



Nominated Supervisor

The Guide to the NQF lists 3 pages of Regulations and Law sections which relate to element 4.1.1 (pages 209-213). We have not included those that vary in different states or territories, or are transitional and savings provisions. We have selected a couple of the others to cover fully.

Section 161 Offence to operate education and care service without nominated supervisor

Section 161A Offence for nominated supervisor not to meet prescribed minimum requirements

Section 162 Offence to operate education and care service unless responsible person is present

Regulation 117A Placing a person in day-to-day charge

Regulation 117B Minimum requirement for a person in day-to-day charge

Regulation 117C Minimum requirement for a nominated supervisor

Regulation 120 Educators who are under 18 to be supervised

Regulation 136 First aid qualifications

Regulation 145 Staff record

Regulation 146 Nominated supervisor

Regulation 147 Staff members

Regulation 148 Educational leader

Regulation 149 Volunteers and students

Regulation 150 Responsible person

Regulation 151 Record of educators working directly with children

Regulation 152 Record of access to early childhood teachers

Regulation 154 Record of staff other than family day care educators, family day care co-ordinators and family day care educator assistants

Section 169 Offence relating to staffing arrangements

(1) & (3) An approved provider and nominated supervisor ... must ensure that, whenever children are being educated and cared for ..., the relevant number of educators ... is no less than the number prescribed... Penalty: \$10 000, in the case of an individual. \$50 000, in any other case.

(2) & (4) An approved provider and nominated supervisor ... must ensure that each educator educating and caring for children ,, meets the qualification requirements relevant to the educator's role as prescribed by the national regulations. Penalty: \$10 000, in the case of an individual. \$50 000, in any other case.

(6) Subsections (1), (2), (3), (4) .. do not apply ,, (a) to the extent that (Service) holds a temporary waiver ...; or (b) to the extent that (Service) holds a service waiver

Regulation 118 Educational leader

The approved provider...must designate, **in writing**, a suitably qualified and experienced educator, co-ordinator or other individual as educational leader at the service to lead the development and implementation of educational programs...

Regulation 126 Centre-based services – general educator qualifications

1) The qualification requirements for educators educating and caring for children preschool age or under are as follows—

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

(b) all other educators **who are required to meet the relevant educator to child ratios**...must have, or be actively working towards, at least an approved certificate III level education and care qualification.

(1A) The qualification requirements in subregulation (1)(b) do not apply to an educator if the educator has been employed by an approved provider on a probationary basis for not more than 3 months, at one or more centre-based services operated by the approved provider.

(1B) Subregulation (1A) does not apply in relation to New South Wales.

Week 34, 1-5 November 2021- 4.1.1 Organisation of Educators

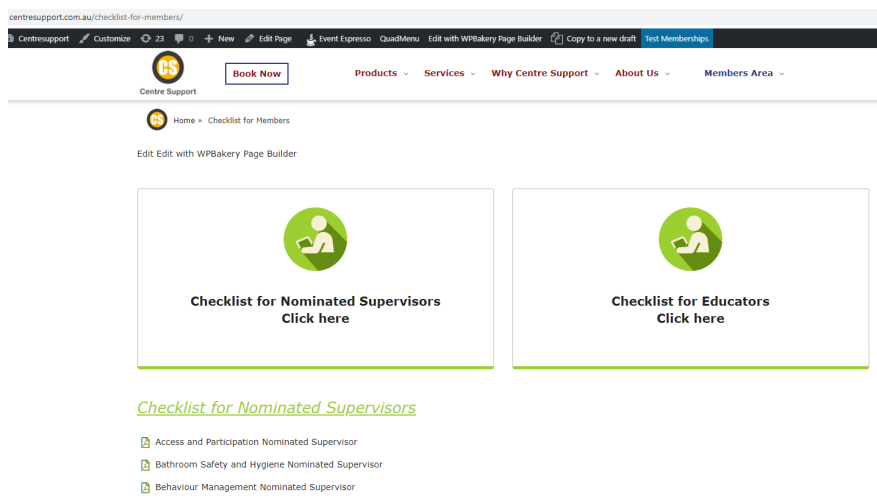
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(3) If (an ECT is required) to be in attendance... that teacher, or a person taken to be an early childhood teacher under regulation 135(1), is to be counted as meeting the requirements of subregulation (1)(a). (Not NSW)

(4) If (a second ECT or a suitably qualified person) is required to be in attendance ... that person, or a

person taken to be a second early childhood teacher or a suitably qualified person under regulation 135(2), is to be counted as meeting the requirements of subregulation (1)(a). (not NSW)

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 Chloe asks if they need to evacuate the babies during emergency rehearsals. What's your response?	Yes Reg 97 says all children present at the time of the rehearsal must participate in the rehearsal. Service should practice using evacuation equipment they would use in real emergency eg evacuation cots.	
Miss Tara says sometimes the owners and managers don't participate in the rehearsals. What should she do?	She should respectfully discuss the requirements in Reg 97 with the owners and managers ie that all staff, volunteers and the responsible person present must participate in the rehearsals or they're in breach of the Regs. This includes owners working at the Service.	
Mr Ethan says he's heard emergency procedures and plans have to be signed off by 'recognised authorities.' Is this true?	There is no specific requirement in the Regs for this to occur. This comes from the NQS Element 2.2.2 and the Exceeding Theme indicator for Standard 2.2: <i>"Are effective plans to manage incidents and emergencies developed and reviewed in consultation with relevant authorities and practised regularly?"</i>	
Miss Chelsea says she's confused about how often they have to practice each of their 10 emergency procedures (based on the 10 potential emergencies in their risk assessment. Please explain.	The NQF Guide makes it clear Reg 97 means that every emergency procedure must be rehearsed at least once every 3 months. <i>"If the service has more than one emergency and evacuation procedure, all procedures must be rehearsed every three months."</i>	
Miss Brooke asks if emergency procedure requirements are included in the Regs. Are they?	No. Emergency procedures must be developed by each service taking into account its unique situation, environment, structure, community support, ages and needs of children, numbers of skills of staff etc.	

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Name of educator:

Questions	Response	Pass or Fail
Miss Haley asks whether she has to update the CPR part of her first aid qualification every 12 months. Does she?		
Miss Margie asks whether she has to sign in and out of the room/group every time she goes to the toilet. What's your response.		
Mr Armand asks whether an 18 year old educator can be left alone with children. Please respond.		
Miss Vanessa asks what everyone means when they talk about a 'responsible person.' Please explain.		
Miss Grace asks what qualifications and experience a person in day-today charge has to have. Please explain.		

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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 reviewing [Compassionate \(Bereavement\) Leave](#). Fair Work have a Fact Sheet which we've attached to the weekly email. We've also copied it below, and then added some additional information.

Who can take compassionate leave?

- All workers are entitled to compassionate leave. Compassionate leave is available in certain situations.

When can a worker take compassionate leave?

- Workers can take compassionate leave when someone in their immediate family (which includes parents, children, siblings, partners, grandparents, or a partner's family) or household dies or suffers a life-threatening illness or injury.
- Workers can also take compassionate leave when a child in their immediate family or household is stillborn, or if they or their current spouse or de facto partner has a miscarriage.
- Workers must tell their boss they are taking compassionate leave as soon as they can (this may be after the leave has started) and how much leave they are taking.

How much compassionate leave can a worker take?

Workers can take 2 days of compassionate leave each time they need it. They can take this as:

- one continuous period of 2 days
- 2 separate periods of 1 day each, or
- any separate periods that the worker and their boss agree to.

How much pay does a worker get during compassionate leave?

- Full-time and part-time workers get their base rate of pay (the normal amount without overtime, penalty rates, bonuses and allowances) for the ordinary hours they would have worked during the leave.
- Casual workers get unpaid compassionate leave.

Do workers need to give their boss any evidence?

A worker can be asked to provide evidence of the reason for compassionate leave. This is usually either:

- a medical certificate, death or funeral notice or
- a statutory declaration (when you write down a statement and you declare it to be true and sign it in front of an authorised witness, who then also signs the document).

A worker might not get compassionate leave if they don't give notice and provide any requested evidence.

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What happens if a worker needs more than 2 days of compassionate leave?

Workers should talk to their boss about taking other types of leave or time off. This could include:

- annual leave (holiday pay)
- personal/carer's leave (sick leave)
- taking annual leave in advance
- time off in lieu, or
- unpaid leave.

Find out more

For more information about annual leave, go to www.fairwork.gov.au/leave. You can also talk with someone from a community organisation or community legal centre, a HR officer, an Indigenous liaison or employment officer, an employer association (if you're a boss) or a union representative (if you're a worker).

Additional information

On 10 September 2021, the Fair Work Act 2009 was updated to include miscarriage as a reason to access compassionate leave.

Immediate family includes step and adoptive relations (eg step-parents, step-children, adopted children). Employees can take compassionate leave for other relatives like cousins, aunts and uncles if they're a member of the employee's household, or if employers agree.

Employees don't accumulate compassionate leave and it doesn't come out of their sick and carer's leave or annual leave balance. If an employee is already on another type of leave and needs to take compassionate leave, the employee can use compassionate leave instead.

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