



Nominated Supervisor

Law Section 165 Offence to inadequately supervise children

The approved provider and nominated supervisor ... must ensure that all children ...are adequately supervised at all times that the children are in the care of that service.

Penalty: \$10 000, in the case of an individual. \$50 000, in any other case.

Law Section 166 Offence to use inappropriate discipline

The approved provider and nominated supervisor... must ensure that no child ...is subjected to— (a) any form of corporal punishment; or (b) any discipline that is unreasonable in the circumstances.

Penalty: \$10 000, in the case of an individual. \$50 000, in any other case.

A staff member or a volunteer ... must not subject any child being educated and cared for by the service to— (a) any form of corporal punishment; or (b) any discipline that is unreasonable in the circumstances.

Penalty: \$10 000.

Law Section 167 Offence relating to protection of children from harm and hazards

The approved provider and nominated supervisor... must ensure that every reasonable precaution is taken to protect children ... from harm and from any hazard likely to cause injury.

Penalty: \$10 000, in the case of an individual. \$50 000, in any other case.

Law Section 170 Offence relating to unauthorised persons on education and care service premises

(2) & (3) The approved provider and nominated supervisor ... must ensure that a person does not remain at the ... premises while children are being educated and cared for ..., unless—

(a) the person is an authorised person; or (b) the person is under the direct supervision of an educator or other staff member ...

Penalty: \$1000, in the case of an individual. \$5000, in any other case.

(5) In this section— authorised nominee,... means a person who has been given permission by a parent or family member of the child to collect the child ...; authorised person means ... (a) a person who holds a current working with children check or working with children card; or (b) a parent or family member of a child ...; or (c) an authorised nominee of a parent or family member of a child ...; or (d) in the case of an emergency, medical personnel or emergency service personnel; or (e) a person who is permitted under the working with children law of this jurisdiction to remain at the ...service premises without holding a working with children check or a working with children card.

(6) A reference in subsection (5) to a parent or family member... does not include a person— (a) whose access to the child is prohibited or restricted by an order of a court or tribunal of which the approved provider or nominated supervisor ... is aware; or (b) who is an inappropriate person within the meaning of section 171.

Law Section 171 Offence relating to direction to exclude inappropriate persons from education and care premises

The Regulatory Authority may direct an approved provider or nominated supervisor ... to exclude a person whom the Authority is satisfied is an inappropriate person from the ... premises while children are being educated and cared for ... for such time as the Authority considers appropriate.

(2) A person to whom a direction is given under subsection (1) must comply with the direction.

Penalty: \$10 000, in the case of an individual. \$50 000, in any other case.

(3) In this section— inappropriate person means a person— (a) who may pose a risk to the safety, health or wellbeing of any child or children ...; or (b) whose behaviour or state of mind or whose pattern of behaviour or common state of mind is such that it would be inappropriate for him or her to be on the ...service premises while children are being educated and cared for Example A person who is under the influence of drugs or alcohol.

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Regulation 82 Tobacco, drug and alcohol free environment

The approved provider ... must ensure that children ... are provided with an environment that is free from the use of tobacco, illicit drugs and alcohol.

Penalty: \$2000.

Regulation 83 Staff members not to be affected by alcohol or drugs

The approved provider ... must ensure that a nominated supervisor or a staff member or volunteer ... is not affected by alcohol or drugs (including prescription medication) so as to impair the person's capacity to supervise or provide education and care to children

Penalty (approved provider and nominated supervisor): \$2000.

Regulation 99 Children leaving the education and care service premises

The approved provider and nominated supervisor ... must ensure that a child ... does not leave the ... service premises except in accordance with subregulation (4). Penalty: \$2000.

(4) The child may only leave the relevant premises if the child—

(a) is given into the care of—

(i) a parent of the child; or

(ii) an authorised nominee named in the child's enrolment record; or

(iii) a person authorised by a parent or authorised nominee named in the child's enrolment record to collect the child from the premises; or

(b) leaves the premises in accordance with the written authorisation of the child's parent or authorised nominee named in the child's enrolment record; or

(c) is taken on an excursion in accordance with this Division; or

(ca) is transported by the service or transportation arranged by the service in accordance with Division 7; or

(d) is given into the care of a person or taken outside the premises—

(i) because the child requires medical, hospital or ambulance care or treatment; or

(ii) because of another emergency.

(5) In this regulation parent does not include a parent who is prohibited by a court order from having contact with the child.

Note. Regulation 99 does not apply in Western Australia. Western Australia has enacted a similar provision in section 165A of the Schedule to the Education and Care Services National Law (WA) Act 2012.

Regulation 100 Risk assessment must be conducted before excursion

The approved provider and nominated supervisor ... must ensure a risk assessment is carried out in accordance with regulation 101 before an authorisation is sought under regulation 102 for an excursion.

Penalty: \$2000.

A risk assessment is not required under this regulation for an excursion if—

(a) the excursion is a **regular outing**; and

(b) a risk assessment has been conducted for the excursion; and

(c) that risk assessment has been conducted not more than 12 months before the excursion is to occur.

Note regular outing is defined in Regulation 4 as a walk, drive or trip to and from a destination—

(a) that the service visits regularly as part of its educational program; and

(b) where the circumstances relevant to the risk assessment are substantially the same on each outing

Regulation 101 Conduct of risk assessment for excursion

(1) A risk assessment for an excursion must—

(a) identify and assess risks that the excursion may pose to the safety, health or wellbeing of any child being taken on the excursion; and

(b) specify how the identified risks will be managed and minimised.

(2) Without limiting subregulation (1), a risk assessment must consider—

(a) the proposed route and destination for the excursion; and

(b) any water hazards; and

(c) any risks associated with water-based activities; and

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- (d) if the excursion involves transporting children
 - (i) the means of transport; and
 - (ii) any requirements for seatbelts or safety restraints under a law of each jurisdiction in which the children are being transported; and
 - (iii) the process for entering and exiting—
 - (A) the education and care service premises; and
 - (B) the pick-up location or destination (as required); and
 - (iv) procedures for embarking and disembarking the means of transport, including how each child is to be accounted for on embarking and disembarking; and
 - (e) the number of adults and children involved in the excursion; and
 - (f) given the risks posed by the excursion, the number of educators or other responsible adults that is appropriate to provide supervision and whether any adults with specialised skills are required; and
- Example. Specialised skills could include life-saving skills.
- (g) the proposed activities; and
 - (h) the proposed duration of the excursion; and
 - (i) the items that should be taken on the excursion.

Example. A mobile phone and a list of emergency contact numbers for children on the excursion.

Regulation 102 Authorisation for excursions

(1) &(2)The approved provider and nominated supervisor ... must ensure that a child ... is not taken outside the education and care service premises on an excursion unless written authorisation has been provided under subregulation. Penalty: \$1000.

(4) The authorisation must be given by a parent or other person named in the child’s enrolment record as having authority to authorise the taking of the child outside the education and care service premises by an educator and must state—

- (a) the child’s name; and
 - (b) the reason the child is to be taken outside the premises; and
 - (c) if the authorisation is for a regular outing, A description of when the child is to be taken on the regular outing; and
 - (ca) if the authorisation is for an excursion that is not a regular outing, the date the child is to be taken on the excursion; and
 - (d) a description of the proposed destination for the excursion; and
 - (e) if the excursion involves transporting children –
 - (i) the means of transport; and
 - (ii) any requirements for seatbelts or safety restraints under a law of each jurisdiction in which the children are being transported; and
 - (f) the proposed activities to be undertaken by the child during the excursion; and
 - (g) the period the child will be away from the premises; and
 - (h) the anticipated number of children likely to be attending the excursion; and
 - (i) the anticipated ratio of educators attending the excursion to the anticipated number of children attending the excursion; and
 - (j) the anticipated number of staff members and any other adults who will accompany and supervise the children on the excursion; and
 - (k) that a risk assessment has been prepared and is available at the service.
- (5) If the excursion is a regular outing, the authorisation is only required to be obtained once in a 12 month period.

Regulation 102B Transport risk assessment must be conducted before service transports a child

(1)&(2)The approved provider and nominated supervisor ... must ensure risk assessment is carried out in accordance with regulation 102C before an authorisation referred to in regulation 102D(4) is sought to transport a child. Penalty: \$2000.

(4) A risk assessment is not required under this regulation for transporting a child if—

- (a) the transportation is regular transportation; and
- (b) a risk assessment has been conducted for the regular transportation of the child within the previous 12 months.

Regulation 102C Conduct of risk assessment for transporting of children by the education and care service

(1) A risk assessment for the transportation of a childmust-

- (a) identify and assess risks that transporting the child may pose to the safety, health or wellbeing of the child; and

Week 25, 15 - 19 August 2022 – 2.2.1 Supervision

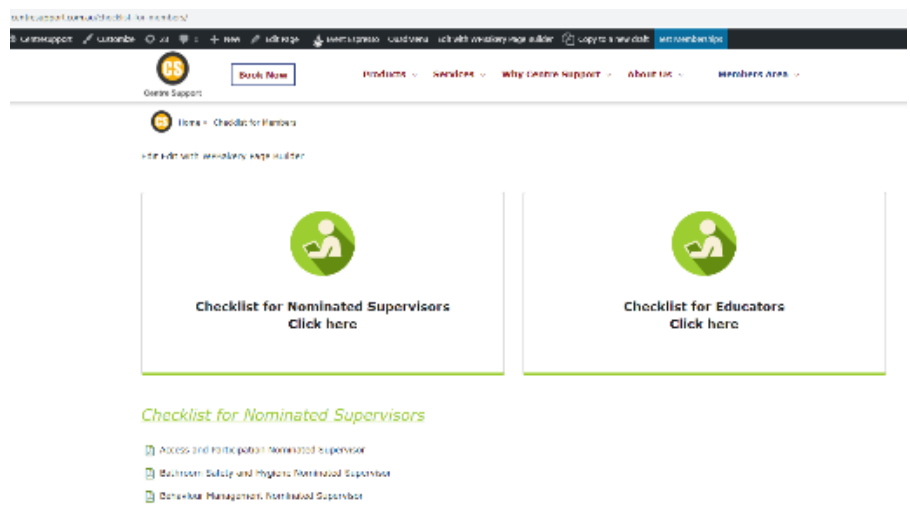
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- (b) specify how the identified risks will be managed and minimised.
- (2) Without limiting subregulation (1), a risk assessment must consider—
 - (a) the proposed route and duration of the transportation; and
 - (b) the proposed pick-up location and destination; and
 - (c) the means of transport; and
 - (d) any requirements for seatbelts or safety restraints under a law of each jurisdiction in which the children are being transported; and
 - (e) any water hazards; and
 - (f) the number of adults and children involved in the transportation; and
 - (g) given the risks posed by transportation, the number of educators or other responsible adults that is appropriate to provide supervision and whether any adults with specialised skills are required; and
 - (h) whether any items should be readily available during transportation; and
 Example A mobile phone and a list of emergency contact numbers for the children being transported.
 - (i) the process for entering and exiting—
 - (i) the education and care service premises; and
 - (ii) the pick-up location or destination (as required); and
 - (j) procedures for embarking and disembarking the means of transport, including how each child is to be accounted for on embarking and disembarking.

Regulation 102D Authorisation for service to transport children

- (1)&(2) The approved provider and nominated supervisor ... must ensure that a child ... is not transported ... unless written authorisation has been given under subregulation (4). Penalty: \$1000.
- (4) The authorisation must be given by a parent or other person named in the child’s enrolment record as having authority to authorise the child being transported by the service or on transportation arranged by the service and must state—
 - (a) the child’s name; and
 - (b) the reason the child is to be transported; and
 - (c) if the authorisation is for regular transportation, a description of when the child is to be transported; and
 - (d) if the authorisation is not for regular transportation, the date the child is to be transported; and
 - (e) a description of the proposed pick-up location and destination; and
 - (f) the means of transport; and
 - (g) the period of time during which the child is to be transported; and
 - (h) the anticipated number of children likely to be transported; and
 - (i) the anticipated number of staff members and any other adults who will accompany and supervise the children during the transportation; and
 - (j) any requirements for seatbelts or safety restraints under a law of each jurisdiction in which the children are being transported; and
 - (k) that a risk assessment has been prepared and is available at the education and care service; and
 - (l) that written policies and procedures for transporting children are available at the education and care service.
- (5) If the transportation is regular transportation, the authorisation is only required to be obtained once in a 12 month period.

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



Week 25, 15 - 19 August 2022 – 2.2.1 Supervision



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
Mr Jack asks if risk assessments for excursions and authorisations parents give for excursions need to say specific things. Do they?		
Miss Hannah asks which Reg relates to children's safety when visitors are present. Please respond.		
Miss Sue asks why Element 2.2.1 covers supervision AND risk management. Why do you think this is?		

Name of educator:

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Mr Jack asks if risk assessments for excursions and authorisations parents give for excursions need to say specific things. Do they?		
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Answers from last week - Compliance test for educators

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Name of educator:

Questions	Response	Pass or Fail
Miss Ashlee says she was told she can be fined \$10,000 if she uses corporal punishment or unreasonably disciplines a child. Is this correct?	Yes – see Law section 166 'Offence to use inappropriate discipline' clause 3.	
Mr Monzir asks if guiding children's behaviour is covered in the Regs. Is it?	Yes. Reg 155 Interactions with children says "An approved provider must take reasonable steps to ensure that the ... service provides education and care to children in a way that— (d) gives each child positive guidance and encouragement toward acceptable behaviour"	
Miss Kate's been told Reg 156 Relationships in Groups is relevant in terms of element 5.2.2 self-regulation. Is it?	Yes – the size and composition of groups can affect children's ability to engage in positive interactions and control their behaviour eg they may find this much harder in large, noisy groups, groups with different age children, groups where there are no clear rules or instructions etc.	

Week 25, 15 - 19 August 2022 – 2.2.1 Supervision

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The week we're reminding you about the Federal Government's Business website <https://www.business.gov.au/> which has a lot of simple, easy to understand business information.

The screenshot shows the homepage of the Australian Government Business website. The header includes the Australian Government logo, the word "Business", and the URL "business.gov.au". A search bar is located in the top right. The main navigation menu includes: Registrations, Business information, Grants and programs, Expertise and advice, Events and training, and News. The main content area features the text "SIMPLE TRUSTED HELPFUL" and "Support for businesses in Australia". Below this, there are two featured articles: "Coronavirus information and support for business" and "Assistance for businesses affected by floods".

For example, the following information is located under the Business information menu:

The screenshot shows the "Business information" menu expanded. The menu items are: COVID-19, Planning, Finance, Marketing, Online, People, Products and services, Risk management, Change and growth, and Exiting. Below the menu, there are two featured articles: "Look after your customers during COVID-19" and "Communicate with customers".

Within some of these submenus you'll find things like:

- Business plan templates
- Information about video surveillance
- Business marketing support
- Mental health and wellbeing support
- Information about cyber security.

There's also an interactive 'Grants and programs finder' under the 'Grants and Programs' menu.

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