

Australian Community Children's Services response to the Draft Education and Care Services National Regulations

1. About ACCS

Australian Community Services (ACCS) is the peak body representing Australia's not-for-profit community owned children's services and those who support the right of children to access these services. ACCS has branches in each state and territory throughout Australia. ACCS is committed to:

- children, families and communities;
- children's entitlements for the best care, education and health services;
- community ownership;
- connected services for children, families and local communities;
- cost effective services - not for profit; and
- cultural diversity and respect for Aboriginal and Torres Strait Islander people as custodians of the land.

2. General comments about the draft regulations

The National Quality Framework (NQF) provides an exciting and unique opportunity for all Australian children attending formal children's services to receive an agreed baseline of education and care regardless of their geographic location. The Regulations that underpin the NQF will form the practical basis of service operations and implementation. It is critical that the Regulations are clear and understandable, limiting personal interpretation, misunderstanding and ambiguity that could result in unintended consequences for service providers, those state/territory officers who are assessing services and children and families attending these services.

This response to the Regulation Draft Exposure document is from a national perspective. State and territory branches have made individual responses providing commentary from the branch perspective.

3. Specific comments about the draft regulations

Areas that should be included in the regulations

- There should be two staff, one being qualified, on the premises at all times.
- Checking the children's services premises before staff leave for the day. There have been well documented cases in NSW and Victoria where children have locked in and left on children's services premises after staff have left for the day. It is critical that before the two staff leave for the day that a premises inspection is conducted and signed off ensuring that no children remain.

- There should be a maximum centre-based service size.

Part 1, Clause 11 (b) (v) Meaning of *in attendance* at a centre-based service

Some children's services could easily argue that administration and management tasks that may be performed by an early childhood teacher in a management position are "performing the role of educational leader of the service". There is not adequate clarity 'educational leader'. This could result in an early childhood teacher being able to attend a service but never really fulfilling the intent of providing education and care activities.

Part 1, Clause 25 Prescribed conditions on service approval – prescribed insurance

This clause should include workers' compensation for any services where staff are employed.

Part 4, Clause 44 Prescribed minimum requirements

A children's services supervisor must hold minimum qualifications of a Diploma in the children's services area and have at least 3 years relevant work experience. An untrained person may not have the experience or knowledge to fully understand the intent of regulations.

There seems to be no definition of what a supervisor is expected or required to do.

Part 5, Clause 56 Foundation rating

The way this rating is described is that a children's service has still fail NQF, but not badly enough to "pose a **significant risk** to the safety, health or wellbeing of a child". The word foundation implies base line, not failure as is the case with the regulation definition.

What is determined to be significant risk? How harmful does a situation need to be before a service is unsatisfactory?

Does this mean that if the children's service was not providing adequate education to a child, the service is deemed to be at foundation level? How does this fit the Australian Government's universal access aspiration? Does this mean the Australian Government is satisfied that if a child is receiving sub-standard education then this is an acceptable based line?

Part 6, Clause 86 (1) (b), (2) (b), (3) (b) Protection from inappropriate activities or treatment

What does "separated from other children" mean? There is a later reference to centre-based children's services design ensuring visual contact, but this is not possible at all times. For example, all children may be outside and a staff member goes inside to change a child's nappy or put a baby to sleep in a cot room – this staff member and child are now separated from all other children and may not be in visual contact with staff in the outdoor area. A child may be separated from other children if they were having a tantrum and a staff member wanted a quiet space to sit with the child and help them calm down.

It is understood that the intent of this clause is to ensure that children are not dealt with inappropriately and in a punitive manner with punishment that separates them from others; the literal interpretation could be applied and have unintended consequences for a centre-based children's service.

Part 6, Clause 87 Relationships in groups

There is no maximum group size specified. Contemporary early childhood research shows that small group sizes provide the best educational, social and care outcomes for children. Leaving group sizes to the whim of interpretation of “regard to the size and the composition of the groups in which children are being educated and cared for” risks children being in group sizes so large they do not support and facilitate good quality education and care.

Part 6, Clause 88 (5) Access for parents

Not all children’s services have security access to their premises. Many older buildings are accessed via a gate with entry immediately into the service. How are staff members able to stop a parent from entering in this circumstance? While children’s service staff have a duty of care to the children attending the service, including the children’s welfare and safety, there is an equal requirement to ensure personal safety, minimising risk and ensuring an appropriate level of workplace safety. How do these requirements fit together in this clause?

Part 7, Clause 98 (f) Incident, injury, trauma and illness record

The intent of this clause would be strengthened by the requirement to include not only the name, date and signature of the recorder and first witness to the incident, but a second witness if one was present.

Part 7, Clause 106 (b) (ii) Procedure for administration of medication

All medication instructions must be in writing. Oral instructions from a doctor are not adequate legal protection for a children’s services staff member should any issues arise from administering the medication to the child.

Part 7, Clause 108 (3) (a) Emergency and evacuation procedures

There should a minimum number of times per annum that these procedures are practiced. It is recommended that this should be six monthly.

Part 7, Clause 109 Telephone or other communication equipment

There are exceptional circumstances when this is not possible to comply with. A recent example is where a long day care centre was located in an inner city Telstra grid where all businesses and residences in the area were without land lines for 36 hours. Telstra could not provide an estimate of how long the problem would take to fix and were not able to transfer any existing numbers to other working phone numbers. While the centre purchases a mobile phone, due to the nature of child attendance at the centre it was not possible to communicate this mobile number to all parents.

Part 7, Clause 110 (4) Children leaving the education and care service premises

This clause should include a minimum age of a person who can be authorised to collect a child from care.

Part 8, Clause 116 (3) Indoor space requirements

This clause requires that children aged less than 24 months have a “separate indoor [play] space”. What does separate mean – a space in a larger playroom that is broken and defined up by furniture and activities, or a physical barrier such as a fence or entirely separate room just to accommodate babies? Ensuring a safe place for babies to play is

about appropriate pedagogical planning, and appropriate staff supervision of and how staff relate to these children. It is a poor early childhood education and care practice to use a permanent barrier as a way to manage what may be lacking in staff planning, interaction, experience and supervision.

Part 8, Clause 123 (l) Fencing and security

Perimeter and boundary fencing should have height specifications. This is a serious safety issue and should be prescriptive regarding a minimum height and appropriate fencing types. It may be useful to refer to the Building Code of Australia as a minimum requirement such as those for residential pools.

Part 8, Clause 131 (1) (b) Assessments of family day care residences and approved family day care venues

The frequency of visits to assess family day care residences should be specified. It is not adequate to say “regularly on an ongoing basis.”

Part 9, Clause 134 Educators who are under 18 to be supervised

Any educator who is under the age of 18 must not only be supervised by a qualified staff member, but should not be counted as part of service child:staff ratios.

Part 9, Clause 137 Educators included in ratios must be working directly with children

ACCS is very pleased with the specificity of this clause stating - with the children rather than on the premises.

Part 9, Clause 145 (2) Requirement for early childhood teacher – centre-based services – fewer than 25 children

This regulation allows for a small children’s service to access an early childhood teacher via information communication technology (ICT). ACCS believes this should be the exception rather than the norm. ICT should only be available via waiver and assessed on a case by case basis.

Part 9, Clauses 147 and 148 Requirement for early childhood teacher – centre-based services – 60-80 children (147) and more than 80 children (148)

It is disappointing to note that despite feedback to the contrary the second and subsequent teacher can be “another suitable qualified” person. There is no requirement to have a degree specialising in early childhood education.

Part 10, Clause 181 Storage of records after service approval transferred

This clause currently requires the first approved provider to hand over all child and family records to the second approved provider after the transfer has been approved.

There is no requirement to seek permission from individual families to hand over their child’s records. This is contrary to current privacy expectations of families using children’s services throughout Australia. It is contrary to the requirement of an approved provider retaining child records for 25 years (clause 180 (2) (a) and (b)). It assumes that the records of the first approved provider are accurate and that the second approved provider would want these records.

Usual practice when children’s services transfer to another provider is for the first provider to seek explicit signed permission from current families to provide copies of

child and family information to the new second provider. If permission is not provided then these records cannot be handed over.

Schedule 2, Part 3, Division 1, Clause 17 (l) Application for service approval – centre-based service

A standard scale needs to be nominated for the building plans.

Schedule 6, Part 1, Fees relating to provider approvals, service approvals and ratings

The *Application for service approval, annual fee and ratings* groups services with 25 to 80 children together. There is a significant difference in operating revenue and capacity to pay at either ends of this grouping. A 25-place service may have annual revenue of around \$400,000 while an 80-place service could be closer to \$1,500,000 or more.

This grouping should have a category for medium sized services of 25 to 40/45 children and large services from 40/45 to 80 places.