and ammunition are securely stored separately from each other
- that firearms and ammunition are inaccessible to children and is not used in the presence of children.

More information on the regulation of firearms is available from the state or territory police force, and the National Firearms Safety Code produced by the Commonwealth Attorney–General's Department.

Safety measures should align with advice from recognised authorities such as Standards Australia, and with local government, state, and territory compliance agencies.

For information on how to help keep children safe visit Kidsafe at www.kidsafe.com.au and contact the state or territory child protection authority for best practice information – see *Children's health and safety* for a list of contacts.

2.3 HEALTH, HYGIENE AND SAFE FOOD PRACTICES

National Regulations

Regulations 77, 168

Adequate health and hygiene practices and safe practices for handling, preparing and storing food must be implemented at the service.

The approved provider is responsible for ensuring the nominated supervisor, staff members and volunteers at the service implement these practices. The nominated supervisor is also responsible for ensuring implementation by staff and volunteers.

A family day care educator must implement adequate health and hygiene practices and safe practices for handling, preparing and storing food.

Educators should be particularly aware of safety standards for storing and reheating food brought in from home.

The approved provider must ensure policies and procedures are in place in relation to health and safety.

Authorised officers may do the following to ensure adequate practices:

- Observe hand washing, toileting, nappy changing, cleaning equipment and storing and reheating food are appropriate.
- Examine the policies and procedures in relation to health, hygiene and food safety practices. This can help the authorised officer determine whether the problem relates to implementing good practice, or whether there are broader issues with awareness and understanding of the requirement.

- Discuss strategies that are in place at the service to ensure practices are adequate and consistently implemented.

More information

The National Law and Regulations do not require providers to use any particular guideline or standard in relation to health, hygiene and food safety practices.

Download the National Health and Medical Research Council (NHMRC) publication Staying Healthy: Preventing infectious diseases in early childhood education and care services (latest edition available at **www.nhmrc.gov.au**) for advice about health, hygiene and food safety practices.

Other rules apply to approved providers in relation to food safety, including the Food Safety Standards developed by Food Standards Australia and New Zealand (FSANZ) (available at **www.foodstandards.gov.au**). Food safety legislation for all states and territories references the Food Safety Standards and details the responsibilities of food handlers. Food authorities in each state or territory monitor compliance with the Food Safety Standards. Food authorities in some jurisdictions also require providers that supply food and beverages to register as a food business. Contact details for food authorities in each state and territory are provided at the end of *Children's health and safety*.

National Regulations

Regulations 78–79, 168

Food and beverages

The approved provider, nominated supervisor and family day care educator must ensure that children have access to safe drinking water at all times and are offered food and beverages on a regular basis throughout the day. Food and beverages must be appropriate to the needs of each child.

If food or beverages are provided at the service, they must be nutritious and adequate in quantity, and take into account dietary requirements appropriate to each child's growth and development needs, and any specific cultural, religious or health requirements. This does not apply to food and beverages provided by a family for their child.

The approved provider must ensure policies and procedures are in place in relation to nutrition, food and beverages and dietary requirements.

The regulatory authority may examine these policies and procedures if they have concerns about the appropriateness of food and beverages provided. This can help the officer to determine whether the problems relate to implementing good practice, or whether there are broader issues with awareness and understanding of the requirement.

The National Law and Regulations do not require providers to use any particular food and beverage guideline or standard.

For advice about diet and nutrition for children, download the *Australian Dietary Guidelines* (**www.eatforhealth.gov.au**), the Get Up & Grow: Healthy eating and physical activity for early childhood resources (**www.health.gov.au**) and the Physical Activity and Nutrition Outside School Hours (**www.health.qld.gov.au**).

National Regulations

Regulation 80

Weekly menu

The approved provider, nominated supervisor and family day care educator must ensure that if the service provides food and beverages (other than water), a weekly menu that accurately describes the food and beverages is provided by the service each day is displayed where parents can access it.

The menu should include enough detail to inform parents about what food and beverages will be offered. If the menu changes (for example, due to the unavailability of certain ingredients), parents should be informed of the substitute menu item offered to their child. For example, this might be done through a note on a whiteboard, daily journal, communication book or via email.

Regulations 79 and 80 do not apply to food and beverages provided by a parent or family member for consumption by their child. However, the service could promote healthy choices through strategies such as information pamphlets from recognised nutrition authorities.

National Regulations

Regulations 81, 168

Sleep and rest

The approved provider, nominated supervisor and family day care educator must take reasonable steps to ensure children's needs for sleep and rest are met, having regard to each child's age, developmental stages and needs.

The approved provider must ensure policies and procedures are in place in relation to sleep and rest practices for children and infants, based on current recommended evidence-based guidelines.

Planned 'rest periods' for young children are often implemented at services, however, routines and the physical environment should also be flexible enough to support children who do not require a sleep and to ensure opportunities are provided for rest and relaxation throughout the day as needed.

Authorised officers may look for indications that sleepy children are offered an opportunity to rest, whether by sleeping or just sitting quietly. Where a planned rest period is implemented and not all children are sleeping, authorised officers may look to see if children who appear to be alert and restless are offered appropriate alternatives while others sleep.

The requirement to take reasonable steps to ensure children's needs for sleep and rest are met does not mean children should be required to sleep. If an authorised officer has concerns about a service meeting children's individual needs for sleep and rest, they may check whether policies and procedures are in place about sleep and rest (required under regulation 168).

Consideration should also be given to the hygienic handling of linen used in the provision of sleep and rest (including cushion covers).

More information

Visit the Red Nose website (**www.rednose.com.au**) for free safe sleeping resources or to purchase the Infant Safe Sleeping Child Care Kit for early childhood education and care services, to inform the development of sleep and rest policies and procedures.

For more information about recommended evidence-based guidelines, and developing sleep and rest policies and procedures, refer to the Guidance Note: Safe sleep and rest practices for early childhood education and care services available on the ACECQA website (**www.acecqa.gov.au**).

National Regulations

Section 167
Regulations 82–83

Tobacco, drug and alcohol-free environment

The approved provider and family day care educator must ensure the environment is free from the use of tobacco, illicit drugs and alcohol.

The approved provider must ensure that the nominated supervisor, staff members and volunteers at the service are not affected by alcohol or drugs (including prescription medication) that may impair their capacity to supervise or provide education and care to children at the service.

The nominated supervisor and family day care educator must not consume alcohol or be affected by alcohol or drugs (including prescription medications) that may impair their capacity to provide education and care to children at the service.

These requirements only apply to the service premises or family day care residence when the service is providing education and care to children.

The requirements about use of prescription medications do not mean that educators, staff or volunteers who require prescription medication must be excluded, but rather that consideration be given to whether that medication affects the person's capacity to provide education and care to children.

Any alcohol, tobacco or drugs on the service premises should be kept out of reach of children.

Authorised officers may talk to family day care educators about developing strategies to ensure that the educator's home is a safe place for children, while recognising the rights of the educator's family. The service's Code of Conduct might include details identifying areas suitable for smoking within the family residence.

Other state or territory-specific legislative requirements may apply regarding tobacco use around children.

2.4 CHILD PROTECTION

National Law & Regulations

Sections 162A, 166
Regulations 84, 168

The approved provider must ensure:

- each nominated supervisor and person in day-to-day charge of the service has successfully completed the child protection training (if any) required in their state or territory – child protection training may be required under a state or territory law, a government protocol or under another instrument such as a state government memorandum of understanding
- the nominated supervisors and staff members at the service who work with children are advised of the existence and application of the current child protection law in the relevant jurisdiction and understand their obligations under that law
- policies and procedures are in place in relation to providing a child safe environment.

To check the child protection training required, approved providers can contact the regulatory authority or child protection agency in the relevant state or territory listed at the end of *Children's health and safety*.

Authorised officers may ask for evidence that child protection training has been completed, for example a course completion certificate.

Authorised officer may also ask the approved provider how they ensure educators and staff are aware of the current child protection law and their responsibilities, such as by attending regular refresher training or in-house workshops, completing online training, or by other ways. Formal child protection training is not available in all states and territories, so approved providers may use other methods to meet this requirement, such as distributing information to staff and discussing obligations.

It is also an offence under the National Law to subject a child being educated and cared for by an approved service to any form of corporal punishment, or any discipline that is unreasonable in the circumstances.

See *Leadership and service management* for information on reporting to the Regulatory Authority, including physical and sexual abuse.

2.5 INCIDENTS, INJURY, TRAUMA AND ILLNESS

National Regulations

Regulation 85

Policies and procedures

The service's incident, injury, trauma and illness policies and procedures must include procedures to be followed by nominated supervisors, staff members and volunteers at the service in the event that a child is injured, becomes ill, or suffers a trauma.

See *Governance and leadership* for more information on serious incidents.

National Regulations

Regulation 86

Notifying parents

A parent must be notified as soon as practicable, but not later than 24 hours after the occurrence, if the child is involved in any incident, injury, trauma or illness while the child is being educated and cared for by the service.

See *Governance and leadership* for more information.

National Regulations

Regulations 87, 183

Records

Approved providers and family day care educators must keep an incident, injury, trauma and illness record. The information must be included in the record as soon as practicable, but not later than 24 hours after the incident, injury, trauma or onset of illness.

The incident, injury, trauma and illness record must be kept confidential and stored until the child is 25 years old. See *Governance and leadership* for more information about record keeping obligations.

The incident, injury, trauma and illness record must include the information set out below.

Information that must be included in an incident, injury, trauma or illness record
Details of any incident, injury, trauma or illness, including: • the name and age of the child • the circumstances leading to the incident, injury, trauma or illness and any apparent symptoms • the time and date the incident, injury, trauma or illness occurred
Details of any action taken by the service, including: • any medication administered or first aid provided • any medical personnel contacted
Details of any witnesses
The name of any person the service notified or attempted to notify, and the time and date of the notifications
The name and signature of the person making an entry in the record, and the time and date that the entry was made.

Authorised officers may examine the policies and procedures required under regulation 168. Authorised officers may also check the service records related to incidents, illness, injury or trauma for details of notifications.

Information about the requirement to notify the regulatory authority is included in *Governance and leadership*.

Incident, injury, trauma and illness records do not have to be written in any particular format. Visit the ACECQA website for an (optional) template at www.acecqa.gov.au.

Healthdirect Australia (www.healthdirect.org.au) provides information on what action could be taken in the event of an incident.

2.6 INFECTIOUS DISEASES

National Regulations

Regulations 88, 168

The approved provider must take reasonable steps to prevent the spread of infectious diseases at the service, and ensure the parent or authorised emergency contact of each child enrolled at the service is notified of the occurrence of an infectious disease as soon as practicable.

For family day care services, the approved provider must ensure that the parent or emergency contact of each child being educated and cared for at the affected residence or venue is notified.

The approved provider must ensure policies and procedures are in place in relation to dealing with infectious diseases.

Authorised officers may examine the policies and procedures in relation to dealing with infectious disease required under regulation 168 and discuss with educators.

Download the National Health and Medical Research Council (NHMRC) publication Staying Healthy: Preventing infectious diseases in early childhood education and care services (**www.nhmrc.gov.au**) for information about infectious diseases which must be notified to the local public health department and exclusion periods for infectious diseases.

Family Day Care

Notifying all families of the occurrence of an infectious disease should be done in a manner that is not prejudicial to the rights of any child or staff member. For example, 'There has been a case of chicken pox in the toddler room' rather than 'John has chicken pox'. This might be done through a notice at the entrance to the service.

In the case of a family day care service this might be done by displaying a notice at the residence or venue where there has been an outbreak of an infectious disease, stating that there has been an occurrence of an infectious disease.

2.7 FIRST AID KITS

National Regulations

Regulations 89, 168

The approved provider must ensure an appropriate number of first aid kits are kept, and that these are suitably equipped relative to the number of children being educated and cared for at the service. The first aid kits must be easily recognisable and readily accessible to adults from all areas within the service. The service must have policies and procedures about the administration of first aid to children at the service.

First aid kits should also be taken when leaving the service premises for excursions, regular outings or emergency evacuations. A belt bag is one way of taking a modified first aid kit to an outdoor play space.

- A suitably equipped first aid kit should be fully stocked, with no expired products, and should be checked regularly to ensure this. For example, a service might keep a checklist of the contents inside each first aid kit, and initial the list each time the contents are checked. Authorised officers may refer approved providers or family day care educators to seek guidance from a reputable organisation such as St John Ambulance on first aid kit contents.
- When determining how many first aid kits are appropriate, the service should

consider the number of children in attendance as well as the proximity of rooms to each other and the distances from outdoor spaces to the nearest first aid kit. For example, larger services may require a kit in each room or outside space, whereas a kit between two rooms might be appropriate in a smaller service with adjoining rooms.

- Services might use data gathered from their incident, injury, trauma and illness records or seek guidance from first aid training providers to determine the appropriate locations for first aid kits.

2.8 MEDICAL CONDITIONS POLICY

National Regulations

Regulations 90, 168(2)(d)

The approved provider must ensure policies are in place for managing children's medical conditions. The policies must include practices which address the issues listed in the table below.

Medical conditions policy content
The management of medical conditions, including asthma, diabetes or a diagnosis that a child is at risk of anaphylaxis
Informing the nominated supervisor, staff and volunteers at the service, and family day care educators in relation to managing medical conditions
The requirements arising if a child enrolled at the service has a specific health care need, allergy or relevant medical condition including: • requiring a parent to provide a medical management plan for the child • requiring the plan to be followed in the event of an incident relating to the child's specific health care need, allergy or relevant medical condition • requiring the development of a risk minimisation plan in consultation with the parents of a child: – to ensure that the risks relating to the child's specific health care need, allergy or relevant medical condition are assessed and minimised – if relevant, that practices and procedures in relation to the safe handling, preparation, consumption and service of food are developed and implemented – if relevant, practices and procedures are developed and implemented ensuring that the child does not attend the service without medication prescribed by the child's medical practitioner. – that practices and procedures ensuring that all staff members and volunteers can identify the child, the child's medical management plan and the location of the child's medication are developed and implemented – if relevant, that practices and procedures ensuring that the child does not attend the service without medication prescribed by the child's medical practitioner in relation to the child's specific health care need, allergy or relevant medical condition are developed and implemented • requiring the development of a communication plan to ensure that – relevant staff members and volunteers are informed about the medical conditions policy and the medical management plan and risk minimisation plan for the child – a child's parent can communicate any changes to the medical management plan and risk minimisation plan for the child and setting out how that communication can occur.

The responsibilities of providers in relation to regulation 90 are set out in the table below, including:

- communication with parents of children enrolled or enrolling at the service
- individual medical management plans for children enrolled who have a specific health care need, allergy or relevant medical condition.

Individual medical management plans can be provided by a child's parents, and may be required by the service before the child is enrolled. It is best practice for parents to consult with the child's registered medical practitioner in the development of the plan and for the medical practitioner's advice to be documented.

Responsibilities for managing medical conditions

Who	What	When
Service	Have a medical conditions policy in place that meets the requirements of regulation 90.	Ongoing
Service	Ensure a communications plan is in place to inform all staff members of the medical conditions policy.	At all times the service is in operation, with updates made whenever required (i.e. when a new child enrols at the service with a specific health care need, allergy or relevant medical condition or when changes are required to existing medical management and risk minimisation plans)
Service	Ensure all staff members, including new staff members, are made aware of any children with a health care need, allergy or relevant medical condition.	Induction Ongoing
Service	Seek information from parents about any specific health care need, allergy or medical condition, including whether a medical practitioner has been consulted in relation to a specific health care need, allergy or relevant medical condition. Ensure the medical management plan has been provided and that the risk minimisation plan has been developed and both documents are kept in the child's enrolment records.	Before a child starts at the service
Parents	Inform the service of any specific health care need, allergy or relevant medication condition for their child.	Before a child starts at the service Ongoing while the child attends the service
Service	Monitor the safety, health and wellbeing of all children being educated and cared for.	Ongoing
Service	Ensure parents are regularly asked if their child has developed a specific health care need, allergy or medical condition. And, if so, ensure relevant information is sought from parents and recorded in enrolment records.	Ongoing

Responsibilities for managing medical conditions		
Who	**What**	**When**
Service	Develop a risk minimisation plan in relation to the child, in consultation with the parents of the child.	Before the child starts at the service
Service	Ensure relevant authorisations for the administration of medication are recorded on the enrolment record.	Before the child starts at the service
Parents	Provide a medical management plan to the service for their child.	Before the child starts at the service
Parents	Participate in the development of a risk minimisation plan in relation to their child's specific health care need, allergy or relevant medical condition.	Before the child starts at the service
Service	Monitor the safety, health and wellbeing of the child and, where an incident occurs relating to a child's specific health care need, allergy or relevant medical condition, ensure the medical management plan is followed.	While the child attends the service
Service	Regularly review the risk minimisation plan for the child.	While the child attends the service
Service	Ensure parents are asked to provide any updated information relating to the nature or management of their child's specific health care need, allergies or relevant medical condition, including an updated medical management plan, if required.	While the child attends the service
Parents	Inform the service of any relevant changes relating to the nature or management of the child's specific health care need, allergy or relevant medical condition.	While the child attends the service
Parents	Provide an updated medical management plan for the child.	While the child attends the service

National Regulations

Regulation 91

If a child enrolled at the service has a specific health care need, allergy or other relevant medical condition, the parent of a child must be provided with a copy of the service's medical conditions policy.

A 'medical condition' is a condition that has been diagnosed by a registered medical practitioner (a person registered under the Health Practitioner Regulation National Law to practise in the medical profession, other than as a student). The Australian Health Practitioner Regulation Agency keeps national registers of practitioners on its website at www.ahpra.gov.au

2.9 ADMINISTRATION OF MEDICATION

National Regulations

Regulation 93

The approved provider, nominated supervisor and family day care educator must ensure that medication is not administered to a child at a service unless it is authorised and administered in accordance with the requirements of regulations 95 or 96.

Administration of medication to a child is authorised when it is recorded in the medication record for the child, or when verbal authorisation is given in an emergency (see below).

Medication record for the child

National Regulations

Regulation 92

The approved provider and family day care educator must keep a medication record for each child who has received, or will receive, medication administered by the service. This record must include authorisation to administer medication, as well as the information set out in the table below.

Medication record content
The name of the child
Authorisation to administer medication (including, if applicable, self-administration), signed by a parent or person named in the child's enrolment record as authorised to consent to administration of medication
The name of the medication to be administered
The time and date the medication was last administered
The time and date, or the circumstances under which, the medication should next be administered
The dosage of the medication to be administered
The manner in which the medication is to be administered
If the medication is administered to the child: • the dosage that was administered • the manner in which the medication was administered • the time and date the medication was administered • the name and signature of the person who administered the medication • the name and signature of the person who checked the dosage and administration (except in the case of a family day care service or service permitted to have only one educator).

Authorised administration with verbal consent

National Regulations

Regulation 93

In case of an emergency, administration of medication is authorised if verbal consent is obtained from a parent or person named in the child's enrolment record as authorised to consent to administration of medication. If this person cannot be contacted, a registered medical practitioner or medical emergency services can provide verbal consent.

If medication is administered to a child based on verbal consent from a registered

medical practitioner or medical emergency services, the approved provider must ensure written notice is given to a parent or other family member as soon as practicable.

Exception to the authorisation requirement – anaphylaxis or asthma emergency

National Regulations

Regulation 94

Medication may be administered to a child without an authorisation in the case of an anaphylaxis or asthma emergency. If this occurs, the approved provider, nominated supervisor or family day care educator must notify the parent of the child and emergency services as soon as practicable.

Procedures for administration and self-administration of medication

National Regulations

Regulation 95

Medication can only be administered:

- if it has been prescribed by a registered medical practitioner, from its original container with the original label including the name of the child for whom it is prescribed, before the expiry or use-by date, or
- from its original container, with the original label and instructions and before the expiry or use-by date, and in accordance with any instructions attached to the medication or provided by a registered medical practitioner, either verbally or in writing.

A second person must check the dosage of the medication, the identity of the child receiving the medication and witness its administration, except in the case of a family day care service or another service that is permitted to have only one educator.

Details of the administration must be recorded in the medication record.

Visit the ACECQA website at **www.acecqa.gov.au** for an (optional) template medication record.

National Regulations

Regulation 96

An approved provider may permit a child over preschool age to self-administer medication if:

- an authorisation for the child to self-administer medication is recorded in the medication record for the child, and
- the medical conditions policy of the service sets out practices in relation to self-administration of medication by children over preschool age.

Medication includes prescription, over-the-counter and complementary medicines. A service may have in place policies that restrict the types of medication that will be administered at the service.

If an authorised officer has concerns about how medication is administered at the service, they may discuss the ways in which staff are informed of procedures for administering medication, including what to do in the case of an emergency.

Approved providers can also contact their local public health department to check specific additional requirements in relation to prescribed medication that may apply in their state or territory (for example, in relation to the administration and storage of particular types of medication).

2.10 EMERGENCIES AND COMMUNICATION

National Regulations

Regulations 97, 168

Approved providers must ensure:

- policies and procedures are in place for dealing with emergencies and evacuations – the procedures must set out instructions for what must be done in the event of an emergency and an emergency and evacuation floor plan
- a risk assessment is conducted to identify potential emergencies relevant to the service
- a copy of the emergency and evacuation floor plan and instructions are displayed in a prominent position near each exit at the premises.

- (for centre-based services) emergency and evacuation procedures are rehearsed every three months the service is operating – all children, volunteers and staff members present including the responsible person must participate at the time of the rehearsal

- (for family day care services) each family day care educator rehearses every three months the service is operating, with the children present on that day

'Emergency' refers to all situations or events posing an imminent or severe risk to those present at an education and care service premises. For example, an emergency could include a fire, flood or threat that requires a service to be locked down.

> Approved providers may seek advice from their local fire brigade or emergency services authority for advice about evacuation plans and emergency exists.

Authorised officers may check compliance with the requirement to rehearse emergency and evacuation procedures by checking the service records. If the service has more than one emergency and evacuation procedure, all procedures must be rehearsed every three months.

Rehearsals should take place at various times of the day and week to ensure that everyone at the service gets the opportunity to rehearse. Services with children over preschool age should plan rehearsals to cover before and after school sessions, and vacation care.

Rehearsals must be documented. Documenting the rehearsal allows the service to reflect on its procedures and identify necessary adjustments. Records can show who has been involved in emergency rehearsals, to help ensure everyone participates regularly.

Family Day Care

In family day care services, this could be demonstrated by the family day care educator recording that they advised the service the rehearsals were completed and issues identified have been addressed. For example, if the educator cares for a number of infants and the residence is in a multi-storey dwelling, how this is managed.

2.11 TELEPHONE OR OTHER COMMUNICATION EQUIPMENT

National Regulations

Regulation 98

The nominated supervisor and staff members must have ready access to an operating telephone or other similar means of communication to enable immediate communication to and from parents and emergency services. This requirement continues to apply when children are on an excursion or regular outing.

The communication device must be capable of making and receiving calls without interruption or delay and can include fixed-line telephone, mobile phone, satellite phone, two-way radio, or video conferencing equipment.

Where a fixed-line telephone or mobile phone is used, a direct number to and from the service must be available to parents and emergency services for immediate contact at all times that children are attending the service. Telephone numbers of emergency services should also be placed near each means of communications. The approved provider should consider how educators can access the means of communications without having to leave children unsupervised.

2.12 COLLECTION OF CHILDREN FROM PREMISES

National Regulations

Regulation 99, 161
Sections 165, 167

The approved provider, nominated supervisor and family day care educator must make sure that a child being educated and cared for by the service does not leave the premises except where the child:

- is given into the care of a parent, an authorised nominee named in the child's enrolment record or a person authorised by a parent or authorised nominee, or
- leaves in accordance with the written authorisation of the child's parent or authorised nominee, or
- is taken on an excursion with written authorisation from a parent or authorised nominee, or
- is given into the care of a person or taken outside the premises because the child requires medical, hospital or ambulance care or treatment, or because of another emergency.

'Parent' includes a guardian of the child and a person who has parental responsibility for a child under a decision or order of a court. It does not include a parent prohibited by a court order from having contact with the child.

An approved provider can restrict a nominated person from collecting a child, for example if the service's policy does not allow children to be collected by a person under 16 of age.

Where authorised officers are concerned there may be non-compliance with this requirement, they should consider the policies and procedures in place at the service in relation to the delivery and collection of children, and the acceptance and refusal of authorisations required under regulation 168. This can assist the authorised officer determine whether the problem relates to implementing good practice, or whether there are broader issues with awareness and understanding of the requirement.

2.13 EXCURSIONS

National Regulations

Regulations 99–100
Section 167

Approved providers, nominated supervisors and family day care educators must ensure a risk assessment is carried out before children are taken on an excursion. Authorisation must also be obtained from parents and authorised nominees.

A risk assessment is not required if the excursion is a regular outing and a risk assessment was conducted less than 12 months before the excursion takes place, and there has been no change in circumstances.

Family Day Care

A change in circumstance in a family day care service for example, could be when additional children attend, or there is a change in the location. Risks should be evaluated for each of the excursion to consider all relevant risks and how they are minimised. A risk assessment should not be completed for school runs, parks and the local library all at once.

Ratios need to be considered across the group of children and educators attending the excursion. If two educators are going to the same destination at the same time with FDC children and have named the other educator as a support person, the ratio of all children attending needs to be considered in the risk assessments submitted by each educator.

An excursion does not include an outing organised by a service on a school site if the children leave the premises in the company of an educator and do not leave the school site. For example, a preschool group visiting the library within their school site, is not considered an excursion or regular outing.

Ratios and maximum number of children

An approved provider must ensure the maximum number of children is not exceeded during excursions.

Although the National Regulations does not specify a higher educator to child ratio for excursions, children must be adequately supervised at all time. A thorough risk assessment should determine whether the minimum ratios are sufficient to provide adequate supervision while attending an excursion.

Risk assessment

National Regulations

Regulation 101

Risk assessments must identify and assess risks that the excursion may pose to the safety, health or wellbeing of any child taken on the excursion, and specify how the identified risks will be managed and minimised. A risk assessment must include assessment of the matters set out below.

Matters that must be considered in a risk assessment
The proposed route and destination for the excursion
Any water hazards
Risks associated with water-based activities
Transport to and from the destination
The number of adults and children involved in the excursion
The number of educators or other responsible adults appropriate to provide supervision and whether any adults with specialised skills are required
Proposed activities
Proposed duration of the excursion
The items that should be taken on the excursion.

National Regulations

Regulations 102, 161

Authorisation for excursions

Authorisation must be given by a parent or other person named in the child's enrolment record as having authority to authorise taking the child outside the premises. The authorisation must state the information listed below.

If the excursion is a regular outing, the authorisation is only required to be obtained once in a 12 month period. Authorisations need to be kept on the child's enrolment record.

Information that must be included in an authorisation for an excursion
The child's name
The reason the child is to be taken outside the premises
The date the child is to be taken on the excursion (unless the excursion is a regular outing)
A description of the proposed destination for the excursion
The method of transport to be used for the excursion
The proposed activities to be undertaken by the child during the excursion
The period the child will be away from the premises
The anticipated number of children likely to be attending the excursion
The anticipated educator-to-child ratio for the excursion
The anticipated number of staff members and any other adults who will accompany and supervise the children on the excursion
That a risk assessment has been prepared and is available at the service.

Visit the ACECQA website for an optional excursion risk management plan template at www.acecqa.gov.au.

Visiting the proposed excursion destination may assist in identifying availability of toilets, hand washing, drinking and shade facilities, mobile phone coverage and access for emergency services.

2.14 RESPONSIBILITIES OF THE APPROVED PROVIDER, NOMINATED SUPERVISOR AND FAMILY DAY CARE EDUCATOR

Requirement	Approved provider	Nominated supervisor	Family day care educator	Offence	Infringement notice	Compliance direction	Waiver*
Precautions to be taken to protect children from harm or hazards (section 167)	✔	✔	✔	✔			
Health, hygiene and safe food practices (regulation 77)	✔	✔	✔	✔		✔	
Food and beverages (regulation 78)	✔	✔	✔	✔		✔	
Service providing food and beverages (regulation 79)	✔	✔	✔	✔		✔	
Weekly menu (regulation 80)	✔	✔	✔	✔		✔	
Sleep and rest (regulation 81)	✔	✔	✔	✔		✔	
Tobacco, drug and alcohol free environment (regulation 82)	✔		✔	✔		✔	
Staff members and family day care educators not to be affected by alcohol or drugs (regulation 83)	✔	✔	✔	✔		✔	
Awareness of child protection law (regulation 84)	✔			✔		✔	
Incident, injury, trauma and illness policies and procedures (regulation 85)	✔						
Notification to parents of incident, injury, trauma and illness (regulation 86)	✔			✔			
Incident, injury, trauma and illness record (regulation 87)	✔		✔				
Infectious diseases (regulation 88)	✔			✔			
First aid kits (regulation 89)	✔		✔	✔		✔	
Medical conditions policy (regulation 90)	✔						
Medical conditions policy to be provided to parents (regulation 91)	✔					✔	
Medication record (regulation 92)	✔		✔				

Requirement	Approved provider	Nominated supervisor	Family day care educator	Offence	Infringement notice	Compliance direction	Waiver*
Administration of medication (regulation 93)	✔	✔	✔	✔			
Exception to authorisation requirement – anaphylaxis or asthma emergency (regulation 94)	✔	✔	✔				
Procedure for administration of medication (regulation 95)	✔						
Self-administration of medication (regulation 96)	✔						
Emergency and evacuation procedures (regulation 97)	✔			✔		✔	
Telephone or other communication equipment (regulation 98)	✔			✔		✔	
Children leaving the education and care service premises (regulation 99)	✔	✔	✔	✔			
Risk assessment must be conducted before excursion (regulation 100)	✔	✔	✔	✔			
Conduct of risk assessment for excursion (regulation 101)	✔	✔	✔				
Authorisation for excursions (regulation 102)	✔	✔	✔	✔			

* Waivers do not apply to any of these requirements.

2.15 USEFUL CONTACTS

Food authorities		
State or territory	**Authority**	**Website**
Australian Capital Territory	ACT Health Health Protection Service	health.act.gov.au
New South Wales	NSW Food Authority	foodauthority.nsw.gov.au
Northern Territory	NT Department of Health Environmental Health	health.nt.gov.au
Queensland	Qld Health Food Safety Policy and Regulation Unit	health.qld.gov.au
South Australia	Department of Health Food Policy and Programs Branch	sahealth.sa.gov.au
Tasmania	Department of Health and Human Services Food Unit	dhhs.tas.gov.au
Victoria	Food Safety and Regulation	health.vic.gov.au (Note: providers in Victoria need to contact their local council for food business registration)
Western Australia	WA Department of Health Environmental Health, Food Unit	public.health.wa.gov.au

Public health units		
State or territory	**Authority**	**Website**
Australian Capital Territory	ACT Health Health Protection Service, Communicable Disease Control	health.act.gov.au
New South Wales	NSW Health – Public Health Division	health.nsw.gov.au
Northern Territory	NT Department of Health Centre for Disease Control	health.nt.gov.au
Queensland	Qld Health – Communicable Diseases Branch	health.qld.gov.au
South Australia	SA Health – Communicable Disease Control Branch	sahealth.sa.gov.au
Tasmania	Department of Health and Human Services Public and Environmental Health Service	dhhs.tas.gov.au
Victoria	Vic Department of Health, Communicable Disease and Prevention Unit	health.vic.gov.au
Western Australia	WA Department of Health, Communicable Disease Control Directorate	public.health.wa.gov.au

State and territory working with children screening units		
State or territory	**Authority**	**Website**
Australian Capital Territory	ACT Chief Minister, Treasury and Economic Development Directorate	accesscanberra.act.gov.au
New South Wales	New South Wales Office of the Children's Guardian	kidsguardian.nsw.gov.au
Northern Territory	Northern Territory Government	nt.gov.au/emergency/community-safety
Queensland	Queensland Blue Card Services	bluecard.qld.gov.au
South Australia	South Australia Screening Unit of the Department for Communities and Social Inclusion (DCSI)	screening.dcsi.sa.gov.au
Tasmania	Tasmania Department of Justice	www.justice.tas.gov.au/working_with_children
Victoria	Victoria Justice and Regulation	workingwithchildren.vic.gov.au
Western Australia	Western Australia Department of Communities	workingwithchildren.wa.gov.au

QUALITY AREA 3
PHYSICAL ENVIRONMENT

3.1 HARM AND HAZARDS

National Law

Section 167

Every reasonable precaution must be taken to protect children from harm or hazards that could cause an injury.

This section provides information about the types of things authorised officers may consider when examining whether every reasonable precaution has been taken to protect children from harm and hazards. It is not an exhaustive list, and should be treated as guidance only.

Protecting children is relevant to every aspect of the service, not just the physical environment.

3.2 OUTDOOR SPACE REQUIREMENTS

National Regulations

Regulation 108

Minimum outdoor space calculations

Note: This regulation only applies to centre-based services and family day care venues (not residences).

The service premises must have at least seven (7) square metres of unencumbered outdoor space for each child being educated and cared for at the service.

Areas such as pathways, thoroughfares, car parks and storage sheds or any other space that is not suitable for children cannot be counted as outdoor space.

The area of a verandah included in calculating the area of indoor space cannot be included in calculating the area of outdoor space.

An area of unencumbered indoor space may be included in calculating the outdoor space of a service that provides education and care to children over preschool age if the regulatory authority has given written approval and this space has not already been included in calculating the indoor space – that is, it cannot be counted twice.

Outdoor space requirements do not apply to a child or children being educated and cared for by the service in the case of an emergency.

Authorised officers may check:

- that outdoor space is usable by children and does not include areas that, if used, would pose an unacceptable risk of harm to children
- that the outdoor space reflects the building plans when visiting the service.

See *Applications and Approvals* for information about approval of indoor space to be included as outdoor space.

3.3 SWIMMING POOLS AND OTHER WATER HAZARDS

National Regulations

Regulations 25–26, 116

Centre-based services: A copy of the service's proposed water safety policy must be included in the application for service approval if there is a swimming pool or other water hazard.

Family day care residences or venues: A copy of the service's proposed water safety policy must be included in the application for service approval if the approved provider permits a residence or venue with a swimming pool or something that may constitute a water hazard.

The existence of any water hazards, water features or swimming pool at or near the residence or venue needs to be considered as part of the assessment of each residence and approved family day care venue, prior to education and care being provided and at least annually.

Authorised officers may look at what reasonable precautions are taken to protect children from harm and hazard posed by a swimming pool on the service premises. Authorised officers are not responsible for ensuring state and territory legislation in respect of swimming pools and pool fencing is complied with, but may request information about this from the approved provider.

3.4 FENCING

National Regulations

Regulation 104

Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children of preschool age or under cannot go through, over or under. Fencing requirements do not apply to centre-based services that primarily educate and care for children over preschool age. Fencing requirements also do not apply to family day care residences or venues if all the children being educated and cared for at that residence or venue are over preschool age.

When considering whether the service 'primarily' educates and cares for children over preschool age, authorised officers may consider the following factors:

- the percentage of children who are enrolled and, if the information is available, who attend, the education and care service who are over preschool age
- the operating hours of the service – operating mostly or solely out of school hours may indicate the service 'primarily' educates and cares for school age children
- service advertising – advertising education and care for school age children may indicate the service primarily provides education and care to school age children.

Authorised officers may:

- discuss with the approved provider the design of the fence. Where possible, fencing should allow children to view the outside world but ensure a child's safety by reducing opportunities to escape. Allowing children to see the outside world enables children to make connections with the activities of their local community. It also supports the development of long-range vision.

- consider the height and design of the fence does not allow children preschool age or under to scale the fence, burrow under it, or squeeze through any gaps.
- look at the design and maintenance of the fence in relation to outdoor play equipment and other materials in the environment to ensure that children are unable to get a foothold and climb over the fence. For example, an overhanging tree or tree stump may be used as leverage to get over the fence.

Approved providers may refer to the Australian Standards about fencing and seek advice from their local fire services authority about emergency exits.

National Regulations

Regulations 248–250

General transitional provisions – fencing

Centre-based services

Regulation 104 does not apply:

- to a centre-based service delivering a preschool program in a school and in a class where a full-time education program is also being delivered to school children
- to a declared approved service, if the service did not comply with regulation 104 on 1 January 2012 (1 August 2012 in WA) and was not required to comply with a similar requirement immediately before that day.

Regulation 104 applies:

- to a declared approved service when the premises are renovated or the service approval is transferred under section 58 of the National Law.

Family day care

Regulation 104 does not apply:

- to a declared approved family day care service if the family care residence or declared approved family day care venue did not comply with regulation 104 on 1 January 2012 (1 August 2012 in WA) and was not required to comply with a similar requirement immediately before that day.

Regulation 104 applies:

- to the declared approved family day care service in respect of a family day care residence or approved family day care venue once the premises are renovated or the family day care educator is no long registered or engaged by the service.

3.5 NATURAL ENVIRONMENT

National Regulations

Regulation 113

Outdoor spaces must allow children to explore and experience the natural environment. The outdoor space may include gardens, sandpits and dirt patches, pebble/gravel pits, edible plants, shady trees, worm farms, compost areas, and water play areas. Approved providers may bring in logs, rocks, hay bales, tree stumps and potted plants to achieve natural environment requirements. This does not mean that all artificial grass and artificial features are unsuitable, rather that there is appropriate access for children to interact with the natural environment and natural vegetation.

Authorised officers may talk to the approved provider about using natural elements that reflect the local natural environment. Allergies and other health and safety issues should be considered by the approved provider when creating and maintaining the natural environment.

3.6 SHADE

The approved provider must ensure adequate shading over areas for both active and passive outdoor play. Shade may be provided by large trees, heavy shade cloths and solid roofs.

National Regulations

Regulation 168

In determining what level of shade is 'adequate', authorised officers will consider whether there is enough shade for the number of children at the service.

The approved provider must ensure policies and procedures are in place in relation to sun protection.

National Regulations

Regulations 248, 249

General transitional provisions – shade

Regulation 114 does not apply:

- to a centre-based service delivering a preschool program in a school and in a class where a full-time education program is also being delivered to school children
- to a declared approved service, if the service did not comply with regulation 114 on 1 January 2012 (1 August 2012 in WA) and was not required to comply with a similar requirement immediately before that day.

Regulation 114 applies:

- to a declared approved service once the premises are renovated or the service approval is transferred under section 58 of the National Law.

Visit Cancer Council Australia for advice on natural and constructed share options specific to each state and territory, and recommended sun protection policies and practices at www.cancer.org.au.

National Regulations

Regulation 115

Premises designed to enable supervision

The approved provider of a centre-based service must ensure that the premises (including toilets and nappy change facilities) are designed and maintained in a way that enable supervision of children at all times they are being educated and cared for, having regard to the need to maintain the rights and dignity of the children.

Authorised officers may look at all design elements, including the use of windows and partitions. For example, low toilet partitions in bathrooms used by young children will maintain privacy while allowing supervision to be maintained.

In services that educate and care for children over preschool age, it is not intended that educators be able to view children while they are using the toilet.

For sleep rooms, supervision windows should be kept clear and not painted over or covered with curtains or posters.

If the authorised officer has concerns about the design of the premises, they may discuss with the approved provider what strategies are in place to work around design issues and to ensure adequate supervision is maintained at all times.

Authorised officers may talk to the approved provider about how the design of the premises guides educators in deciding where to position themselves to ensure their ability to supervise children.

National Regulations

Regulations 248, 249

General transitional provisions – supervision

Regulation 115 does not apply to a centre-based service delivering a preschool program in a school and in a class where a full-time education program is also being delivered to school children.

Centre-based services

Regulation 115 does not apply:

- to a centre-based service delivering a preschool program in a school and in a class where a full-time education program is also being delivered to school children
- to a declared approved service, if the service did not comply with regulation 115 on 1 January 2012 (1 August 2012 in WA) and was not required to comply with a similar requirement immediately before that day.

Regulation 115 applies:

- to declared approved services when the premises are renovated or the service approval is transferred under section 58 of the National Law.

It does not apply if the renovation is in an area not being used for the education and care of children, whether or not it is used to operate the service.

3.7 INDOOR SPACE REQUIREMENTS

National Regulations

Regulation 107

NSW WA SA TAS

Note: This regulation only applies to centre-based services and family day care venues (not residences).

The service premises must have at least 3.25 square metres of unencumbered indoor space for each child being educated and cared for at the service.

Areas such as passageways, bathrooms and nappy change areas, bottle preparation areas, space set aside for the use or storage of cots, staff or administrative rooms, storage areas and any space not suitable for children are not counted as unencumbered play space. The area of a kitchen is not counted as unencumbered space unless it is primarily used by children as part of an educational program.

The area of a verandah may be included in calculating the area of indoor space with the written approval of the regulatory authority (see *Applications and Approvals*). A verandah that is included in calculating the area of outdoor space cannot be included in calculating the area of indoor space.

Indoor space requirements do not apply to centre-based services with respect to a child or children who are being educated and cared for in an emergency (see *Operational Requirements – Staffing arrangements*).

Indoor space must be exclusively available to the education and care service at the time it is operating – not shared with other ad hoc care facilities or schools, if it is included in the required indoor space.

Where authorised officers are trying to determine whether the kitchen is primarily used by children as part of an educational program, they may consider the following factors:

- is the kitchen established as an educational space, i.e. is it set up with educational equipment suitable for children?
- is the kitchen safe for use by children, i.e. are knives and electrical equipment out of reach of children?
- is the kitchen used to prepare food for children, i.e. is a cook using the kitchen to prepare children's meals?
- what proportion of the operating hours of the service is the kitchen used in delivering the educational program, i.e. is the kitchen used every day or for one hour a week?

Furniture in home corners, mobile open shelving offering toys and equipment directly to children, and chairs and tables, are not considered to encumber the play space, as they are an integral part of children's play and are moveable.

Indoor space is calculated on total unencumbered space available, not room by room.

3.8 VENTILATION AND NATURAL LIGHT

National Regulations

Regulation 110

Indoor spaces must be well ventilated, have adequate natural light and be maintained at a temperature that ensures the safety and wellbeing of children.

Natural ventilation can be provided by open windows and doors. If natural ventilation is insufficient or not possible, indoor space may be ventilated with an air conditioning system. Natural light may be let in through windows, doors and skylights.

Indoor temperatures should be maintained at levels that keep children visibly comfortable. Consideration should be given to ambient temperatures and children and educator response to the temperature. Children are more likely to show signs of distress at high temperatures rather than low ones.

Visit RedNose for information on the appropriateness of temperatures for sleeping rooms at **www.rednose.com.au**.

3.9 GLASS

National Regulations

Regulation 117

If a glazed area of a family day care residence or approved venue is accessible to children and situated at or below the height specified by Australian Standard 1288-2006, the following is required:

- safety glazing if required by the Building Code of Australia, or
- treatment with a product that prevents glass from shattering if broken (such as safety film), or guarding with barriers that prevent a child from hitting or falling against the glass.

For residences or venues approved before 1 June 2014, the above requirements apply where the glazed area is situated 0.75 metres or less above floor level.

Visit Kid Safe Australia for more information on safety at **www.kidsafe.com.au**.

3.10 ADMINISTRATIVE SPACE

National Regulations

Regulation 111

The approved provider of a centre-based service must ensure that there is adequate administrative space to conduct the administrative functions of the service, consult with parents, and conduct private conversations.

A separate room is not required, but space must be set aside for administrative purposes.

Authorised officers may talk to the approved provider about providing areas for the preparation of educational programs and educator, other staff, and volunteer breaks. This is not a legislative requirement under the National Law and Regulations but it is recommended. There are industrial conditions about break areas in some states and territories. Authorised officers are not responsible for checking compliance with industrial conditions.

3.11 TOILET AND HYGIENE FACILITIES

National Regulations

Regulation 109

The approved provider must take reasonable steps to ensure that the service provides education and care to children in a way that maintains at all times, the dignity and rights of each child (see regulation 155). This includes when children are using toilets.

Adequate, developmentally and age-appropriate toilet, washing and drying facilities must be provided. The location and design of the toilet, washing and drying facilities must enable safe use and convenient access by children.

When considering whether the facilities enable convenient access by children, authorised officers may look at whether:

- fixtures and joinery (for example, taps) can be comfortably reached and used by children
- there are enough toilets for the number of children at the service (children should not be required to wait, more than occasionally, to use the toilet)
- children can get to a toilet from both inside and outside the service reasonably quickly.

In some services catering for children preschool age or under, a potty or over-toilet seat may be appropriate. If the toilets and hand washing facilities are not designed for use by young children, there should be appropriate mechanisms in place to support children's access to toilet and hand washing, for example, stable steps.

If potties are used, see the National Health and Medical Research Council (NHMRC) publication *Staying Health: Preventing infectious diseases in early childhood education and care services* for best practice information at www.nhmrc.gov.au.

3.12 NAPPY CHANGE FACILITIES

National Regulations

Regulation 112

Note: This regulation applies to centre-based services that educate and care for children who wear nappies.

Adequate and appropriate facilities must be provided for safe and hygienic changing and disposal of nappies.

If any children are under three years of age, there must be at least one sturdy, properly constructed nappy changing bench.

Adequate hand cleansing facilities for adults must be available in the vicinity of the nappy change area.

Nappy change facilities must be designed, located and maintained in a way that prevents unsupervised access by children. A half door or child-proof gate may be used to prevent unsupervised access.

In checking whether there is an adequate number of nappy change tables, authorised officers may consider the number of children wearing nappies. There

should be a sufficient number to ensure children's needs are being met in a respectful, appropriate and timely manner.

See the National Health and Medical Research Council (NHMRC) publication *Staying Health: Preventing infectious diseases in early childhood education and care services* for information on hygienic nappy change and hand washing practices at www.nhmrc.gov.au.

3.13 LAUNDRY AND HYGIENE FACILITIES

National Regulations

Regulation 106

Services must have, or have access to, laundry facilities or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering, that are adequate and appropriate for the needs of the service. The laundry and hygiene facilities must be located and maintained in a way that does not pose a risk to children.

If there is no laundry on the service premises, authorised officers may look at whether arrangements are in place at the service for dealing with soiled clothing, nappies and linen.

See the National Health and Medical Research Council (NHMRC) publication *Staying Health: Preventing infectious diseases in early childhood education and care services* for information on hygienic nappy change and hand washing practices at www.nhmrc.gov.au.

3.14 PREMISES, FURNITURE, MATERIALS AND EQUIPMENT

National Regulations

Regulation 103

Safe, clean and in good repair

The premises and all equipment and furniture used in providing the education and care service must be safe, clean and in good repair. This requirement only applies to the part of a family day care service that is used to provide education and care.

When looking at family day care services, authorised officers will only examine the part of a family day care residence or venue that is used for education and care, including looking at how the approved provider ensures children are prevented from accessing other areas of the premises.

Authorised officers may talk to approved providers about using appropriate furniture to assist in minimising accidents and enhance the development of independence, confidence and self-esteem in children. They may suggest approved providers consider the surface, corners, weight and stability of furniture and equipment used. For example, very young children should be provided with chairs that support the child to sit safely, rather than a backless stool.

Use of soft fall under equipment

Any impact-absorbing surface provided under or around equipment for children's use should comply with relevant Australian/New Zealand Standards relating to playground surfacing specifications.

There is no one ideal impact absorbing surface. Authorised officers with concerns may talk to the approved provider about how they chose the soft fall material. The approved provider should be able to demonstrate the fall height, geographical and climatic conditions and maintenance were considered.

Approved providers should be able to obtain information from the supplier of the equipment or surfacing material about compliance with Australian/New Zealand Standards.

National Regulations

Regulation 106

Storage of any harmful cleaning or similar products

Laundry or hygiene facilities on the service premises must be located and maintained in a way that does not pose a risk to children. If laundry facilities are located in areas which children can access, the authorised officer may discuss with the approved provider what steps are being taken at the service to keep hazardous materials out of reach of children. For example chemicals, soiled clothing, nappies, and linen should be stored where children cannot access them. This also applies to the laundry of a family day care residence which may be a thoroughfare to the backyard.

Visit the Children's Hospital at Westmead Kids Health webpage for fact sheets on children's safety (**www.kidshealth.schn.health.nsw.gov.au**).

3.15 SUFFICIENT FURNITURE, MATERIALS AND EQUIPMENT

National Regulations

Regulation 105

Each child must have access to sufficient furniture, materials and developmentally appropriate equipment suitable for the education and care of that child.

Sufficient furniture, materials and appropriate equipment must be available to meet the range of interests, ages and abilities of all children, to avoid overcrowding and ensure children do not have to wait for long periods to participate. There should be sufficient resources to support the implementation of the educational program and the participation of all children in the program.

Authorised officers may also consider whether there are enough cots or other appropriate bedding to cater for young children attending the service; suitable storage, play mats, soft toys, and changing tables.

3.16 ASSESSMENTS OF FAMILY DAY CARE RESIDENCES AND APPROVED FAMILY DAY CARE VENUES

National Law & Regulations

Regulation 116
Section 47

The approved provider of a family day care service must conduct an assessment (including a risk assessment) of each proposed residence and approved family day care venue of the service before education and care is provided to children at the residence or venue, to ensure that the health, safety and wellbeing of children is protected. This initial assessment is conducted before the approved provider applies for a service approval.

If the application for service approval or amendment of service approval includes a request for approval of a proposed venue, the approved provider must include their initial assessment as part of the application. Regulatory authorities must have regard to the suitability of the proposed venue, and the site and location of those premises, when determining an application for service approval for a venue. Regulatory authorities may also have regard to the suitability of the proposed venue when determining an application for amendment of service approval.

In addition, when determining a request for approval of a proposed venue, regulatory authorities consider whether exceptional circumstances exist for the family day care service to operate at the venue (see *Applications for service approval including request for approval of a family day care venue*).

After the initial assessment, the approved provider must conduct assessments at least annually. Failure to conduct a required assessment attracts a penalty of $2000.

The matters listed below must also be considered as part of an assessment.

Matters that must be considered in an assessment of a family day care residence or venue
The safety, cleanliness and repair of premises, furniture and equipment
Fencing
The sufficiency of furniture, materials and equipment
Adequate laundry facilities or other arrangements for dealing with soiled clothing, nappies and linen
Adequacy of toilet, washing and drying facilities
Adequacy of ventilation, natural light
Glass safety issues
The suitability of the residence or venue according to the number, ages and abilities of the children who attend or are likely to attend the service
The suitability of nappy change arrangements for children who wear nappies
The existence of any water hazards, water features or swimming pools
Any risk posed by animals
Space requirements (3.25m² of indoor space and 7m² of outdoor space for each child) – venues only.

The approved provider must require each family day care educator to advise them of:

- any proposed renovations to the residence or venue
- any changes in their residence or venue that may affect the matters considered as part of the assessment of the premises
- any other changes to the residence or venue that will affect the education and care provided to children as part of the family day care service.

Under the National Law, a family day care residence is a residence at which children are educated and cared for by a family day care educator as part of a family day care service. A residence is defined as the habitable areas of a dwelling.

The approved provider must also have a policy and procedure on the assessment of proposed family day care venues and residences, as well as reassessment of approved venues and residences (regulation 169), that ensures that venues are suitable for the education and care of children and support their safety, health and wellbeing.

Assessing the suitability of a family day care venue

In addition to the matters that must be considered as part of an assessment (listed in the table above), the approved provider should have regard to the following additional matters when considering the suitability of a proposed venue:

- whether the venue meets the operational requirements under the National Law and National Regulations
- whether the venue:
  - ensures the safety, health and wellbeing of children attending the service
  - promotes the rights and best interests of each child
  - improves the educational and developmental outcomes for children attending the service (as per objectives and guiding principles of the National Law, section 3)
- any relevant local planning, development and building laws (administered by the local authority).

Consideration of local planning, development and building laws

Any building proposed to be used as a family day care venue must comply with relevant planning and development requirements imposed by the local authority (for example, local council). Requirements can depend on the local authority but typical considerations may include matters not set out in the National Regulations, such as:

- specific ratios for car spaces
- maximum land lot sizes
- maximum allowable occupancy rates
- hours and days of operation.

The approved provider should contact their local authority for information about any requirements that may apply to the building they are seeking to use as a family day care venue, including for example, classification of buildings under the *Building Code of Australia*.

3.17 RESPONSIBILITIES OF THE APPROVED PROVIDER, NOMINATED SUPERVISOR AND FAMILY DAY CARE EDUCATOR

Requirement	Approved provider	Nominated supervisor	Family day care educator	Offence	Infringement notice	Compliance direction	Waiver
Premises, furniture and equipment to be safe, clean and in good repair (regulation 103)	✔			✔		✔	
Fencing (regulation 104)	✔			✔		✔	✔
Access to sufficient furniture, materials and developmentally appropriate equipment (regulation 105)	✔					✔	
Laundry and hygiene facilities (regulation 106)	✔					✔	
Space requirements – indoor space (regulation 107)	✔			✔		✔	✔
Space requirements – outdoor space (regulation 108)	✔			✔		✔	✔
Toilet and hygiene facilities (regulation 109)	✔						
Ventilation and natural light (regulation 110)	✔			✔		✔	✔
Administrative space (regulation 111)	✔					✔	✔
Nappy change facilities (regulation 112)	✔			✔		✔	✔
Outdoor space – natural environment (regulation 113)	✔					✔	✔
Outdoor space – shade (regulation 114)	✔			✔		✔	✔
Premises designed to facilitate supervision (regulation 115)	✔					✔	✔
Assessments of family day care residences and approved family day care venues (regulation 116)	✔			✔		✔	
Glass (regulation 117)	✔					✔	✔

QUALITY AREA 4
STAFFING ARRANGEMENTS

The approved provider and nominated supervisor have responsibilities under the National Law and Regulations to ensure the service meets minimum staffing arrangements including:

- a responsible person – appointed to oversee the day-to-day operation of a service
- qualifications – staffing arranged to meet early childhood teaching, diploma and certificate III qualifications, school age care qualifications, as well as first aid, anaphylaxis and emergency asthma management training and child protection
- educator to child ratios – minimum number of educators working directly with children
- an educational leader – suitably qualified and experienced educational leader/s to lead the implementation of the educational program
- a family day care co-ordinator – suitably qualified person to support family day care educators.

See a summary of responsibilities and qualification and ratio requirements at the end of this chapter.

4.1 RESPONSIBLE PERSON

4.1.1 RESPONSIBLE PERSON

National Law

Sections 161, 162, 164

The approved provider must ensure that a responsible person is present at a centre-based service all times that the service is educating and caring for children. A responsible person is:

- the approved provider or a person with management or control
- a nominated supervisor
- a person in day-to-day charge of the service.

In a family day care service, the responsible person must be available to provide support to family day care educators. This includes being available to be contacted by telephone to provide advice and assistance to a family day care educator.

The approved provider may nominate a person to be a nominated supervisor if they meet certain requirements (see *Responsibilities of the approved provider in nominating a nominated supervisor*, below).

The approved provider or a nominated supervisor may appoint a person to be in day-to-day charge of a service if they meet certain requirements (see *Person in day-to-day charge of a service* below).

4.1.2 RESPONSIBILITIES OF THE APPROVED PROVIDER IN NOMINATING A NOMINATED SUPERVISOR

National Law & Regulations

Sections 161, 161A
Regulation 117C

An approved service must have at least one nominated supervisor. The nominated supervisor must provide written consent to the nominated supervisor nomination. For more information on nominated supervisor requirements, see *Applications and Approvals – Application for service approval.*

It is an offence for an approved provider to nominate a person to be a nominated supervisor if they do not meet prescribed minimum requirements.

> From 1 October 2017, current nominated supervisors who have previously consented to the role and been notified to the regulatory authority, do not need to provide consent again to continue in this role if the approved provider considers they continue to be suitable.

National Regulations

Regulation 117C

Minimum requirements to be a nominated supervisor

To be a nominated supervisor the person must:

- be at least 18 years of age
- have adequate knowledge and understanding of the provision of education and care to children
- have the ability to effectively supervise and manage an education and care service.

In determining whether to nominate a person as the nominated supervisor, the approved provider must consider:

- the history of the person's compliance with:
  - the National Law
  - a former education and care services law
  - a children's services law
  - an education law
- any decision under the National Law, or any other children's services or education law, to refuse, refuse to renew, suspend, or cancel a licence, approval, registration, certification or other authorisation granted to the person.

Guidance for approved providers in nominating a nominated supervisor

An approved provider must assess if a person meets the minimum requirements (above) before they nominate the person to be a nominated supervisor.

The approved provider should also consider if the person has adequate knowledge and understanding of the provision of education and care and the ability to effectively supervise and manage a service (see below).

Adequate knowledge and understanding

The approved provider should consider the person's qualifications, skills and work experience in determining if the person has adequate knowledge and understanding of the provision of education and care of children.

The approved provider may consider the following types of evidence against this requirement:

- a supervisor certificate previously issued to the person under the National Law, including any conditions which were imposed on the supervisor certificate
- a resumé detailing the person's position, duties, duration of employment and their employer's details
- a written reference from an employer that addresses the person's knowledge and understanding of the provision of education and care to children
- transcripts demonstrating completion of an education and care qualification. For example, evidence of completing an approved diploma level education and care qualification may indicate that the person has adequate knowledge and understanding of the provision of education and care to children.

Approved providers may also consider any other type of evidence that satisfies them of the person's adequate knowledge and understanding of the provision of education and care to children.

Ability to effectively supervise and manage an education and care service

Under the National Regulations a nominated supervisor must have the ability to effectively supervise and manage a service. A person may meet the requirement even if they do not have experience managing a service. For example, the approved provider may

determine the person has the required ability if they have management experience at other service types, or in related sectors.

The approved provider should consider how a person's skills and experience contribute to their ability to manage a service in accordance with the National Law and Regulations. This may include consideration of a person's:

- knowledge of, and ability to apply, practices that help ensure the education and care needs of children are met
- knowledge of, and ability to apply, practices that help ensure a service complies with the National Law and Regulations
- skills in managing relationships with staff and families at the service.

Approved providers may consider the following types of evidence for this requirement, as well as any other type of evidence of a person's management ability:

- a supervisor certificate previously issued to the person under the National Law and any conditions which were imposed on the certificate
- a resumé detailing their position, duties, duration of employment and their employer's details
- a written reference from an employer that addresses the person's management ability
- transcripts or a certificate of attainment, demonstrating completion of units of study or professional development that are relevant to supervising or managing an education and care service. For example, courses or units that relate to staff management or managing an education and care service in accordance with the National Law and Regulations.

Child protection

Each nominated supervisor and person in day-to-day charge must have completed the child protection training (if any) required in their state or territory.

See *Quality Area 2 – Children's Health and Safety* for more information on child protection training.

Record keeping

Information used to assess a person's suitability to be a nominated supervisor should be kept as evidence on file. This may include records of reference checks, declarations, copies of qualifications or course completion certificates.

If the prospective nominated supervisor is a new employee to the service, the provider should conduct thorough checks of the person's references, including their current and previous employers. Each referee should be asked if they are aware of any compliance action under the National Law or any other law in relation to the candidate. Referee responses should be recorded and kept on file.

This evidence will help demonstrate the approved provider has taken reasonable steps to comply with requirements under the National Law. This evidence does not need to be submitted to the regulatory authority.

A template declaration form that prospective nominated supervisors can complete to help gather information about these matters is available at *Appendix B* in *Operational Requirements*. A template prohibition notice declaration for prospective staff members is also available at *Appendix A*. Visit the ACECQA website to download these forms (www.acecqa.gov.au).

After the nomination

If the approved provider becomes aware of a matter or incident which affects the ability of the nominated supervisor to meet the minimum requirements for that position, they should consider if it is appropriate to remove the person from their position as nominated supervisor.

For example, if the provider becomes aware the nominated supervisor has had compliance action against them, they should reassess if that person is still suitable to be in the position.

See *Governance and leadership* for more information on notifying the regulatory authority about changes to nominated supervisors or persons in day-to-day charge.

4.1.3 PERSON IN DAY-TO-DAY CHARGE OF A SERVICE

National Law & Regulations

Sections 5(1), 162
Regulation 117A. 117B

The approved provider or a nominated supervisor may place a person in day-to-day charge (PIDTDC) of a service. A PIDTDC of the service is the point of contact for parents and staff and must meet minimum requirements to be appointed to the role (see below).

The person must give written consent to being a PIDTDC.

If a person was previously a certified supervisor, and they provided their written consent to be in day to day charge of a service, they can be taken to have provided written consent to being a PIDTDC. In this instance, the person does not need to provide written consent to being a PIDTDC, unless the person stopped being a certified supervisor in day to day charge of the service before supervisor certificates were removed from the National Law and Regulations on 1 October 2017.

A PIDTDC is a responsible person under section 162 of the Law. A service does not need to have a PIDTDC if a nominated supervisor or approved provider is the responsible person at the service (see *Responsible person*).

Being in day-to-day charge of a service does not place any additional legal responsibilities on a person under the National Law. For example, where an educator becomes a PIDTDC, the responsibilities relevant to educators under the National Law continue to apply. A person's legal responsibilities do not increase because they consent to being a PIDTDC.

National Regulations

Regulation 117B

Minimum requirements for person in day-to-day charge

A person must be at least 18 years of age to be placed in day-to-day charge of a service.

Before placing a person in day-to-day charge, the approved provider or a nominated supervisor must take reasonable steps to ensure that the person:

- has adequate knowledge and understanding of the provision of education and care to children
- has the ability to effectively supervise and manage an education and care service

The approved provider or the nominated supervisor must have regard to:

- has a satisfactory history of compliance with—
  - the National Law
  - a former education and care services law
  - a children's services law
  - an education law
- any decision under the National Law, or any other children's services or education law, to refuse, refuse to renew, suspend, or cancel a licence, approval, registration, certification or other authorisation granted to the person.

Guidance for approved providers and nominated supervisors for placing a person in day-to-day charge

An approved provider must assess if a person meets the minimum requirements (above) before they place the person in day-to-day charge.

The approved provider should also consider if the person has adequate knowledge and understanding of the provision of education and care and the ability to effectively supervise and manage a service (see below).

Adequate knowledge and understanding

The approved provider should consider the person's qualifications, skills, work experience and familiarity with the service in determining if the person has adequate knowledge and understanding of the provision of education and care of children.

The approved provider may consider the following types of evidence against this requirement:

- a supervisor certificate previously issued to the person under the National Law including any conditions which were imposed on the supervisor certificate
- a resumé detailing the person's position, duties, duration of employment and their employer's details
- a written reference from an employer/s that addresses the person's knowledge and understanding of the provision of education and care to children
- transcripts demonstrating completion of an education and care qualification. For example, evidence of completing an approved diploma level education

and care qualification may satisfy the provider or nominated supervisor that the person has adequate knowledge and understanding of the provision of education and care to children

- other types of evidence that demonstrate adequate knowledge and understanding.

Ability to effectively supervise and manage an education and care service

Under the National Regulations a person in day-to-day-charge must have the ability to effectively supervise and manage a service. A person may meet the requirement even if they do not have experience managing a service. For example, the approved provider or nominated supervisor may determine the person has the required ability if they have management experience at other service types, or in related sectors.

The approved provider or nominated supervisor should consider how a person's skills and experience contribute to their ability to manage a service in accordance with the National Law and Regulations. This may include consideration of a person's:

- knowledge of, and ability to apply, practices that help ensure the education and care needs of children are met
- knowledge of, and ability to apply, practices that help ensure a service complies with the National Law and Regulations
- skills in managing relationships with staff and families at the service.

Approved providers and nominated supervisors may consider the following types of evidence for this requirement, as well as any other type of evidence that satisfies them of a person's management ability:

- a supervisor certificate previously issued to the person under the National Law and any conditions which were imposed on the certificate
- a resumé detailing their position, duties, duration of employment and their employer's details
- a written reference from an employer that addresses the person's supervision and management abilities
- transcripts or a certificate of attainment, demonstrating completion of units of study or professional development that are relevant to supervising or managing an education and care service. For example, courses or units that relate to staff management or managing an education and care service in accordance with the National Law and Regulations.

Child protection

Each nominated supervisor and person in day-to-day charge must have completed the child protection training (if any) required in their state or territory.

See *Quality Area 2 – Children's Health and Safety* for more information on child protection training.

Record keeping

Information used to assess a person's suitability to be placed in day-to-day charge should be kept as evidence on file. This may include records of reference checks, declarations, copies of qualifications or course completion certificates.

If the prospective person in day-to-day charge is a new employee to the service, the provider should conduct thorough checks of the person's references, including their current and previous employers. Each referee should be asked if they are aware of any compliance action under the National Law or any other law in relation to the candidate. Referee responses should be recorded and kept on file.

This evidence will help demonstrate that the approved provider has taken reasonable steps to comply with requirements under the National Law. This evidence does not need to be submitted to the regulatory authority.

Visit the ACECQA website (**www.acecqa.gov.au**) to download a template declaration form that prospective persons in day-to-day charge can complete to help gather information about these matters.

A template prohibition notice declaration for prospective staff members is also available on the ACECQA website.

After placing a person in day-to-day charge

Approved providers and nominated supervisors should consider any changes to a person's circumstances which affect their suitability to be a person in day-to-day charge. If the approved provider or nominated supervisor becomes aware of a matter or incident which affects the ability of the person in day-to-day charge to meet the minimum requirements for that position, they should consider if it is appropriate to remove the person from this position.

For example, if the provider becomes aware the person has had compliance action against them, they should reassess if that person is still suitable to be in charge.

4.2 EDUCATOR QUALIFICATIONS

4.2.1 QUALIFICATION REQUIREMENTS FOR CENTRE-BASED SERVICES WITH CHILDREN PRESCHOOL AGE OR UNDER

National Law

Section 169

The approved provider and nominated supervisor must ensure the service is meeting the minimum qualification requirements for:

- Early childhood teacher
- Diploma
- Certificate III

4.2.2 EARLY CHILDHOOD TEACHER REQUIREMENTS

National Regulations

Regulations 129–135

Centre-based services with children who are pre-school age or younger, must have access to or attendance of an early childhood teacher. The requirements are based on the number of children at the service (see the table below).

> Some jurisdictions have specific requirements which override these requirements. Regulatory authorities in these states and territories will provide information specific to their jurisdiction.

These regulations do not apply if the main purpose of the centre-based service is to provide education and care to children over preschool age.

When considering whether the 'main purpose' of the service is to educate and care for children over preschool age, authorised officers may consider the following factors:

- the percentage of children who are enrolled and, if the information is available, who attend, the education and care service who are over preschool age – for example 60 per cent is a persuasive factor, 70 per cent would be more persuasive whereas 51 per cent would be less so
- the operating hours of the service – operating mostly or solely out of school hours may indicate the main purpose of the service is to provide education and care for school age children, and
- service advertising – advertising education and care for school age children may indicate the main purpose of the service is to provide education and care to school age children.

Services with fewer than 25 approved places or fewer than 25 children in attendance

The service must have access to an early childhood teacher for at least 20 per cent of the time that the service provides education and care.

Access to an early childhood teacher may be through information communication technology, such as video conferencing, and the access may be calculated on a

quarterly basis. The use of information communication technology should only be considered where services are located in remote and very remote areas.

A record must be kept of the period that the early childhood teacher is working directly with children and not working directly with children (regulation 152).

Services with 25 or more approved places

An early childhood teacher must be in attendance. In attendance means being physically present at the service, and carrying out education and care activities including one or more of the following:

- working directly with children (included in ratios)
- planning programs
- mentoring, coaching or supporting educators
- facilitating education and care research
- performing the role of educational leader.

A record must be kept of the period that the early childhood teacher is in attendance at the service (regulation 152).

A reference to the number of children being educated and cared for at a centre-based service, for the purpose of calculating early childhood teacher requirements, does not include a child being educated and cared for in an emergency under regulation 123 (5).

Visit the ACECQA website at **www.acecqa.gov.au/qualifications** for a list of approved qualifications, including approved early childhood teaching qualifications.

National Regulations

Regulation 239A

NT NSW QLD SA TAS WA

Until 1 January 2020, centre-based services located in remote or very remote areas in Northern Territory, NSW, Queensland, South Australia, Tasmania and Western Australia are meeting regulations 132, 133 and 134 for attendance of an early childhood teacher if the service has access to an early childhood teacher who works with the service at least 20 per cent of the time, calculated quarterly. The early childhood teacher may be working with the service through information communication technology.

See the end of this section for a summary of the staffing requirements for centre-based and family day care services.

Who is an early childhood teacher?

National Regulations

Regulations 137, 139, 241

A person can be counted as an early childhood teacher if they:

- hold an approved early childhood teaching qualification that is published on ACECQA's approved qualifications lists. This includes current approved early childhood teacher qualifications, and former approved early childhood teaching qualifications commenced before 1 January 2012
- hold a qualification that ACECQA has recognised to be an equivalent early childhood teacher qualification

- are taken to hold an approved early childhood teaching qualification under regulation 241 and approved under former state and territory laws in place before the National Law.

See *General saving and transitional provisions* below for more information.

Registration is not a requirement for early childhood teachers under the NQF but it is a requirement under some state and territory legislation.

Visit the ACECQA website for the lists of approved qualifications and teacher registration or accreditation requirements in each state or territory at www.acecqa.gov.au/qualifications.

National Regulations

Regulation 241

General saving and transitional provisions

Persons taken to hold an approved early childhood teaching qualification

A person is taken to hold an approved early childhood teaching qualification if, immediately before 1 January 2012 (1 August 2012 in WA), the person belonged to one of the below groups.

Person taken to hold an approved early childhood teaching qualification
The person was recognised under the former education and care services law, or for the purposes of a preschool funding program, of any participating jurisdiction as an early childhood teacher, and was employed or engaged in a declared approved service as an early childhood teacher
The person held a qualification on the list of former approved early childhood teaching qualifications or was enrolled in a qualification on the list of former approved early childhood teaching qualifications and has since completed the qualification
The person was registered or accredited as an early childhood teacher in accordance with the requirements of any participating jurisdiction (this sub-regulation does not apply if immediately before 1 January 2012 (1 August 2012 in WA) the person was registered or accredited as an early childhood teacher or equivalent on the basis that the person was working towards an early childhood teaching qualification or equivalent)
The person was employed to deliver a pre-preparatory learning program in Queensland under the *Education (General Provisions) Act 2006* (i.e. teachers in *Bound for Success* services)
The person was registered as a teacher under the *Teachers Registration and Standards Act 2004* of South Australia and was employed to deliver a preschool program
The person was registered as a teacher under the *Teachers Registration Act 2000* of Tasmania and was employed to deliver a preschool program at a school established or registered under the *Education Act 2016* of Tasmania
The person was registered as a teacher under the *Education (Queensland College of Teachers) Act 2005* of Queensland and held a qualification on the list of former approved diploma level education and care qualifications or on the list of approved certificate III and diploma level education and care qualifications for Queensland (international). Or, the person was registered as a teacher in Queensland and enrolled in one of these qualifications and is actively working towards the qualification or has completed the qualification. Or, the person was registered as a teacher in Queensland and enrolled in an approved diploma qualification on or before 31 December 2013 and is actively working towards the qualification or has completed the qualification.

If any restrictions applied to a person's recognition as an early childhood teacher before 1 January 2012 (1 August 2012 in WA), the person is taken to be an early childhood teacher with those same restrictions.

National Regulations

Regulation 137(3)

Recognition as an 'equivalent early childhood teacher'

ACECQA has determined that a person who holds all of the following is recognised as equivalent to an early childhood teacher until the end of 2019:

- a primary teaching qualification that includes at least a focus on children aged 5 to 8 years old, for example, a qualification with a focus on children aged 3 to 8 or 5 to 12, and
- teacher registration in Australia (called 'accreditation' in New South Wales), and
- an approved diploma level (or higher) education and care qualification.

Under this provision, a person is recognised as actively working towards an approved early childhood teacher qualification once they start studying an approved diploma level qualification or higher (see *actively working towards* below).

National Regulations

Regulation 242

ACT NSW NT QLD SA TAS WA

Persons taken to be an early childhood teacher

In ACT, NSW, Northern Territory, Queensland, South Australia, Tasmania and Western Australia, a person may be taken to be an early childhood teacher from 1 January 2014 to 1 January 2020 if the person:

- is actively working towards an approved early childhood teaching qualification, and
- provides documentary evidence that the person:
  - has completed at least 50 per cent of the course, or
  - holds an approved diploma level early childhood education and care qualification.

See the definition of 'actively working towards' in the *Glossary*.

Regulation 242 only applies in reference to specific regulations. Those regulations are: 130–134, 267, 294, 304, 332, 333, 349, 363, 379. This means that in some states and territories, a person will not be able to take advantage of regulation 242 in all circumstances.

When the authorised officer is checking for documentary evidence that a person has completed at least 50 per cent of the course, the authorised officer may consider whether the person has received at least half the required credit points for the qualification or is able to substantiate the claim that at least half the course has been completed in another way.

Early childhood teacher illness or absence

National Regulations

Regulation 135

NSW

If an early childhood teacher is absent from the service because of short-term illness or leave, the teacher may be replaced by an educator who holds:

- an approved diploma level education and care qualification, or
- a qualification in primary teaching.

The early childhood teacher can only be replaced for a combined total of no more than 60 days (of absences) in any 12 month period. This time limit applies to the combined periods of absence taken by all early childhood teachers at the service, and is not intended to apply to each individual early childhood teacher engaged at the service.

The 12 month period does not have a pre-set commencement date and is not based on a calendar year. Instead, it is determined by looking at the 12 month period immediately prior to the day an early childhood teacher is replaced, and calculating whether or not the 60 day maximum has been exceeded during that period. If the service has not exceeded the 60 day limit, it can replace an early childhood teacher with one of the persons specified in regulation 135(1) (see above).

> For example, Sam, an early childhood teacher intends to take a day of leave on 1 February 2018. To determine whether Sam can be replaced with a specified person under regulation 135(1), the service would look back 12 months to 1 February 2017 and calculate the total amount of days an early childhood teacher has been replaced in that period. If the combined total between 1 February 2017 and 31 January 2018 exceeds 60 days, regulation 135(1) would not apply and the service cannot replace Sam with the persons specified in regulation 135(1).

ACT QLD TAS WA

In ACT, Queensland, Tasmania and Western Australia, an early childhood teacher may also be absent and replaced if the teacher has resigned. The early childhood teacher can only be replaced by an educator who holds an approved diploma qualification or a qualification in primary teaching for a combined total of no more than 60 days (of absences) in any 12 month period.

NSW

Authorised officers may check if a person is registered as a primary school teacher in Australia (referred to as accredited in NSW) to verify whether a person has a qualification in primary teaching.

This regulation does not apply if the service employs or engages early childhood teacher/s on a full-time, or full-time equivalent basis.

4.2.3 DIPLOMA AND CERTIFICATE III QUALIFICATION REQUIREMENTS FOR CENTRE-BASED SERVICES WITH CHILDREN PRESCHOOL AGE OR UNDER

The National Regulations set the minimum educator to child ratios.

General qualification requirements

At least 50 per cent of the educators who are required to meet the relevant educator to child ratios for the service must have (or be actively working towards) at least an approved diploma level education and care qualification.

All other educators who are required to meet ratio requirements must have (or be actively working towards) at least an approved certificate III level education and care qualification.

Working without a qualification

National Regulations

Regulation 126

ACT NT TAS QLD VIC WA

A three (3) month probationary period applies to new educators working without an approved qualification in VIC, QLD, WA, ACT, NT and TAS. New educators can be counted as a Certificate III qualified educator for ratio purposes for up to 3 months (from the date they commence in the service) before they need to start actively working towards their qualification. The probationary period is linked to the approved provider which means the probationary period is not extended if the educator moves to another service operated by the same approved provider. If the educator is employed by a different approved provider, they are eligible for another three month probationary period.

If an approved provider chooses have more educators than required under the ratios, the additional educators are not required to meet qualification requirements. For example, if a centre-based service requires ten educators to meet the minimum prescribed ratios at a particular time, and 12 educators are educating and caring for children at that time, the eleventh and twelfth educators are not required to hold an approved qualification.

Early childhood teachers

A person with an approved early childhood teaching qualification can be counted as if they hold an approved diploma level education and care qualification.

Actively working towards an ECT qualification

A person who is actively working towards an approved early childhood teaching qualification may be counted (for ratio purposes) as if they are actively working towards

- an approved certificate III level education and care qualification, or
- an approved diploma level education and care qualification if they:
  - hold an approved certificate III level education and care qualification, or
  - have completed the approved components of a certificate III (see the definition of 'actively working towards' in the *Glossary*), or

– have completed 30% of the units in an approved early childhood teaching qualification.

To check whether general educator qualification requirements are being met, authorised officers may ask to see the record of educators working directly with children (centre-based services) or the record of staff, family day care co-ordinators and family day care educator assistants (for family day care services) required under regulation 177. Staff records should include evidence of any relevant qualification held by the staff members, or that the staff member is actively working towards a qualification.

Some staff may be taken to hold a qualification under a transitional or saving provision.

More information on qualification requirements is available on the ACECQA website at **www.acecqa.gov.au/qualifications**

National Regulations

Regulation 239

General saving provisions

Regulations 126 and 123 (and any regulation that applies in the place of those regulations) do not apply to a centre-based service that delivers a preschool program in a school in a class or classes where a full-time education program is also being delivered to school children (a composite class). The service is taken to comply with these regulations for the purposes of assessment and rating.

National Regulations

Regulation 240

QLD SA TAS WA

Remote or very remote areas

An educator at a centre-based service in a remote or a very remote area in Queensland, South Australia, Tasmania and Western Australia, can be included to meet educator to child ratios until 1 January 2020, without holding (or actively working towards) a certificate III level education and care qualification if the educator:

- has been continuously employed as an educator in an education and care service or a children's service for at least 15 years up to immediately before 1 January 2012 (1 August 2012 in WA), and
- is employed by the same provider as employed the educator immediately before 1 January 2012 (1 August 2012 in WA).

4.2.4 QUALIFICATION REQUIREMENTS FOR CENTRE-BASED SERVICES WITH CHILDREN OVER PRESCHOOL AGE

centre-based services

There are no national qualification requirements for educators at centre-based services educating and caring for children over preschool age. The following states and territories have qualification requirements:

- Australian Capital Territory
- Queensland
- South Australia
- Victoria
- Western Australia.

There are some jurisdiction-specific and transitional and savings provisions in relation to qualification requirements. Regulatory authorities in these states and territories will provide information specific to their jurisdiction.

More information on qualification requirements is available on the ACECQA website at **www.acecqa.gov.au/qualifications**.

4.2.5 QUALIFICATION REQUIREMENTS FOR FAMILY DAY CARE SERVICES

National Law & Regulations

Section 51, 169
Regulation 127

Family day care educator qualifications

A family day care educator must have (or be actively working towards) at least an approved certificate III level education and care qualification.

See *Actively working towards an approved qualification* for information about educators who meet this requirement. Family day care educators in South Australia must hold at least an approved certificate III (Regulation 325).

National Regulations

Regulations 143A

Minimum requirements for family day care educator

Before registering or engaging a person as a family day care educator, an approved provider of a family day care service must:

- take reasonable steps to ensure that the person has adequate knowledge and understanding of the provision of education and care to children
- consider the person's history of compliance with:
  - the National Law
  - a former education and care services law
  - a children's services law
  - an education law
- consider any decision under the National Law to refuse, refuse to renew, suspend, or cancel a licence, approval, registration, certification or other authorisation granted to the person under:
  - the National Law
  - a former education and care services law
  - a children's services law
  - an education law.

Failure to comply with these requirements is an offence with a penalty of $2000.

Registering or engaging family day care educators

Approved providers must take reasonable steps when registering or engaging family day care educators to ensure that they have adequate knowledge and understanding of the provision of education and care to children. 'Reasonable steps' is not defined in the National Law or Regulations.

Consistent with the approach taken to other guidance in this publication, the information below is guidance only. The steps that approved providers take to comply with this requirement will depend on the circumstances of each case, as well as the information available to the approved provider at the time.

Approved providers must also have regard to a candidate's history of compliance with relevant laws that would make them suitable to be a family day care educator.

A robust selection process involves gathering information from the candidate and from other sources to verify the accuracy of the candidate's claims. Recording this information and keeping it on file can help a provider show that they have taken reasonable steps to comply with their regulatory obligations.

Compliance and enforcement history checks

When registering or engaging family day care educators, the approved provider must have regard to the candidate's history of compliance with relevant laws and any enforcement action previously taken against the candidate. To ensure they are registering or engaging a suitable person, approved providers could consider the following actions:

- ask the candidate to declare in writing:
  - information about any compliance or disciplinary action under the National Law, or any other children's services or education law
  - whether they have been subject to a prohibition notice under the National Law
  - whether they have held or applied for a licence, approval, registration, certification or other authorisation under the National Law (or any other children's services or education law), which a regulatory authority refused, refused to renew, suspended or cancelled
- keep the candidate's declaration on file (see optional form at *Appendix C – Compliance history statement* for prospective family day care educators in *Operational Requirements*. This form is also available on the ACECQA website (www.acecqa.gov.au)
- conduct thorough checks of the candidate's references, including their current and previous employers
- when undertaking reference checks, ask each referee if they are aware of any enforcement action or non-compliance under the National Law or any other children's services or education law in relation to the candidate
- consider the reasons the candidate left their previous role, particularly if they were formerly registered with another approved provider
- record referee responses and keep this information on file.

Approved providers may wish to take extra measures to determine a candidate's suitability if they learn something adverse about the person's history of compliance. These measures could include but are not limited to:

- considering if the compliance issue is serious, how long ago it was and the person's compliance history since then
- giving the person an opportunity to explain the circumstances of the issue
- seeking further references.

National Law & Regulations

Section 272
Regulation 153

If after taking the above suggested steps the approved provider still has concerns about the candidate's compliance history, they may contact the regulatory authority to enquire whether the person has been suspended or prohibited.

Approved providers are also required to keep a record of each educator's working with children or working with vulnerable people check. See ***Register of family day care educators, co-ordinators and assistants*** for more information on the types of records the approved provider must keep.

Adequate knowledge and understanding

When registering or engaging a family day care educator, the approved provider should consider the person's qualifications, skills and work experience in determining if the person has adequate knowledge and understanding of the provision of education and care to children. For example, this could include the person's knowledge of the National Law and Regulations, National Quality Standard, professional standards such as Early Childhood Australia's *Code of Ethics* (2016), and how all these guide their professional conduct in decision-making, relationships and practice.

In addition, qualification requirements apply to family day care educators (see ***Qualification requirements for family day care services***) and current first aid, anaphylaxis management and emergency asthma management training (see ***Register of family day care educators, co-ordinators and assistants***).

Reasonable steps to ensure the prospective educator has adequate knowledge and understanding may include, but are not limited to, considering:

- a resumé detailing the person's employment history
- references from current and previous employers or practicum supervisors that address the person's knowledge and understanding of the provision of education and care to children
- an interview with the person to help assess their knowledge, understanding, and decision-making capabilities
- transcripts demonstrating completion of an approved certificate III (or higher) education and care qualification, or evidence demonstrating that the person is actively working towards this (this does not apply in South Australia). See ***Qualification requirements for family day care services*** and ***Actively working towards an approved qualification*** for information.

Approved providers may also consider any other information or evidence that satisfies them that the person has an adequate knowledge and understanding of the provision of education and care to children.

National Regulations

Regulation 143B

Requirements for ongoing management of family day care educators

While a family day care educator is registered or engaged with a family day care service, the approved provider must take reasonable steps to ensure that:

- the educator maintains an adequate knowledge and understanding of the provision of education and care to children
- any serious incident that occurs while a child is being educated and cared for by the educator as part of the service is adequately addressed
- any complaints alleging the National Law has been contravened or that a serious incident has occurred or is occurring while a child was or is being educated and cared for by the educator is adequately addressed.

Failure to comply with these requirements is an offence with a penalty of $2000.

Ongoing management of family day care educators

Approved providers must take reasonable steps to ensure that each family day care educator maintains adequate knowledge and understanding of the provision of education and care to children, and that serious incidents and complaints are adequately addressed. Good record keeping by both the educator and the approved provider can show the steps that approved providers have taken to meet these requirements. These obligations link to the National Quality Standard, in particular, **Elements 7.1.2** and **7.2.3** which are about professional development and management systems.

'Reasonable steps' is not defined in the National Law or Regulations. Consistent with the approach taken to other guidance in this publication, the information below is guidance only. The steps that approved providers take to comply with the minimum requirements will depend on the circumstances of each case, as well as the information available to the approved provider at the time.

Maintaining adequate knowledge and understanding of the provision of education and care

To support the ongoing maintenance of each educator's professional knowledge and understanding, approved providers could use the service's regular performance review cycle to evaluate staff performance and identify individual learning and development goals. Performance planning and evaluation can help ensure that the knowledge, skills and practices of educators are up to date, and that areas requiring further development are identified and addressed.

Reasonable steps an approved provider may take to ensure educators maintain adequate knowledge and understanding include, but are not limited to:

- regularly reviewing each educator's performance to identify areas for development and training
- developing and updating individual learning and development plans in consultation with each educator
- providing regular opportunities for each educator to provide feedback on professional development, including the effectiveness of support provided by their co-ordinator
- sharing current knowledge, theories and practices with and between educators.

In family day care services, co-ordinators are engaged to monitor and support educators. Approved providers should consider the role co-ordinators may play in meeting these regulatory requirements, and provide appropriate leadership and support as needed.

Adequately addressing complaints and serious incidents

It is important that family day care services have effective systems to manage and address serious incidents and complaints that occur while a child is being educated and cared for by an educator. Under the National Law and Regulations, approved providers and educators must meet various notification obligations when serious incidents occur or complaints are raised. In addition, approved providers must take reasonable steps to ensure that these incidents and complaints are adequately addressed.

Reasonable steps an approved provider may take to ensure serious incidents and complaints are adequately addressed include, but are not limited to:

- monitoring, following up on and investigating complaints or serious incidents raised by families, educators, children and others, and documenting these actions on file in a timely manner
- following documented procedures to report serious incidents and complaints to the regulatory authority as required
- regularly reviewing the service's procedures for handling serious incidents and complaints to ensure serious incidents and complaints are investigated promptly, fairly and thoroughly, and that the service learns from these to improve the quality of education and care
- being able to show how the provider has addressed complaints and serious incidents, as well as feedback from families, educators and staff, to amend policies and procedures as required.

Approved providers should consider any other steps that might be necessary to ensure serious incidents and complaints are adequately addressed.

See *Leadership and Service Management* for more information on serious incidents, complaints and reporting obligations to regulatory authorities.

National Law & Regulations

Section 51
Regulation 128

Family day care co-ordinator

A family day care co-ordinator must have an approved diploma level education and care qualification or higher. A list of approved qualifications is published on the ACECQA website at **www.acecqa.gov.au**.

It is a condition of the service approval that an approved provider appoint sufficient co-ordinators to adequately monitor and support the family day care educators. Refer to *Applications and Approvals*.

Approved providers must ensure family day care co-ordinator to educator ratios are met to provide support and assistance to educators and to monitor each educator's compliance with the National Law and Regulations.

See *Family day care co-ordinator to educator ratios* for more information.

4.2.6 FAMILY DAY CARE EDUCATOR ASSISTANTS

National Regulations

Regulation 163(2)

A family day care educator assistant is a person engaged by or registered with a family day care service to assist family day care educators (regulation 4).

A family day care educator assistant must:

- be at least 18 years of age (regulation 119)
- hold a current approved first aid qualification, have undertaken current approved anaphylaxis management training and have undertaken current approved emergency asthma management training (regulation 136).

The approved provider of a family day care service must take reasonable steps to ensure that a person who is a family day care educator assistant is a fit and proper person to be in the company of children (see *Quality Area 7 – Residents and family day care educator assistants to be fit and proper*).

The family day care educator assistant is not required to hold, or be actively working towards, a certificate III level education and care qualification. See *Family day care educator assistant* and *First aid qualifications and training*.

4.3 CENTRE-BASED AND FAMILY DAY CARE

4.3.1 DIPLOMA LEVEL EDUCATION AND CARE QUALIFICATIONS

National Regulations

Regulation 137

A list of approved diploma level education and care qualifications can be found on the ACECQA website at www.acecqa.gov.au.

ACECQA has also published a list of former approved diploma level education and care qualifications. A person who held a former approved diploma level education and care qualification before 1 January 2012 (1 August 2012 in WA) is taken to hold an approved diploma level qualification.

National Regulations

Regulations 243, 243A

General saving provision

Persons taken to hold approved diploma level education and care qualifications

A person is taken to hold an approved diploma level education and care qualification if, immediately before 1 January 2012 (1 August 2012 in WA), the person:

- was recognised under the former education and care services law of any state or territory as a diploma level educator and employed or engaged in a declared approved service, or
- held a qualification on the published list of former approved diploma level education and care qualifications, or
- in Queensland, held a diploma level qualification on the list of former approved certificate III and diploma level education and care qualifications for Queensland (international).

A person is taken to hold an approved diploma level education and care qualification for the purposes of regulation 128 (family day care co-ordinator qualifications) if immediately before 1 January 2012, the person held a qualification on the list of qualifications and former approved qualifications for family day care co-ordinators.

National Regulations

Regulation 137

Certificate III level education and care qualifications

A list of approved certificate III level education and care qualifications can be found on the ACECQA website at www.acecqa.gov.au.

ACECQA has also published a list of former approved certificate III level education and care qualifications. A person who held a former approved certificate III level education and care qualification before 1 January 2012 (1 August 2012 in WA) is taken to hold an approved certificate III level qualification.

National Regulations

Regulation 244

General saving provision

Persons taken to hold approved certificate III level education and care qualification

A person is taken to hold an approved certificate lll level education and care qualification if, immediately before 1 January 2012 (1 August 2012 in WA), the person:

- was recognised under the former education and care services law of any participating jurisdiction as a certificate lll level educator and was employed or engaged in a declared approved service, or
- held a qualification on the list of former approved certificate lll level education and care qualifications, or
- in Queensland, held a qualification on the list of approved certificate III and diploma level education and care qualifications for Queensland (international).

National Regulations

Regulation 10

Actively working towards an approved qualification

The National Regulations include provisions to recognise a person who is 'actively working towards' an approved qualification. 'Actively working towards' is defined at regulation 10. The requirements for different qualification levels are set out below.

Qualification level	Requirement for 'actively working towards'
Certificate III	A person is 'actively working towards' at least an approved certificate III level qualification if they: • are enrolled in a course for an approved certificate III, diploma or early childhood teaching qualification, **and** • give the approved provider documentary evidence from the course provider that they: – have commenced the course, **and** – are making satisfactory progress towards completing the course, **and** – are meeting the requirements for maintaining the enrolment.
Diploma	A person is 'actively working towards' at least an approved diploma level qualification if they: • are enrolled in a course for an approved diploma level or early childhood teaching qualification, **and** • give the approved provider documentary evidence from the course provider that they: – have started the course, **and** – are making satisfactory progress towards completing the course, **and** – are meeting the requirements for maintaining the enrolment, **and** – have an approved certificate III level education and care qualification, **or** – have completed the prescribed units of study in an approved certificate III level education and care qualification as determined by ACECQA,* **or** – have completed the percentage of total units of study required for completion of an approved early childhood teaching qualification, as determined by ACECQA.+
Actively working towards an approved ECT qualification (regulation 242)	
Early childhood teacher	A person is 'taken to be an early childhood teacher' if they: • are enrolled in a course for an approved early childhood teaching qualification, **and** • give the approved provider documentary evidence from the course provider that they: – have started the course, **and** – are making satisfactory progress towards completing the course, **and** – are meeting the requirements for maintaining the enrolment, **and** – hold an approved diploma level educator qualification, or have completed at least 50 per cent of the course.*

* The prescribed units include a list of competencies from the approved certificate III qualifications.

+ The percentage determined by ACECQA is '30% or more of the total units required to complete any approved early childhood teaching qualification'.

4.4 EDUCATOR TO CHILD RATIOS

National Law

Section 169

The approved provider, nominated supervisor and family day care educator must ensure the required educator to child ratios are met at all times.

4.4.1 RATIOS FOR CENTRE-BASED SERVICES

National Regulations

Regulations 122–123

Calculating ratios

The table below summarises the national educator to child ratios for centre-based services.

Educators must be working directly with children at the service to be counted in the educator to child ratios.

National ratios for centre-based services		
Age of children	**Educator to child ratio**	**Date requirement applies from**
Birth to 24 months	1:4	In all states and territories
Over 24 months and less than 36 months	1:5	In all states and territories Saving provision applies in VIC
Over 36 months up to and including preschool age	1:11	In all states and territories Saving provision applies in NSW, SA, TAS, WA
Over preschool age	1:15	1 October 2017 – NT, QLD, SA, TAS, VIC 1 October 2018 – NSW Saving provisions apply in ACT and WA

New national ratios are being implemented between 2017 and 2020. Higher ratios in some states and territories may continue to apply in place of the national educator to child ratios (saving provisions).

Maximum number of children

A centre-based service approval states the maximum number of children that may be educated and cared for at any one time. The approved provider must ensure this number is not exceeded except for children being educated and cared for in an emergency under regulation 123:

- One or more children from the same family can be educated and cared for at a centre-based service in an emergency, for example, a child is in need of protection under a child protection order or the parent of a child needs

urgent health care that prevents them caring for the child, for a maximum period of two consecutive days. These children do not need to be included in calculating the educator to child ratio.

- An approved provider can only permit additional children to be educated and cared for in an emergency if satisfied that it will not affect the health, safety and wellbeing of all the children attending the service.

An approved provider must also ensure the maximum number of children is not exceeded during events held within the service's usual operating hours and excursions. Children are considered as being educated and cared for by a service if they are enrolled at the service and have been signed in. For events held outside the usual operating hours, the approved provider should make sure that families are invited on the condition that children remain in their care, and are not being educated and cared for as part of a service.

Mixed age ratios in centre-based services

Educator to child ratios are calculated across the service (not by individual rooms) and are based on the youngest child in care. This approach provides flexibility to more effectively respond to the needs of children.

Maintaining the ratio for each age range of children in the mixed age group does not mean the educator to child ratio for the youngest age range must be applied to all children in an older age range. In a mixed age group of children, an educator who is caring for one age range of children can also be counted against another age range of children, as long as the ratio for each age range is maintained and adequate supervision is maintained at all times.

Refer to the example in the table below.

Example 1: In this example, no jurisdictional specific ratios apply.

Mixed age ratios in centre-based services			
Age	**Ratio**	**Number of children**	**Minimum educators required**
Birth to 24 months	1:4	3	3
25 to 35 months	1:5	5	
36 months to preschool age	1:11	12	
TOTAL	–	20	

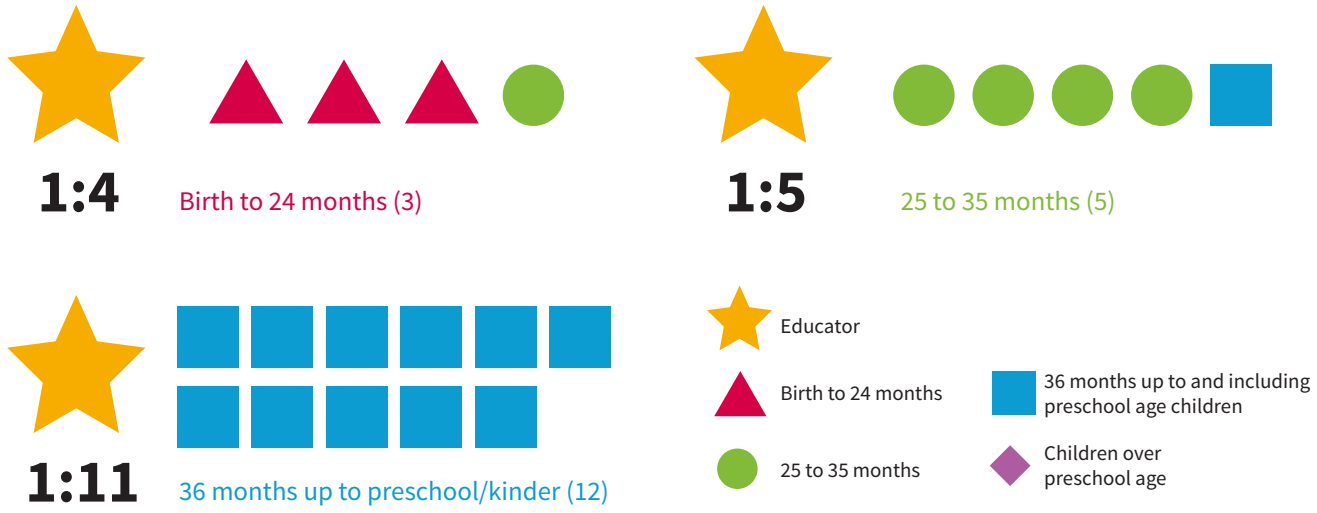
The number of educators required for this group is three. This is because the educator who is caring for the three children aged 0 to 24 months can also care for one child aged over 24 months and less than 36 months without exceeding the ratio of 1:4.

This then requires a second educator for the remaining four children aged over 24

months and less than 36 months, who can also care for one child aged 36 months to preschool age.

A third educator is required for the remaining 11 children aged 36 months to preschool age (1:11).

The diagram below demonstrates this same principle.



The first step is to determine the number of educators needed for the youngest age range of children in the group. Once that ratio is met, an educator can also supervise children in another age range, provided the youngest age range is still maintained.

The above example also shows how an educator may be deployed across more than one age range, while maintaining the required ratio for each age range.

Example 2: In this example, no jurisdictional specific ratios apply.

Mixed age ratios in centre-based services			
Age	**Ratio**	**Number of children**	**Minimum educators required**
36 months to preschool age	1:11	5	2
Over preschool age	1:15	19	
TOTAL	–	24	

The number of educators required for this group is two (2). This is because the educator who is caring for the five children aged 36 months to preschool age can also care for four children aged over preschool age without exceeding the ratio of 1:11.

This then requires a second educator for the remaining fifteen children aged over preschool age.

The diagram above demonstrates this same principle.

Breaks

The National Regulations require the educator-to-child ratio to be maintained at all times no matter what activity the children or the educators at the service are undertaking. Some jurisdictions have specific provisions which modify these ratio requirements when educators are taking short breaks and are not working directly with children (Queensland, Tasmania, South Australia and Western Australia). Services should check if specific provisions apply and contact the regulatory authority for advice about jurisdiction specific regulations or guidance.

4.4.2 RATIOS FOR FAMILY DAY CARE SERVICES

National Regulations

Regulation 124

A family day care educator must not educate and care for more than seven (7) children at a family day care residence or approved family day care venue at any one time. A maximum of four of these children can be preschool age or under.

If the educator's own children or any other children are at the family day care residence while the service is operating, they must be counted in the overall total of children if they are under 13 years of age and there is no other adult present and caring for those children.

The number of educators at a residence cannot be increased in order to increase the number of children that can be educated and cared for.

This requirement does not apply if children are visiting another family day care residence or an approved family day care venue, with their educator, as part of an excursion. A visiting family day care educator must do a risk assessment for the excursion under regulation 100.

Educator to child ratios for family day care services		
Age	**Educator to child ratio**	
All children	1:7, with no more than four children preschool age or under	

Maximum number of children

In exceptional circumstances, the approved provider of the family day care service may approve, in writing, a family day care educator to care for more than seven children, or more than four children who are preschool age or under, when:

- all the children being educated and cared for by the family day care educator are siblings in the same family, or
- a child is in need of protection under child protection law and the family day care educator is the best person to educate and care for the child, or
- the family day care residence or approved family day care venue is in a rural or remote location and no alternative care is available.

Authorised officers may discuss with the approved provider what led them to decide to approve an educator to educate and care for more children.

The approved provider may need to apply for a waiver if the exceptional circumstances are ongoing.

Time limit on 'exceptional circumstances'

There is no limit on how long the approved provider can approve a family day care educator to care for more than seven children in exceptional circumstances. The authorised officer may want to discuss with the approved provider, whether the exceptional circumstances that justified the provider's decision to allow more children still exists.

National Regulations

Regulation 124

The approved provider must consider the individual circumstances each time the family day care educator seeks approval to educate and care for more than seven (7) children. This means that the approved provider must approve each individual additional child, and cannot give 'blanket approval' to a family day care educator to educate and care for more than seven children.

Rural and remote

The Accessibility/Remoteness Index of Australia (ARIA+) may be used to help determine whether the family day care educator is in a remote or rural area.

There are five categories of remoteness:

1. Major cities
2. Inner regional
3. Outer regional – areas where geographic distance imposes a moderate restriction on accessibility to the widest range of goods, services and opportunities for social interaction
4. Remote – areas where geographic distance imposes a high restriction
5. Very remote – areas where geographic distance imposes the highest restriction.

Services in a 'remote', 'very remote' or 'outer regional area' under ARIA may be considered rural or remote. In some cases, a postcode may be classified as both 'inner regional' and 'outer regional'. Where this arises, the regulatory authority may consider a family day care educator operating within this postcode as being in a rural or remote area for the purposes of regulation 124.

To establish whether the approved provider checked if alternative education and care was available, authorised officers may talk to the approved provider about what they took into consideration, for example socio-economic and geographic factors, as well as the transport links and capacity of nearby services to provide the education and care required.

4.5 OTHER STAFFING ARRANGEMENTS FOR CENTRE-BASED AND FAMILY DAY CARE SERVICES

4.5.1 FAMILY DAY CARE CO-ORDINATOR TO FAMILY DAY CARE EDUCATOR RATIOS

Approved providers of a family day care service must have a minimum full time equivalent (FTE) family day care co-ordinator for:

- every 15 educators (ratio of 1:15) for the first 12 months of operation, with immediate effect for any new services
- every 25 educators (ratio of 1:25) after 12 months of operation.

The table below summarises these national requirements set out in regulation 123A.

National ratios for family day care co-ordinators		
Operation of service	**Co-ordinator – family day care educator ratio**	**Comments**
12 months or less	1:15	
More than 12 months	1:25	The regulatory authority may impose the higher ratio of 1:15 at any time after the first 12 months of operation if the regulatory authority has taken into account the approved provider's capability and compliance with the National Law and considers the FDC educators are not adequately monitored and supported by a FDC co-ordinator

Non-compliance with these requirements is an offence with penalty ($5000 individuals; $25,000 others).

These requirements recognise that new family day care services are likely to have a higher proportion of new educators who benefit from greater co-ordinator support.

After the first year of operation of a family day care service the regulatory authority may impose a condition on a family day care service approval requiring the approved provider to ensure there is a minimum of one qualified person employed or engaged as a family day care co-ordinator for each 15 family day care educators engaged by or registered with the service.

National Law

Section 55A

A condition may only be imposed if:

- the family day care service has been operating for more than 12 months
- the regulatory authority
  - has taken into account the approved provider's capability and compliance with the National Law in respect of the family day care service
  - considers that family day care educators are not adequately monitored and supported by a family day care co-ordinator.

Existing conditions of service approval continue to apply for services that already had a co-ordinator to educator ratio on 1 October 2017.

For services without a ratio at 1 October 2017, the legislation includes a saving provision that allows the service to continue to operate until 1 October 2018, after which the 1:25 ratio will apply.

4.5.2 FAMILY DAY CARE EDUCATOR ASSISTANT

National Regulations

Regulation 144

A family day care educator assistant may provide assistance to a family day care educator while the educator is educating and caring for children.

Written consent must also be provided by the parents of each child.

Circumstances in which a family day care assistant may educate and care for children
Transporting a child between the family day care residence or approved family day care venue and • a school • another education and care service or children's service • the child's home
Providing education and care to a child in emergency situations, including when the family day care educator requires urgent medical care or treatment
Providing education and care to a child when the family day care educator is absent to attend an appointment (other than a regular appointment) in unforseen or exceptional circumstances if • the absence is less than four hours • the approved provider of the family day care service has approved the absence • notice of the absence has been given to the parents of the child(ren).

National Law

Section 164A

The approved provider and family day care educator must ensure that any child being educated and cared for at the service is only educated and cared for by the family day care educator, unless otherwise prescribed under regulation 144.

The family day care educator assistant is not required to hold, or be actively working towards, a certificate III level education and care qualification.

See *Quality Area 4 – Family day care educator assistants, Quality Area 7 – Residents and family day care educator assistants to be fit and proper* and *First aid qualifications and training*.

National Regulations

Regulations 119–120

Centre-based and family day care educator supervision requirements

A family day care educator and family day care educator assistant must be at least 18 years old.

An educator who is under the age of 18 years may work at a centre-based service, provided that the person does not work alone and is adequately supervised at all times by an educator who is 18 years of age or over.

To check these requirements are being complied with, authorised officers may ask to see:

- staff rosters demonstrating that educators at centre-based services under 18 years of age are rostered with an educator who is 18 years of age or over
- the register of family day care educators and/or the staff record, which includes record of date of birth
- policies and procedures in relation to staff or the engagement or registration of family day care educators and family day care educator assistants.

4.5.3 EDUCATIONAL LEADER (CENTRE-BASED AND FAMILY DAY CARE)

National Regulations

Regulation 118

An educator, co-ordinator or other individual who is suitably qualified and experienced must be designated to lead the development and implementation of the educational program (or curriculum) in the service.

The National Regulations require the approved provider to appoint the educational leader in writing, and note this designation in the staff record of the service.

The educational leader may be the approved provider, a nominated supervisor or person with management or control (who has suitable experience and qualifications), an early childhood teacher, or a diploma or certificate III qualified educator within the service. The regulations do not specify a minimum qualification or the number of hours the educational leader should work, or whether this person must work directly with children.

Standard 7.2 includes the following element on Educational Leadership, '*The educational leader is supported and leads the development and implementation of the educational program and the assessment and planning cycle*'.

4.5.4 FIRST AID QUALIFICATIONS AND TRAINING

National Law & Regulations

Section 169
Regulation 136

Centre-based services

At all times and at any place that children are being educated and cared for by the service, the following person(s) must be in attendance and immediately available in an emergency:

- at least one staff member or one nominated supervisor of the service who holds a current approved first aid qualification, and
- at least one staff member or one nominated supervisor of the service who has undertaken current approved anaphylaxis management training, and
- at least one staff member or one nominated supervisor of the service who has undertaken current approved emergency asthma management training.

The same person may hold one or more of these qualifications.

If the approved service is operating on a school site (for example, a government kindergarten or preschool), the requirements for regulation 136(2) can be met if one or more staff members of the school holding the relevant qualifications are in attendance at the school site and immediately available during the emergency.

The approved provider should consider how it will meet this requirement during all parts of the day, including breaks, and have contingency plans in place for an educator on leave.

A list of approved first aid qualifications is published on the ACECQA website (www.acecqa.gov.au).

family day care

Family day care services

Each family day care educator and family day care educator assistant engaged by or registered with the service must:

- hold a current approved first aid qualification, and
- have undertaken current approved anaphylaxis management training, and
- have undertaken current approved emergency asthma management training.

Renewal of first aid qualifications

The Safe Work Australia **First Aid in the Workplace Code of Practice** recommends that persons required to maintain first aid qualifications should attend training on a regular basis to refresh their first aid knowledge and skills, and to confirm their competence to provide first aid. The Code of Practice also recommends that refresher training in CPR should be undertaken annually and first aid qualifications should be renewed every three years.

The certificate should state the date when the person completed the course, as well as the expiry date, which is typically three years from the date of completion. The certificate may include additional requirements, such as completing refresher training in CPR annually.

Excursions: The approved provider must ensure that a person(s) with first aid qualifications and training is in attendance on an excursion. If some children remain on the service premises, a person(s) with first aid qualifications and training must also remain on the premises.

4.5.5 APPROVAL AND DETERMINATION OF QUALIFICATIONS

National Law & Regulations

Section 169
Regulations 137–143

ACECQA determines the qualifications required to be held by educators.

The lists of qualifications and first aid training courses approved by ACECQA are published on the ACECQA website at **www.acecqa.gov.au** including:

- approved Certificate III level education and care qualifications
- approved diploma level education and care qualifications
- approved early childhood teacher qualifications
- approved first aid qualifications, including anaphylaxis management and asthma training
- approved qualifications suitable for a 'suitably qualified person' (that is, second or subsequent early childhood teacher).

ACECQA also publishes a list of qualifications that have been approved for transitioning into the National Quality Framework. This list includes some qualifications that are no longer approved or no longer offered.

Assessment of equivalent educator qualifications

If a qualification is not listed on the approved qualifications list (for example an overseas qualification), an educator can apply to ACECQA to have it/them assessed for equivalence. There is a fee for this application.

ACECQA will determine if the educator holds a qualification that is suitable, allowing them to be an educator in a service with children under school age or school age children.

Instructions on how to submit an application and guidance on the assessment process is available on the ACECQA website (**www.acecqa.gov.au/qualifications**).

Approval of a qualification or training course

If an organisation's qualification or training is not on this approved list, the provider can apply to ACECQA to have it assessed for inclusion on the list.

The application must include a detailed outline of the course of study for the qualification, including details of any practical placements and the length of the course. For example, a higher education provider might apply to ACECQA to recognise a newly developed course of study. There is a fee for this application.

Instructions on how to submit an application and guidance on the assessment process is available on the ACECQA website (www.acecqa.gov.au/qualifications).

Authorised officers can contact ACECQA for advice if unsure a person's qualification certificate is authentic.

4.5.6 RESPONSIBILITIES OF THE APPROVED PROVIDER, NOMINATED SUPERVISOR AND FAMILY DAY CARE EDUCATOR

Requirement	Approved provider	Nominated supervisor	Family day care educator	Offence	Infringement notice	Compliance direction	Waiver
Educational leader (regulation 118)	✔					✔	
Family day care educator and educator assistants to be at least 18 years old (regulation 119)	✔			✔		✔	
Educators who are under 18 to be supervised (regulation 120)	✔			✔		✔	✔
Educators must be working directly with children to be included in ratios (regulation 122)	✔						
Educator to child ratios – centre-based services (regulation 123, section 169)	✔	✔		✔			✔
Educator to child ratios – family day care services (regulation 124, section 169)	✔	✔	✔	✔			✔
Centre-based services – general educator qualifications (regulation 126, section 169)	✔	✔		✔			✔
Family day care educator qualifications (regulation 127, section 169)	✔	✔		✔			✔
Family day care co-ordinator qualifications (regulation 128, section 163)	✔	✔		✔			✔
Requirements for educators who are early childhood teachers (regulation 130–134, section 169)	✔	✔		✔			✔
First aid qualifications (regulation 136, section 169)	✔			✔		✔	✔
Family day care educator assistant (regulation 144)	✔						
Staff and educator records – centre-based services (regulations 145–152) – See Quality Area 7	✔						
Register of family day care educators, co-ordinators and assistants and records of family day care service – See Quality Area 7 (section 269, regulations 153–154)	✔						

Summary of qualification and staffing requirements

Family day care service requirements

Educator qualification and staffing requirements	
Family day care co-ordinator	Co-ordinators must have an approved diploma level (or higher) education and care qualification.
Family day care educator	All family day care educators must have (or be actively working towards) an approved certificate III level education and care qualification.

Educator to child ratios:	
Age range	**Ratio**
Mixed age group	1:7 Maximum of four children preschool age or under. Ratio includes the educator's own children younger than 13 years of age if there is no other adult to care for them.

Centre-based services with children preschool age and under (primarily long day care, preschool, kindergarten)

Early childhood teacher requirements from 1 January 2014	Fewer than 25 children	The service needs to have access to an early childhood teacher for at least 20 per cent of the time the service is operating. This may be achieved through an information communication technology solution.
	25 – 59 children*	The service must employ or engage a full-time or full time equivalent early childhood teacher, or have an early childhood teacher in attendance for: • 6 hours per day, when operating for 50 hours or more per week OR • 60 per cent of the time, when operating for less than 50 hours per week.
	60 – 80 children*	The service must meet the above requirements for 25–59 children (until 2020 when this changes). Visit the ACECQA website at **www.acecqa.gov.au/qualifications**
	More than 80 children*	The service must meet the above requirements for 25–59 children (until 2020 when this changes). Visit the ACECQA website at **www.acecqa.gov.au/qualifications**
Diploma qualifications	At least 50 per cent of required educators must have (or be actively working towards) at least a diploma level education and care qualification.	
Certificate III qualifications	All other educators who are required to meet ratio requirements must hold or be actively working towards an approved certificate III level education and care qualification or higher. However, a probationary period applies to new educators working without an approved qualification in ACT, NT, QLD, TAS, VIC, WA. New educators can be counted as a Certificate III qualified educator for ratio purposes for up to three months before they need to start working towards their qualification.	

*Saving provisions apply in NSW

Centre-based services with children over preschool age (primarily outside school hours care) ACT, NT, QLD, SA, VIC, WA

There are no national qualification requirements for educators at centre-based services educating and caring for children who are over preschool age. State and territory qualification requirements (if applicable) continue to apply. See the lists of approved qualification requirements for children over preschool age on the ACECQA website at www.acecqa.gov.au/qualifications.

Jurisdictional provisions

Some jurisdictions have transitional and savings provisions in relation to qualification requirements. Regulatory authorities in these states and territories will provide information specfic to their jurisdiction.

APPENDIX A – PROHIBITION NOTICE DECLARATION FOR PROSPECTIVE STAFF MEMBERS

Visit the ACECQA website for an electronic copy of this (optional) form.

Prohibition notice declaration for prospective staff members

- The declaration may be completed by any prospective staff member seeking employment or engagement with an education and care service
- This form is designed to support approved providers to ensure they do not engage or employ a person who is prohibited from working in an education and care service, in line with Section 188 of the Education and Care Services National Law
- Completed forms should be retained and stored by the approved provider to support compliance with Section 188 of the Education and Care Services National Law
- **Please note this form does not need to be lodged with the regulatory authority**

Part A: **Personal details**

1. Please complete the following:

Title: ..... First name: .....

Last name: ..... Mobile number: .....

Phone number: ..... Date of birth: DD/MM/YYYY ...../...../.....

Email: .....

Address: .....

.....

Suburb/Town: .....

State/Territory: ..... Postcode: .....

2. Please provide details of any former names or other names you may be known by: _____

3. Are you currently subject to a prohibition notice under the Education and Care Services National Law? ☐ Yes ☐ No

Please note that under section 187 of the Education and Care Services National Law, a person who is subject to a prohibition notice is not allowed to work for or be engaged by an education and care service or carry out any other related activity.

4. Are you currently prohibited or restricted from working with children under any other law? ☐ Yes ☐ No

Part B: **Declaration**

I, ... [insert full name of person signing the declaration] declare that:

1. the information provided on this form is true, complete and correct
2. the approved provider or a representative of the approved provider is authorised to verify any information provided in this form
3. I am aware that under the Education and Care Services National Law penalties apply if false or misleading information is provided.

Signature of person making the declaration: .....

Signed at: ..... [place] on the ..... [date]

Signature of witness: _____ Name of witness: _____

APPENDIX B – COMPLIANCE HISTORY STATEMENT FOR A PERSON TO BE A PERSON IN DAY-TO-DAY CHARGE (PIDTDC) OR A NOMINATED SUPERVISOR

Visit the ACECQA website for an electronic copy of this (optional) form.

Compliance history statement for a person to be a person in day-to-day charge (PIDTDC) or a nominated supervisor

It is not mandatory to use this form.

This form may assist when determining a person's suitability to be the nominated supervisor or to be placed in day-to-day charge of a service. Completed forms should be retained and stored.

1. Please provide information about any compliance action or disciplinary proceedings to which you have been subject under:

- the *Education and Care Services National Law*, including the Education and Care Services National Regulations, and
- any of the laws listed at Table 1. below, in any Australian state or territory.

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2. Have you ever had a supervisor certificate that was subject to any conditions or suspended or cancelled by the regulatory authority?

☐ Yes – please provide details below ☐ No

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3. Are you or have you ever been subject to a prohibition notice under the Education and Care Services National Law?

☐ Yes – please provide details below ☐ No

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Compliance history statement for a person to be a person in day-to-day charge (PIDTDC) or a nominated supervisor

4. Have you ever held or applied for a licence, approval, registration, certification or other authorisation under the National Law which the regulatory authority refused, refused to renew, suspended or cancelled?

☐ Yes – please provide details below ☐ No

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I, [insert full name] .....

of [insert address] .....

and born on [insert date of birth] ..... declare that:

1. the information provided in this statement is true and complete, and
2. I am aware that I may be subject to penalties under a Commonwealth or State or Territory Act if I provide false or misleading information.

Signature of person making the declaration:

Signed: ..... Date ...../...../.....

Compliance history statement for a person to be a person in day-to-day charge (PIDTDC) or a nominated supervisor

Table 1	
Other relevant laws, including children's services laws, education laws, and former education and care services laws in any Australian state or territory	
Australian Capital Territory	*Children and Young People Act 2008* *Education Act 2004* *Working with Vulnerable People (Background Checking) Act 2011*
New South Wales	*Children and Young Persons (Care and Protection) Act 1998* *Education Act 1990* *Institute of Teachers Act 2004* *Teaching Service Act 1980* *Commission for Children and Young People Act 1998*
Northern Territory	*Care and Protection of Children Act* *Care and Protection of Children (Children's Services) Regulations* *Education Act* *Teacher Registration (Northern Territory) Act and Regulations*
Queensland	*Child Care Act 2002* *Child Care Act 1991* *Education (Accreditation of Non-State Schools) Act 2001* *Education (General Provisions) Act 2006* *Education (Overseas Students) Act 1996* *Education (Queensland College of Teachers) Act 2005* *Higher Education (General Provisions) Act 2008* *Family and Child Commission Act 2014*
South Australia	*Children's Protection Act 1993* *Children's Services Act 1985* *Education Act 1972*
Tasmania	*Child Care Act 2001* *Education Act 1994* *Children, Young Persons and their Families Act 1997* *Teacher's Registration Act 2000* *Registration to Work with Vulnerable People Act 2013*
Victoria	*Children's Services Act 1996* *Education and Training Reform Act 2006* *Working with Children Act 2005*
Western Australia	*Child Care Services Act 2007* *Child Care Services Regulations 2007* *School Education Act 1999* *Western Australian College of Teaching Act 2004* *Working with Children (Criminal Record Checking) Act 2004*

APPENDIX C – COMPLIANCE HISTORY STATEMENT FOR A PROSPECTIVE FAMILY DAY CARE EDUCATOR

Visit the ACECQA website for an electronic copy of this (optional) form.

Compliance history statement for a prospective family day care educator

It is not mandatory to use this form.

This form may assist when determining a person's suitability to be a family day care educator. Completed forms should be retained and stored.

1. Please provide information about any compliance action or disciplinary proceedings to which you have been subject under:

- the *Education and Care Services National Law*, including the Education and Care Services National Regulations, and
- any of the laws listed at Table 1 below, in any Australian state or territory.

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2. Are you or have you ever been subject to a prohibition or suspension notice under the *Education and Care Services National Law?*

☐ Yes – please provide details below ☐ No

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3. Have you ever held or applied for a licence, approval, registration, certification or other authorisation under the National Law which the regulatory authority refused, refused to renew, suspended or cancelled (for example as a nominated supervisor, a person in day to day charge, a person with management or control)?

☐ Yes – please provide details below ☐ No

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Compliance history statement for a prospective family day care educator

4. Were you formerly registered with another approved provider? If so, please list service details and the reason(s) you left your previous role.

☐ Yes – please provide details below ☐ No

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I, [insert full name] .....

of [insert address] .....

and born on [insert date of birth] ..... declare that:

1. the information provided in this statement is true and complete, and
2. I am aware that I may be subject to penalties under a Commonwealth or State or Territory Act if I provide false or misleading information.

Signature of person making the declaration:

Signed: ..... Date ...../...../.....

Compliance history statement for a prospective family day care educator

Table 1	
Other relevant laws, including children's services laws, education laws, and former education and care services laws in any Australian state or territory	
Australian Capital Territory	*Children and Young People Act 2008* *Education Act 2004* *Working with Vulnerable People (Background Checking) Act 2011*
New South Wales	*Children and Young Persons (Care and Protection) Act 1998* *Education Act 1990* *Institute of Teachers Act 2004* *Teaching Service Act 1980* *Commission for Children and Young People Act 1998*
Northern Territory	*Care and Protection of Children Act* *Care and Protection of Children (Children's Services) Regulations* *Education Act* *Teacher Registration (Northern Territory) Act and Regulations*
Queensland	*Child Care Act 2002* *Child Care Act 1991* *Education (Accreditation of Non-State Schools) Act 2001* *Education (General Provisions) Act 2006* *Education (Overseas Students) Act 1996* *Education (Queensland College of Teachers) Act 2005* *Higher Education (General Provisions) Act 2008* *Family and Child Commission Act 2014*
South Australia	*Children's Protection Act 1993* *Children's Services Act 1985* *Education Act 1972*
Tasmania	*Child Care Act 2001* *Education Act 1994* *Education Act 2016* *Teacher's Registration Act 2000* *Registration to Work with Vulnerable People Act 2013*
Victoria	*Children's Services Act 1996* *Education and Training Reform Act 2006* *Working with Children Act 2005*
Western Australia	*Child Care Services Act 2007* *Child Care Services Regulations 2007* *School Education Act 1999* *Western Australian College of Teaching Act 2004* *Working with Children (Criminal Record Checking) Act 2004*

QUALITY AREA 5
RELATIONSHIPS WITH CHILDREN

National Law

Section 166

Inappropriate discipline

Approved providers, nominated supervisors, staff members, volunteers and family day care educators must ensure that no child being educated and cared for by the service is subject to any form of corporal punishment, or any discipline that is unreasonable.

Authorised officers may discuss what measures are in place to ensure children at the service are not subject to any form of corporal punishment or unreasonable discipline. Compliance may be demonstrated by:

- regular staff awareness sessions
- a clear reporting structure for concerns
- a clear and comprehensive policy and procedure about staff interactions with children.

Authorised officers may also look at the policies and procedures in place regarding staff interactions with children which is a requirement under regulation 168.

National Regulations

Regulation 155

Interactions with children

An approved provider must take reasonable steps to ensure the service provides education and care in a way that:

- encourages children to express themselves and their opinions
- allows children to undertake experiences that develop self-reliance and self-esteem
- maintains the dignity and rights of each child at all times
- gives each child positive guidance and encouragement toward acceptable behaviour
- considers family and cultural values, age, physical and intellectual development and abilities of each child.

National Regulations

Regulation 156

Relationships in groups

The approved provider must take reasonable steps to ensure the service provides children with opportunities to interact and develop respectful and positive relationships with each other, staff members and volunteers at the service.

In doing so, the approved provider must consider the size and composition of the groups of children.

Authorised officers may consider:

- the service's policy on interactions with children (required under regulation 168)
- whether any attachment occurs between children and educators

- whether the service has implemented inclusive practices which allow all children to participate in the program, regardless of background or ability
- whether the environment and routines at the service assist children to manage their own behaviour and promote positive relationships
- whether group sizes take into account children's ages, development and individual needs.

Authorised officers may work with services to ensure group sizes achieve positive outcomes for each child by discussing what the approved provider considered in determining group sizes, for example:

- the physical environment
- service philosophy
- developmental needs of the children
- educators' qualifications and experience
- the operational requirements of the service.

Group size affects factors such as noise level, the amount of stimulation and level of engagement in an education and care setting.

Smaller groups enable children to form caring relationships with one another, engage in meaningful shared experiences and discovery through play. Larger groups can help foster a sense of community and assist in developing strong teamwork and social skills. It is important for educators to consider the context of the group to ensure its size will benefit the experience of each child.

Small groups are particularly important for infants. They are also associated with a lower risk of infection and appear to improve the safety of children.

Responsibilities of the approved provider, nominated supervisor and family day care educator

Requirement	Approved provider	Nominated supervisor	Family day care educator	Offence	Infringement notice	Compliance direction	Waiver*
Interactions with children (Regulation 155)	✔						
Relationships in groups (Regulation 156)	✔					✔	
Inappropriate discipline (Section 166)**	✔	✔	✔	✔			

*Waivers do not apply to any of these requirements.

**This offence also applies to staff members and volunteers at the service.

National Regulations

Regulation 157

Access for parents

A parent of a child may enter a service's premises at any time the child is being educated and cared for by the service.

The approved provider, nominated supervisor or family day care educator is not required to allow a parent to enter the service premises if:

- permitting the parent's entry would pose a risk to the safety of the children and staff of the service
- permitting the parent's entry would conflict with any duty of the provider, supervisor or educator under the National Law
- they reasonably believe permitting the parent's entry would contravene a court order.

A parent includes a guardian of a child or a person who has parental responsibility for a child under a decision or order of a court.

The regulatory authority may suspect an approved provider, nominated supervisor or family day care educator has failed to comply with this requirement if, for instance, they are notified of a complaint from a parent who has been refused access. In such cases, the regulatory authority may seek to establish whether entry was refused based on one of the three exceptions outlined above, by discussing the factors that informed the decision to refuse the parent entry.

For example, if the approved provider, nominated supervisor or family day care educator says the parent was denied access because an aggravated violence order is in place against the parent, the authorised officer may ask to see the child's enrolment record. This enrolment record must include details of any court orders, parenting orders or parenting plans in relation to the child or access to the child (regulation 160).

Where a decision to refuse access arose as a result of circumstances which posed a risk to the health, safety and wellbeing of children, the incident must be reported to the regulatory authority (regulation 175). Where this incident relates to a parent complaint, refer also to *Governance and leadership*. The authorised officer may also request to see the policies and procedures about the delivery and collection of children (regulation 168).

Although it is not a requirement, approved providers may develop a policy about access to children to clarify for parents the circumstances in which they may be denied access, and keep a record of when these decisions are made.

Responsibilities of the approved provider, nominated supervisor and family day care educator

Requirement	Approved provider	Nominated supervisor	Family day care educator	Offence	Infringement notice	Compliance direction	Waiver*
Access for parents (Regulation 157)	✔	✔	✔	✔			
Offence relating to direction to exclude inappropriate persons (Section 171)	✔	✔	✔	✔			

*Waivers do not apply to any of these requirements.

QUALITY AREA 7
GOVERNANCE AND LEADERSHIP

7.1 POLICIES AND PROCEDURES

National Regulations

Regulation 168

The approved provider must ensure the service has policies and procedures in place in relation to the following.

Required policies and procedures for all service types
Health and safety, including: • sleep and rest (Regulation 168(2)(a)) • nutrition, food and beverages, dietary requirements (Standard 2.2) • sun protection (Standard 2.3) • water safety (Standard 2.3) • administration of first aid (Standard 2.1)
Incident, injury, trauma and illness procedures (Regulations 85, 168(2)(b), Standard 2.1)
Dealing with infectious diseases (Regulations 88, 168(2)(c), Standard 2.1)
Dealing with medical conditions (Regulations 90, 168(2)(d), Standard 2.1)
Emergency and evacuation (Regulations 97, 168(2)(e), Standard 2.3)
*Delivery to and collection of children from the education and care service (Regulation 99 and 168(2)(f). Approved providers in WA must ensure the service has a policy about the delivery and collection of children that is consistent with the procedures for ensuring children's safety set out at section 165A of the National Law (WA).
Excursions (Regulations 100–102, 168(2)(g))
Providing a child safe environment (Regulation 168(2)(h), Standards 2.3, 7.1)
Staffing, including (Regulation 168(2)(i)): • professional standards / code of conduct for staff members (Standard 4.2) • determining the responsible person • participation of volunteers and students
Interactions with children (Regulations 155–156, 168(2)(j), Standards 5.1, 5.2)
Enrolment and orientation (Regulation 168(2)(k), Standard 6.1)
Governance and management of the service, including confidentiality of records (Regulation 168(2)(l), Standard 7.3)
Acceptance and refusal of authorisations (Regulation 168(2)(m))
Payment of fees and provision of a statement of fees (Regulation 168(2)(n), Standard 7.3)
Dealing with complaints (Regulation 168(2)(o), Standard 7.3).

*Approved providers may restrict who can be nominated to collect a child, for example by a person under the age of 16 years. This should be documented in the policy about collection of children. Authorised officers may talk to approved providers about whether they have taken into consideration that some parents may be less than 18 years of age.

National Regulations

Regulation 169

For a family day care service, the approved provider must also ensure the service has policies and procedures in place in relation to the matters below.

Additional policies and procedures for a family day care service
Assessment, approval and reassessment of family day care residences and assessment, including risk assessment of family day care venues (Regulations 116, 169(2)(a), Standard 2.3)
Engagement or registration of family day care educators (Regulation 169(2)(b), Standard 7.1)
Keeping a register of family day care educators, co-ordinators and assistants (Regulations 153, 169(2)(c))
Monitoring, support and supervision of family day care educators (Regulation 169(2)(d), Standards 4.2, 7.1, 7.2)
Fit and proper assessment of family day care educators, family day care educator assistants and people living at family day care residences (Regulations 163, 169(2)(e), Standard 7.1)
Visitors to family day care residences and venues while children are being educated and cared for (Regulations 165, 169(2)(f))
Provision of information, assistance and training to family day care educators (Regulation 169(2)(g), Standards 4.2, 7.1, 7.2, 7.3)
Engagement or registration of family day care educator assistants (Regulations 154, 169(2)(h)).

National Regulations

Regulation 170

The approved provider must take reasonable steps to ensure the nominated supervisor, staff members and any volunteers at a centre-based service follow the policies and procedures required under regulation 168.

The approved provider of a family day care service must take reasonable steps to ensure the nominated supervisor, and the staff members and family day care educators engaged by or registered with the service, follow the policies and procedures required under regulations 168 and 169.

National Regulations

Regulation 171

The policies and procedures must be readily accessible to the nominated supervisor, staff members and volunteers.

The prescribed policies and procedures must be available for inspection at a centre-based service's premises and, for family day care services, at each family day care residence and approved venue, and any office of the family day care service. This requirement can be met through a paper copy or electronic version.

Policies should be informed by the service's philosophy statement, current research and contemporary views on best practice including Early Childhood Australia's Code of Ethics and advice from other recognised authorities.

National Regulations

Regulation 172

Making changes to the policies and procedures

The National Regulations do not specify how often a philosophy or policy must be reviewed. A review schedule should be developed, where policies are prioritised according to how often the content is expected to change. For example, changes in legislation, or a serious incident at the service may trigger a review.

Authorised officers may discuss with the approved provider how policies are developed, maintained and informed by best practice from relevant, recognised authorities. For example, a sun protection policy may reference information from Cancer Council Australia.

The policies do not have to be in any particular style or format, and do not need to be titled to reflect the exact wording of the National Regulations.

Parents of children at the service must be notified at least 14 days before making any change to a policy or procedure required under regulations 168 and 169 if the change:

- may have a significant impact on the service's provision of education and care to any child enrolled at the service
- may have a significant impact on the family's ability to use the service, or
- will affect the fees charged or the way in which fees are collected.

The approved provider does not have to comply with the notice period if the provider considers it would pose a risk to the safety, health or wellbeing of any child at the service to do so. In that case the approved provider must notify parents as soon as practicable after making the change.

National Regulations

Regulations 92, 99, 102

Policies on acceptance and refusal of authorisation

Authorisation must be obtained for:

- administering medication to children
- children leaving the premises in the care of someone other than a parent
- children to be taken on excursions.

The service's 'acceptance and refusal of authorisations' policy should set out the circumstances the provider would accept (or refuse) an authorisation. For example, the policy may state authorisations must be in writing, signed and dated, and clearly state the name of the child to whom the authorisation relates.

7.2 INFORMATION TO BE DISPLAYED

National Law & Regulations

Section 172
Regulation 173

The approved provider must ensure the following information is clearly visible at the service premises in a place that is accessible to families.

Information to be displayed
The approved provider's name, approval number and any conditions on the provider approval
The approved service's name, approval number and any conditions on the service approval
The name of each nominated supervisor
The service's current ratings against each quality area and the overall rating
Whether a waiver is in force at the service and, if so, which NQS elements and/or Regulations have been waived, the duration of the waiver, and whether the waiver is a temporary or service waiver
The hours and days of operation of the service
The name and telephone number of a person to whom complaints can be addressed
The name and position of the responsible person at a centre-based service at any given time
The name of the educational leader
The contact details of the regulatory authority
If applicable, a notice stating a child who has been diagnosed as at risk of anaphylaxis is enrolled at the centre-based service. In the case of family day care residence or venue, a notice stating a child who has been diagnosed as at risk of anaphylaxis is enrolled or attends the family day care residence or venue.
If applicable, a notice of an occurrence of an infectious disease at the premises for a centre-based service. In the case of a family day care residence or venue, a notice stating that there has been an occurrence of an infectious disease at the family day care residence or venue.

Prescribed information about anaphylaxis or infectious diseases should be displayed at a family day care residence or venue if applicable to a child who attends that specific family day care residence or venue. It should be displayed at the family day care office if children or parents regularly attend the office.

The National Law and Regulations do not prescribe how this information should be displayed. Some information could be permanently displayed as a laminated poster or framed certificate, while other information (such as information which is updated regularly) could be displayed on a whiteboard.

7.3 REPORTING INFORMATION TO THE REGULATORY AUTHORITY

National Law & Regulations

Sections 56, 173, 174
Regulations 174, 175, 176

Information about the approved provider and service

The approved provider must notify the regulatory authority that granted the provider approval if any of the events below occur in relation to the approved provider or each approved service.

Applications and notifications can be submitted online using the National Quality Agenda (NQA) IT System at www.acecqa.gov.au

Circumstances that must be notified to the regulatory authority

Type of notification	Responsible	Timeframe	Reference
Death of approved provider	Nominated Supervisor or person in day to day control	Within 7 days of the death	Section 39(2)
Intention to transfer service approval	Transferring approved provider and receiving approved provider	At least 42 days before transfer	Section 59, Regulations 36 & 37
Change in name of approved provider	Approved provider	Within 14 days	Section 173(1)(a)
Any appointment or removal of a person with management or control of service	Approved provider	Within 14 days	Section 173(1)(b)
Failure to commence operating within 6 months (or within the time agreed with the regulatory authority) after being granted a service approval	Approved provider	Within 14 days	Section 173(1)(c)
The suspension or cancellation of a working with children card or teacher registration, or disciplinary proceedings under an education law of a participating jurisdiction in respect of a nominated supervisor engaged by the service.	Approved provider	Within 7 days of the approved provider being notified	Section 173(2)(a)
Addition of a new nominated supervisor	Approved provider	At least 7 days prior to commencement (or as soon as practicable but no more than 14 days after commencement)	Section 56
Nominated supervisor ceases to be employed or engaged at the service, is removed from the role, or withdraws consent to the nomination	Approved provider	Within 7 days	Section 173(2)(b)

Circumstances that must be notified to the regulatory authority			
Type of notification	**Responsible**	**Timeframe**	**Reference**
Any proposed change premises (other than a family day care residence)	Approved provider	Within 7 days	Section 173(2)(c)
Change of a nominated supervisor's name or contact details	Approved provider	Not specified	Section 56A
Ceasing to operate the education and care service	Approved provider	Within 7 days	Section 173(2)(d)
A change in the location of the principal office of a family day care service	Approved provider	At least 14 days before the change will occur	Section 173(2)(e)
Any change relevant to approved provider's fitness and propriety	Approved provider	Within 7 days	Section 174(1)(a)
Any change to the address of the approved provider, or the principal office of the approved provider, or the contact details of the approved provider	Approved provider	Within 7 days	Regulation 175(1)(a)
The appointment of receivers or liquidators or administrators to the approved provider or any matters that affect the financial viability and ongoing operation of the service	Approved provider	Within 7 days	Regulation 175(1)(b)
Any change to the hours and days of operation of the service	Approved provider	Within 7 days	Regulation 175(2)(a)

In general, the notification must be in writing to the regulatory authority in which the service approval was granted or, for a family day care service, the regulatory authority in each jurisdiction the family day care service operates.

Information about nominated supervisors the approved provider must notify to the regulatory authority

The approved provider must notify the regulatory authority if they add a new nominated supervisor of a service (section 56, regulation 35).

The provider must give written notice at least 7 days before the new nominated supervisor commences or if that is not possible in the circumstances, as soon as possible but not more than 14 days after the individual starts work as a nominated supervisor (section 56(2)(c)).

The notice to the regulatory authority must include written consent from the new nominated supervisor to the nomination. The only exception is if the approved provider is an individual and nominates themselves to be a nominated supervisor. In this case, the approved provider does not need to provide their own written consent to being a nominated supervisor (section 56(2)(a)).

The approved provider must also notify the regulatory authority in writing of any change to the name or contact details of any nominated supervisor (section 56A).

The approved provider must also notify the regulatory authority if a nominated supervisor is no longer employed or engaged by the service, if they are removed from the role of nominated supervisor, or if they withdraw their consent to be the nominated supervisor (section 173(2)(b)).

National Law & Regulations

Section 174
Regulations 12, 174–176

Serious incidents, change of circumstances and complaints

The approved provider must also notify the regulatory authority in writing of the following incidents, change of circumstances and complaints.

Applications and notifications can be submitted online using the National Quality Agenda (NQA) IT System at www.acecqa.gov.au

Serious incidents, change of circumstances and complaints to notify

Type of notification	Responsible	Timeframe	Reference
Notification to regulatory authority			
Death of a child	Approved provider	As soon as practicable, but within 24 hours	Section 174(2)(a) Regulation 12 Regulation 176(2)(a)(i)
Any incident involving serious illness of a child while being educated and cared for which the child attended or ought reasonably to have attended a hospital	Approved provider	Within 24 hours of the incident	Section 174(2)(a) Regulation 12
Any incident involving serious injury or trauma to a child while being educated and cared for which the child attended or ought reasonably to have attended a hospital, or a reasonable person would consider that the child would require urgent attention from a registered medical practitioner	Approved provider	Within 24 hours of the incident	Section 174(2)(a) Regulation 12
Any emergency for which emergency services attended	Approved provider	Within 24 hours of the incident	Section 174(2)(a) Regulation 12
A child is missing or cannot be accounted for or appears to have been removed from the premises by a person not authorised by a parent	Approved provider	Within 24 hours of the incident	Section 174(2)(a) Regulation 12
A child is mistakenly locked in or out of the premises or any part of the premises	Approved provider	Within 24 hours of the incident	Section 174(2)(a) Regulation 12
Any incident that requires the provider to close or reduce the number of children attending	Approved provider	Within 24 hours of the incident	Section 174(2)(c) Regulation 175(2)(b)
Any complaint alleging that a serious incident has occurred or is occurring at an education and care service, or the National Law has been contravened (refer to Serious Incidents outlined in table above)	Approved provider	Within 24 hours of the complaint	Section 174(2)(b) Regulation 12

Serious incidents, change of circumstances and complaints to notify			
Type of notification	**Responsible**	**Timeframe**	**Reference**
The centre-based service is educating and caring for extra child/ren due to an emergency	Approved provider	Within 24 hours	Section 174(2)(c) Regulation 175(2)(ca)
Any circumstance at the service that poses a significant risk to the health, safety or wellbeing of a child attending the service	Approved provider	Within 7 days	Section 174(2)(c) Regulation 175(2)(c)
Any incident where the provider reasonably believes that physical or sexual abuse of a child or children has occurred or is occurring while the child is being educated and cared for by the service	Approved provider	Within 7 days	Section 174(2)(c) Regulation 175 (2)(d)
Allegations that physical or sexual abuse of a child or children has occurred or is occurring while the child or children are being educated and cared for by the service	Approved provider	Within 7 days	Section 174(2)(c) Regulation 175 (2)(e)
Information for FDC Educators to report to their Approved Provider			
Any serious incident while a child is being educated and cared for by the educator (refer to *Serious Incidents* outlined in *Incidents and Complaints* table above)	FDC Educator	None specified	Section 174A Regulation 12
Any complaint alleging that a serious incident has occurred or the National Law has been contravened while a child was being educated and cared for (refer to *Serious Incidents* outlined in *Incidents and Complaints* table above)	FDC Educator	None specified	Section 174A Regulation 12
Any new person over 18 years who resides at the FDC residence and any circumstance relevant to whether a resident who is over 18 years is fit and proper	FDC Educator	None specified	Regulation 164
Renovations or other changes to the FDC residence or approved venue that create a serious risk to the health, safety and wellbeing of children attending the residence or venue	FDC Educator	None specified	Regulation 176A
Notification to parents			
Policies: parents of children enrolled at the service are notified before making any change to a policy or procedure that may have a significant impact on the service's provision of education and care to any child enrolled at the service; the family's ability to utilise the service; any change that will affect the fees charged or the way in which fees are collected.	Approved provider	At least 14 days prior unless a lesser period is necessary because of a risk	Regulation 172
Voluntary suspension of provider approval: approved provider must notify the parents of children enrolled at the services operated by the approved provider.	Approved provider	At least 14 days prior to application for suspension	Section 37(3)

Serious incidents, change of circumstances and complaints to notify			
Type of notification	**Responsible**	**Timeframe**	**Reference**
A parent of a child being educated and cared for by the service is to be notified if the child is involved in any incident, injury, trauma or illness while at the service.	Approved provider	As soon as practicable, no more than 24 hours	Regulation 86
If there is an occurrence of an infectious disease at a centre-based service, the approved provider of the service must ensure that a parent or an authorised emergency contact of each child is notified of the occurrence.	Approved provider	As soon as practicable	Regulation 88
If medication is administered in case of an anaphylaxis or asthma emergency, the approved provider or a nominated supervisor of the service or family day care educator must ensure that a parent and emergency services are notified.	Approved provider/ nominated supervisor/ educator	As soon as practicable	Regulation 94

See below for more information on serious incidents.

Providers can download an (optional) incident, injury, trauma and illness record template to record any supporting evidence of other (non-serious) incidents for example, bruises or scratches, from the ACECQA website (www.acecqa.gov.au).

There may be other reporting requirements for approved providers, educators and service staff under different state and territory laws, for example, child protection laws and requirement to meet Child Safe standards. Visit the Australian Government, Australian Institute of Family Studies website for Australian child protection legislation at www.aifs.gov.au

The intent of the National Regulations is to ensure regulatory authorities are notified of serious incidents, complaints and circumstances where the health, safety or wellbeing of children may have been compromised so that it is able to take appropriate action.

National Regulations

Regulation 12

Serious incident

A serious incident (Regulation 12) is defined as any of the following:

- the **death of a child** while being educated and cared for at the service or following an incident at the service
- any **incident involving a serious injury or trauma** while the child is being educated and cared for, which:
  - a reasonable person would consider required urgent medical attention from a registered medical practitioner; or
  - the child attended or ought reasonably to have attended a hospital e.g. broken limb*

- any **incident involving serious illness of a child** while that child is being educated and cared for by a service for which the child attended, or ought reasonably to have attended, a hospital e.g. severe asthma attack, seizure or anaphylaxis*.
  - ***NOTE:** In some cases (for example rural and remote locations) a General Practitioner conducts consultations from the hospital site. Only treatment related to serious injury or illness or trauma are required to be notified, not other health matters.
- any emergency for which **emergency services** attended. **NOTE:** This means an incident, situation or event where there is an imminent or severe risk to the health, safety or wellbeing of a person/s at an education and care service. It does not mean an incident where emergency services attended as a precaution.
- a child appears to be **missing or cannot be accounted** for at the service
- a child appears to have been **taken or removed** from the service in a manner that contravenes the National Regulations
- a child was mistakenly **locked in or locked out of the service** premises or any part of the premises.

Below are some examples of serious incidents to notify.

Examples of a serious incident
Amputation, for example, removal of fingers
Anaphylactic reaction requiring hospitalisation
Asthma requiring hospitalisation
Broken bone/fractures
Bronchiolitis
Burns
Diarrhoea requiring hospitalisation
Epileptic seizures
Head injuries
Measles
Meningococcal infection
Sexual assault
Witnessing violence or a frightening event

If the approved provider is not aware that the incident was serious until sometime after the incident, they must notify the regulatory authority within 24 hours of becoming aware that the incident was serious. For example, where a child hurts their arm at the service, but is in no obvious pain and continues to play. If the parent later advises that the child's symptoms had worsened and a fractured arm had been confirmed, then the approved provider should report the incident as a serious incident.

If it is not practicable to notify the regulatory authority through the National Quality Agenda IT System portal (because, for example, of the extreme urgency of the notification or difficulty getting the notification forms signed by the number of people indicated by the form) the notification can be made initially in whatever way is best in the circumstances. The important thing is for the notification to be made within 24 hours.

National Regulations

Regulations 175 (2) (d), (e)

Notifying physical or sexual abuse to the Regulatory Authority

The following guidance is for notifying physical and sexual abuse to the regulatory authority as required by the NQF. In addition to reporting an incident to the regulatory authority, it may be appropriate to report the matter under reportable conduct (e.g. Ombudsman), to child protection agencies or to the police. This is to meet other reporting requirements for approved providers, educators and service staff under different state and territory laws. For example, child protection laws or child safe standards may apply in your jurisdiction, in addition to your obligations under the National Quality Framework.

Notifications for the NQF can be submitted to the regulatory authority online using the National Quality Agenda IT System on the ACECQA website (www.acecqa.gov.au) and should include details of the reports made to child protection or other agencies.

National Regulation 175(2)(d) and (e) require the approved provider to notify the regulatory authority of any allegations or incidents where they reasonably believe physical or sexual abuse of a child or children is occurring, while they are at or being cared for by an education and care service. The intent of the National Regulation is to ensure incidents and allegations of physical or sexual abuse by a staff member or other adult at the service are reported.

Incidents that occur between children may be notifiable, such as cases where one child has power over the other because of physical stature or an age difference.

Regulation 175(2)(d) and (e) do not relate to incidents and allegations of physical or sexual abuse of a child or children when they are not being cared for by an education and care service.

The following definitions of physical and sexual abuse are adapted from the Australian Government, Australian Institute of Family Studies website (www.aifs.gov.au). Refer to this website for information on *child abuse and neglect*.

Definition of physical abuse

For the purposes of NQF notifications, child physical abuse refers to the non-accidental use of physical force against a child that results in harm to the child. Depending on the age and the nature of the behaviour, physical force that is likely to cause physical harm to the child may also be considered abusive. For example a situation in which a baby is shaken but not injured would still be considered physical abuse.

Definition of sexual abuse

For the purposes of NQF notifications, the definition of child sexual abuse varies depending on the relationship between the victim and the perpetrator. In the context of education and care, the definition of sexual abuse is any sexual behaviour, including grooming behaviour, between an adult and a child. Adults working in an education and care service are in a position of power or authority over children and any sexual behaviour by an adult towards a child is sexual abuse.

Note: Grooming behaviour is when an adult engages in inappropriate conduct towards a child that serves to increase the likelihood of future sexual abuse. This is done by gaining trust and compliance, and building a relationship with a child through premeditated behaviour and actions.

For adolescent or child perpetrators, sexual abuse is indicated when there is non-consensual sexual activity between minors, or any sexual behaviour between a child and another child or adolescent who – due to their age or stage of development – is in a position of power, trust or responsibility over the victim.

Other reporting obligations

Visit the Australian Government, Australian Institute of Family Studies website (www.aifs.gov.au) for further information relating to state and territory *child protection legislation* and *child protection reporting requirements*.

Timeframe for notifying

The timeframe for reporting any incident or allegation to the regulatory authority where the approved provider reasonably believes that physical or sexual abuse of a child (or children) has occurred (or is occurring) while the child is being educated and cared for by the service, is within seven days of the incident.

If the incident or allegation of physical or sexual abuse also meets the criteria for a serious incident notify within 24 hours of the incident. For example if emergency services attend the education and care service in response to an incident of physical abuse.

Approved providers should submit notifications online using the National Quality Agenda IT System or by contacting the regulatory authority, within the appropriate timeframes.

The approved provider must ensure that a parent of a child being educated and cared for by the service is notified as soon as practicable, but not later than 24

hours after the occurrence, if the child is involved in any incident, injury, trauma or illness while the child is being educated and cared for by the education and care service.

Refer to the ACECQA website (**www.acecqa.gov.au**) for more information regarding ***notification types and timeframes*** and for further information on ***reporting requirements about children***.

Matters which impact on day-to-day operation of the service or may pose a risk to children

The intent of the National Law is to ensure regulatory authorities are notified of circumstances that pose a significant risk or negatively impact on the operation of the service. This is separate from the requirement to notify a 'serious incident' involving a particular child.

Examples of circumstances that need to be notified:

- parents are unable to get to a service to collect their children because the service is in a flood affected area with the flood water rising
- land subsidence at the property adjoining a service. The service may be deemed structurally safe by experts and remain operational, but a large hole in the neighbouring property could potentially pose a risk to the health, safety and wellbeing of children.

These circumstances are more about situations that have happened to, or impacted on, the operation of the service, rather than an incident that has occurred directly to a child.

National Law & Regulations

Section 174A
Regulation 176(a)

Family day care educators to report to the approved provider

Family day care educators must notify the approved provider of:

- a serious incident (see below and defined in the National Regulations)
- any complaint alleging that a serious incident has occurred, or is occurring, while a child is being educated or cared for by the educator, or the National Law or Regulations have been contravened
- any renovations or other changes to the family day care residence or venue which may pose a serious risk to the health, safety and wellbeing of children attending, or likely to attend, the family day care residence or venue*
- any changes in the persons, 18 years or over, residing at the family day care residence (for example, a new partner of the family day care provider)
- any changes in the fitness and propriety of the persons, 18 years or over, residing at the family day care residence*
- any other prescribed information.

Failure to comply with these requirements is an offence with a penalty of $2,000.

Family day care educators must seek approval from the approval provider if they plan to use a family day care educator assistant to provide education and care

to children at the service. See ***Staffing Requirements*** and regulation 144 for what circumstances the assistant may be able to deliver education and care, including how much notice must be given to parents of children in attendance.

The requirement for educators to notify matters to the approved provider assists the approved provider to meet their obligations under the National Law.

National Regulations

Regulation 174(2)(c)

** It is expected that this information would then be notified by the approved provider to the regulatory authority as a circumstance arising at the service that poses a risk to the health, safety and wellbeing of children.*

7.4 MANAGEMENT OF RECORDS

Accurate record keeping assists in the management of the service, ensures the safety of children and provides a level of transparency and accountability for services, regulatory authorities and families.

Under the National Regulations, approved providers must:

- keep and maintain certain records
- ensure confidentiality and secure storage of records
- have the records available for inspection by an authorised officer and, in some cases, parents of enrolled children.

Family day care educators are also responsible for the management of records.

Penalties apply if accurate records are not maintained.

National Law & Regulations

Section 175
Regulations 177–179

Family Day Care

What records must be kept

The following table describes what records and documents must be kept and for how long. Any other records must be kept for three years after the record was made.

Reasonable steps must be taken to make sure the documents are accurate.

A family day care educator must:

- keep the below documents (identified as the responsibility of family day care educators) for each child being educated and cared for
- take reasonable steps to ensure the documents are accurate
- provide all documents listed below to the approved provider when the educator is no longer engaged by or registered with the service.

The approved provider does not need to keep a document if the equivalent is kept by the family day care educator (see below).

See *Confidentiality and storage of records* (below) for more information on record inspections and confidential storage.

Records and documents required to be kept at the service (Regulation 183)			
Type of record	**Responsibility**	**Timeframe**	**Reference**
Evidence of current public liability insurance Note: Does not apply if the insurance is provided by a state or territory government	Approved provider Family day care educator	Ongoing Available for inspection at service premises or family day care office	Regulations 29, 30, 180
Quality improvement plan	Approved provider	Ongoing, to be revised annually	Regulations 31, 55, 56
Child assessments or evaluations for delivery of the educational program	Approved provider (Centre-based services) Family day care educator	Until the end of 3 years after the child's last attendance	Regulations 74, 183, 177(1)(a) Regulation 178(1)(a)
Incident, injury, trauma and illness record	Approved provider Family day care educator	Until the child is 25 years old	Regulations 87, 183, 177(1)(b) Regulation 178(1)(b)
Medication record	Approved provider Family day care educator	Until the end of 3 years after the child's last attendance	Regulations 92, 183, 177(1)(c) Regulation 178(1)(c)
Child attendance record	Approved provider Family day care educator	Until the end of 3 years after the last date on which the child was educated and cared for by the service	Regulations 158, 183, 177(1)(k) Regulation 159; Regulation 178(1)(d)
Child enrolment record	Approved provider Family day care educator	Until the end of 3 years after the child's last attendance	Regulations 160, 183, 177(1)(l) Regulation 178(1)(e)
Death of a child while being educated and cared for by the service	Approved provider	Until the end of 7 years after the death	Regulations 12, 183(2)(c)
Record of service's compliance history	Approved provider	Until the end of 3 years after the approved provider operated the service	Regulations 167, 183(2)(e)

Records and documents required to be kept at the service (Regulation 183)			
Type of record	**Responsibility**	**Timeframe**	**Reference**
For centre-based services only			
Staff record	Approved provider	Until the end of 3 years after the staff member works for the service	Regulations 145, 183(2)(g)
Record of access to early childhood teachers	Approved provider	Until the end of 3 years after the staff member works for the service	Regulations 152, 183(2)(f)
Record of educators working directly with children	Approved provider	Until the end of 3 years after the staff member works for the service	Regulations 151, 183(2)(f)
Record of volunteers and students, contact details and days in attendance	Approved provider	Until the end of 3 years after the volunteer or student attended the service	Regulations 149, 183(2)(f)
Record of responsible person in day-to-day charge including nominated supervisors placed in day-to-day charge	Approved provider	Until the end of 3 years after the staff member works for the service	Section 162 Regulations 145, 150, 177
For family day care services only			
Record of assessments of family day care residences and approved family day care venues	Approved provider	Until the end of 3 years after the record was made	Regulations 116, 183(2)(g)
Record of family day care staff (including educators, co-ordinators and assistants)	Approved provider	Until the end of 3 years after the staff member ceased working at the service	Regulations 154, 183(2)(f)
Record of visitors to family day care residence or approved family day care venue	Family day care educator	Until the end of 3 years after the record was made	Regulations 165, 183(2)(g)
Register of family day care educators, co-ordinators and assistants engaged by, or registered with, the service	Approved provider	Must be kept until 3 years after the date on which the family day care educator or co-ordinator ceased to be employed or engaged by or registered with the service	Regulation 153

National Regulations

Regulations 145–152

Staff record – centre-based services

The staff record for a centre-based service must include the below information.

Information that must be included in a staff record (centre-based services)
Full name, address and date of birth of the nominated supervisor and each other staff member
Evidence of any relevant qualifications (or, if applicable, evidence the nominated supervisor or staff member is actively working towards that qualification) and approved training (including first aid training) held by the nominated supervisor and each other staff member
Record of evidence of fitness and propriety of staff members: • if the education and care service is located in a jurisdiction with a working with children law or a working with vulnerable people law, a record of the identifying number of the current check conducted under that law, and the check's expiry date if applicable, **OR** • except in the case of NSW, Queensland and Tasmania, if the staff member has provided proof of their current teacher registration, a record of the identifying number of the staff member's teacher registration and the expiry date of that registration • in Tasmania, a record of the identifying number of the staff member's working with vulnerable people registration and the expiry date of that registration.
The name of the person designated as the educational leader
Full name, address and date of birth of each student or volunteer who participates, and the date and hours of participation
The name of the responsible person for each time that children are being educated and cared for by the service
The name of each educator who works directly with children, including the hours that each educator works directly with children
Record of access to early childhood teachers, including: • for services providing education and care to less than 25 children preschool age or under, the period that an early childhood teacher is working with the service, including when the teacher did and did not work directly with children • for services providing education and care to 25 or more children preschool age or under, the period that an early childhood teacher is in attendance at the service.

See *Quality Area 4: Staffing arrangements* for information on responsible persons and minimum requirements for nominated supervisors.

Visit the ACECQA website to download an optional staff record template at www.acecqa.gov.au.

A sign in/out register, staff roster or time sheets might be some of the ways an approved provider can meet these requirements. The record should note the hours that each educator works directly with children and should exclude time spent off the floor for breaks, programming and preparation.

The requirement for approved providers to keep a record of educators working directly with children is intended to assist regulatory authorities to monitor compliance with educator to child ratio requirements and adequate supervision.

Regulation 151 does not dictate how the required information must be recorded. The provider may use a staff roster or time sheets to capture the required information, or an alternative method.

Authorised officers use a common sense approach. Authorised officers will not expect to see a record of breaks from working with the children if the breaks are short and are for matters such as going to the toilet, answering a phone call, talking to a parent or briefly checking paperwork. However, a record would need to be kept for rostered breaks, or if an educator is going into another room to do work away from the children for a longer period of time, for instance, preparing the programing for the next day.

Approved providers are encouraged to have a clear and accurate record of educators working directly with children to help demonstrate educator to child ratios are being met and children are adequately supervised at all times.

See *Quality Area 4: Staffing requirements* for information on educator to child ratios and *Quality Area 2: Children's health and safety* for information on adequate supervision.

National Regulations

Regulation 154

Records of family day care service staff

The approved provider must keep a record of staff other than family day care educators, co-ordinators and family day care educator assistants.

Information that must be included in the record of family day care service staff
The name of the person designated as the educational leader
The full name, address and date of birth of the nominated supervisor and each staff member
Evidence of any relevant qualifications (or if applicable, the staff member is actively working towards that qualification), approved training (including first aid qualifications and training) and working with children checks (including identifying number and expiry date) held by the nominated supervisor and each other staff member
Full name, address and date of birth of each student or volunteer who participates, and the date and hours of participation

Visit the ACECQA website to download an optional template record of family day care staff at **www.acecqa.gov.au**. See example in the Appendix.

National Regulations

Regulations 158–159

Children's attendance record

The approved provider must ensure a record of attendance is kept for the service that:

- records the full name of each child attending the service
- records the date and time each child arrives and departs
- is signed at the time the child arrives and departs by either the person who delivers the child or collects the child, or the nominated supervisor or an educator.

A preschool program provided by a school is not required to comply with this requirement if it keeps attendance records in accordance with the education law or government education department policy that applies in that jurisdiction.

Family Day Care

The family day care educator must keep a record of attendance for each child attending the educator's residence or venue that:

- records the full name of each child
- records the date and time each child arrives and departs
- is signed at the time the child arrives and departs by either the person who delivers the child or collects the child, or if the signature of the person who delivers the child cannot reasonably be obtained, the family day care educator.

The family day care educator's own children (under 13 years of age) do not need to be signed in and out each day. However, keeping a record of when the educator is caring for their own children while also educating and caring for children as part of the service can assist the provider to make sure ratio requirements are met.

The approved provider does not need to keep the record of attendance if it is kept by the family day care educator (see regulation 177(5)).

National Regulations

Regulations 102, 160–162

Children's enrolment record

The approved provider must ensure that an enrolment record is kept for each child enrolled at the service. The family day care educator must keep an enrolment record for each child educated and cared for by the educator. The enrolment record must include the information below.

Information that must be included in enrolment record
Full name, date of birth and address of the child
The name, address and contact details of: • each known parent of the child • any emergency contact • any authorised nominee • any person authorised to consent to medical treatment or administration of medication • any person authorised to give permission to the educator to take the child off the premises
Details of any court orders, parenting orders or parenting plans
Gender of the child
Language used in the child's home
Cultural background of the child and their parents
Any special considerations for the child, such as cultural, dietary or religious requirements or additional needs
Authorisations for: • the approved provider, nominated supervisor or an educator to seek medical treatment and/or ambulance transportation for the child • the service to take the child on regular outings
Name, address and telephone number of the child's registered medical practitioner or medical service
Medicare number (if available)
Details of any specific healthcare needs of the child, including any medical conditions, allergies, or diagnosis that the child is at risk of anaphylaxis
Any medical management plan, anaphylaxis medical management plan or risk minimisation plan
Dietary restrictions
Immunisation status
If the approved provider or a staff member has sighted a child health record, a notation to that effect
In NSW, certificates for immunisation or exemption for the child, as required under *the Public Health Act 2010 NSW*
In VIC, certificates for immunisation, as required under the *Public Health and Wellbeing Act 2008 VIC* which excludes outside school hours care or school holiday care services.

National Regulations

Regulation 184

Transferring a service approval

If a service approval is transferred, the transferring approved provider must transfer the documents required under regulation 177 (see above) to the receiving provider if they relate to children currently enrolled at the service. The transfer must not occur without the permission of a parent of the child.

National Regulations

Regulation 167

Record of service's compliance

The approved provider must keep a record of the service's compliance. The record must include:

- details of any amendment to the service approval made by the regulatory authority under section 55 of the National Law
- details of any suspension of the service approval, other than a voluntary suspension
- details of any compliance direction or notice issued to the approved provider in respect of the service.

The record must not include any information that identifies someone other than the approved provider. The details of an amendment, suspension, compliance direction or notice do not need to be included if the period for seeking review has not yet expired or a review request has not yet been determined. Details also do not need to be included if a review has been conducted and the amendment, suspension, compliance notice or compliance direction was not confirmed.

National Law & Regulations

Section 51
Regulations 29–30, 180

Insurance information

The approved provider must keep evidence of the current insurance at the education and care service premises or, for a family day care service, at the principal office. A family day care educator must keep evidence of the educator's current public liability insurance at the residence or family day care venue.

This evidence, usually in the form of a 'certificate of currency', must be made available for inspection by the regulatory authority or an authorised officer.

This does not apply if the insurance (or indemnity) for the education and care service is provided by a state or territory government.

7.5 CONFIDENTIALITY AND STORAGE OF RECORDS

National Law

Section 175

Documents to be available for inspection by authorised officers

The documents that an approved provider must keep under the National Regulations must be available for inspection by an authorised officer.

To the extent practicable, an approved provider must keep the documents set out in regulation 177 at the service premises if they relate to:

- the operation of the service
- any staff member employed or engaged by the service
- any child educated and cared for at those premises in the previous 12 months.

In any other case, the documents must be kept at a place and in a manner that is readily accessible by an authorised officer.

The documents that a family day care educator must keep under the National Regulations must be available for inspection by an authorised officer at the educator's family day care residence or approved family day care venue.

Records required to be kept under an education law in relation to a preschool within a school may be used to satisfy the recordkeeping requirements of the National Law or the National Regulations. This is consistent with the objective of the National Quality Framework to reduce regulatory burden.

National Regulations

Regulation 177

Access to documents

Any documents relating to a child must be made available to a parent of the child on request (unless limited by a court order). The record of the service's compliance must be able to be accessed by any person on request. These documents should only have information specific to their child.

National Regulations

Regulations 181, 182

Confidentiality

The approved provider and the family day care educator must ensure that information kept in a record under the National Regulations is not divulged or communicated, directly or indirectly, to another person other than in the situations listed below.

Circumstances in which confidential information may be disclosed
To the extent necessary for the education and care or medical treatment of the child to whom the information relates
A parent of the child to whom the information relates (except information in a staff record)
The regulatory authority or an authorised officer
As expressly authorised, permitted or required to be given by or under any act or law
With the written consent of the person who provided the information
For a family day care educator – the approved provider or a nominated supervisor of the family day care service.

It may also be communicated if authorised or required under any act or law, or if the person who provided the information gives written permission. For example, a parent may give written permission for the service to share information about their child with a support agency such as Inclusion Support.

National Regulations

Regulation 183

Storage of records and other documents

The approved provider must ensure the documents kept under regulation 177 are stored in a safe and secure place and for the relevant period. The relevant period for different types of records is set out below.

Records may be kept in hard copy or electronic form, provided they are accessible as required.

Timeframes for keeping records
If the record relates to an incident, illness, injury or trauma suffered by a child while being educated and cared for by the service, or may have been suffered following an incident that occurred while being educated and cared for at the service, until the child is aged 25
If the record relates to the death of a child while being educated and cared for by the service, or that may have occurred as a result of an incident while being educated and cared for by the service, until seven years after the death
In the case of any other record relating to a child enrolled at the service, until the end of three years after the last date on which the child was educated and cared for by the service
If the record relates to the approved provider, until the end of three years after the last date on which the approved provider operated the service
If the record relates to a nominated supervisor or a staff member, until the end of three years after the last date on which the nominated supervisor or staff member provided education and care on behalf of the service
In the case of any other record, until the end of three years after the date on which the record was made.

The prescribed records and information must be stored in a safe and secure place. This means the information should remain confidential and only accessible by a person who has the authority to do so (which includes authorised officers). For example, through storage in a locked filing cabinet or locked room, or stored electronically in a secure manner (such as password protected).

Authorised officers may discuss with the approved provider and family day care educator what steps they take to ensure documents are kept confidential.

National Regulations

Regulations 181–184

Storage of records after service approval transferred

If a service approval is to be transferred, the transferring approved provider must obtain consent from parents to transfer their children's records listed in regulation 183 (see table below) to the new approved provider on the date the transfer takes effect.

National Regulations

Regulation 185

Law and Regulations to be accessible

The approved provider must ensure that a copy of the National Law and Regulations is accessible at the education and care service premises at all times for use by nominated supervisors, staff members, volunteers, parents of children enrolled at the service and any person seeking to make use of the service.

For a family day care service, a copy of the National Law and Regulations should be accessible at the principal office of the service and each educator's residence or venue. It can be an electronic copy.

7.6 OTHER STAFFING ARRANGEMENTS AND RELATED NOTIFICATIONS AND RECORDS

Note: See *Quality Area 4 – Staffing arrangements* for more information on responsible persons, qualifications, education leadership and family day care arrangements.

National Law & Regulations

Section 269
Regulation 153

Register of family day care educators, co-ordinators and assistants

The approved provider of a family day care service must keep at its principal office a register of each family day care educator, co-ordinator and assistant and any other person engaged by or registered with a family day care service to educate and care for a child.

The approved provider must take reasonable steps to ensure the information contained in the register is accurate. Failure to do so will result in a penalty of $2000.

The approved provider must provide any information on the register and any changes to the information on the register to the regulatory authority on request within 24 hours of the request.

It is an offence not to keep a register of family day care educators at the principal office of the service that contains the required information in respect of each family day care educator engaged by or registered with the service, each family day care co-ordinator employed or engaged by the service and each family day care educator assistant engaged by or registered with the service ($4000 in the case of an individual, and $20,000 in any other case).

It is an offence if the approved provider does not provide any information on the register and any changes to the information on the register to the regulatory authority on request within 24 hours of the request. It is an offence not to provide information to the regulatory authority as required ($4000, in the case of an individual, and $20,000 in any other case).

National Regulations

Regulation 153

What should be included on the register?

The register of family day care educators, co-ordinators and assistants must include the information below in relation to each family day care educator, co-ordinator and assistant engaged by or registered with the service.

Information held on the register in relation to a family day care educator, a family day care co-ordinator or a family day care educator assistant must be kept on the register until the end of 3 years after the date on which the family day care educator, the family day care co-ordinator or the family day care educator assistant ceased to be employed or engaged by or registered with the service.

Information that must be included in the register of family day care educators, co-ordinators and assistants
For family day care educators
The full name, address and date of birth of the educator
The contact details of the educator
The address of the residence or approved family day care venue where the educator will be providing education and care to children as part of the service, including a statement as to whether it is a residence or a venue
The date the educator was engaged by, or registered with, the service
When applicable, the date the educator ceased to be engaged by or registered with the service for the period of 3 years following that date
The days and hours when the educator will usually be providing education and care to children as part of the service
If the educator is an approved provider, the number of the provider approval and the date approval was granted
Evidence: • of any relevant qualifications held by the educator or • if applicable, that the educator is actively working towards that qualification as provided under regulation 10
Evidence the educator has completed: • current approved first aid training • current approved anaphylaxis management training • current approved emergency asthma management training
Evidence of any other training completed by the educator
The name and date of birth of each child the educator cares for, and the days and hours the educator usually provides care to that child
The full name and date of birth of other people who normally reside at the family day care residence and a record of any working with children or working with vulnerable people check for those people, including the identifying number and expiry date, and date sighted by the approved provider or nominated supervisor of the service.
Evidence that each educator is adequately monitored and supported by a co-ordinator, including: • dates and times of the co-ordinator's visits to the residence or venue or phone calls between the co-ordinator and educator for the purpose of monitoring or support • details of any correspondence or written materials provided to the educator by the co-ordinator for the purpose of monitoring or support, and the dates and times the information was provided.
If the educator will be providing education and care to children in a jurisdiction with a working with children law or a working with vulnerable people law, a record of the identifying number of the check conducted or card issued under that law and the expiry date of that check or card (if applicable).

For family day care co-ordinators
The full name, address and date of birth of the co-ordinator
The contact details of the co-ordinator
The date the co-ordinator was employed or engaged by the service
When applicable, the date the co-ordinator ceased to be employed or engaged by the service for the period of 3 years following that date
If the co-ordinator is an approved provider, the number of the provider approval and the date the approval was granted
Evidence of any relevant qualifications held by the co-ordinator
If the co-ordinator will be providing education and care to children, evidence the co-ordinator has completed: • current approved first aid training • current approved anaphylaxis management training • current approved emergency asthma management training
Evidence of any other training completed by the co-ordinator
If the co-ordinator will be providing education and care to children in a jurisdiction with a working with children law or a working with vulnerable people law, a record of the identifying number of the check conducted or card issued under that law and the expiry date of that check or card (if applicable) record of the date that the check, card, record or registration was sighted by the approved provider or nominated supervisor of the service.
For family day care educator assistants
The full name, address and date of birth of the educator assistant
The contact details of the educator assistant
The name of the family day care educator to be assisted by the educator assistant
The address of the residence or approved family day care venue where the educator assistant will be providing education and care to children as part of the service, including a statement as to whether it is a residence or a venue
The date the educator assistant was engaged by, or registered with, the service
When applicable, the date the educator assistant ceased to be engaged by or registered with the service for the period of 3 years following that date
If the educator assistant is an approved provider, the number of the provider approval and the date the approval was granted
Evidence of any relevant qualifications held by the educator assistant

Evidence the educator assistant has completed: • current approved first aid training • current approved anaphylaxis management training • current approved emergency asthma management training
Evidence of any other training completed by the educator assistant
If the educator assistant will be providing education and care to children in a jurisdiction with a working with children law or a working with vulnerable people law, a record of the identifying number of the check conducted or card issued under that law and the expiry date of that check or card (if applicable), record of the date that the check, card, record or registration was sighted by the approved provider or nominated supervisor of the service

Visit the ACECQA website to download a copy of the below (optional) template register of family day care educators at www.acecqa.gov.au.

National Regulations

Regulations 163, 169

Residents and family day care educator assistants to be fit and proper

The approved provider of a family day care service must take reasonable steps to ensure that family day care educator assistants and anyone aged 18 years or over who live at the family day care residence are fit and proper people to be in the company of children.

The approved provider must consider the person's history in the following ways in each state or territory.

Australian Capital Territory Northern Territory South Australia Western Australia	One of the following: • a criminal history check issued in the previous six months • a current working with children check or card, relevant history assessment as per child protection law or working with vulnerable people check based on a criminal history record check • a current teacher registration.
New South Wales	Current working with children check or card.
Queensland	Current working with children check or card.
Victoria	Current working with children check or current teacher registration.
Tasmania	Working with vulnerable people registration.

National Regulations

Regulations 164

The approved provider of a family day care service must require each family day care educator to notify the provider of:

- any new persons aged 18 years or over who live, or intend to live, at the educator's family day care residence
- any circumstances which may affect the fitness and propriety of a person aged 18 years or over who resides at a family day care educator's residence, or a family day care educator assistant, who has previously been assessed as fit and proper.

The family day care educator must notify the approved provider of the above.

National Regulations

Regulations 165, 169

Visitors to family day care residences and venues

An approved provider must take all reasonable steps to ensure a record of all visitors to a family day care residence or approved family day care venue is kept. A family day care educator must keep a record of all adult visitors to the educator's residence or venue while children are being educated and cared for at the residence or venue. The record must include the signature of the visitor and the time of arrival and departure.

A sample (optional) template is included at the back of this section. This template may be adapted for use by individual services, or providers might develop their own.

National Regulations

Regulations 166, 169

The approved provider must take all reasonable steps to make sure a child being educated and cared for is not left alone with a visitor. The family day care educator must not leave a child being educated and cared for at the residence or venue alone with a visitor. An approved provider must have policies and procedures in place to ensure children are not left alone with visitors in a family day care residence or venue.

See *Supervising unauthorised persons* below for information about who is considered to be a visitor under the National Law.

National Law

Section 170

TAS

Supervising unauthorised persons

An approved provider and nominated supervisor (except for those in Tasmania) must ensure an unauthorised person does not remain on the education and care service premises while children are being educated and cared for, unless the person is under the direct supervision of an educator or other staff member.

A family day care educator (except for those in Tasmania) must ensure an unauthorised person does not remain on the premises while children are being educated and cared for, unless the person is under the direct supervision of the educator. In Tasmania, the *Registration to Work with Vulnerable People Act 2013* provisions apply.

People who are not an unauthorised person
A person who holds a current working with children check or card
A parent or family member of a child at the service (not including a parent or family member whose access to the child is prohibited by a court or tribunal order, of which the approved provider, nominated supervisor or family day care educator is aware, or who is an inappropriate person)
An authorised nominee of a child at the service
In the case of an emergency, medical or emergency service personnel
A person who is permitted under the relevant working with children law to remain at the service premises without holding a working with children check or card.

Parents, family members and authorised nominees are not unauthorised persons and therefore are not required to be directly supervised while on the education and care service premises. Similarly, educators who are part of the family day care service are registered with the service and considered to be an appropriate person to educate and care for children, so are not considered to be an unauthorised person. This also applies to the co-ordinator of the family day care service.

The National Law does not require an approved provider or nominated supervisor of a centre-based service to keep a record of visitors. However, they may decide to keep a visitor's book to help ensure any unauthorised persons do not remain at the service unless under direct supervision.

OTHER REGULATORY FRAMEWORKS

Interactions with other regulatory frameworks

Approved providers, and to a lesser degree their staff, are subject to a variety of other legislative frameworks in addition to the Education and Care Services National Law and Regulations.

Regulatory authorities are only responsible for monitoring and enforcing compliance with the National Law and Regulations. Authorised officers should be aware of other regulators of the education and care sector and have a basic understanding of their role so they are clear about boundaries.

There will be occasions when authorised officers identify:

- non-compliance under the National Law which may also constitute non-compliance under other legislation
- non-compliance with other legislation.

How authorised officers respond in these situations will depend on the seriousness of the issue and arrangements between the regulators in each state or territory. In some cases, the authorised officer may warn the approved provider that they appear to be in breach of other legislation; in more serious situations, the authorised officer may notify the relevant regulator. However, authorised officers are careful in these situations not to be drawn into issues of compliance outside their responsibility and expertise.

Referencing other regulatory standards

There are some situations where other regulatory standards can be a useful guide to aid interpretation of the National Law and Regulations. For example, the National Regulations require the approved provider to ensure that 'adequate' health and hygiene practices and safe practices for handling, preparing and storing food are implemented at the service (regulation 77). The National Regulations do not specify what 'adequate' health and hygiene practices are so it is appropriate for authorised officers to be informed by the Australian food safety standards and by state and 'territory specific' laws when interpreting this requirement.

However, authorised officers are careful to ensure they focus on the requirements of the National Law and Regulations, and not checking compliance with matters outside the National Quality Framework.

Appendix – Template register of family day care educators, co-ordinators and assistants for optional use or tailoring

Visit the ACECQA website (**www.acecqa.gov.au**) for a copy of this template.

Register of family day care educators, co-ordinators and assistants

Educator / Co-ordinator / Assistant details			
Full name			
Date of birth			
Contact phone	(BH)	(AH)	(M)
Email address			
Postal address			
Physical address (for educator/assistant) ☐ Residence ☐ Venue			
Educator / Co-ordinator / Assistant qualifications and study			
Relevant qualification, or name of relevant course enrolled in, including details of progress *(attach copies)*			
Mandatory training completed *(attach copies)*	☐ Approved first aid training – Date: ...../...../..... ☐ Anaphylaxis management training – Date: ...../...../..... ☐ Emergency asthma management training – Date: ...../...../.....		
Any other training completed			
Operation details			
Date registered with the service		Date registration ceased	
Provider approval number of educator (if applicable)		Date approval was granted	

Days and hours of operation	Mon	Tues	Wed	Thurs	Fri	Sat	Sun

Child enrolment details			
Child's full name	Date of birth	Days of attendance	Hours of attendance

Details of other household members	
People who normally reside at the family day care residence (including children under 18 years old):	
Full name	Date of birth

Working with children check / working with vulnerable people / record of criminal history for co-ordinators/educators/assistants and other household members aged 18 years and over who normally reside at the residence:		
Full name	Type of check, identifying number and expiry date	Date check was sighted by the Approved Provider/Nominated Supervisor

Monitoring and support		
For use by co-ordinators for each educator – Name of educator: ……..		
Evidence that each educator is adequately monitored and supported by a family day care co-ordinator including: • the dates and times of any visits by the co-ordinator to the family day care residence or family day care venue for the purpose of monitoring or support • the dates and times of any telephone calls between the co-ordinator and the educator for the purpose of monitoring support • details of any correspondence or written materials provided to the educator by the co-ordinator for the purpose of monitoring or support and the dates and times the correspondence or materials were provided to the educator.		
Date, time	Details	Co-ordinators name

Appendix – Template record of staff for optional use or tailoring

Visit the ACECQA website (**www.acecqa.gov.au**) for a copy of this template.

Record of staff engaged or employed by family day care service (regulation 154)

Educational leader			
Full name			
Nominated Supervisor			
Full name			
Date of birth			
Address			
Relevant qualification, or course enrolled in *(attach copies)*			
Other approved training completed *(attach copies)*			
Identifying number of working with children check (or equivalent) (Refer to Regulations 146(d),(e) & (f))		Expiry date	
Other staff members			
Full name			
Date of birth			
Address			
Relevant qualification, or course enrolled in *(attach copies)*			
Other approved training completed *(attach copies)*			
Identifying number of working with children check (or equivalent) (Refer to Regulations 147(d),(e) & (f))		Expiry date	

1

Full name			
Date of birth			
Address			
Relevant qualification, or course enrolled in *(attach copies)*			
Other approved training completed *(attach copies)*			
Identifying number of working with children check (or equivalent) (Refer to Regulations 147(d),(e) & (f))		Expiry date	

Full name			
Date of birth			
Address			
Relevant qualification, or course enrolled in *(attach copies)*			
Other approved training completed *(attach copies)*			
Identifying number of working with children check (or equivalent) (Refer to Regulations 147(d),(e) & (f))		Expiry date	

Volunteers and students					
Full name					
Address					
Date of birth					
Date and hours of attendance					