



Nominated Supervisor

The Guide to the NQF lists 5 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/territories, or are transitional/savings provisions (please refer to the [Guide](#) for more information.) We have selected a couple of Regulations/Law sections to cover in full.

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

Section 169 Offence relating to staffing arrangements

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

Regulation 117B Minimum requirement for a person in day-to-day charge (see below)

Regulation 117C Minimum requirement for a nominated supervisor

Regulation 120 Educators who are under 18 to be supervised (see below)

Regulation 123 Educator to child ratios – centre based services

Regulation 126 Centre-based services – general educator qualifications (see below)

Regulations 130 – 134 Requirements for ECTs

Regulation 135 ECT absence or illness

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 (see below)

Regulation 151 Record of educators working directly with children

Regulation 152 Record of access to early childhood teachers

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

The approved provider ...must ensure that one of the following persons is present at all times that the service is educating and caring for children—

(a) the approved provider, if the approved provider is an individual or, in any other case, a person with management or control;

(b) a nominated supervisor ...

(c) a person in day-to-day charge of the service.

Penalty: \$5000, in the case of an individual. \$25 000, in any other case.

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

(1) An approved provider or a nominated supervisor ... must not place a person in day-to-day charge unless—

(a) the person has attained the age of 18 years; and

(b) the approved provider or nominated supervisor ...

(i) has had regard to the matters set out in subregulation (2); and

(ii) has taken reasonable steps to ensure that the person has adequate knowledge and understanding of the provision of education and care to children and an ability to effectively supervise and manage an education and care service.

(2) For the purposes of subregulation (1)(b)(i), the matters are—

(a) the person's history of compliance with—

Week 30, 19 - 23 September 2022 – 4.1.1 Organisation of educators

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- (i) the Law as applying in any participating jurisdiction; and
 - (ii) a former education and care services law of a participating jurisdiction; and
 - (iii) a children’s services law of a participating jurisdiction; and
 - (iv) an education law of a participating jurisdiction; and
- (b) any decision under the Law to refuse, refuse to renew, suspend, or cancel a licence, approval, registration, certification or other authorisation granted to the person under—
- (i) the Law as applying in any participating jurisdiction; and
 - (ii) a former education and care services law of a participating jurisdiction; and
 - (iii) a children’s services law of a participating jurisdiction; and
 - (iv) an education law of a participating jurisdiction.

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 120 Educators who are under 18 to be supervised

The approved provider ... must ensure that any educator at the service who is under 18 years of age—

- (a) does not work alone at the service; and
- (b) is adequately supervised at all times by an educator who has attained the age of 18 years.

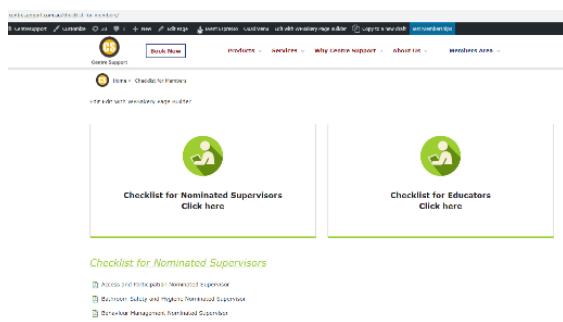
Penalty: \$1000.

Regulation 126 Centre-based services – general educator qualifications

- 1) The qualification requirements for educators educating and caring for children preschool age or under are...—
- (a) at least 50% 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) ... subregulation (1)(b) does not apply to an educator if the educator has been employed ... on a probationary basis for not more than 3 months....
- (1B) Subregulation (1A) does not apply ... to NSW.
- (3) If (an ECT is required) to be in attendance... that teacher, or a person taken to be an ECT under regulation 135(1), is ...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 ECT or a suitably qualified person under regulation 135(2), is... counted as meeting the requirements of subregulation (1)(a). (not NSW)

Regulation 150 Responsible person

The staff record must include the name of the responsible person at the centre-based service for each time that children are being educated and cared for by the service.



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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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 Trudi (18 years) wants to know why she has to supervise Miss Ava (17 years). Has Miss Ava done something wrong? Please respond.		
Miss Penelope wants to be a person in day to day charge. She's worked at other centres for 3 years and is currently a room/group leader. Is it possible she could be put in charge sometimes?		
Mr Carter asks what 'under the roof' ratios mean? Please respond.		
Miss Bronte asks if she can be the Educational Leader too. Can she?		
Miss Fatima says she's responsible and could be the 'responsible person' who's around when the Nominated Supervisor isn't. Would this be okay?		



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 Summer asks what the cut-off time for notifying parents about incidents is? Please reply.	Reg 86 'Notification to parents of incident, injury, trauma and illness' says parents must be advised no later than 24 hours after the incident (but asap).	
Miss Natalie says it's not fair she got in trouble just because she completed an incident record 2 days after the incident occurred. Was it fair?	Yes. She breached Reg 87 'Incident, injury, trauma and illness record' which says incident records must be completed no later than 24 hours after the incident occurred.	
Mr Calvin asks what the Regs say you need to include in First Aid Kits. Please respond.	The Regs don't have a list of contents. Reg 89 'First aid kits' says kits must be 'suitably equipped'. This means they must include items that might be needed if there's an injury. Services need to review Kit contents from recognised authorities (eg Safe Work Australia), and also review previous incidents at the Service to ensure potential items needs are included.	
Miss Molly asks if the Regs require different medication records where medication is administered on an ongoing basis. Do they?	No. Reg 92 'Medication record' makes no distinction between long and short term administration of medication. The details which must be recorded accommodate both scenarios and one template can be used for both scenarios if desired.	
Miss Deirdre says medication doesn't always have to be authorised before it's administered. Is she right?	She's only right if it's an asthma or anaphylaxis emergency - asthma medication or auto adrenaline injectors (eg epipens) can be administered without authorisation. These are serious medical situations and without immediate action the outcome can be fatal.	

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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 the right to take part in [industrial activities](#) (particularly relevant after the recent strike by educators.)

A person has the right to belong or not belong to an industrial association (eg a trade union or employer association). A person also has the right to take part or not take part in industrial activity. It's unlawful for a person to take adverse action against another person for these kinds of reasons.

Industrial activities include doing or not doing the following:

- being involved in setting up a union or employer association
- organising or promoting lawful activities for or on behalf of a union or employer association
- encouraging or participating in lawful activities organised or promoted by a union or employer association
- representing the views, claims or interests of a union or employer association
- following lawful requests made by a union or employer association
- paying a fee to a union or employer association
- asking a union or employer association to represent them.

See Week 28 2022 for information about what a person is protected from.