



ACT
Government
Education

ACT PUBLIC PRESCHOOLS WAIVER PROCEDURE

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Education Directorate

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Glossary

Term	Definition
Regulatory authority	Children’s Education and Care Assurance (CECA), who undertake investigation, compliance, enforcement and assessment and rating functions against the National Quality Standard .
Approved provider	Approved providers must operate approved services that meets the obligations in the National Law . Approved providers must exercise effective leadership, governance and management to meet their legal obligations. Providers must also employ suitably qualified and experienced nominated supervisors, educational leaders, coordinators and educators. In the case of government preschools in the ACT, the approved provider is the ACT Education Directorate.
Setting	An early childhood education and care service (centre-based) under the National Law that provide education and care services. For the purposes of this procedure, these settings are public preschools (managed by ACT Education Directorate as the approved provider and undertaking the government preschool program for four-year-olds).
Guardian	A person who is legally responsible for the care and wellbeing of a child.
Parent	A person having parental responsibility for the child under the <i>Children and Young People Act 2008</i> including a carer appointed under that Act.
Accompanying adults	Teachers, school administrative staff, parents, activity leaders and volunteers
Duty of care	Requires that accompanying adults should take all reasonable measures to ensure the health and safety of any school student under their care. This duty of care will arise whenever a student/school relationship exists. Primary responsibility remains with the teacher in charge.
Authorised person	A parent* or family member of a child who is being educated and cared for by an ACT public preschool; or an authorised nominee of a parent or family member of a child who is being educated and cared for by an ACT public preschool. * Does not include a parent who is prohibited by a court order from having contact with the child.

This document relates to obligations under **Regulation 168** of the [Education and Care Services National Law](#). **00048/12** is the unique identifier of this document. It is the responsibility of the user to verify that this is the current and complete version of the document. Current documents are available on the [Directorate’s website](#).

Authorised nominee	A person who has been given permission by a parent or family member to collect a child enrolled in an ACT public preschool.
Nominated supervisor	As part of an application for service approval, approved providers must identify the nominated supervisor for the service. The nominated supervisor must be over 18 years old, have adequate knowledge and understanding of the provision of education and care to children, and have the ability to effectively supervise and manage an education and care service. In the case of government preschools in the ACT, the nominated supervisor tends to be the principal of the associated school campus.
Person in day-to-day charge	The approved provider and/or nominated supervisor needs to designate a responsible person to be placed in day-to-day charge of a service if the approved provider and/or nominated supervisor is not present. The person in day-to-day charge must be over 18 years old, have adequate knowledge and understanding of the provision of education and care to children, and have the ability to effectively supervise and manage an education and care service. The person nominated to be in day-to-day charge must accept this responsibility in writing. The nominated person must have adequate knowledge and understanding of the provision of education and care to children and be able to effectively manage a service. A record that demonstrates who is the responsible person in day-to-day charge should be in place. Being in day-to-day charge of a service does not place any additional legal responsibilities on the person under the National Law . The responsibilities relevant to educators under the National Law continue to apply. An approved provider does not have to appoint a person in day-to-day charge if a nominated supervisor(s) or an approved provider is to be the responsible person in attendance during service operational hours.
Educators	Qualified staff who work directly with children to meet their developmental and educational needs. It includes staff who are tertiary qualified teachers.
Educational leader	The National Law requires approved providers to designate, in writing, a suitably qualified and experienced educator, coordinator or other individual as educational leader.
Blue Book	Personal Child Health Record used to record a child's health, illnesses, injuries, growth and development.
Centre-based service	An education and care service other than a family day care service.
Obligations to notify	Approved providers and services have an obligation to notify CECA about incidents, complaints and changes to information about the approved provider or approved service. This includes serious incidents, complaints and circumstances where the health, safety or wellbeing of children may have been put at risk.

Obligations

ACT Public Preschools must meet the obligations of the [National Law](#), including Regulation 168, which states that education and care services must have policies and procedures in relation to the following:

- health and safety, including matters relating to:
 - nutrition, food and beverages, and dietary requirements;
 - sun protection;
 - water safety, including safety during any water-based activities;
 - the administration of first aid; and
 - sleep and rest for children.
- incident, injury, trauma and illness procedures;
- dealing with infectious diseases;
- dealing with medical conditions in children;
- emergency and evacuation;
- delivery of children to, and collection of children from, education and care service premises;
- excursions;
- providing child-safe environments;
- staffing, including:
 - a code of conduct for staff members;
 - determining the responsible person present at the service; and
 - the participation of volunteers and students on practicum placements.
- interactions with children;
- enrolment and orientation;
- governance and management of the service, including confidentiality of records;
- the acceptance and refusal of authorisations;
- payment of fees and provision of a statement of fees charged by the education and care service; and
- dealing with complaints.

1. Overview

- 1.1. The following procedure covers the procedures for service and temporary waivers.
- 1.2. Chapter 2, [Divisions 5 and 6](#) of the [National Regulations](#) outline obligations relating to waivers.

2. Rationale

- 2.1. In accordance with provider approval conditions, this procedure aims to comply with the requirements set out within the [National Law](#).
- 2.2. Waivers play an important role in helping providers maintain their level of service to families while dealing with special circumstances or unexpected events.
- 2.3. An approved provider may apply to a regulatory authority for a waiver. Applying for a waiver should be a last resort; providers should explore other avenues before making an application.

3. Procedures

- 3.1. There are two types of waivers:
 1. Service waivers for an ongoing period (no specific expiry date).
 2. Temporary waivers of up to 12 months.
- 3.2. As the approved provider, ACT Education, submit waiver applications to CECA on behalf of its services.
- 3.3. The regulatory authority can impose any conditions it considers appropriate on a service approval and on a waiver. It may also grant a temporary waiver and place conditions on the service approval at the same time. Conditions may also be placed on the service approval at a later time.
- 3.4. The application must include:
 - reasons the service is unable to comply with requirements;
 - details and evidence of attempts to comply; and
 - measures being taken to protect the wellbeing of children.
- 3.5. ACECQA has provided an [Evidence for Waiver Applications](#) information sheet explaining the types of waivers available and evidence that can be submitted to support applications.
- 3.6. If a waiver application is approved, a new service approval which outlines the waiver(s) will be sent to the service site. The new service approval must be displayed at the entry of the service.

REQUIREMENTS THAT MAY BE COVERED BY A SERVICE WAIVER	
<i>Regulation</i>	<i>Requirement</i>
<i>Physical environment</i>	
104	Fencing
107	Indoor space
108	Outdoor space
110	Ventilation and natural light
111	Administrative space
112	Nappy change facilities
113	Outdoor space – natural environment
114	Outdoor space – shade
115	Premises designed to facilitate supervision
<i>Staffing</i>	
120	Educators who are under 18 to be supervised
123	Educator to child ratios
126	General educator qualifications
130	Requirement for early childhood teacher – fewer than 25 approved places
131	Requirement for early childhood teacher – 25 or more approved places but fewer than 25 children
132	Requirement for early childhood teacher – 25 to 59 children
133	Requirement for early childhood teacher – 60 to 80 children
134	Requirement for early childhood teacher – more than 80 children

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Service waiver

3.7. The application must include the following information:

- the name of the service;
- the service approval number;
- the name and contact details of the contact person for the purposes of the application;
- a statement that specifies:
 - the elements of the National Quality Standard and the regulations in relation to which a service waiver is sought; and
 - the way in which the education and care service does not or will not comply with the specified elements or regulations;
- if the education and care service is unable to comply with the specified elements or regulations:
 - the reasons that the education and care service is unable to comply; and
 - details and evidence of any attempts made to comply with the specified elements or regulations;
- in any other case, the reasons that the education and care service seeks the service waiver; and
- the measures being taken or to be taken to protect the wellbeing of children being educated and cared for by the service while the service waiver is in force.

Temporary waivers

3.8. The application must include the following information:

- the name of the service;
- the service approval number;
- the name and contact details of the contact person for the purposes of the application;
- a statement that specifies:
 - the elements of the National Quality Standard and the regulations in relation to which a service waiver is sought; and
 - the way in which the education and care service does not or will not comply with the specified elements or regulations;
- the reasons that the education and care service is unable to comply with the specified elements or regulations;
- details and evidence of any attempts made to comply with the specified elements or regulations;

- the period for which a temporary waiver is sought and the reasons for seeking that period (no longer than 12 months);
- details of steps that are being or will be taken in order to comply with the specified elements or regulations;
- the measures being taken or to be taken to protect the wellbeing of children being educated and cared for by the education and care service while the temporary waiver is in force.

3.9. Education may apply for an extension of a temporary waiver, however it cannot be extended without an application. CECA may extend a temporary waiver for up to 12 months. Education may apply for further extensions to a temporary waiver however this will be assessed on a case-by-case basis.

4. Contact

4.1. The Director, School Improvement is responsible for this procedure.

4.2. For support contact School Operations on 6205 3313 or email SchoolOperations@act.gov.au

5. Monitoring and review

5.1. The procedure owner will be responsible for monitoring the procedure through annual scans. A full review will occur as necessary, or within a three-year period.

6. Complaints

6.1. Any concerns about the application of this procedure or the procedure itself, should be raised with:

- the school principal in the first instance;
- the Directorate Feedback and Complaints team on (02) 6205 5429 or through the [online form](#); and
- ACT Education's Regulatory Authority, Children's Education and Care Assurance on [\(02\) 6207 1114](tel:0262071114) or complaintsCECA@act.gov.au.

6.2. For more information also refer to the [Complaints Policy](#) on the Directorate's website.

7. References

- [ACECQA – Applying for a Waiver](#)
- [ACECQA – Guide to the NQF \(Waivers\)](#)