Determining the Responsible Person Present Policy

Policy first issued	19th August 2016
Current review date	7th August 2024
Personnel responsible	Childcare Operations

NQS 4 Staffing Arrangements

NQS

QA 4	4.1.1	The organisation of educators across the service supports children's learning and development
QA 7	7.1	Governance supports the operation of a quality service
	7.1.2	Systems are in place to manage risk and enable the effective management and operation of a quality service.

National Law

Law	12	Applicant must be fit and proper person
	13	Matters to be taken into account in assessing whether fit and proper person
	14	Regulatory authority may seek further information
	44	Form of Application
	56	Notice of change to nominated supervisor
	106-109	Application for supervisor certificate
	114	Grant of supervisor certificate
	115	Conditions on certificate
	118	Reassessment of suitability
	161	Offence to operate education and care service without a nominated supervisor
	162	Offence to operate education and care service unless a responsible person is present
	165	Offence to inadequately supervise children
	169	Offence relating to staffing arrangements
	172	Offence to fail to display prescribed information

National Regulations

Regs	14	Application for provider approval for individual
	15	Application for provider approval by person other than an individual
	16	Matters relating to criminal history
	35	Notice of change to nominated supervisor
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	83	Staff member and family day care educators not to be affected by alcohol or drugs
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	135	Early childhood teacher illness or absence
	136	First aid qualifications
	137-143	Approval and determination of qualifications
	145-153	Staff record

Regs	150	Staff record must include name of responsible person at service each time children are being educated and cared for by the service
	168(2)(i)(ii)	Determining person responsible at the service
	173(2)(c)	Offence not to clearly display name of responsible person in the main entrance
	176(2)(c)	Time to notify certain information to Regulatory Authority

Aim

To ensure that our education and care Centre is at all times compliant in relation to staff / child ratios and qualified educators and meeting its duty of care obligations under the law.

- Ensuring staffing arrangements contribute to the health, safety, wellbeing, learning and development of all children at the Centre.
- Meeting legislative requirements for a Responsible Person to be on the Centre premises at all times.

Related Policies

Excursion and Centre Event Policy
Child Safe Environment Policy
National Quality Framework Policy
Administration of First Aid Policy
Anaphylaxis Management Policy
Asthma Management Policy
Code of Conduct Policy
Dealing with Complaints Policy
Teaching, Learning and Curriculum Document
Delivery and Collection of Children Policy
Interactions with Children Policy
Participation of Volunteers and Students Policy
Privacy and Confidentiality Policy

Implementation

Under the *Education and Care Services National Law Act 2010,* it is an offence to operate an approved Centre-based education and care Centre unless a Responsible Person is present. Legislation requires that a Responsible Person be physically in attendance at all times the Centre is educating and caring for children. The Responsible Person is either the Representative of the Approved Provider or the person in management or control of the Centre, the Nominated Supervisor of the Centre, or a Responsible Person who has been placed in day-to-day charge of the Centre.
An Representative of the Approved Provider must not operate a Centre unless there is a Nominated Supervisor appointed for that Centre. The Nominated Supervisor does not have to be in attendance at the Centre at all times, but in their absence, a person with a Supervisor Certificate (Responsible Person) is to be placed in charge, ensuring there is always someone on the Centre premises who has been assessed as fit and proper by the Regulatory Authority. It is important to note that a Responsible Person placed in day-to-day charge of a Centre **does not** have the same responsibilities under the National Law as the Nominated Supervisor.

Our Centre will maintain compliance to the following:

- Our Centre will appoint a Nominated Supervisor responsible for the operations of the Centre.
- Our Centre will nominate a qualified and experienced educator, co-ordinator or other individual as the Centre's Educational Leader. This person is responsible to lead the development and implementation of the Centre's educational programs. Written consent to accept the role of Educational Leader will be kept in the Staff Record file.
- Our Centre will ensure that any educator who is under eighteen years of age does not work alone at the Centre and is supervised at all times by an educator who is over eighteen.
- We will only include educators in the educator to child ratio who are working directly with the children.

Our Centre will maintain compliance with the following in relation to the everyday practicalities of Centre's operations:

- Selectively recruit employees for the Centre, ensuring that they have the required qualifications and training to carry out the role.
- Complete comprehensive employee inductions in to their role in the Centre.
- Educators' rostering and routines will at all times make sure enough educators are available for the adequate supervision of children.
- Supervising educators give their attention to the children and not to any other duties.
- At no time will students or volunteers be included in the ratio of adults supervising children.
- A Nominated Supervisor or Responsible Person will be on the premises at all times when children are being educated or cared for.
- There will be more than one educator present when children are in attendance. No child will at any time be in the care of a sole educator.
- Students and volunteers will never be left alone with a child or a group of children.
- In any situation where adequate supervision of children is threatened, any educators on a meal-break must be prepared to return to duty to supply adequate supervision.
- The Representative of the Approved Provider or Nominated Supervisor will ensure that regulations in relation to the supervision of children are adhered to.
- Educators supervising outdoors, should position themselves to see as much of the play area as possible.
- One educator should be positioned close to the climbing frame as often as possible.
- Any water activity should be closely supervised by at least one educator at all times.
- Except for necessary discussions or concerns regarding children or matters relating to the Centre, educators will not congregate together inside or outside.
- When children are resting or sleeping they will be supervised.
- During hand washing and / or toilet times children will be supervised in the bathroom area.
- Toddlers and children undergoing toilet training will not be left unsupervised in the bathroom.
- No child is to be left unattended at the table when eating.
- Rosters will be designed and implemented to ensure that children receive continuity of care.
- Our Centre will, when possible and to the best of our ability, make use of a regular pool of relief staff.

Reporting the absence of the Nominated Supervisor and advising the person responsible for the Centre.
It is a requirement of this policy that you report your absence to the Representative of the Approved Provider to ensure that this Centre is always lead / managed in every aspect by a suitably qualified and experienced person and that you are meeting the requirements of the law.

Please report the absence of the Nominated Supervisor or Responsible Person and the replacement when:

- The roster for the Nominated Supervisor or the opening / closing supervisor has changed from the roster that is in place and needs to provide a temporary replacement for the position (being a person who does not actively fill this role as the main role in the Centre). This may be due to work related meetings, professional development or leave of absence.

When reporting your absences from your Centre to the Representative of the Approved Provider (GM) can you please ensure that the following information is documented in your email:

- Email addressed 'TO' General Manager Email 'CC' other Centres / Directors if your nominated person may contact them for assistance in your absence.
- The email identifies the 'Responsible Person that you have nominated to be responsible person for the Centre in your absence (please ensure that this person has been formally appointed to this role by verbal communication and the name of this person is placed on your 'person responsible for the Centre' sign in order to meet regulations.

A log of the appointed Responsible Person and Nominated Supervisor must be maintained and included on the daily lunch staffing roster. This will include the timeframe and the person's name as to when they were responsible for the Centre.

Key Responsibilities

Determining the Responsible Person present

The Representative of the Approved Provider is responsible for:

- Ensuring there is a Responsible Person on the premises at all times the Centre is delivering education and care programs for children.
- Ensuring that a person eligible to be nominated as a Responsible Person holds a Supervisor Certificate and has appropriate skill level, experience, qualifications and approval to work with children, as required under the National Law and National Regulations.
- Ensuring that the name and position of the Responsible Person in charge of the Centre is displayed and easily visible from the main entrance for the Centre (National Law: Section 172).
- Ensuring that the Centre does not operate without a Nominated Supervisor, and that this person has given written consent and holds a Responsible Person Certificate.
- Ensuring that the name of the Nominated Supervisor, including name, address, date of birth, evidence of qualifications and approved training, and a Working with Children Check is kept on the staff record (Regulation 146).
- Notifying the Regulatory Authority in writing if there is a change of person in the role of Nominated Supervisor (Section 56, Regulation 35).
- Conduct regular visits and audits on the Centre and the Nominated Supervisor's performance and implementation of the Centre's policies and procedures.
- Ensuring that, in the absence from the Centre premises of a Nominated Supervisor, another person with a Responsible Person is placed in day-to-day charge of the Centre.
- Ensuring that the Nominated Supervisor and Responsible Person have a sound understanding of the role of the Responsible Person.
- Ensuring there are sufficient educators with Supervisor Certificates to meet the legislative requirement for a Responsible Person at the Centre during periods of leave or illness
- Ensuring details of the Responsible are recorded on the staff record folder.
- Notifying the Regulatory Authority in writing if there are any changes to:
    - The name of the Representative of the Approved Provider
    - The appointment or removal of a person with management or control of the Centre operated by the Representative of the Approved Provider.
    - The status of the Representative of the Approved Provider as fit and proper.

The guidelines to the National Regulations state that, given the Responsible Person in charge may change throughout the day (for example, at a changeover of shifts), this requirement might be met on a whiteboard or interchangeable name plate at the entrance of the Centre premises.
The Representative of the Approved Provider is responsible for notifying the Regulatory Authority if a Nominated Supervisor or Responsible Person has their Working with Children Check card or teacher registration suspended or cancelled, or if they are subject to any disciplinary proceedings under the law.

The Nominated Supervisor is responsible for:

- Providing written consent to accept the role of Nominated Supervisor.
- Ensuring that, in their absence from the Centre premises, another person with a Supervisor Certificate is placed in day-to-day charge of the Centre.
- Ensuring they have a sound understanding of the role of the Responsible Person.

- Ensuring that the name and position of the Responsible Person in charge of the Centre is displayed and easily visible from the main entrance of the Centre.
- Developing rosters in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children.
- Notifying the Representative of the Approved Provider and the Regulatory Authority within 7 days of any changes to their personal situation, including a change in mailing address, circumstances that affect their status as fit and proper, such as the suspension or cancellation of a Working with Children Check card or teacher registration, or if they are subject to disciplinary proceedings.
- Notifying the Representative of the Approved Provider if the Regulatory Authority cancels their Supervisor Certificate for any reason.

Responsible Persons are responsible for:

- Providing written consent to accept the role of Responsible Person.
- Checking that the name and position of the Responsible Person in charge of the Centre is displayed and easily visible from the main entrance of the Centre.
- Informing the Representative of the Approved Provider and / or Nominated Supervisor in the event of absence from the Centre due to leave or illness so they can be replaced by another Responsible Person.
- Ensuring they have a sound understanding of the role of Responsible Person.
- Abiding by any conditions placed on the Supervisor Certificate.
- Understanding that a Responsible Person placed in day-to-day charge of an approved Centre **does not** have the same responsibilities under the National Law as the Nominated Supervisor.
- Notifying the Representative of the Approved Provider and the Regulatory Authority within 7 days of any changes to their personal situation, including a change in mailing address, circumstances that affect their status as fit and proper, such as the suspension or cancellation of a Working with Children Check card or teacher registration, or if they are subject to disciplinary proceedings.
- Notifying the Representative of the Approved Provider if the Regulatory Authority cancels their Supervisor Certificate for any reason.

Educators are responsible for:

- Ensuring they have a sound understanding of the role of Responsible Person.
- Providing written consent if accepting the nomination to be a Responsible Person.

Parents / guardians are responsible for:

- Reading and understanding this policy.
- Being aware of the Responsible Person at the Centre on a daily basis.

Staffing Arrangements

Guidelines for the recruitment of staff and volunteers

The processes for the recruitment and selection of employees, contractors and volunteers demonstrate our commitment to maximising the safety of children and deterring unsuitable and inappropriate persons from attempting to work at our Centre.

Our Centre is committed to the following processes:

Preparation for recruitment

- Job advertisements clearly state our commitment to child safety.
- Job descriptions include a statement about our commitment to maintaining a child safe environment and clearly outline responsibilities and accountability.
- The selection process includes:
    - Consideration of a Working with Children Check (and a criminal history record check, where appropriate)

- Confirmation of identity, which involves sighting an original birth certificate or extract, a driver's licence or a passport.
- Verification of qualifications.
- Thorough reference checks: at least two referees are contacted (including the current or most recent employer) in person or via telephone and all referees must have observed the applicant working with children first-hand.

Staffing Arrangements

- Questions are behavioural-based and ask the interviewee to provide examples of their past behaviour in specific situations relevant to the job being applied for.
- Questions regarding relationships with children, professional boundaries, resilience and motivation, teamwork, accountability and ethics are values-based.
- Questions are based on key selection criteria.
- Candidates are asked about their attitudes, aspirations and motivations.
- More detail is asked for when answers seem incomplete.
- Complete an interview notes form during each interview (available on K Drive).
- Also document your conversations with referees on the interview notes form (available on K Drive).
- Responses for non-short listed applications and successful applicants are available on the K Drive.
- 100 points of identification is required for all people engaged in child-related work, including volunteers.

Ongoing Management

- Employee Induction is completed prior to commencing work at the Centre.
- The Employment Package includes a statement about what is expected of the staff member in terms of commitment and responsibilities for child safety.
- Regular meetings are held between employees, volunteers and the Nominated Supervisor.
- Regular Audits for the implementation of policies and procedures are conducted and documented by the Nominated Supervisor and Representative of the Approved Provider.
- A mentoring or buddy system between employees is in place.
- Training and education with regard to child safety is provided for all employees, contractors and volunteers.
- Resources and support are provided for all employees, contractors and volunteers to ensure a child safe environment.
- Employees, contractors, volunteers and visitors are treated with respect.

Educator Qualifications

Research has demonstrated that the employment of appropriately-qualified staff in early childhood services is a key contributor to the delivery of quality programs and better learning outcomes for children. 'Those with higher qualification levels and standards of training are better equipped to provide improved learning environments and mentor educators in quality practices, leading to better outcomes for children' (*Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011)*. The Australian Government has acknowledged this by legislating minimum qualification requirements for all educators working in early childhood education and care services. Eligibility for services to receive funding also includes requirements for staff to hold specific qualifications (*Victorian Kindergarten policy, procedures and funding criteria)*.

A current list of approved qualifications is available on the Australian Children's Education and Care Quality Authority (ACECQA) website (refer to *Sources*). Applications can also be made to ACECQA to determine if other qualifications (such as those gained overseas) entitle the individual to work as an early childhood teacher, diploma-level educator or certificate III level educator. Application forms are available on the ACECQA website and a fee is required for processing an application.

In addition, current legislation requires at least one educator who holds current approved first aid qualifications, anaphylaxis management training and emergency asthma management training to be in attendance and immediately available at all times that children are being educated and cared for by the service. These qualifications must be updated as required, and details of qualifications must be kept on an individual's staff record.
As a demonstration of duty of care and best practice, **all educators** employed at our Centre have current approved first aid qualifications, anaphylaxis management training, emergency asthma management training and a food handlers certificate.
It is essential that all educators and other adults engaged to work directly with children are provided with opportunities to learn and develop new skills in relation to supporting the learning and development of young children. Such opportunities can arise when more qualified and experienced educators offer guidance and feedback to other educators. Opportunities for professional development are also crucial for all educators to ensure that their work practice remains current and relevant to the practices and principles of the national *Early Years Learning Framework* (EYLF) and the *Victorian Early Years Learning and Development Framework* (VEYLDF).
Staff are required to actively supervise children at all times when children are in attendance at the Centre (refer to *Child Safe Environment Policy*). To facilitate this, Centres are required to comply with legislated educator-to-child ratios at all times, and these ratios are based on the ages and number of children at the Centre. Only those educators working directly with children can be counted in the ratio.
To ensure that children are protected from harm while participating in Centre programs, all educators and staff are required by law to have and maintain a Working with Children Check (WWCC) or a criminal history record check. (This also applies to volunteers and students, unless they are working under the direct supervision of an educator who is over 18 years of age and holds, or is actively working towards an approved diploma-level education and care qualification (Regulation 358).
The qualification requirements for educators at a centre-based service educating and caring for children of preschool age or under are as follows:

From 1 January 2014;

- At least 50% of the educators who are required to meet the relevant educator to child ratios for the Centre must have or be actively working towards at least an approved diploma level education and care qualification.
- All other educators required to meet the relevant educator to child ratios for the Centre must have or be actively working towards at least an approved certificate III level education and care qualification.

Approved Diploma Qualification
A person is taken to hold an approved Diploma level education and care qualification if immediately before 1 January 2012:

- Was recognised under the former education and care services law of any participating jurisdiction as a Diploma level educator or
- Holds an approved qualification or former qualification as published on http://www.acecqa.gov.au/qualifications/

Approved Certificate III Qualification
A person is taken to hold an approved Certificate III level education and care qualification if immediately before 1 January 2012:

- Was recognised under the former education and care services law of any participating jurisdiction as a Certificate III lever educator or
- Held an otherwise approved qualification or former as published on http://www.acecqa.gov.au/qualifications/ or
- Before 1 January 2012 the educator completed a professional development course approved by the Secretary under the Children's Services Regulations 2009 of Victoria and:
    - Was employed full-time and continuously as an educator at a licensed children's services or outside school hours' care service for a period of at least 5 years immediately preceding 25 May 2009 or

- Was employed at least part-time and continuously as an educator at a licensed children's service or outside school hours' care service for a period of at least 10 years immediately preceding 25 May 2009.

Requirements for an Early Childhood Teacher (ECT)

By 1 January 2014

- For services licensed for **more than 80 children** on any given day:
  - **By 1 January 2014**, the Centre must have an ECT in attendance for at least 6 hours on that day if the Centre operates 50 or more hours a week or
    - If the Centre operates for under 50 hours per week the Centre must have an ECT in attendance for 60% of the time that the Centre is open on that day.
  - **By 1 January 2020,** the Centre must have a second ECT in attendance for at least 6 hours on that day if the Centre operates 50 or more hours a week or
    - If the Centre operates for under 50 hours per week for 60% of the time that the Centre is open on that day.
  - The Centre is not required to comply with this if the Centre employees a full-time or full-time equivalent ECT at the Centre and a second ECT for full-time hours or full-time equivalent hours.

In the event of an ECT being sick or absent for periods under twelve weeks the Centre will meet the following requirements:

- A person with an approved Diploma level education and care service qualification is taken as an ECT.
- A person who holds a qualification in primary teaching is considered an ECT.
  If the period is over 12 weeks, the Centre will engage another ECT.

Approved ECT qualifications:

- An approved qualification that is published on http://www.acecqa.gov.au/qualifications/
- The educator holds a qualification that is published in the list of former qualifications on http://www.acecqa.gov.au/qualifications/. The educator was recognised as an ECT under the former law of any participating jurisdiction, or for the purposes of a preschool funding program.
- The educator was registered as an ECT in accordance with the requirements of another jurisdiction. This does not apply if the educator was working towards an ECT qualification.
- If immediately before 1 January 2012, the educator was recognised as an ECT becuase they were enrolled in a course for a qualification that is published on http://www.acecqa.gov.au/qualifications/ in the list of former qualifications approved as early childhood teacher qualifications, the educator is taken to hold an approved ECT qualification when they complete the course.
- If immediately before 1 January 2012, the recognition, registration, accreditation or qualification as an ECT as written above was subject to any restrictions imposed by or under an education law of a participating jurisdiction, the person is taken to be an ECT with the same restrictions.
- The educator was registered as a teacher under the Teachers Registration and Standards Act 2004 of South Australia and was employed to deliver a preschool program.
- In some cases, educators who were registered as teachers in other States or jurisdictions hold an approved qualification. These are listed in regulation 241 and on the national regulator's website www.acecqa.gov.au/qualifications.

Educator to Child Ratios

Educator to child ratios will always meet the minimum requirements as stated below:

- For children aged from birth to less than 36 months, 1 educator to 4 children
- For preschool aged children 36 months and over 1 educator to 11 children
- If children being educated and cared for at the Centre are of mixed ages, the minimum number of educators for the children must meet the requirements above at all times.
- When an early childhood teacher (ECT) is required to be in attendance at the Centre as per the licensed places of our Centre, that teacher is counted as an educator at the Centre for the purposes of this regulation.

- If the Centre is required to have access to an ECT for a period of time as per the licensed places, the ECT must be added to the minimum number of educators required for that service for that period.
- If the Centre is a preschool program in a school, in a class or classes where a full-time education program is also being delivered, educator ratio and qualification requirements do not apply.
- At all times we will consider the needs of the children and provide adequate supervision.

Other Educators Qualifications:
First Aid Qualifications

- The Representative of the Approved Provider must ensure that at least one educator attending the Centre:
  - Holds a current approved first aid qualification
  - Has undertaken current approved anaphylaxis management training and
  - Has undertaken current approved emergency asthma management training.
- An educator is taken to hold an approved first aid qualification or training if:
  - The educator holds an approved qualification or training as published on http://www.acecqa.gov.au/qualifcations.

Working with Children Check

The Representative of the Approved Provider of an education and care service must read or ensure that the Nominated Supervisor or Responsible Person in day to day charge of the Centre has read a person's working with children check before the person is engaged or registered as a family day care educator or works as a volunteer at the Centre. This doesn't apply if:

- A Working with Children Check cannot be issued due to the individual's age and
- The person cares for or educates children at the Centre only under the immediate supervision of an educator who has attained the age of 18 years and holds or is actively working towards a diploma level education and care qualification or
- A person who is registered as a teacher under the Victorian Education and Training Reform Act 2006 and the Representative of the Approved Provider or Nominated Supervisor in day to day charge of the Centre has checked the relevant register to ensure the person is registered.
- Further information is available at http://www.justice.vic.gov.au/workingwithchildren/home/about+the+check/

All persons working in or volunteering at the Centre who are not exempt will be required to present a valid Working with Children Check assessment notice prior to commencing employment at the Centre.

- New employees requiring Working with Children Checks must organise and pay for the checks themselves as a precondition of appointment
- Employees must provide a current and satisfactory Working with Children assessment notice every five years at their own expense.
- Contractors to the Centre must provide a satisfactory Working with Children assessment notice as a precondition of appointment.
- The Centre requires volunteers to provide a satisfactory Working with Children assessment notice.
- A copy of the original Working with Children assessment notice, once sighted and noted by the Nominated Supervisor, will be held on the employee's personnel file and the original returned to the staff member.
- The Nominated Supervisor will conduct a search check for all new employees who have already obtained and have a current Working with Children Check assessment notice. The Nominated Supervisor will also conduct a check every six months on all current employed staff.
- Position descriptions and employment vacancies advertised for the Centre will advise that appointments will be subject to a satisfactory Working with Children Check to be paid for by the applicant.
- All employees are required to immediately advise the Nominated Supervisor or Representative of the Approved Provider should they be the subject of any police investigation, charge or conviction that could impact on whether they are a fit and proper person to be trusted to work in a child care environment. The Representative

of the Approved Provider may take appropriate action, including suspending an employee with or without pay or termination of employment if, in the opinion of management any such investigation, charge or conviction is detrimental to the continued performance of duties by the employee.

- Employees who fail to comply may be subject to disciplinary action including suspending an employee with or without pay, or termination of employment.
- Employees are responsible for the cost and currency of their own working with children check.

Guidelines

- The check will be conducted by the Department of Justice and will review an individual's criminal record and findings from relevant professional disciplinary bodies.
- The check will be free for volunteers.
- Individuals who are deemed suitable to engage in child related work will be issued with an assessment notice which will remain in force for 5 years unless sooner revoked or surrendered.
- Individuals who are deemed unsuitable to work or volunteer with children will be issued with a negative notice. An individual can appeal to the Victorian Civil and Administrative Appeals Tribunal (VCAT) against the decision to issue a negative notice.
- It will be an offence to engage a worker in child related work where the worker does not have a current assessment notice. The offense is punishable by up to two years' imprisonment and / or a fine.
- The following individuals are exempt from the Check:
  - Individuals under 18 years of age;
  - Teachers registered with the Victorian Institute of Teaching;
  - A volunteer whose own child is participating or ordinarily participates in the activity;
  - Person working with a child who is closely related to him or her;
  - Students aged under 20 years performing volunteer work arranged through their school or other educational institution;
  - Visitors to Victoria who do not ordinarily perform child-related work in Victoria; and
  - Police officers.

Key Responsibilities

The Representative of the Approved Provider is responsible for:

- Ensuring that the Centre does not operate without a Nominated Supervisor, as required under the National Law.
- Ensuring that there is a Responsible Person on the premises at all times the Centre is in operation ensuring that the Nominated Supervisor, Responsible Person, educators and all staff comply with the *Code of Conduct Policy* at all times.
- Ensuring that children being educated and cared by the Centre are adequately supervised at all times they are in the care of that service (National Law: Section 165[1])
- Complying with the legislated educator-to-child ratios at all times (National Law: Sections 169(1) & (3), National Regulations: Regulations 123, 355, 357, 360).
- Ensuring that all staffing meets the requirements of the National Law, National Regulations and the *Victorian Kindergarten policy, procedures and funding criteria* (refer to *Sources*) at all times the Centre is in operation.
- Complying with current legislation relating to the employment of staff, including the *Equal Opportunity Act 2010, Fair Work Act 2009* and the *Working with Children Act 2005.*
- Employing the relevant number of appropriately-qualified educators. Qualifications must be approved by ACECQA (Regulations 126, 361).
- Employing additional staff, as required, to provide a quality early childhood education and care program.
- Ensuring an early childhood teacher is working with the Centre for the required period of time specified in the National Regulations, and that where required, a record is kept of this work (Regulations 130-134, 152, 362, 363).

- Appointing an appropriately-qualified and experienced educator to be the Educational Leader and ensuring this is documented on the staff record (Regulations 118, 148).
- Maintaining a staff record in accordance with Regulation 145, including information about the Nominated Supervisor, the Educational Leader, other staff members, volunteers, students and the Responsible Person. Details that must be recorded include qualifications, training and the Working with Children Check (Regulations 146-149). A sample staff record is available on the ACECQA website: http://acecqa.gov.au/storage/Staff%20record.pdf
- Complying with the requirements of the *Working with Children Act 2005,* and ensuring that the Nominated Supervisor, Responsible Person, educators, staff, volunteers and students on placement at the Centre have a current Working with Children Check or a Victorian Institute of Teaching (VIT) certificate of registration.
- Ensuring that the Working with Children Check or VIT registration have been sighted and the details kept on each staff record (Regulations 145, 146, 147).
- Completing a fit-and-proper assessment in accordance with the *Education and Care Services National Law Act 2010* (Sections 12, 13, 14) and the *Education and Care Services National Regulations 2011* (Regulations 14, 15, 16). Where the Representative of the Approved Provider is not an individual, a fit-and-proper assessment must be completed for each person with management or control of a Centre.
- Ensuring that volunteers / students and parents / guardians are adequately supervised at all times when participating at the Centre, and that the health, safety and wellbeing of children at the Centre is protected (refer to *Participation of Volunteers and Students Policy*) ensuring educators who are under 18 years of age are not left to work alone, and are adequately supervised at the Centre (Regulation 120).
- Ensuring that there is at least one educator with current approved first aid qualifications, anaphylaxis management training and emergency asthma management training in attendance and immediately available at all times that children are being educated and cared for by the Centre.
  Details of qualifications and training must be kept on the staff record (Regulations 136, 145).
- Developing procedures to ensure that approved first aid qualifications, anaphylaxis management training and emergency asthma management training are evaluated regularly, and that staff are provided with the opportunity to update their qualifications prior to expiry.
- Ensuring that staff records and a record of educators working directly with children are updated annually, as new information is provided or when rostered hours of work are changed (Regulations 145-151).
- Reviewing staff qualifications as required under current legislation, funding requirements and as part of an annual staff performance appraisal.
- Ensuring that the Nominated Supervisor, educators / staff, volunteers and students on placement at the Centre are not affected by alcohol or drugs (including prescription medication) that would impair their capacity to supervise or provide education and care to children (Regulation 83).
- Ensuring that the Nominated Supervisor and educators / staff are advised and aware of current child protection laws and any obligations that they may have under these laws (Regulation 84) (refer to *Child Safe Environment Policy*).
- Informing parents / guardians of the name/s of casual or relief staff where the regular educator is absent.
- Developing and maintaining a list of casual and relief staff to ensure consistency of Centre provision.
- Ensuring that the procedures for the appointment of casual and relief staff are compliant with all regulatory and funding requirements.

The Nominated Supervisor is responsible for:

- Holding a Supervisor Certificate.
- Providing written consent to accept the role of Nominated Supervisor.
- Ensuring that, in their absence from the Centre premises, another person with a Supervisor Certificate is placed in day-to-day charge of the Centre.
- Ensuring that the name and position of the Responsible Person in charge of the Centre is displayed and easily visible from the main entrance of the Centre.

- Complying with the Centre's *Code of Conduct Policy* at all times.
- Ensuring adequate supervision of children at all times.
- Ensuring the educator-to-child ratios are maintained at all times, that each educator at the Centre meets the qualification requirements relevant to their role, including the requirement for current approved first aid qualifications, anaphylaxis management training and emergency asthma management training, and that details of such training is kept on the staff record.
- Developing rosters in accordance with the availability of Responsible Persons, staff qualifications, hours of operation and the attendance patterns of children.
- Ensuring that volunteers / students and parents / guardians are adequately supervised at all times when participating at the Centre, and that the health, safety and wellbeing of children at the Centre is protected (refer to *Participation of Volunteers and Students Policy*).
- Ensuring that less experienced educators and others engaged to be working with children are adequately supervised.
- Ensuring educators who are under 18 years of age are not left to work alone and are adequately supervised at the Centre providing details of their current Working with Children Check or VIT registration for the staff record.
- Sighting and recording details of current Working with Children Checks or VIT registrations before staff commence at the Centre.
- Ensuring that they are not affected by alcohol or drugs (including prescription medication) that would impair their capacity to supervise or provide education and care to children (Regulations 83).
- Ensuring that they are aware of current child protection laws and any obligations that they may have under these laws (refer to *Child Safe Environment Policy*).
- Informing parents / guardians of the name/s of casual or relief staff where the regular educator is absent.

Responsible Persons are responsible for:

- Holding a Supervisor Certificate.
- Providing written consent to accept the role of Responsible Person.
- Informing the Representative of the Approved Provider and / or Nominated Supervisor in the event of absence from the Centre due to leave or illness so they can be replaced by another Responsible Person.

Responsible Persons, educators and other staff are responsible for:

- Meeting the qualifications, experience and management requirements if they wish to gain a Supervisor Certificate, as defined in the National Regulations.
- Complying with the Centre's *Code of Conduct Policy* at all times.
- Ensuring that they are not affected by alcohol or drugs (including prescription medication) that would impair their capacity to supervise or provide education and care to children.
- Providing details of their current Working with Children Check or VIT registration for the staff record.
- Renewing their Working with Children Check assessment every 5 years.
- Advising the Department of Justice of any relevant change in circumstances, including change of name, address, contact details and change of employer / volunteer organisation, including changes to the organisation's contact details.
- Adequately supervising children at all times.
- Supervising volunteers / students and parents / guardians at all times to protect the health, safety and wellbeing of children at the Centre (refer to *Participation of Volunteers and Students Policy)*.
- Maintaining educator-to-child ratios at all times.
- Maintaining current approved qualifications relevant to their role, including first aid qualifications, anaphylaxis management training and emergency asthma management training.
- Supervising educators at the Centre who are under 18 years of age, and ensuring that they are not left to work alone.

- Ensuring that they are aware of current child protection laws and any obligations that they may have under these laws (refer to *Child Safe Environment Policy*).

Parents / guardians, volunteers and students on placement are responsible for;

- Reading this *Determining the Responsible Person Present and Staffing Arrangements Policy*
- Complying with the Law, the requirements of the *Education and Care Services National Regulations 2011,* and all Centre policies and procedures.
- Following the directions of staff at the Centre at all times to ensure that the health, safety and wellbeing of children is protected.

Source

- Australian Children's Education and Care Quality Authority (ACECQA): www.acecqa.gov.au
- National *Early Years Learning Framework*: www.deewr.gov.au/earlychildhood/policy_agenda/quality/pages/earlyyearslearningframework.asx
- *Victorian Early Years Learning and Development Framework:* www.educationn.vic.gov.au/earlylearning/default.htm
- *Victorian Kindergarten policy, procedures and funding criteria:* www.education.vic.gov.au/ecprofessionals/kindergarten/
- Working with Children Check unit, Department of Justice – provides details of how to obtain a WWCC: www.justice.vic.gov.au/workingwithchildren/
- Victoria Police – National Police Record Check: www.police.vic.gov.au/content.asp?Document_ID=274
- Australian Children's Education and Care Quality Authority (ACECQA), Information Sheets: www.acecqa.gov.au/national-quality-framework/informatio-sheets/
- *Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011:* www.acecqa.gov.au
- *Guide to the National Quality Standard:* www.acecqa.gov.au

Review

Representative of the Approved Provider will:

- Regularly seek feedback from everyone affected by the policy regarding its effectiveness.
- Monitor the implementation, compliance, complaints and incidents in relation to this policy.
- Regularly check staff records to ensure Working with Children Checks and qualifications are current and complete.
- Keep the policy up to date with current legislation, research, policy and best practice.
- Revise the policy and procedures as part of the service's policy review cycle, or as required.
- Notify parents/ guardians at least 14 days before making any changes to this policy or its procedures.

The policy will be reviewed annually. The review will be conducted by:

- Management
- Employees
- Families
- Interested Parties

Last reviewed: 7 August 2024
Date for next review: August 2025