

(Reviewed October 2023)

Policy Statement:

Mueller College Outside School Hours Care Service will ensure that the Regulatory Authority is notified in the required time frame of certain circumstances and information, such as serious incident, or change in the management and control of an Approved Provider or responsible person at the Service.

National Quality Standard (NQS):

Quality Area 2: Children’s Health & Safety
7: Governance & Leadership

2.2	Safety	Each child is protected.
2.2.2	Incident and emergency management	Plans to effectively manage incidents and emergencies are developed in consultation with relevant authorities, practised and implemented.
2.2.3	Child Protection	Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect.
7.1	Governance	Governance supports the operation of a quality service.
7.1.2	Management systems	Systems are in place to manage risk and enable the effective management and operation of a quality service.
7.2	Leadership	Effective leadership builds and promotes a positive organisational culture and professional learning community.
7.2.1	Continuous improvement	There is an effective self-assessment and quality improvement process in place.

Education and Care Services National Regulations

195	Application of Commonwealth Privacy Act 1988 For the purposes of section 263 of the Law, this Division sets out the modifications of the Privacy Act as it applies as a law of a participating jurisdiction for the purposes of the National Quality Framework.
173	Prescribed information to be displayed (1) For the purposes of section 172 of the Law, the following information is prescribed in respect of the matters in paragraphs (a) to (e) of that section— (a) in relation to the provider approval— (i) the name of the approved provider; (ii) the provider approval number; (iii) any conditions on the provider approval; (b) in relation to the service approval— (i) the name of the education and care service; (ii) the service approval number; (iii) any conditions on the service approval; (c) the name of each nominated supervisor; (d) in relation to the rating of the service— (i) the current rating levels for each quality area stated in the National Quality Standard; and (ii) the overall rating of the service; (e) in relation to any service waivers or temporary waivers held by the service, the details of the waivers including— (i) the elements of the National Quality Standard and the regulations that have been waived; and (ii) the duration of the waiver; and (iii) whether the waiver is a service waiver or a temporary waiver. (2) For the purposes of section 172(f) of the Law, the following matters and information are prescribed— (a) the hours and days of operation of the education and care service; (b) the name and telephone number of the person at the education and care service to whom complaints may be addressed; (c) in the case of a centre-based service, the name and position of the responsible person in charge of the education and care service at any given time; (d) the name of the educational leader at the service; (e) the contact details of the Regulatory Authority; (f) if applicable— (i) in the case of a centre-based service, a notice stating that a child who has been diagnosed as at risk of anaphylaxis is enrolled at the service; or (ii) in the case of a family day care residence or approved family day care venue, a notice stating that a child who has been diagnosed as at risk of anaphylaxis— (A) is enrolled at the family day care service; and (B) attends the family day care residence or family day care venue; (g) if applicable— (i) in the case of a centre-based service, a notice stating that there has been an occurrence of an infectious disease at the premises; or (ii) in the case of a family day care residence or approved family day care venue, a notice stating that there has been an occurrence of an infectious disease at the family day care residence or family day care venue.

174 & 174 A	<p>Time to notify certain circumstances to Regulatory Authority</p> <p>(1) For the purposes of section 173(4) of the Law, a notice must be provided within 14 days of the relevant event or within 14 days of the approved provider becoming aware of the relevant event.</p> <p>(2) For the purposes of section 173(5) of the Law, a notice must be provided—</p> <p>(aa) in the case of a notice under section 173(2)(e), at least 14 days before the change in the location of the principal office takes place; or</p> <p>(a) in the case of a notice under section 173(2)(f), within the period referred to in section 59 of the Law;</p> <p>(b) in any other case, within 7 days of the relevant event or within 7 days of the approved provider becoming aware of the relevant event.</p> <p>Prescribed information to accompany notice</p> <p>A notice under section 173(2)(e) of the Law must be accompanied by a statement that the applicant has the right to occupy and use the premises as a principal office and any document evidencing this.</p> <p>Example—</p> <p>A lease of the premises.</p>
175	<p>Prescribed information to be notified to Regulatory Authority</p> <p>(1) For the purposes of section 174(1)(b) of the Law, the following matters are prescribed—</p> <p>(a) any change to the address of the approved provider or the principal office of the approved provider, or the contact details of the approved provider;</p> <p>(b) the appointment of receivers or liquidators or administrators to the approved provider or any other matters that affect the financial viability and ongoing operation of the education and care service.</p> <p>(2) For the purposes of section 174(2)(c) of the Law, the following matters are prescribed—</p> <p>(a) any change to the hours and days of operation of the education and care service;</p> <p>(b) any incident that requires the approved provider to close, or reduce the number of children attending, the education and care service for a period;</p> <p>Example—</p> <p>A flood or a fire that requires an approved provider to close the education and care service premises (or part of those premises) while repairs are undertaken.</p> <p>(c) any circumstance arising at the service that poses a risk to the health, safety or wellbeing of a child or children attending the service;</p> <p>(ca) the attendance at the approved education and care service of any additional child or children being educated and cared for in an emergency in the circumstances set out in regulation 123(5), including—</p> <p>(i) a description of the emergency; and</p> <p>(ii) a statement by the approved provider that the approved provider had taken into account the safety, health and wellbeing of all the children attending the education and care service when deciding to provide education and care to the additional child or children.</p> <p>(d) any incident where the approved provider reasonably believes that physical abuse or sexual abuse of a child or children has occurred or is occurring while the child is or the children are being educated and cared for by the education and care service;</p> <p>(e) allegations that physical or sexual abuse of a child or children has occurred or is occurring while the child is or the children are being educated and cared for by the education and care service (other than an allegation that has been notified under section 174(2)(b) of the Law).</p>
176	<p>Time to notify certain information to Regulatory Authority</p> <p>(1) For the purposes of section 174(3) of the Law, a notice must be provided within 7 days of the relevant event or within 7 days of the approved provider becoming aware of the relevant information.</p> <p>(2) For the purposes of section 174(4) of the Law, a notice must be provided—</p> <p>(a) in the case of a notice under section 174(2)(a)—</p> <p>(i) in the case of the death of a child, as soon as practicable but within 24 hours of the death, or the time that the person becomes aware of the death; and</p> <p>(ii) in the case of any other serious incident, within 24 hours of the incident or the time that the person becomes aware of the incident;</p> <p>(b) in case of a notice under section 174(2)(b) or a notice of a matter referred to in regulation 175(2)(b), within 24 hours of the complaint or incident;</p> <p>(ba) in the case of a notice under regulation 175(2)(ca), within 24 hours of the commencement of the attendance of the child or children at the education and care service;</p> <p>(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.</p> <p>176A Prescribed information to be notified to approved provider by family day care educator</p> <p>For the purposes of section 174A(c) of the Law, the following matters are prescribed—</p> <p>(a) any renovations or other changes to the family day care residence that create a serious risk to the health, safety and wellbeing of children attending or likely to attend the family day care residence;</p> <p>(b) any renovations or other changes to an approved family day care venue that create a serious risk to the health, safety and wellbeing of children attending or likely to attend the approved family day care venue.</p>

Education and Care Services National Law

173	<p>Offence to fail to notify certain circumstances to Regulatory Authority</p> <p>(1) An approved provider must notify the Regulatory Authority of the following in relation to the approved provider or each approved education and care service operated by the approved provider—</p> <p>(a) a change in the name of the approved provider;</p> <p>(b) any appointment or removal of a person with management or control of an education and care service operated by the approved provider;</p> <p>(c) a failure to commence operating an education and care service within 6 months (or within the time agreed with the Regulatory Authority) after being granted a service approval for the service.</p>
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	<p style="text-align: center;">Penalty: \$4000, in the case of an individual. \$20 000, in any other case.</p>
263	<p>Application of Commonwealth Privacy Act</p> <p>(1) The Privacy Act applies as a law of a participating jurisdiction for the purposes of the National Quality Framework.</p> <p>(2) For the purposes of subsection (1), the Privacy Act applies—</p> <p style="padding-left: 20px;">(a) as if a reference to the Office of the Privacy Commissioner were a reference to the Office of the National Education and Care Services Privacy Commissioner; and</p> <p style="padding-left: 20px;">(b) as if a reference to the Privacy Commissioner were a reference to the National Education and Care Services Privacy Commissioner; and</p> <p style="padding-left: 20px;">(c) with any other modifications made by the national regulations.</p> <p>(3) Without limiting subsection (2)(c), the national regulations may—</p> <p style="padding-left: 20px;">(a) provide that the Privacy Act applies under subsection (1) as if a provision of the Privacy Act specified in the national regulations were omitted; or</p> <p style="padding-left: 20px;">(b) provide that the Privacy Act applies under subsection (1) as if an amendment to the Privacy Act made by a law of the Commonwealth, and specified in the national regulations, had not taken effect; or</p> <p style="padding-left: 20px;">(c) confer jurisdiction on a tribunal or court of a participating jurisdiction.</p> <p>(4) In this section—</p> <p style="padding-left: 20px;">Privacy Act means the Privacy Act 1988 of the Commonwealth, as in force from time to time.</p>
271	<p>Disclosure of information to other authorities</p> <p>(1) The National Authority may disclose information in respect of an education and care service for a purpose listed in subsection (4), to—</p> <p style="padding-left: 20px;">(a) a relevant Commonwealth Government Department; or</p> <p style="padding-left: 20px;">(b) any State or Territory Government Department; or</p> <p style="padding-left: 20px;">(c) any Commonwealth, State or Territory public authority; or</p> <p style="padding-left: 20px;">(d) any State or Territory local authority; or</p> <p style="padding-left: 20px;">(e) a Regulatory Authority of a participating jurisdiction.</p> <p>(2) The Regulatory Authority may disclose information in respect of an education and care service for a purpose listed in subsection (4), to—</p> <p style="padding-left: 20px;">(a) a relevant Commonwealth Government Department; or</p> <p style="padding-left: 20px;">(b) any State or Territory Government Department; or</p> <p style="padding-left: 20px;">(c) any Commonwealth, State or Territory public authority; or</p> <p style="padding-left: 20px;">(d) any State or Territory local authority; or</p> <p style="padding-left: 20px;">(e) a Regulatory Authority of another participating jurisdiction.</p> <p>(3) The National Authority, the Regulatory Authority and any Government Department, public authority or local authority may disclose information to each other in respect of an education and care service for a purpose listed in subsection (4).</p> <p>(4) The purposes for disclosure of information under this section are—</p> <p style="padding-left: 20px;">(a) the disclosure is reasonably necessary to promote the objectives of the national education and care services quality framework; or</p> <p style="padding-left: 20px;">(b) the disclosure is for the purposes of enabling or assisting the other entity to perform or exercise any of its functions or powers under this Law; or</p> <p style="padding-left: 20px;">(c) the disclosure is for the purposes of research or the development of National, State or Territory policy with respect to education and care services; or</p> <p style="padding-left: 20px;">(d) the disclosure is for a purpose relating to the funding of education and care services; or</p> <p style="padding-left: 20px;">(e) the disclosure is for a purpose relating to the payment of benefits or allowances to persons using education and care services, provided the disclosure of information is not otherwise prohibited by law.</p> <p>(5) The Regulatory Authority must disclose to the Regulatory Authorities of other participating jurisdictions the suspension or cancellation of a working with children check, working with children card or teacher registration of a nominated supervisor of which it is notified under this Law.</p> <p>(6) The Regulatory Authority may disclose to the head of the government department responsible for the administration of a working with children law, any prohibition notice given under this Law as applying in any participating jurisdiction in respect of the person.</p> <p>(7) A disclosure of information under this section is subject to Division 1 and any protocol agreed for the purposes of this section by—</p> <p style="padding-left: 20px;">(a) the National Authority, all participating jurisdictions and the Commonwealth; and</p> <p style="padding-left: 20px;">(b) subject to any protocol referred to in paragraph (a), the National Authority and the Regulatory Authority, or the National Authority, the Regulatory Authority and any Regulatory Authority of another participating jurisdiction.</p> <p>(8) Information disclosed under this section for the purpose of research or the development of National, State or Territory policy with respect to education and care services must not include information that could identify or lead to the identification of an individual other than—</p> <p style="padding-left: 20px;">(a) an approved provider or a nominated supervisor; or</p> <p style="padding-left: 20px;">(b) a family day care educator who has been suspended from providing education and care to children as part of a family day care service; or</p> <p style="padding-left: 20px;">(c) a person to whom a prohibition notice applies; or</p> <p style="padding-left: 20px;">(d) a person who is being prosecuted for an offence against this Law.</p>
272	<p>Disclosure of information to education and care services</p> <p>(1) At the request of an approved provider, the National Authority or the Regulatory Authority may disclose the following information to the provider, if the National Authority or Regulatory Authority considers on reasonable grounds that the provider requires the information to comply with the provider's obligations under this Law—</p> <p style="padding-left: 20px;">(a) whether a person named in the request is subject to a prohibition notice given under section 182;</p>

	<p>(b) whether a family day care educator named in the request has been suspended from providing education and care to children as part of a family day care service under section 178.</p> <p>(2) A disclosure of information under this section is subject to Division 1 and any protocol agreed for the purposes of this section by—</p> <p>(a) the National Authority, all participating jurisdictions and the Commonwealth; and</p> <p>(b) subject to any protocol referred to in paragraph (a), the National Authority and the Regulatory Authority, or the National Authority, the Regulatory Authority and any Regulatory Authority of another participating jurisdiction.</p>
273	<p>Duty of confidentiality</p> <p>(1) An individual who is, or who has been, a person exercising functions under this Law must not disclose to another person protected information.</p>

Objective:

To ensure that all necessary notifications are made to the Regulatory Authority in order to maintain accountability and a high quality Service.

Procedure:

The Regulatory Authority will be notified of change of information about the Approved Provider provided in the following circumstances:

- Notice of change in name of the Approved Provider (within 14 days)
- Notice of any appointment or removal of a person with management or control of Service (within 14 days)
- Change to address or contact details of Approved Provider (within 7 days)
- Any change relevant to Approved Provider’s fitness and propriety (within 7 days)
- The appointment of receivers or liquidators to the Approved Provider or any matters that affect the financial viability and ongoing operation of the Service (within 7 days)
- Death of the Approved Provider (within 7 days of the death)

The Regulatory Authority will be notified about change to information about the Approved Service:

- A failure to commence operating within 6 months of grant of service approval (within 14 days)
- Any change to the hours and days of operation of the Service (Within 7 days)
- Change to the Nominated Supervisor (7 days prior to commencement)
- A Nominated Supervisor is no longer employed by the Service, or withdraws consent to the nomination (Within 7 days)
- Any proposed change to the premises, such as refurbishment (within 7 days)
- An Intention to transfer service approval (42 days before transfer)
- Ceasing to operate the education and care service (Within 7 days)

The Regulatory Authority will be notified about change to information about the Nominated Supervisor:

- Suspension or cancellation of a working with children card or teacher registration of, or disciplinary proceedings against the Nominated Supervisor (within 7 days of the approved provider being notified)

The Regulatory Authority will be notified if a serious incident occurs at the Education and Care Service (within 24 hours):

- The definition of serious incidents that must be notified to the regulatory authority is:
 - The death of a child:
 - while being educated and cared for by an education and care service or
 - following an incident while being educated and cared for by an education and care service.
 - Any incident involving serious injury or trauma to, or illness of, a child while being educated and cared for by an education and care service, which:
 - a reasonable person would consider required urgent medical attention from a registered medical practitioner or
 - for which the child attended, or ought reasonably to have attended, a hospital.
 - e.g whooping cough, broken limb, anaphylaxis reaction
 - Any incident where the attendance of emergency services at the education and care service premises was sought, or ought reasonably to have been sought
 - Any circumstance where a child being educated and cared for by an education and care service
 - appears to be missing or cannot be accounted for or
 - appears to have been taken or removed from the education and care service premises in a manner that contravenes these regulations or
 - is mistakenly locked in or locked out of the education and care service premises or any part of the premises.

The Regulatory Authority will be notified should any of the below occur at the service within 24 hrs oof the event / complaint:

- Any incident that requires the approved provider to close, or reduce the number of children attending the service for a period.
- Complaint alleging that a serious incident has occurred or is occurring at an education and care service, or the National Law has been contravened.
- The centre-based service is educating and caring for extra child/ren due to an emergency.

The Regulatory Authority will be notified should any of the below occur at the service within 7 days of the event/ complaint:

- Any circumstance at the Service that poses a significant risk to the health, safety or wellbeing of a student attending the Service.
- Any incident where the approved provider reasonably believes that physical or sexual abuse of a child or children has occurred or is occurring while the child is being educated and cared for by the Service.
- Allegations that physical or sexual abuse of a child or children has occurred or is occurring while the child is being educated and cared for by the Service.



NOTIFICATIONS REQUIRED BY THE REGULATORY AUTHORITY POLICY & PROCEDURE



It may not be until sometime after the incident that it becomes apparent that it was serious. If that occurs, you will need to notify the Regulatory Authority within 24 hours of becoming aware that the incident was serious.

If notification for a serious incident needs to be made to the Regulatory authority, it will be submitted via the NQAITS portal.

REFERENCES:

- ACECQA
- Education and Care Services National Law Act 2011, Current as at March 2023
- Education and Care Services National Regulations, Current as at October 2023
- Guide to the National Quality Framework, Revised July 2023
- National Quality Standard, Revised 1 February 2018
- Guide to the National Quality Standard, Revised May 2022

See also:

- Mueller OSHC Privacy & Confidentiality Policy & Procedure