

(Reviewed October 2023)

**Policy Statement:**

Mueller College Outside School Hours Care aims to ensure that records are stored in secure, lockable locations within the Service and that they are accessible only to those who have authority to access the information.

The Service takes all reasonable steps to ensure that all records are kept in such a manner as to preserve the confidentiality of the information that is contained in them and to prevent them from being damaged, lost or stolen.

The Service will ensure that records and documents are kept for relevant periods of time as set out in the Educational and Care National Regulations.

**National Quality Standard (NQS):**

**Quality Area 6: Collaborative partnerships with families & communities**  
**7: Governance & Leadership**

<b>6.2</b>	Collaborative partnerships	Collaborative partnerships enhance children’s inclusion, learning and wellbeing.
<b>6.2.2</b>	Access and participation	Effective partnerships support children’s access, inclusion and participation in the program.
<b>7.1</b>	Governance	Governance supports the operation of a quality service.
<b>7.1.2</b>	Management systems	Systems are in place to manage risk and enable the effective management and operation of a quality service.

**Education and Care Services National Regulations**

181	<p>Confidentiality of records kept by approved provider</p> <p>The approved provider of an education and care service must ensure that information kept in a record under these Regulations is not divulged or communicated, directly or indirectly, to another person other than—</p> <ul style="list-style-type: none"> <li>(a) to the extent necessary for the education and care or medical treatment of the child to whom the information relates; or</li> <li>(b) a parent of the child to whom the information relates, except in the case of information kept in a staff record; or</li> <li>(c) the Regulatory Authority or an authorised officer; or</li> <li>(d) as expressly authorised, permitted or required to be given by or under any Act or law; or</li> <li>(e) with the written consent of the person who provided the information.</li> </ul> <p>Penalty: \$2000.</p>
182	<p>Confidentiality of records kept by family day care educator</p> <p>A family day care educator must ensure that information kept in a record under these Regulations is not divulged or communicated, directly or indirectly, to another person other than—</p> <ul style="list-style-type: none"> <li>(a) to the extent necessary for the education and care or medical treatment of the child to whom the information relates; or</li> <li>(b) a parent of the child to whom the information relates; or</li> <li>(c) the approved provider or a nominated supervisor of the family day care service; or</li> <li>(d) the Regulatory Authority or an authorised officer; or</li> <li>(e) as expressly authorised, permitted or required to be given by or under any Act or law; or</li> <li>(f) with the written consent of the person who provided the information.</li> </ul> <p>Penalty: \$2000.</p>
183	<p>Storage of records and other documents</p> <ul style="list-style-type: none"> <li>(1) The approved provider of an education and care service must ensure that records and documents set out in regulation 177 are stored— <ul style="list-style-type: none"> <li>(a) in a safe and secure place; and</li> <li>(b) for the relevant period set out in subregulation (2).</li> </ul> </li> <li>(2) The records must be kept— <ul style="list-style-type: none"> <li>(a) if the record relates to an incident, illness, injury or trauma suffered by a child while being educated and cared for by the education and care service, until the child is aged 25 years;</li> <li>(b) if the record relates to an incident, illness, injury or trauma suffered by a child that may have occurred following an incident while being educated and cared for by the education and care service, until the child is aged 25 years;</li> <li>(c) if the record relates to the death of a child while being educated and cared for by the education and care service or that may have occurred as a result of an incident while being educated and cared for, until the end of 7 years after the death;</li> <li>(d) in the case of any other record relating to a child enrolled at the education and care service, until the end of 3 years after the last date on which the child was educated and cared for by the service;</li> </ul> </li> </ul>

	<p>(e) if the record relates to the approved provider, until the end of 3 years after the last date on which the approved provider operated the education and care service;</p> <p>(f) if the record relates to a nominated supervisor or staff member of an education and care service, until the end of 3 years after the last date on which the nominated supervisor or staff member provided education and care on behalf of the service;</p> <p>(g) in case of any other record, until the end of 3 years after the date on which the record was made.</p> <p>Note— A compliance direction may be issued for failure to comply with this regulation.</p>
184	<p>Storage of records after service approval transferred</p> <p>(1) Subject to subregulation (2), if a service approval is transferred under the Law, the transferring approved provider must transfer the documents referred to in regulation 177 relating to children currently enrolled with the service to the receiving approved provider on the date that the transfer takes effect.</p> <p>(2) The transferring approved provider must not transfer the documents relating to a child under subregulation (1) unless a parent of the child has first consented to that transfer.</p>
195	<p>Application of Commonwealth Privacy Act 1988</p> <p>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.</p>

## Education and Care Services National Law

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>(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>(b) as if a reference to the Privacy Commissioner were a reference to the National Education and Care Services Privacy Commissioner; and</p> <p>(c) with any other modifications made by the national regulations.</p> <p>(3) Without limiting subsection (2)(c), the national regulations may—</p> <p>(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>(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>(c) confer jurisdiction on a tribunal or court of a participating jurisdiction.</p> <p>(4) In this section— 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>(a) a relevant Commonwealth Government Department; or</p> <p>(b) any State or Territory Government Department; or</p> <p>(c) any Commonwealth, State or Territory public authority; or</p> <p>(d) any State or Territory local authority; or</p> <p>(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>(a) a relevant Commonwealth Government Department; or</p> <p>(b) any State or Territory Government Department; or</p> <p>(c) any Commonwealth, State or Territory public authority; or</p> <p>(d) any State or Territory local authority; or</p> <p>(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>(a) the disclosure is reasonably necessary to promote the objectives of the national education and care services quality framework; or</p> <p>(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>(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>(d) the disclosure is for a purpose relating to the funding of education and care services; or</p> <p>(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>(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> <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>(a) an approved provider or a nominated supervisor; or</p> <p>(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>(c) a person to whom a prohibition notice applies; or</p> <p>(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>(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:**

Make educators aware of the appropriate accessibility for approved officers and families to these records and the appropriate storage of these records according to regulatory requirements.

### **Procedure:**

**Every employee is provided with clear written guidelines detailing:**

- what information is to be kept confidential
- what confidential information they may have access to in order to fulfil their responsibilities and how this information may be accessed
- who has a legal right to know what information

**Personal information which will be kept confidential:**

- personal information about students
- personal information about parents/guardians – this may include sensitive information (Sensitive information means information such as a person's racial or ethnic origin, political opinions, religion, trade union or other professional or trade association membership, criminal record, health information, etc. Sensitive information may only be used and disclosed for the purpose for which it was provided or a directly related secondary purpose, unless it is agreed otherwise, or the use or disclosure of the sensitive information is allowed by law.)

**Information kept in records will not be divulged or communicated, directly or indirectly, to another person other than:**

- if the information is necessary for the education and care or medical treatment of the student for whom the information relates
- a parent/guardian of the student to whom the information relates, except in the case of information kept in a staff record
- the regulatory authority or an authorised officer
- expressly authorised, permitted or required to be given by or under any Act or Law

- Accredited software providers working with the Service to store information and submit attendances and enrolments to Centrelink.

### **Records kept relating to students will include:**

- enrolment details and information
- attendance records that record the date and time that each student arrives and departs that also include appropriate parent/guardian or educator signatures
- medical conditions information
- special considerations information
- observations
- assessments and program planning
- daily exchange of information with families
- individual behaviour or educational plans

### **Staff and educator records will include:**

- Nominated Supervisor – records must include: full name; address; date of birth; relevant qualifications; approved training; working with children check and expiry date.
- Staff Members – records must include: full name; address; date of birth; information about any serious medical conditions they may have; relevant qualifications; if staff member is working towards a qualification; approved training; working with children check and expiry date.
- Educational Leader – record must include: the name of the person designated
- Volunteers and practicum students – records must include: full name; address; date of birth; each day the student or volunteer participates in the service; dates and hours of participation
- Responsible Person – records must include: the name of the responsible person at the service for each time that children are being educated and cared for by the service
- Record of Educators working directly with children – records must include: the name of each educator who works directly with children being educated and cared for at the service; the hours each educator works directly with children being educated and cared for by the service.

### **Other records relating to educators will include:**

- Resumes
- Employment details
- Staff appraisals
- Training plans and tertiary results
- Professional development
- Daily arrival, departure and break times
- Rosters
- Pay information
- Medical action plans if applicable

### **Records related to the running of the Service are also kept and these may include:**

- Details of the type of service and age range of students using the Service
- Opening hours
- Fees
- Policies and procedures

- Daily attendance sheets for all students present at the Service
- Incident, Injury, Trauma and Illness records
- Workplace Health and safety checks
- Emergency drills
- Cleaning registers
- Chemical and maintenance checks
- Playground checks
- Mealtimes and menus

**Records and other documents will be stored for the relevant period set out in the Regulations:**

- illness, injury or trauma suffered by a child while being educated and cared for by the service
- Incident, illness, injury or trauma suffered by a child that may have occurred following an incident while being educated and care for by the service
- death of a child while being educated and cared for by the service or that may have occurred following an incident while being educated and cared for by the service
- any other record relating to a child enrolled at the education and care service
- records related to the approved provider
- records related to the nominated supervisor or educator of the Service
- any other record including behaviour and confidential reports as well as child protection reports where applicable.

**Storage and disposal of records:**

- All personal information and records relating to the operations of the Service will be kept in an indexed, logical, and secure manner in accordance with the Privacy and Confidentiality Policy of the Service.
- All records will only be disposed of in a consistent manner with confidential information being shredded.
- Information about staff or students with serious medical conditions will only be displayed with the consent of the person (if over 18) or their legal guardian.

**REFERENCES:**

- Family Law Act 1975 (Current as at November 2016)
- 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
- Hot Topic – Record of Working Directly with Children – ACECQA
- Record Keeping – OOSH Development Fact Sheet
- Updating Record Keeping Requirements to Support Child protection Fact Sheet, ACEQUA, July 2023
- Independent Schools Queensland Records Retention Policy 2013

**See also:**

- Mueller OSHC Privacy and Confidential Policy & Procedure