

TITLE: DE-REGISTRATION OF AN EDUCATOR FROM THE REGISTER/ BREACH PROCEDURE

<p>Related documentation</p> <p>Policy/policies:</p> <p>Regulation/s/ Standards:</p> <p>Other procedures:</p> <p>References:</p>	<p>Assessment, approval and re-assessment of an Educator’s premises</p> <p>Child Protection</p> <p>Code of Conduct</p> <p>Interactions with children</p> <p>Recruitment of Educators</p> <p>Keeping a Register of Educators and Staff</p> <p>Complaint handling</p> <p>Education and Care Services National Regulations 116, 170</p> <p>NQS 4.1, 4.2</p> <p>Workplace Health & Safety (Educator) Supervision</p> <p>Education and Care Services National Regulations 2018</p> <p>The Educator Agreement</p> <p>The Children and Young Person’s (Care and Protection) Act 1998</p>
Date effective	October 2019
Date for review	October 2021
Purpose	To outline the procedure for a) AFDC’s response to a breach of the Educator Agreement, Service policies, National Regulations, Law or Standards and b) the De-registration of an Educator
Responsibility	Nominated Supervisor, Board of Directors, Coordinator/s, Educators. <i>Written records of meetings and phone conversations are the responsibility of staff involved in the process.</i>

Key information:

- Armidale & District Family Day Care maintains the right to de-register an Educator who fails to comply with the National Quality Standard, the Education and Care Services National Regulations and Law, AFDC’s Educator Agreement and AFDC’s Code of Conduct.
- When an alleged breach occurs, it will be investigated by the Nominated Supervisor. The Educator concerned will be notified of the breach in writing and will be accorded the right of reply.
- Immediate de-registration will occur if the Nominated Supervisor and Approved Provider determine the breach has placed children at risk of harm.

- Unless immediate de-registration is warranted, a compliance breach will result in a warning that de-registration can be a consequence. A documented risk management plan with a timeframe for improvement will be implemented.
- The Educator will have the option of having a support person present at any formal meeting which is held in relation to an alleged breach or proposed de-registration.
- An Educator who feels their name has been unreasonably removed from the Register may appeal in writing to AFDC's Board of Directors or to the Department of Education. They may also appeal to the Administrative Decisions Tribunal. Further information is obtainable from www.ncat.nsw.gov.au

Procedure/s:

Warnings

First warning

- The Nominated Supervisor or Coordinator will discuss the breach with the Educator as soon as they become aware of it.
- The Educator will be required to rectify the breach immediately where possible. If this is not possible then a documented risk management plan to ensure children's health and safety will be implemented. The plan will include a timeframe for the breach to be rectified.
- The Nominated Supervisor will issue a breach letter to the Educator. If the breach is serious (i.e. it involves a child protection or reportable conduct issue) the Nominated Supervisor will contact the Department of Education and AFDC's Board of Directors for instruction. In this event, the breach could result in the Educator's immediate de-registration.

Second warning

If a second alleged breach occurs the following action will be taken:

- The Nominated Supervisor will investigate the circumstances and initiate a formal meeting with the Educator concerned and their support person.
- Dependent on the outcome of the investigation and the Educator's input, a second breach notice may be issued to the Educator.
- This breach letter will record details of the breach including the date that the second breach occurred. It will list strategies agreed to by the Educator to ensure future compliance with references to the National Regulation/ Law/ Standard or AFDC Policy or Agreement that has been breached. It will advise the Educator that a third breach will result in de-registration.

Third warning

- Should an Educator be found to have breached the Education and Care Services National Regulations, the National Quality Standards, AFDC's Code of Conduct or AFDC's Educator Agreement on a third occasion, the Nominated Supervisor will inform the Approved Provider and recommend that the Educator be de-registered and their name removed from the Register of Educators.
- The Educator will be informed of this action verbally and in writing. They will be expected to close their service immediately and inform families to seek alternative care.
- The right to privacy will be respected by AFDC's staff or representatives. Confidentiality of information, records or communications regarding the Educator's breach or de-registration will be maintained.

Circumstances requiring the immediate removal of the Educator's name from the Service Register

Immediate de-registration will take place should any of the following instances occur.

- **An Educator is convicted of a notifiable offence**
- **An Educator subjects a child to corporal, verbal or any other form of abuse.**
- **An Educator steals from AFDC Staff, Educators or Clients or the service itself.**
- **An Educator subjects Staff, other Educators or Clients to physical or verbal abuse.**
- **An Educator is under the influence of unlawful drugs or alcohol while children are in care**
- **An Educator breaches State and Federal laws regarding the safety of children,**

De-registration can also occur if:

- **The Educator fails to comply with their obligations under the National Regulation and Law.**
- **Areas of the Educator's home used for the provision of care fail to comply with the facilities, maintenance or equipment requirements of the National Regulation/Law or Standard.**
- **An Adult Household Member is convicted of a notifiable offence**
- **A person normally living at an Educator's home injures a child in care, uses verbal or physical action against a child in care or seriously humiliates, frightens or threatens a child in care.**