

Frequently Asked Questions from CCCC's Really Simple Regulations Sessions

Child Protection Training

Are there bridging courses for child protection to transfer from previous to current qualifications?

Some TAFEs and RTOS do, or will be, offering bridging courses. It is not a requirement under the Regulations that you update your qualification if you have one of the approved courses, although it would be good practice to do so.

Does the approved provider need child protection training if they are a responsible person in a NSW service?

No. Only Nominated Supervisors and any Certified Supervisors placed in charge of a service are required to have child protection training.

The approved courses under the Regulation can be found at:

<https://www.det.nsw.edu.au/what-we-offer/early-childhood-education-and-care/regulatory-framework/national-quality-framework/qualifications-and-ratios>

A range of RTOs offer child protection training.

Does child protection training need to be regularly updated?

Not under the Regulations. Best practice would suggest that attending refreshers on a regular basis is sensible.

Qualifications

Is access to a teacher 20% of the time over a day, week, month, year?

The regulation states that a service must have access to a teacher for at least 20% of the time that service provides education and care (the service is open). The period that the teacher works with the service may be calculated on a quarterly basis.

Example: If you are a service that is open for 30 hours a week, you will need access to an ECT for around 6 hours a week, or 1 day, on a quarterly basis, this would mean access to an ECT for around 12 days per quarter.

If you have less than 25 places, the teacher you are required to have access to for 20% of the time, cannot be included in your ratios.

Do all staff (including casuals and cooks) that will be working directly with the children need to have a Certificate III?

All staff that are working with the children will need to have or be working towards their Certificate III qualification by 2014. Working towards is defined in Regulation 10, and includes providing documentary evidence from the provider of the course regarding commencement of the course, satisfactory progress, and meeting requirements for maintaining enrolment.

If a service is licensed for 34 children and regularly only has attending numbers of 18 – 20, on some days are they required to staff the service with an ECT according to their licensed numbers or the attending numbers?

The regulation states that one early childhood teacher must be in attendance **at all times that a centre-based service is educating and caring for** 30 to 39 children preschool age or under. When a service is caring for 25-29 children they therefore only have to have a teacher there for six hours per day if the service is open less than 50 hours per week, or 60% if open for more than 50 hours per week or 20% of the time they are open with less than 24 children. In practical terms it may be easier to ensure that a service in this situation always has a teacher when their numbers are over 30 and 60% or 6 hours per day the rest of the time depending on their opening hours.

Can ECT students work at early centre based services given that they don't have a Certificate III?

- Yes. A student studying an approved ECT degree can be counted as a general educator working towards a Certificate III.
- Such a student can only be counted as a teacher (a) in a service with 29 or under places (b) between 2014 and 2015 (c) if they have completed 50% of their course.

Can a staff member who is working towards an ECT degree count as working towards a qualification in terms of 50% of staff?

Yes, they can be counted, but must be working directly with the children. Educators must have, or be **actively** working towards, **at least**, an approved diploma level education and care qualification, from 2014. Regulation **10** of the Education and Care Services National Regulations describes the definition of **actively working towards**.

Qualified teacher on floor (covering breaks for example) are they counted as qualified staff in the service?

Under the NSW specific provisions for services caring for 30 or more preschool age children or under the relevant number of ECTs **must be in attendance** at all times that the service is operating. An early childhood teacher is in attendance at a centre based service if the teacher—

- (a) is physically present at the service; and
- (b) carries out education and care activities at the service including one or more of the following—
 - (i) working directly with children;
 - (ii) planning programs;
 - (iii) mentoring, coaching or supporting educators;
 - (iv) facilitating education and care research;
 - (v) performing the role of educational leader of the service

Are we allowed to employ under 18 year olds as long as they are supervised by an educator with a Diploma?

An educator who is under the age of 18 years of age must not work alone, and must be supervised by someone who has reached the age of at least 18 years. It is also important to consider the further information that is provided in the Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011 when supporting staff that are employed in the service that are under 18 years of age, as well as considering Quality Area 7 of the National Quality Standards (further information on the standards can be obtained in the “Guide to the National Quality Standard”, published by ACECQA).

20 place service: what does “having access” to ECT mean? Do they need to be present or can they be off site?

The teacher you must have access to will take on a range of roles— they can be working directly with children, plan programs, mentor, coach or supporting other educators or facilitate education and are research. They do not have to be present. A service may facilitate their access through information and communications technology, such as videoconferencing, and the access may be calculated on a quarterly basis. You must keep a record of the period that an early childhood teacher is working with the service in accordance with regulation 130 or 131(2); and the periods that the early childhood teacher is working directly with children and is not working directly with children.

Is there a requirement by 2012 for all educators to be Certificate III trained?

No. All untrained educators must have or be working towards having their Certificate III by 2014.

For LDC services approved for 30-39 places do you need an ECT on site at all times service is open?

One early childhood teacher must be in attendance at all times that a centre-based service is educating and caring for 30 to 39 children preschool age or under. If a service is open and you have less than 30 children present (in the early mornings for example) you are not required to have a teacher present.

How do we prove “15 years experience” to be exempt?

No educator is exempt from the requirement to have a Certificate III. An educator at a centre-based service can be included to meet a relevant educator to child ratio for the service until 2016 without having, or actively working towards, a certificate III level education and care qualification if—

(a) the educator has been continuously employed as an educator in an education and care service or a children's service for a period of at least 15 years before 2012; and

(b) the educator is employed by the same approved provider as the educator was employed by at the end of 2011.

50% qualified staff: if we employ more staff than required, what does the 50% apply to?

At least 50 per cent of the educators who are required to meet the relevant educator to child ratios for the service must have, or be actively working towards, at least an approved diploma level education and care qualification. Therefore it is only 50% of the staff required to meet the ratios under the Regulation who must meet the 50% requirement.

Will trained staff still be required to care for 0-2 babies?

This is not a specific requirement under the Regulations. However there are a range of things in the Guide to Quality Standard which suggest that continuing this requirement may be a good idea. The Guide suggests that assessors may observe educators supporting and promoting babies' early attempts to initiate interactions and conversations, acknowledging and responding sensitively to babies' and toddlers' cues and signals, initiating one-to-one interactions with babies during daily routines and reaching out and communicating for comfort, assistance and companionship.

Asthma and anaphylaxis training: where do we find out about course codes of courses we can do?

ACECQA has a list of approved course on their website - <http://acecqa.gov.au/qualifications/approved-first-aid-qualifications/>

ECT ratios: can you be counted as an ECT if you have partially completed your degree?

Only if you have a temporary waiver issued by the Department of Education and Communities.

Are 3 year trained teachers required to upgrade to 4 years?

There is no requirement under the Regulations for early childhood teachers to have a 4 year teaching degree. Research shows that the more highly trained an educator is, the higher quality education and care their service is likely to achieve.

Can you get a waiver for an ECT, much like the interim ECT policy?

Yes. You can apply for a temporary waiver if you are unable to appoint an ECT.

DEC preschools are usually 20-place: do we need ECTs?

Under the Regulations services of 20 places must have access to an early childhood teacher working with the service for at least 20 per cent of the time that the service provides education and care. DEC may have other requirements for teachers in the services they operate on top of the Regulations. This is a policy issue for the Department.

Do we have to apply for a Temporary Waiver every time the ECT is absent and they can't manage to find an ECT replacement?

If you do not have a temporary waiver in place and you cannot meet the requirements of the Regulations you would be breaching the Regulations.

Do the ECTs need to be 3 year trained or 4 year trained?

Either.

The requirement of 50% of staff being Diploma trained or above – does this relate to number of staff across the day or number of staff in the room at any one time.

Number of staff required to meet the ratios for that group at that time.

Certified and Nominated Supervisors

What forms do you need to fill out to get a Supervisor's Certificate?

To get a Supervisor's Certificates you need to fill out:

- Form CS01 Application for supervisor certificate (from www.acecqa.gov.au)
- PA02 Declaration of fitness and propriety (from www.acecqa.gov.au)
 - CSDF 3 Working With Children Check consent form (from www.det.nsw.edu.au)

Completed forms are then sent to the Department of Education and Communities with these attachments and \$30.

- a resume;
- a copy of your qualification;
- for the WWCC check, attach 100 points of ID - originals or in the case of Birth Certificate a certified copy.

Does the 3 year experience requirement for certified supervisors relate to full time experience or will part time experience be enough?

To be eligible to receive a supervisor certificate an applicant must meet the specified minimum for experience as set out in the Education and Care Services National Law Act 2010, (108) and those as listed as regulation 47 in the Education and Care Services national Regulations. Under section 111 of the Education and Care Services National Law Act: Grant or refusal of supervisor certificate is explained in further detail. CCCC understands that the 3 years experience refers to full time experience.

Do you need to have higher than ratio staffing levels in order to achieve a rating of Exceeding the NQS?

Services must meet relevant educator- to- child ratios and relevant educator qualification requirements outlined in the Regulation at all times.

Services who choose to staff their services above ratio, or employ educators with qualifications higher than required, would be well positioned to be assessed as “Exceeding NQS” but until assessments occur it is impossible to tell whether services could achieve this rating without these things. It is generally agreed by researchers that higher than minimum ratios is a characteristic of higher quality education and care.

Will the *manage a service* qualification be a requirement for a new certified supervisor?

No. The minimum requirements for a Supervisor Certificate are having adequate knowledge and understanding of the provision of education and care to children, and the ability to effectively supervise and manage an education and care service. The ‘Manage a Service’ qualification may help prove that an applicant has the knowledge required to manage and supervise a service.

The applicant must also have at least one of the following:

- at least three years’ experience working as an educator in an education and care service or a school
- an approved diploma level education and care qualification
- an approved early childhood teacher qualification.

Can nominated supervisors be nominated supervisors at more than one service?

Yes. The Department of Education and Communities has stated that they encourage “people who are thinking of being the nominated supervisor of several services to consider the obligations the nominated supervisor has under the National Law and Regulations. These obligations apply even if the nominated supervisor is not physically present at the service and need to be taken seriously.”

Does the Director have to be the Nominated Supervisor?

No.

If you change jobs can you take your Supervisors Certificate with you?

Yes. It is issued to you as an individual – not the service.

Does it cost money to get a Supervisors Certificate?

\$30 from next year. This is a one off payment.

Do the Nominated Supervisor and or the Educational Leader need to be full time employees?

No. You would need to consider how these roles could be filled by part time employees.

Certified Supervisor Certificate - do you need to re-apply?

No. Unless your Supervisor Certificate is withdrawn, it remains current.

Can a casual staff member be a responsible person?

If you could prove they have management and control of the service.

Educational Leaders

Does the Educational Leader need to be employed by service or can they be a committee member?

The Guide to the Education and Care Services National Law and Regulations states:

“The educational leader might be a Nominated Supervisor (who has suitable experience and qualifications), an early childhood teacher, a manager or a diploma qualified educator *within the service*”. (p 85).

“The approved provider should select the person most suited for this role in the service after considering the suitability of qualifications and experience of educators in the service”. (p85)

There is nothing specific regarding this but you would need to consider the above information, along with Element 7.1.4 of the Guide to the National Quality Standard and how an assessor may observe “the educational leader working with other educators and co-ordinators to observe, support and extend children’s thinking” (p 178)

Is there a specific form for an Educational Leader?

No. You just have to write a letter appointing them and have it noted on their staff record.

Does the educational leader need to be on premises for a specific time?

No. The Regulations do not specify a minimum qualification or the number of hours the Educational Leader should work, or whether this person must work directly with children. The service should select the person most suited for this role in the service after considering the suitability of qualifications and experience of educators in the service.

Ratios

Do services need to cover the absolute ratios during break times? For example at sleep time when LDC staff tend to take their breaks - do they have to be replaced with someone else?

The Nominated Supervisor and / or responsible person must ensure that children are being adequately supervised at all times. Maintaining educator – to – child ratios does not determine alone what adequate supervision is. Adequate supervision means that an educator is able to respond immediately, including when a child is in distress or danger, without compromising supervision of other children. For further details about ratios and supervision requirements refer to Education and Care services National Regulation 122, 101, 176, 166 & 168 and Education and Care National Law 165, 167 and 174.

Do you need to have higher than ratio staffing levels in order to achieve a rating of Exceeding the NQS?

Services must meet relevant educator- to- child ratios and relevant educator qualification requirements outlined in the Regulation at all times.

Services who choose to staff their services above ratio, or employ educators with qualifications higher than required, would be well positioned to be assessed as "Exceeding NQS" but until assessments occur it is impossible to tell whether services could achieve this rating without these things. It is generally agreed by researchers that higher than minimum ratios is a characteristic of higher quality education and care.

Do services need to cover the absolute ratios during break times? For example at sleep time when LDC staff tend to take their breaks - do they have to be replaced with someone else?

The Nominated Supervisor and / or responsible person must ensure that children are being adequately supervised at all times. Maintaining educator -to- child ratios does not determine alone what adequate supervision is. Adequate supervision means that an educator is able to respond immediately, including when a child is in distress or danger, without compromising supervision of other children. For further details about ratios and supervision requirements refer to Education and Care services National Regulation 122, 101, 176, 166 & 168 and Education and Care National Law 165, 167 and 174.

ECTs: "access to": 24-29 for 6 hours: are they part of ratios?

Yes. If they are working directly with children.

Is there a different ratio for mixed aged groupings from 2012?

You must meet the minimum number of educators for the children as required under the Regulations i.e. 1:4 for babies, 1:8 for toddlers and 1:10 for pre-schoolers. In 2016 the toddler ratio changes to 1:5.

Which staff need to be on premises at open close?

A "responsible person" must be on the premises at all times. Services need to ensure that they are meeting relevant educator to child ratios, and relevant educator qualification requirements at all times, that children are present. A responsible person is either:

- the approved provider, or
- the nominated supervisor, or
- a certified supervisor placed in day to day charge.

Educator-to-child ratios and qualification requirements must be maintained at all times.

The Director/Co-ordinator must ensure that rosters are developed to meet the above requirements, and with the education, supervision and safety of the children in mind at all times.

Assessment

When will the assessment and rating tools be released? I know we have the draft ones but are they going to release a final copy of these too?

This information has not been released at this stage. More information can be found about Assessment in NSW at:

<https://www.det.nsw.edu.au/media/downloads/what-we-offer/early-childhood-education-and-care/regulatory-framework/national-quality-framework/nsw-assess-rat-info-sheet.pdf>

How long between assessment visits for a service rated as “Excellent”?

At this point there is little information about the assessment process. Generally it is believed that frequency of visits will be based on the principle of earned autonomy – so a service that was rate as Excellent may only be re-assessed every three years.

Does the length of time of the assessment visit depend on the size of the service?

At this point there is little information about the assessment process. More information on the assessment process may be released by the Department of Education and Communities at a later stage.

Is there a cost involved in applying for reassessment?

Yes. Services may only apply for reassessment once in two years. The cost varies from \$200 for small services, up to \$600 for service over 80 places. For more details see Guide Number 2 page 149.

Do you get your rating on the day of the assessment visit?

No. Some on-the-spot feedback may be given but you generally won't get the proposed rating for another 3 weeks. The provider will then have the opportunity to comment on and discuss the report and ask for clarification. (Providers will generally have 10 working days to provide comments.)

If you apply for reassessment does it have to be 6 months after the initial visit?

No. There is nothing specific about how soon you can apply for reassessment. There is a fee involved and an application of this sort can only be made once in every 2 year period, unless DEC agrees otherwise.

When will we be assessed?

The first services to be assessed and rated will mostly be those which would have been due for assessment by the National Childcare Accreditation Council in early 2012. Assessments will start in June 2012.

Policies

Do DEC preschools need to have all the policies listed in the Regulations?

All approved services are required to have policies outlined in Regulation 168.

Policies - what does acceptance and refusal of authorisations mean?

The National Regulations require service providers (and in some instances, nominated supervisors and family day care educators) to ensure that an authorisation is obtained from parents in some circumstances. For example, the Regulations stipulate an authorisation must be obtained for medication to be administered to a child at an education and care service (Regulation 93), and an authorisation must be obtained for a child to leave the premises of a service with a person who is not a parent of the child (Regulation 99).

A policy on the acceptance and refusal of authorisations would set out the circumstances in which a service would require an authorisation from parents, and the criteria by which the service would decide whether or not to accept the authorisation. For example, one criteria might be that the authorisation is signed and dated and clearly identifies the activity to which it relates.

Should we use the same names for our policies are required under the Regulations?

This is up to each service. It may make it easier to show an assessor that you have the required policies however.

Other

What is a compliance record?

Reference: Regulation 167: Record of services compliance (p153)

A **record of the services compliance** must include specific information of any details of amendment of the service approval, suspension, or compliance direction or compliance notice.

Is there a charge for the review process?

Services have 14 days to apply for a review once you have received your notice of rating. This will be completed by someone from DEC other than the initial assessor.

The service may apply for re-assessment, re-rating or review by a Ratings Review Panel and the charges for review are based upon the number of approved places in centre-based services, and can be found on page 149 of the Guide to the Education and Care Services National Law and Education and Care Services National Regulations 2011.

Ratios for excursions. Do you just have to do your risk assessment and determine the ratios that particular excursions would require?

Education and Care Services National Regulations Division 6 - Collection of children from premises and excursions Regulation 99, 100, 101, 102, Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011 Part 4.2: Children's Health and Safety Excursions p 69. (Some further information to consider), and page 172 (Excursion risk assessment template).

With regards to excursions it is always essential to remember that the regulations are the minimum standard, and that "best practice" with regards to ratios for excursions would need to be your consideration, as of course would be the outcome of your risk assessment for the excursion.

Is an electronic copy of the Regs enough to meet the requirement of having a copy at the service?

Regulation 185 does not specify that a hard copy of the National Law and Regulations must be kept at the premises, so it may be appropriate to rely on an electronic copy, provided that the Law and Regulations are sufficiently accessible in electronic form. For example, a service with an unreliable internet connection might need to ensure that there is a CD or hard copy, to make certain that the Law and Regulations are accessible when the internet is not working.

ACECQA has sent all services a copy of the Regulations and the Law on CD.