

Nominated supervisor

Compliance responsibilities under the
National Law and National Regulations



Australian Children's
Education & Care
Quality Authority

Nominated supervisor – compliance responsibilities under the National Law and National Regulations

In addition to regulatory authorities being able to prosecute or issue an infringement notice due to confirmed breaches of the National Law and/or National Regulations, regulatory authorities also have the power to give:

- Compliance notices under section 177 of the National Law in response to confirmed breaches of provisions of the National Law and/or National Regulations; and
- Compliance directions under section 178 of the National Law in response to confirmed breaches of the National Regulations.

Each nominated supervisor is legally responsible for compliance with the following components of the National Law (section) and National Regulations (regulation)	What is required for compliance with this section or regulation?		
	Each nominated supervisor must ensure that:	Prosecution in a court or tribunal	Issue infringement notice
		Penalty for non-compliance with section or regulation	Maximum fine associated with infringement notice

QA1: Educational program and practice

Section 168 Offence relating to required programs	<ul style="list-style-type: none"> • The educational program is based on and delivered in line with an approved learning framework (e.g. the Early Years Learning Framework) • The educational program is based on the developmental needs, interests and experiences of each child and take into account the individual differences of each child 	<input checked="" type="checkbox"/> \$4500 penalty	<input type="checkbox"/>
Regulation 73 Educational program	<ul style="list-style-type: none"> • The educational program contributes to each child's sense of identity and wellbeing • The educational program supports each child to be connected with their world • The educational program supports each child to be a confident and involved learner and an effective communicator 	<input type="checkbox"/>	<input type="checkbox"/>

Each nominated supervisor is legally responsible for compliance with the following components of the National Law (section) and National Regulations (regulation)	What is required for compliance with this section or regulation?		
	Each nominated supervisor must ensure that:	Prosecution in a court or tribunal	Issue infringement notice
		Penalty for non-compliance with section or regulation	Maximum fine associated with infringement notice

QA2: Children's health and safety

Section 165 Offence to inadequately supervise children	<ul style="list-style-type: none"> All children being educated and cared for by the service are adequately supervised at all times that they are in the care of the service 	<input checked="" type="checkbox"/> \$11 400 penalty	<input type="checkbox"/>
Section 167 Offence relating to protection of children from harm and hazards	<ul style="list-style-type: none"> Every reasonable precaution is taken to protect children being educated and cared for by the service from harm and any hazard likely to cause injury 	<input checked="" type="checkbox"/> \$11 400 penalty	<input type="checkbox"/>
Section 170 Offence relating to unauthorised persons on education and care service premises	<ul style="list-style-type: none"> An unauthorised person (i.e. visitor) does not remain at the service premises while children are being educated and cared for unless the unauthorised person is under the direct supervision of an educator or other staff member of the service 	<input checked="" type="checkbox"/> \$1100 penalty	<input type="checkbox"/>
Section 171 Offence relating to direction to exclude inappropriate persons	<ul style="list-style-type: none"> Any person deemed inappropriate by the Regulatory Authority is excluded from the service premises while children are being educated and cared for at the premises 	<input checked="" type="checkbox"/> \$11 400 penalty	<input type="checkbox"/>
Regulation 77 Health, hygiene and safe food practices	<ul style="list-style-type: none"> Adequate health and hygiene practices are implemented by all staff members and volunteers Safe practices for handling, preparing and storing food are implemented by all staff members and volunteers 	<input checked="" type="checkbox"/> \$2200 penalty	<input checked="" type="checkbox"/> \$220 fine
Regulation 78 Food and beverages	<ul style="list-style-type: none"> Children in attendance have access to safe drinking water at all times and are offered food and beverages regularly throughout the day 	<input checked="" type="checkbox"/> \$2200 penalty	<input type="checkbox"/>

Each nominated supervisor is legally responsible for compliance with the following components of the National Law (section) and National Regulations (regulation)	What is required for compliance with this section or regulation?		
	Each nominated supervisor must ensure that:	Prosecution in a court or tribunal	Issue infringement notice
		Penalty for non-compliance with section or regulation	Maximum fine associated with infringement notice
<p>Regulation 79 Service providing food and beverages</p> <p>Note: Only relates to services that provide food or beverages to children in attendance</p>	<ul style="list-style-type: none"> Food and beverages are nutritious and adequate in quantity and take into account each child's growth and development needs and any cultural or health requirements 	<input checked="" type="checkbox"/> \$2200 penalty	<input type="checkbox"/>
<p>Regulation 80 Weekly menu</p> <p>Note: Only relates to services that provide food or beverages to children in attendance</p>	<ul style="list-style-type: none"> A weekly menu is displayed at a place in the residence or venue that is accessible to parents of children in attendance The menu accurately describes the food and beverages that will be provided by the service each day 	<input checked="" type="checkbox"/> \$1100 penalty	<input checked="" type="checkbox"/> \$110 fine
<p>Regulation 83 Staff members and family day care educators not to be affected by alcohol or drugs</p>	<ul style="list-style-type: none"> They do not consume alcohol while educating and caring for children for the service They are not affected by alcohol or drugs (including prescription medication) so as to impair their capacity to supervise or provide education and care to children at the service 	<input checked="" type="checkbox"/> \$2200 penalty	<input type="checkbox"/> \$220 fine
<p>Regulation 84A Sleep and rest</p>	<ul style="list-style-type: none"> The needs for sleep and rest of children being educated and cared for by the service are met, having regard to the ages, development stages and individual needs of the children 	<input checked="" type="checkbox"/> \$1100 penalty	<input type="checkbox"/>
<p>Regulation 84D Prohibition of bassinets</p>	<ul style="list-style-type: none"> A bassinet is not on the education and care service premises at any time during which children are being educated and cared for by the service. 	<input checked="" type="checkbox"/> \$2200 penalty	<input checked="" type="checkbox"/> \$220 fine

Each nominated supervisor is legally responsible for compliance with the following components of the National Law (section) and National Regulations (regulation)	What is required for compliance with this section or regulation?		
	Each nominated supervisor must ensure that:	Prosecution in a court or tribunal	Issue infringement notice
		Penalty for non-compliance with section or regulation	Maximum fine associated with infringement notice
Regulation 93 Administration of medication	<ul style="list-style-type: none"> Medication is not administered to a child being educated and cared for at the residence or venue unless: <ul style="list-style-type: none"> » the administration is authorised, and » the medication is administered in accordance with: the procedure for administration at regulation 95 or the procedure for self-administration at regulation 96 	<input checked="" type="checkbox"/> \$2200 penalty	<input type="checkbox"/>
Regulation 94 Exception to authorisation requirement in the case of anaphylaxis or asthma emergency	<ul style="list-style-type: none"> If medication is administered to a child without authorisation because of anaphylaxis or an asthma emergency, the parent of the child and emergency services are notified as soon as practicable 	<input type="checkbox"/>	<input type="checkbox"/>
Regulation 99 Children leaving the education and care service premises Note: does not apply in Western Australia	<ul style="list-style-type: none"> A child in attendance does not leave the residence or venue except for one of the reasons outlined at regulation 99 	<input checked="" type="checkbox"/> \$2200 penalty on request	<input type="checkbox"/>
Regulation 100 Risk assessment must be conducted before excursion	<ul style="list-style-type: none"> They carry out a risk assessment in accordance with regulation 101 before seeking authorisation for an excursion under regulation 102 	<input checked="" type="checkbox"/> \$2200 penalty	<input type="checkbox"/>

Each nominated supervisor is legally responsible for compliance with the following components of the National Law (section) and National Regulations (regulation)	What is required for compliance with this section or regulation?		
	Each nominated supervisor must ensure that:	Prosecution in a court or tribunal	Issue infringement notice
		Penalty for non-compliance with section or regulation	Maximum fine associated with infringement notice
Regulation 101 Conduct a risk assessment for excursion	<ul style="list-style-type: none"> A risk assessment for an excursion identifies and assesses risks that the excursion may pose to the safety, health or wellbeing of any child being taken on the excursion and specifies how these risks will be managed and minimised The risk assessment considers the items outlined at regulation 101 	<input type="checkbox"/>	<input type="checkbox"/>
Regulation 102 Authorisation for excursions	<ul style="list-style-type: none"> A child who is being educated and cared for at the residence or venue is not taken outside the service premises on an excursion without written authorisation The written authorisation for each child includes the information outlined at regulation 102 	<input checked="" type="checkbox"/> \$1100 penalty	<input type="checkbox"/>
Regulation 102B Transport risk assessment must be conducted before service transports child	<ul style="list-style-type: none"> A 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. 	<input checked="" type="checkbox"/> \$2200 penalty	<input type="checkbox"/>
Regulation 102C Conduct of risk assessment for transporting of children by the education and care service	<ul style="list-style-type: none"> The risk assessment identifies and assesses risks that the transportation of a child may pose to the safety, health or wellbeing of the child, and specifies how the identified risks will be managed and minimised The risk assessment considers the items outlined at regulation 102C 	<input type="checkbox"/>	<input type="checkbox"/>
Regulation 102D Authorisation for service to transport children	<ul style="list-style-type: none"> A child being educated and cared for by the service is not transported by the service or on transportation arranged by the service unless written authorisation has been given under subregulation (4) The written authorisation for each child includes the information outlined at regulation 102D 	<input checked="" type="checkbox"/> 1100 penalty	<input type="checkbox"/>

Each nominated supervisor is legally responsible for compliance with the following components of the National Law (section) and National Regulations (regulation)	What is required for compliance with this section or regulation?		
	Each nominated supervisor must ensure that:	Prosecution in a court or tribunal Penalty for non-compliance with section or regulation	Issue infringement notice Maximum fine associated with infringement notice

QA4: Staffing arrangements

Regulation 117B Minimum requirements for a person in day-to-day charge	<ul style="list-style-type: none"> A person is not placed in day-to-day charge of the service unless the person is at least 18 years of age and meets the requirements outlined at regulation 117B 	<input type="checkbox"/>	<input type="checkbox"/>
Section 169(3) Offence relating to staffing arrangements	<ul style="list-style-type: none"> Ratio requirements at regulation 124 are maintained 	<input checked="" type="checkbox"/> \$11 400 penalty	<input type="checkbox"/>
Section 169(4) Offence relating to staffing arrangements	<ul style="list-style-type: none"> Each family day care educator meets the qualification requirements prescribed at regulation 127 and the first aid qualifications prescribed at regulation 136 	<input checked="" type="checkbox"/> \$11 400 penalty	<input type="checkbox"/>
Regulation 124 Educator-to-child ratios – family day care services Note: This regulation allows flexibility in exceptional circumstances, refer to regulation 124, sections 5 and 6	<ul style="list-style-type: none"> No more than 7 children are educated and cared for at a family day care residence or venue at any one time No more than 4 children are preschool age or under This includes the educator’s own children or other children at the residence if those children are under 13 years age and no other adults are present and caring for the children 	<input type="checkbox"/>	<input type="checkbox"/>

Each nominated supervisor is legally responsible for compliance with the following components of the National Law (section) and National Regulations (regulation)	What is required for compliance with this section or regulation?		
	Each nominated supervisor must ensure that:	Prosecution in a court or tribunal	Issue infringement notice
		Penalty for non-compliance with section or regulation	Maximum fine associated with infringement notice
<p>Regulation 127 Family day care educator qualifications</p>	<ul style="list-style-type: none"> New family day care educators hold an approved certificate III level (or higher) qualification prior to commencing their role in a family day care service and they cannot be 'actively working towards' a qualification. NOTE: Existing educators currently engaged at a family day care service have until 1 July 2024 to complete an approved qualification*. <p>*This does not apply to South Australia ** Please check the legislation for the commencement date in WA.</p>	✘	✘
<p>Regulation 136 First aid qualifications</p>	<ul style="list-style-type: none"> Each family day care educator holds a current approved first aid qualification, has undertaken current approved anaphylaxis management training, and has undertaken current approved emergency asthma management training The following qualifications must be completed within the previous three years to be considered current: <ul style="list-style-type: none"> » Approved first aid qualifications (except for a qualification that relates to emergency life support and cardio-pulmonary resuscitation, which must be completed within the previous year) » Approved anaphylaxis management training » Approved emergency asthma management training Note: Approved providers have until 1 April 2024 to undertake any necessary training to ensure first aid qualifications and anaphylaxis and asthma management training are current, as per the above timeframes. <p>** Please check the legislation for the commencement date in WA</p>	✘	✘

Each nominated supervisor is legally responsible for compliance with the following components of the National Law (section) and National Regulations (regulation)	What is required for compliance with this section or regulation?		
	Each nominated supervisor must ensure that:	Prosecution in a court or tribunal	Issue infringement notice
		Penalty for non-compliance with section or regulation	Maximum fine associated with infringement notice

QA5: Relationships with children

Section 166 Inappropriate discipline	<ul style="list-style-type: none"> No child being educated and cared for by the service is subjected to any form of corporal punishment or any discipline that is unreasonable in the circumstances 	<input checked="" type="checkbox"/> \$11 400 penalty	<input type="checkbox"/>
--	--	--	--------------------------

QA6: Collaborative partnerships with families and communities

Regulation 157 Access for parents	<ul style="list-style-type: none"> A parent may enter the residence or venue at any time that their child is in attendance at the residence or venue except if: <ul style="list-style-type: none"> (a) Permitting the parent's entry would: <ul style="list-style-type: none"> i. Pose a risk to the safety of the children and staff of the education and care service; or ii. Conflict with any duty of the supervisor under the Law; or (b) The supervisor reasonably believes that permitting the parent's entry would contravene a court order 	<input checked="" type="checkbox"/> \$1100 penalty	<input type="checkbox"/>
---	--	--	--------------------------



Australian Children's
Education & Care
Quality Authority