

Quality Area 4: Staffing Arrangements

Determining a Responsible Person



Introduction

Our Education and Care Service will ensure a Responsible Person or Nominated Supervisor is physically present at the service at all times children are being educated and cared for. Details of the Responsible Person on duty will be communicated and displayed for all users of the service.

An Approved Provider operates the service with an appointed Nominated Supervisor. The Nominated Supervisor does not have to be in attendance at the service at all times, but in their absence, a Responsible Person is to be placed in day-to-day charge.

Goals – What are we going to do?

Legislation requires that a Responsible Person is physically in attendance at all times the service is educating and caring for children. The Responsible Person can be: The Approved Provider, the Nominated Supervisor or a Person in Day-to-Day Charge (PIDTDC).

Definitions

- **Approved Provider:** An individual or organisation that has completed an application form and been approved by the Regulatory Authority as fit and proper (in accordance with Sections 12, 13 and 14 of the National Law) to operate one or more education and care services.
- **Nominated Supervisor:** A person who has been nominated by the Approved Provider of the service under Part 6 of the Act to be the Nominated Supervisor of that service, and who has consented to that nomination. The Nominated Supervisor has day-to-day responsibility for the service in accordance with the National Regulations. All services must have a Nominated Supervisor.
- **Person in Day-to-Day Charge:** A PIDTDC is a Responsible Person under Section 162 of the Law and is the point of contact for parents and staff. A service does not need to have a PIDTDC if a Nominated Supervisor or Approved Provider is the Responsible Person at the service.

Criteria to be Determined Nominated Supervisor

Individuals at the service who are considered appropriate for the role of Nominated Supervisor must meet the following requirements:

- Their practical knowledge of the day-to-day responsibilities of being an educator at the service, including how to work through unexpected problems.
- Must be over 18 years of age.
- Must have completed the child protection training.
- A demonstrated understanding of:
 - Education and Care Services National Law Act 2010, and the Education and Care Service Services National Regulations 2011
 - Equal Opportunity Employment Conditions
 - Health and Safety, including Child Protection responsibilities
 - Privacy, Confidentiality and Equal Opportunity/Anti-Discrimination policies and procedures
 - The Education and Care service's policies and procedures.
- Consideration will be also given regarding whether the individual has been subject to compliance action or disciplinary proceedings under a Children's Services Law, Education Law, or a previous Education and Care services law, in any state or territory. Candidates will be asked to submit a Compliance History Statement. (Form attached)

- The Nominated Supervisor must also meet the minimum requirements outlined in Regulation 117A, including being a fit and proper person, having suitable skills, experience, and knowledge to supervise the service, and having adequate knowledge of the National Law and Regulations.

Placing a person in Day-to-Day Charge

The Approved Provider is responsible for ensuring the safety and wellbeing of children at the service and will consider a person's qualifications, experience and age when deciding whether they are suitable to be placed in day-to-day charge.

A person may be placed in day-to-day charge of the service, when:

- The Approved Provider or Nominated Supervisor identifies that they meet the criteria required under R117B and 117C
- They give their written consent to be placed in day-to-day charge of the service.
- Written consent for Nominated Supervisors and PIDTDCs will be stored confidentially and retained in accordance with Regulation 177.

Roles and Responsibilities

Role	Authority/Responsibility For
Approved Provider	➤ Ensuring there is a person placed in day-to-day charge (refer to definitions) on the premises at all times the service is delivering education and care programs for children. ➤ Ensuring that the name and position of the Nominated Supervisor or Responsible Person in charge of the service is displayed and easily visible from the main entrance of the service (National Law: Section 172). ➤ Ensuring that the name of the Nominated Supervisor or Responsible Person is displayed prominently at the service. ➤ Notifying the Regulatory Authority in writing if there is a change of person in the role of Nominated Supervisor (Section 56, Regulation 35). ➤ Ensuring that, in the absence from the service premises of a Nominated Supervisor, a Responsible Person is placed in day-to-day charge of the service. ➤ Ensuring that the Nominated Supervisor, Responsible Persons, and educators have a sound understanding of a person placed in day-to-day charge of the service. ➤ Maintain records with information relating to each Nominated Supervisor (Regulation 146). ➤ Maintain records relating to the Responsible Person (Regulation 150) including the name of the Responsible Person for each time that children are being educated and cared for by the service. ➤ The service will maintain a daily Responsible Person record that documents the name of the Responsible Person for every operational period. This record will be updated immediately whenever responsibility changes.
Nominated Supervisor	➤ Providing written consent to accept the role of Nominated Supervisor. ➤ Ensuring that, in their absence from the service premises, a Responsible Person is placed in day-to-day charge of the service. ➤ Ensuring they have a sound understanding of the role of being placed in day-to-day charge of the service.

	➤ Ensuring that the name and position of the person being placed in day-to-day charge of the service is displayed and easily visible from the main entrance of the service. ➤ Developing rosters in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children. ➤ Notifying the Approved Provider and the Regulatory Authority within 7 days of any changes to their personal situation, including a change in mailing address, circumstances that affect their status as fit and proper, such as the suspension or cancellation of a Working with Children Check card or teacher registration, or if they are subject to disciplinary proceedings. ➤ The Nominated Supervisor will ensure all Responsible Persons receive induction and ongoing training to maintain a sound understanding of their obligations under the National Law and Regulations.
Person in Day to Day Charge	➤ Providing written consent to accept the role of Responsible Person. ➤ Checking that the name and position of the Responsible Person in charge of the service is displayed and easily visible from the main entrance of the service. ➤ Ensuring they have a sound understanding of the role of Responsible Person. ➤ Understanding that a Responsible Person placed in day-to-day charge of an approved service does not have the same responsibilities under the National Law as the Nominated Supervisor. ➤ A sign stating "Responsible Person" will be attached to the relevant staff member's photo frame and updated whenever the Responsible Person changes.
Families	➤ Reading and understanding this policy. ➤ Being aware of the Responsible Person at the service on a daily basis.

Monitoring, Evaluation and Review

Management and staff will monitor and review the effectiveness of the Determining a Responsible Person policy regularly. Updated information will be incorporated as needed.

This policy will be monitored to ensure compliance with legislative requirements and unless deemed necessary through the identification of practice gaps, the service will review this policy every 12 months.

Families and staff are essential stakeholders in the policy review process and will be given opportunity and encouragement to be actively involved.

In accordance with Regulation 172 of the *Education and Care Services National Regulations*, the service will ensure that families of children enrolled at the service are notified at least 14 days before making any change to a policy or procedure that may have significant impact on the provision of education and care to any child enrolled at the service; a family's ability to utilise the service; the fees charged or the way in which fees are collected.

Compliance history statement for a person to be a person in day-to-day charge (PIDTDC) or a nominated supervisor.

1. Please provide information about any compliance action or disciplinary proceedings to which you have been subject under:

- the Education and Care Services National Law, including the Education and Care Services National Regulations, and
- any of the laws listed at Table 1 below, in any Australian state or territory.

2. Have you ever had a supervisor certificate that was subject to any conditions or suspended or cancelled by the regulatory authority?

Yes – please provide details below No

3. Are you or have you ever been subject to a prohibition notice under the Education and Care Services National Law?

Yes – please provide details below No

4. Have you ever held or applied for a licence, approval, registration, certification or other authorisation under the National Law which the regulatory authority refused, refused to renew, suspended or cancelled?

Yes – please provide details below No

I, [insert full name]
.....

of [insert address]
.....

and born on [insert date of birth] declare that:

1. the information provided in this statement is true and complete, and
2. I am aware that I may be subject to penalties under a Commonwealth or State or Territory Act if I provide false or misleading information.

Signature of person making the declaration:

Signed: Date/...../.....

Related Legislation:

NQS

Quality Area 4	Staffing arrangements
Standard 4.1	Staffing arrangements
Quality Area 7	Governance and leadership
Standard 7.1	Governance

National Law

Section	56	Notice of addition of nominated supervisor
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 in present
Section	162A	A persons in day-to-day charge and nominated supervisors to have child protection training
Section	172	Offence to fail to display prescribed information
Section	291(5)	The payment of an infringement penalty expiates the offence and is not to be considered in--

National Regulations

Reg	35	Notice of addition of new nominated supervisor
Reg	146	Nominated supervisor
Reg	136	First aid qualifications
Reg	150	Responsible per
Reg	168	Education and care service must have policies and procedures
Reg	173	Prescribed information to be displayed
Reg	176(2)(c)	In any other case, within 7 days of the relevant event or within 7 days of the approved provider becoming aware of the relevant information

Sources:

- Australian Children's Education and Care Quality Authority (ACECQA) - www.acecqa.gov.au Information Sheets
- ACECQA Guide to the National Law and National Regulations
- ACECQA Compliance History Statement - www.acecqa.gov.au/resources/applications/sample-forms-and-templates
- Education and Care Services National Regulations 2011

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