



Nominated Supervisor

Law section 162A Persons in day-to-day charge and nominated supervisors to have child protection training

The approved provider of an education and care service must ensure that each nominated supervisor and each person in day-to-day charge of the service has successfully completed the child protection training (if any) required by or under the law of this jurisdiction, a Government protocol applying to the approved provider in this jurisdiction or otherwise required by this jurisdiction.

Note: Currently this applies in NSW where the nominated supervisor and persons in day-to-day charge must have completed CHCPRT001 – Identify and respond to children and young people at risk or CHCPRT002 – Support the rights and safety of children and young people. (Previously approved and completed courses are also accepted.)

Law 174 Offence to fail to notify certain information to Regulatory Authority

(2) An approved provider must notify the Regulatory Authority of the following information ...

(b) any complaints alleging — (i) that a serious incident has occurred or is occurring while a child was or is being educated and cared for by the ... service; or (ii) that this Law has been contravened; (c) information in respect of any other prescribed matters. Penalty: \$4000, in the case of an individual. \$20 000, in any other case.

Regulation 84 Awareness of child protection law

The approved provider ... must ensure that nominated supervisors and staff members .. who work with children are advised of—

(a) the existence and application of the current child protection law; and

(b) any obligations that they may have under that law.

Penalty: \$1000. Note. A compliance direction may be issued for failure to comply

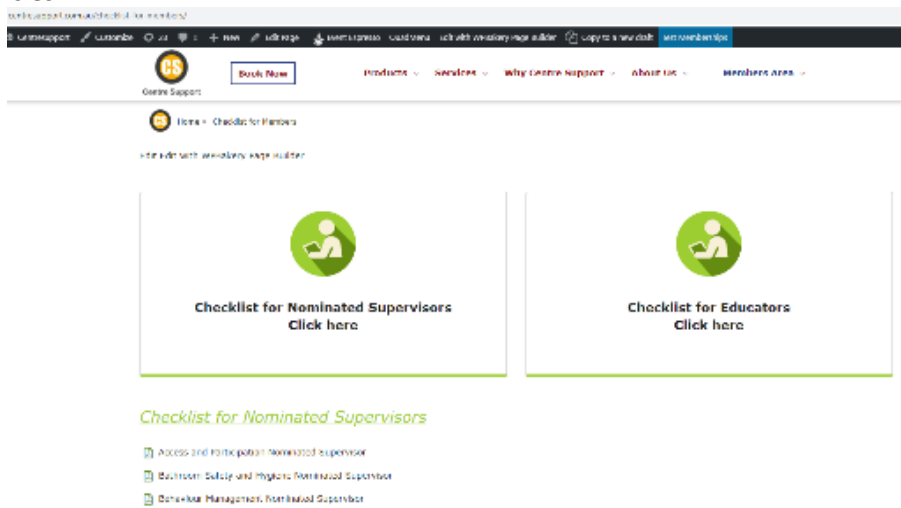
Regulation 175 Prescribed information to be notified to Regulatory Authority

(2) For the purposes of section 174(2)(c) of the Law, the following matters are prescribed—

(d) any incident where the approved provider reasonably believes that physical abuse or sexual abuse of a child or children has occurred or is occurring while the child is or the children are being educated and cared for ...;

(e) allegations that physical or sexual abuse of a child or children has occurred or is occurring while the child is or the children are being educated and cared for ... (other than an allegation that has been notified under section 174(2)(b) of the Law).

Note there are other child protection laws in State/Territory legislation. These are included in your Child Protection policies.



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 28, 5 - 9 September 2022 – 2.2.3 Child Protection

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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 Ella's friend works as an educator interstate. Does she have the same child protection responsibilities? Why or why not?		
Mr Jake says educators can be reported to Child Protection authorities if they harm or abuse a child. Is this true?		
Miss Bella asks what Reg 84 means when it says staff must be aware of the child protection law. Please explain.		

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Answers from last week - Compliance test for educators

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Questions	Response	Pass or Fail
Miss Milena asks what Regs cover element 6.2.2 access and participation. Please respond.	There are no specific regs covering this element. However, there are several that indirectly relate to the element eg: <ul style="list-style-type: none"> Reg 73 'educational program' which says the program must contribute to the child's sense of wellbeing Reg 155 'Interactions with children' which says education and care must maintain the dignity and rights of each child at all times 	
Mr Jose says he thinks the guiding principles of the National Law cover the element. Is he right?	Yes – Law section 3(3c) says equity, inclusion and diversity underlie the Law.	
Miss Sofie asks whether they have to take children with a disability. Do they?	Under the Commonwealth Disability Discrimination Act 1992 it's unlawful for any staff member at a service to harass, victimise or discriminate against an enrolled child, or a child seeking to enrol, in relation to their disability. Disability includes physical, intellectual, sensory, neurological and learning disabilities. Discrimination includes the failure to make reasonable adjustments to a policy, practice, procedure, program or environment that enables a child with disability to access and participate in the service on the same basis as other children.	

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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 looking at [Protections at work](#).

The Fair Work Act gives all employees protected rights. These include:

- workplace rights
- rights to choose whether or not to belong to a union or take part in industrial activities
- being free from discrimination.

We'll cover these rights in more detail in the coming weeks.

Employees are legally protected from:

Adverse action - it's unlawful for a person to take adverse action against another person because they:

- have a workplace right
- have/have not used a workplace right (or propose/don't propose to use it)
- belong/don't belong to a union, or do/don't take part in industrial activity
- have a protected attribute.

It's also unlawful for a person to take adverse action against another person to stop them using a workplace right.

Adverse action includes doing, threatening or organising to:

- fire an employee
- not give an employee their legal entitlements, like pay or leave
- change an employee's job to their disadvantage
- treat an employee differently to other employees (eg based on their sex or gender)
- not hire someone
- offer a potential employee different (and unfair) terms and conditions, compared to other employees

Coercion is forcing someone to do something against their will. A person can't be forced to:

- use/ not use a workplace right (or propose to use/not use it)
- use or propose to use a workplace right in a particular way.

Examples of coercion include threatening to fire the employer, organising to demote the employee, or changing their roster if they don't act in the way the employer wishes.

Undue influence or pressure is an employer uses their power to try to influence or pressure an employee to change their employment conditions. It's unlawful for an employer to unduly influence or pressure an employee to:

- enter/not enter into an agreement or arrangement under the National Employment Standards or an award or registered agreement
- agree to or terminate an individual flexibility arrangement
- accept a guarantee of annual earnings
- agree or not agree to a deduction from their pay.

Misrepresentation is someone knowingly or recklessly makes a false or misleading representation to a person who would likely rely on that representation.

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