

Rationale

SDN is conscious of its responsibility towards children’s safety and wellbeing and endeavours to have practices in place to support that. To ensure that SDN complies with the Education and Care Services National Law (National Law) and Education and Care Services National Regulations (National Regulations), a responsible person must be present at all times that the service is educating and caring for children. This policy outlines that a set of minimum requirements must be met and evidence of suitability must be collected, prior to determining if a staff member is suitable to be a responsible person during a service’s hours of operation.

Scope

This policy applies to all permanent and maximum term contract SDN staff members working at SDN Children’s Education and Care Centres and Preschools and covers requirements relating to Nominated Supervisors and staff members in day-to-day charge.

Key Terms

Approved provider

The CEO of SDN Children’s Services or their delegate.

Responsible person

A responsible person is either a nominated supervisor, or a person that has been placed in day-to-day charge of an education and care service.

Nominated supervisor

A person who has been nominated by the approved provider to hold certain legal and operational responsibilities at the service. This person must provide their written consent and meet the requirements outlined in National Regulation 117C and section 43(3) of the Child Care Subsidy Minister’s Rules 2017.

Person in day-to-day charge

A person that is placed in day-to-day charge of a service (PIDTDC) by the approved provider or a Nominated Supervisor of the service. This person must provide their written consent and meet the minimum requirements outlined in National Regulation 117B.

Policy

A responsible person must always be physically present at SDN Children’s Education and Care Centres and Preschools at all times whilst the service is educating and caring for children. This person will assume the

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responsibilities of the “day to day” operations of the centre. The responsible person must be recorded in the *Staff Sign In Sheet* and their name must be displayed at the entrance.

SDN as the approved provider is responsible for appointing one or more individuals to be a Nominated Supervisor at a service. The approved provider must assess their suitability and whether they meet the minimum requirements for this role and ensure that they have a clear understanding of the role of the Responsible Person. A Nominated Supervisor must provide their written consent prior to commencing the role via the *Responsible Person Consent Form*.

All Centre Directors, due to the nature of their role, are Nominated Supervisors. Nominated Supervisors maintain their legal responsibilities under National Law even when they are not present on the premises. SDN may appoint another person as the Nominated Supervisor when a Centre Director is on extended leave (e.g., annual leave, parental leave or long service leave), or if a nominated supervisor withdraws their consent.

SDN or the Nominated Supervisor is responsible for appointing one or more individuals to be a PIDTDC of their service. The Nominated Supervisor must assess their suitability and whether they meet the minimum requirements for this role.

Guide to determine suitability

National Regulation 117B (for PIDTDC) and 117C (for Nominated Supervisors) must be taken into account when deciding whether a staff member is suitable to be a responsible person of the service. Additional information about minimum requirements and examples of evidence used to assess suitability can be found in the Guide to the NQF published by ACECQA. An overview is provided below:

- the staff member must be 18 years or older
- the staff member must have adequate knowledge and understanding of the provision of education and care to children and an ability to effectively supervise and manage and education and care service.

The approved provider or Nominated Supervisor must also have regard to:

- the person’s history of compliance with the National Law and other relevant laws
- any decision under the Law to refuse, suspend, refuse to renew, or cancel a licence, approval, registration, certification or other authorisation granted to the person under the National Law and other relevant laws
- the Nominated Supervisor will provide reasonable induction and training for all staff appointed in Responsible Person roles
- any current PIDTDC wishing to step away from this position will do so by putting their request in writing to their Centre Director
- Nominated Supervisors are also responsible for ensuring that a PIDTDC is always present at the centre when the nominated supervisor is away. This information must be accurately recorded in staff attendance records
- appointing a PIDTDC does not place any additional legal responsibilities on that person under the National Law. The responsibilities relevant to educators under the National Law continue to apply.

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In addition, a responsible person will have:

- completed an approved ACECQA qualification
- comprehensive understanding of the *Education and Care Services National Law and Education and Care Services National Regulations*
- completed a current Office of the Children’s Guardian (OCG) approved Child Protection course, maintained with refresher courses at least every 3 years
- completed an ACECQA approved qualification in asthma and anaphylaxis management and have a valid First Aid and CPR refresher certificate
- a current Working with Children Check (NSW) or Working with Vulnerable People Check (ACT)
- provide their written consent and compliance history via the *Responsible Person Consent Form*.

Nominated Supervisors must also hold a National Police Check that was obtained no more than 6 months prior to their nomination as outlined in section 43 (3) of the Child Care Subsidy Minister’s Rules 2017. SDN will reimburse the cost of the National Police Check for staff members who are Nominated Supervisors.

All responsible person positions are granted subject to maintaining the minimum requirements for that position. SDN and Nominated Supervisors may remove a responsible person if there are any changes to a person’s circumstances which affect their suitability to be a responsible person or meet the minimum requirements for the position.

A record must be kept of all responsible persons that have been appointed at a service. Information used to assess a person’s suitability to be a responsible person should be kept as evidence on file. This may include records of reference checks, declarations, copies of qualifications, NESA registration details (where applicable) or course completion certificates.

Notifications to the Regulatory Authority

SDN will notify the Regulatory Authority via the NQAITS in the following instances:

- if a new or additional Nominated Supervisor of a service is appointed by SDN. This must occur at least 7 days before the nomination, but if not practicable no more than 14 days after the nomination
- when there is a change to a nominated supervisors name or contact details. This must occur as soon as practicable
- if a Nominated Supervisor ceases to be employed or engaged by SDN, is removed, or withdraws consent to the nomination. This must occur within 7 days of the event
- if the approved provider becomes aware of a matter or incident which affects the suitability or ability of the Nominated Supervisor to meet the minimum requirements for that position and must be removed. This must occur within 7 days of the provider being notified.

Notifications to the Commonwealth

Nominated Supervisors are considered to be a person with responsibility for the day-to-day operation of the service under Family Assistance Law. SDN will notify the Commonwealth Department of Education via the CCSS in the following instances:

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- if a new or additional Nominated Supervisor of a service is appointed by SDN. This must occur within 7 days of the event
- when there is a change to a Nominated Supervisors name or contact details. This must occur within 7 days of the provider being notified
- if a Nominated Supervisor ceases to be employed or engaged by SDN, is removed, or withdraws consent to the nomination. This must occur within 7 days of the event
- an event or circumstance in relation a Nominated Supervisor that reasonably indicates that the person is not likely to be a fit and proper person to be involved in the administration of CCS and ACCS. This must occur within 7 days of the provider being notified.

Related SDN Documents

Policies

- GI-HLP-1.33: Child Protection
- SD-OP-2.05: Supervision of Children
- SD-OP-2.18: Excursions, Incursion and Regular Outings
- HR-HLP-3.02: Equal Employment Opportunity and Good Working Relationships
- HR-OP-3.05: Recruitment Selection and Appointment

Procedures

- SD-PRO-2.06-01: Responsible Person
- HR-PRO-3.05-01: Recruitment, Selection and Appointment

Form/Template

- SD-FRM-2.06-01-01: Responsible Person Consent Form

Relevant Legislation/Regulations

- Education and Care Services National Law 2010, sections 5, 35, 44, 51, 162, 173, 174
- Education and Care Services National Regulations 2011, regulations 56, 117B, 117C, 120, 168 (2)(i)(ii)
 - Schedule1: National Quality Standard, element 7.3.1 and 7.3.5
- National Principles of a Child Safe Organisation
- NSW Child Safe Standards
- Child Care Subsidy Minister's Rules 2017, sections 43(3) and 55
- Child Protection (Working with Children) Act 2012
- Anti-Discrimination Act 1977 (NSW)

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Other References/Related Documents

- Australian Children’s Education and Care Quality Authority (ACECQA). (March 2018). Guide to the NQF. <https://www.acecqa.gov.au/nqf/about/guide>
- Changes to the National Quality Framework <https://www.acecqa.gov.au/resources/supporting-materials/nqf-changes>
- Australian Children’s Education and Care Quality Authority (ACECQA). (October 2017). Responsible Person Requirements for Approved Providers. https://www.acecqa.gov.au/sites/default/files/2021-08/ResponsiblePersonRequirements_2.pdf
- Australian Children’s Education and Care Quality Authority (ACECQA). (October 2017). Nominated supervisor consent form. https://www.acecqa.gov.au/sites/default/files/acecqa/files/ApplicationForm/Notification/NS01_NominatedSupervisorConsentForm_2.pdf

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