



## Nominated Supervisor

### Regulation 104 Fencing

(1) The approved provider of an education and care service must ensure that any outdoor space used by children at the education and care service premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.

Penalty: \$2000.

(2) This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age.

**Note.** A compliance direction may be issued for failure to comply with this regulation.

### Regulation 106 Laundry and Hygiene facilities

(1) The approved provider of an education and care service must ensure that the service has—

(a) laundry facilities or access to laundry facilities; or  
 (b) 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.

(2) The approved provider of the service must ensure that laundry and hygienic facilities are located and maintained in a way that does not pose a risk to children.

**Note.** A compliance direction may be issued for failure to comply with subregulation (1) or (2)

### Regulation 107 Space requirements indoor

(2) The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 3.25 square metres of unencumbered indoor space.

Penalty: \$2000.

(3) In calculating the area of unencumbered indoor space—

(a) the following areas are to be excluded—  
 (i) any passageway or thoroughfare (including door swings);  
 (ii) any toilet and hygiene facilities;  
 (iii) any nappy changing area or area for preparing bottles;  
 (iv) any area permanently set aside for the use or storage of cots;  
 (v) any area permanently set aside for storage;  
 (vi) any area or room for staff or administration;  
 (vii) any other space that is not suitable for children;

(b) the area of a kitchen is to be excluded, unless the kitchen is primarily to be used by children as part of an educational program provided by the service.

(4) The area of a verandah may be included in calculating the area of indoor space only with the written approval of the Regulatory Authority.

(5) A verandah that is included in calculating the area of outdoor space cannot be included in calculating the area of indoor space.

(6) In this regulation a reference to a child does not include—

(a) a child being educated or cared for in an emergency in the circumstances set out in regulation 123(5); or  
 (b) an additional child being educated or cared for in exceptional circumstances as set out in regulation 124(5) and (6).

**Note** A compliance direction may be issued for failure to comply with subregulation (2).

### Regulation 108 Space requirements outdoor

The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 7 square metres of unencumbered outdoor space.

Penalty: \$2000.

(3) In calculating the area of unencumbered outdoor space required, the following areas are to be excluded—

(a) any pathway or thoroughfare, except where used by children as part of the education and care program;  
 (b) any car parking area;  
 (c) any storage shed or other storage area;  
 (d) any other space that is not suitable for children.

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(4) A verandah that is included in calculating the area of indoor space cannot be included in calculating the area of outdoor space.

(5) 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—

(a) the Regulatory Authority has given written approval; and

(b) that indoor space has not been included in calculating the indoor space under regulation 107.

(6) In this regulation a reference to a child does not include—

(a) a child being educated or cared for in an emergency in the circumstances set out in regulation 123(5); or

(b) an additional child being educated or cared for in exceptional circumstances as set out in regulation 124(5) and (6).

**Note** A compliance direction may be issued for failure to comply with subregulation (2).

#### **Regulation 109 Toilet and hygiene facilities**

The approved provider of an education and care service must ensure that—

(a) adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and

(b) the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.

#### **Regulation 110 Ventilation and natural light**

The approved provider of an education and care service must ensure that the indoor spaces used by children at the education and care service premises—

(a) are well ventilated; and

(b) have adequate natural light; and

(c) are maintained at a temperature that ensures the safety and wellbeing of children.

Penalty: \$2000.

Note. A compliance direction may be issued for failure to comply with this regulation.

#### **Regulation 111 Administrative space**

The approved provider of a centre-based service must ensure that an adequate area or areas are available at the education and care service premises for the purposes of—

(a) conducting the administrative functions of the service; and

(b) consulting with parents of children; and

(c) conducting private conversations.

Note. A compliance direction may be issued for failure to comply with this regulation.

#### **Regulation 112 Nappy Change Facilities**

(1) This regulation applies if a centre-based service educates and cares for children who wear nappies.

(2) The approved provider of the service must ensure that adequate and appropriate hygienic facilities are provided for nappy changing.

(3) Without limiting subregulation (2), the approved provider of the service must ensure that the following are provided—

(a) if any of the children are under 3 years of age, at least 1 properly constructed nappy changing bench; and

(b) hand cleansing facilities for adults in the immediate vicinity of the nappy change area.

Penalty: \$1000.

(4) The approved provider of the service must ensure that nappy change facilities are designed, located and maintained in a way that prevents unsupervised access by children.

Note. A compliance direction may be issued for failure to comply with subregulation (3).

#### **Regulation 114 Outdoor space – shade**

The Approved Provider of a centre-based service must ensure that outdoor spaces provided at the education and care service premises include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.

Penalty: \$1000.

Note A compliance direction may be issued for failure to comply with this regulation.

#### **Regulation 115 Premises designed to facilitate supervision**

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

Note. A compliance direction may be issued for failure to comply with this regulation.

#### **NSW Only Regulation 274 Swimming Pools**

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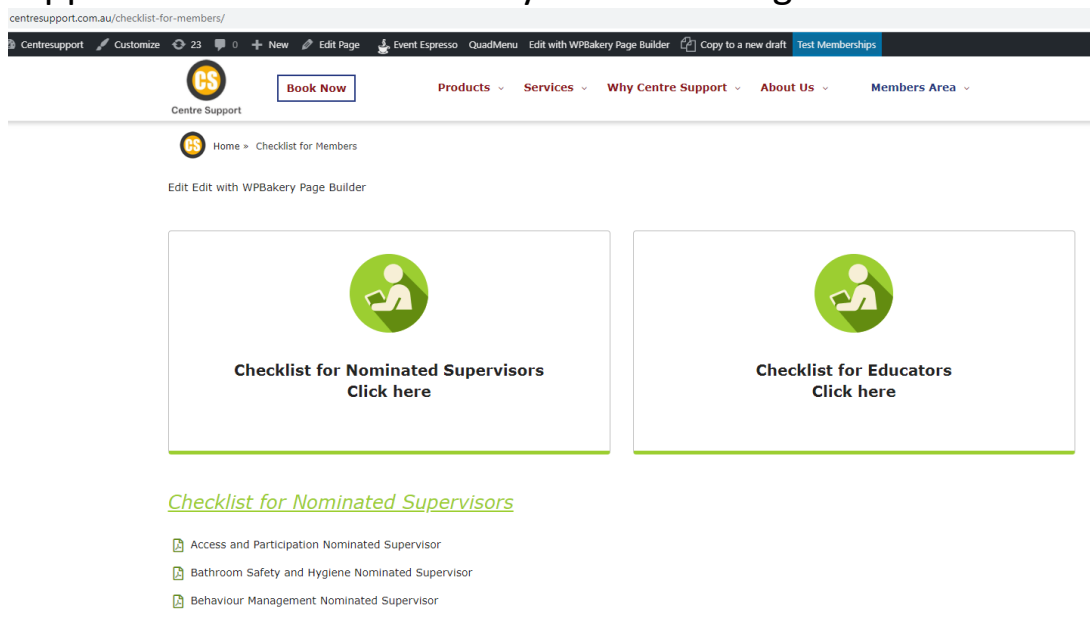
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- (1) The approved provider of a centre-based education and care service (other than a school-based service) in New South Wales for children preschool age or under must ensure that there is no swimming pool on the service premises unless the swimming pool existed on the premises before 6 November 1996.
- (2) The approved provider of a school-based service in New South Wales for children preschool age or under must ensure that there is no swimming pool on the service premises unless the swimming pool existed on the premises and the service was operating before 1 July 2008.
- (3) The approved provider of a family day care service must ensure that any swimming pool at a family day care residence or approved family day care venue of the service in New South Wales is fenced in accordance with the requirements for fencing a new swimming pool under the *Swimming Pools Act 1992* of New South Wales.
- (4) In this regulation—
  - school-based service** means an education and care service that is conducted by a school within the meaning of the *Education Act 1990* of New South Wales;
  - swimming pool** has the same meaning as it has in the *Swimming Pools Act 1992* of New South Wales.

### TAS Only Regulation 345 Swimming Pool prohibition

The approved provider of an education and care service must ensure that there is no swimming pool on the education and care service premises.

**Remember:** If you need to use a checklist go to the members area of Centre Support’s website where every checklist imaginable is available.



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## Answers from last week - Compliance test for educators

**Instructions: Nominated Supervisor is to** conduct the test. Ask one educator at a time in a location that other educators cannot hear or provide support to the educators being asked the question. Record the responses then analyse to see if the educators' responses would place you at risk of a fine. Finally, train the educators that fail to meet the regulations.

Name of educator:

Questions	Response	Pass or Fail
Miss Elsie asked what the difference is between critical reflection and evaluation. What's the answer?	Critical reflection looks closely at activities and experiences through the eyes of children, families, staff and theorists, using key questions. It explores educators' feelings and is a tool/practice for professional growth, contributing to a culture of ongoing inquiry. Evaluation records what educators saw or what happened and involves planning a new experience based on observations. Evaluation is used to judge or assess whether an experience was successful.	
Mr Tony asks if he should be contributing to the service QIP/SAT. Should he?	Yes, and he should use his critical reflections as a strength or improvement contribution to the QIP/SAT.	
Miss Rosalie says she doesn't know how to reflect. Please give her some advice.	She can consider children's comments and work, things that stand out in photos, and comments from team members or families. She can also use questions to help initiate and guide her reflections. There are lots of questions in the NQF Guide before each Standard, and her team or EL may also have created some questions.	

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Name of educator:

Questions	Response	Pass or Fail
Miss Shanti says the physical environment is the Approved Provider's responsibility. Are there any regs about the physical environment that educators need comply with?		
Mr Josh says Reg 104 'Fencing' has nothing to do with educators. Do you agree?		
Miss Leah says she heard another staff member talk with a family about a sensitive matter. What should have happened?		

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Systems are in place to manage risk and enable the effective management and operation of a quality service.

The Federal Government's Fair Work website <https://www.fairwork.gov.au/> has a lot of simple, easy to understand information about employee entitlements as well as some useful templates. Each week we'll share information from the website. This week we're looking at [Family and Domestic Violence Leave](#)

Family and domestic violence means violent, threatening or other abusive behaviour by an employee's close relative that seeks to coerce or control the employee and/or causes them harm or fear.

A close relative is an employee's:

- spouse or former spouse, de facto or former de facto partner, child, parent, grandparent, grandchild, sibling
- current or former spouse or de facto partner's child, parent, grandparent, grandchild or sibling
- a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

Under the NES and the [Children's Services Award 2010](#) (CI 28) and [Educational Services \(Teachers\) Award 2020](#) (CI 27) all employees, including part-time and casual employees are entitled to 5 days unpaid family and domestic violence leave each year if it is impractical for the employee to deal with the violence outside work hours eg they need to make arrangements for their safety or that of a family member, attend urgent court hearings or access police services. The leave does not accumulate from year to year. Leave taken does not count as service but does not break an employee's continuity of service.

Employees must tell employers about the leave as soon as possible including the expected duration, and provide evidence to support the leave if requested. Employers must treat all information and leave details confidentially unless disclosure is necessary to protect the life, health or safety of the employee or another person.

Fair Work has published an [Employer Guide to Family and Domestic Violence](#).

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