

## 4.9 DETERMINING RESPONSIBLE PERSON - ACECQA

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### INTRODUCTION

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.

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 or Nominated Supervisor on duty will be communicated and displayed for all users of the service.

### PURPOSE

Legislation requires that a Nominated Supervisor or Responsible Person is physically in attendance at all times the service is educating and caring for children. The person placed in day-to-day charge of the service is either the Approved Provider (or the person in management or control of the service), the Nominated Supervisor of the service, or a Responsible Person.

### 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.

#### **Responsible Person**

The Approved Provider (if that person is an individual, and in any other case the person with management or control of the service operated by the Approved Provider) or person who has been placed in day-to-day charge of the service in accordance with the National Regulations.

### STRATEGIES

#### **Placing a person in day-day charge or nominated supervisor**

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, Nominated Supervisor or Responsible Person identifies that they meet the criteria required under r117B and 117C and
- they give their written consent to be placed in day-to-day charge of the service.

### **Criteria to be Determined a Responsible Person or Nominated Supervisor**

Educators at the service who are considered appropriate for the role of Responsible Person or 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 an approved Child Protection course. In NSW, nominated supervisors and persons in day-to-day charge are required to have completed the child protection courses approved by the NSW Regulatory Authority (162A Education and Care Services National Law).
- 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; and
  - Our 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.

## **ROLES AND RESPONSIBILITIES**

### **Approved Provider**

- Ensuring there is a person placed in day-to-day charge 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 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 (Reg. 146).
- Maintain records relating the Responsible Person (Reg. 150) including the name of the Responsible Person for each time the children are being educated and cared for by the service.

### **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 their 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.

### **Responsible Person**

- Providing written consent to accept the role of Responsible Person
- Checking that the name and position of the Responsible Person in charge is displayed and easily visible from the main entrance of the service.
- Ensuring that they have a sound understanding of the role of Responsible Person.
- Understanding that a Responsible Person placed on day-to-day charge of an approved service does not have the same responsibilities under the National Law as the Nominated Supervisor.

### **Families**

- Reading and understanding this policy.
- Being aware of the Responsible Person at the service on a daily basis.

### **MONITORING, EVALUATION AND REVIEW**

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 18 months.

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

<b>Relevant Legislation</b>	Education and Care Services National Regulations 2011. Reg. 35, 146, 168 (2) (i) (ii), 173, 176 (2) (c) Children (Education and Care Services National Law Application) Act 2010 Section 6, 56, 161, 161A, 162, 162A, 172, 291(5)
<b>Related to NQS QA</b>	4.1, 7.1
<b>Related Policies</b>	
<b>Sources &amp; Further Reading</b>	Policy Adapted from Community Early Learning Australia Australian Children's Education and Care Quality Authority <a href="http://acecqa.gov.au">acecqa.gov.au</a> ACECQA Guide to the National Law and National Regulations ACECQA Compliance History Statement <a href="http://acecqa.gov.au/resources/applications/sample-forms-and-templates">acecqa.gov.au/resources/applications/sample-forms-and-templates</a> Education and Care Services National Regulations 2011

<b>POLICY REVIEWED</b>	<b>MODIFICATIONS</b>	<b>NEXT REVIEW DATE</b>
June 2021	Checked regulations, updated copy	2022