

## ARMIDALE & DISTRICT FAMILY DAY CARE

### DE-REGISTRATION OF AN EDUCATOR FROM THE REGISTRY/BREACH PROCEDURE

<b>Related documentation</b>	Assessment, approval and re-assessment of an Educator's premises
<b>Policies:</b>	Child Protection Code of Conduct Complaint Handling Keeping a Register Recruitment of Educators In home visit
<b>Procedures:</b>	Supervision Workplace Health and Safety (Educators) Photo and Camera Policy
<b>Regulation/s/ Standards:</b>	Education and Care Services National Regulations 116, 170 National Quality Standard Areas 2, 3, 4, & 6
<b>References:</b>	NSW Ombudsman NSW Office of the Children's Guardian Children and Young Persons' Care and Protection Act 1998
<b>Date effective</b>	June 2023
<b>Date for review</b>	June 2026
<b>Purpose</b>	To outline AFDC's response in instances of breaches of the National Law, Regulations, National Standards and/or AFDC service policies by Educators registered with the service
<b>Responsibility</b>	Board of Directors, management and Nominated Supervisor

#### **Key information:**

Armidaled & District Family Day Care Limited maintains the right to breach and/or de-register an Educator who fails to comply with the National Law, Regulations, National Standards or AFDC Policies or who fails to rectify issues and concerns formally raised by AFDC within the time frames provided.

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

An Educator will be immediately de-registered if the Approved Provider and Nominated Supervisor determine that the Educator has placed children at significant risk of harm. This will include, but may not be limited to:

- The Educator subject's children to physical, verbal or any other form of abuse.
- Breaches any pre-existing law in relation to the safety of children, or
- Is under the influence of unlawful drugs or alcohol whilst children are in care.

An Educator will also be immediately deregistered if:

- The Educator is convicted of a serious offence, or
- The Educator subject's management, staff, families or other Educators to physical or verbal abuse.

An Educator may be immediately de-registered if:

- The educator fails to comply with their obligations under the National Law and Regulation, or
- An Adult Household Member is convicted of a serious offence or poses significant risk of harm to children in care.

### **Procedures for Dealing with Breaches**

#### **First Warning**

When a breach is identified, the Nominated Supervisor or Coordinator will issue the Educator with a written notice of the breach in the FDSee Home Visit Report and provide the Educator with a time frame in which the breach must be rectified.

If the breach is related to the health and safety of children, the Nominated Supervisor or Coordinator may assist the Educator to implement a risk management plan to mitigate the risk until the matter is addressed.

If the breach is of a serious nature, the Nominated Supervisor and Approved Provider may suspend the Educator's service, pending the issue being rectified. Should the Educator be suspended, the Nominated Supervisor will inform the Dept. of Education of this decision.

#### **Second Warning**

A second warning to an Educator will be issued in the following circumstances:

- The initial breach has a) not been rectified or b) a process of working towards rectifying the breach is not being pursued, or
- A second breach has been identified by the Nominated Supervisor or the Coordinator.

Upon the identification of a second breach, the Nominated Supervisor will:

- conduct an investigation of the circumstances of the breach.
- Arrange a formal meeting with the Educator to discuss the issue (the Educator may be accompanied by a support person).
- Put in place strategies to ensure that existing breaches are rectified, and that no further breach will occur, and
- The period of time within which any or all actions to be taken must occur.

### Third Warning

Should an Educator be found to have breached the National Law, Regulations, Standards or AFDC policies on a third occasion, or where an accumulation of non-compliance issues occur, the Nominated Supervisor will recommend to the Approved Provider that the Educator be de-registered, and that the Educator's name be removed from the Register of Educators.

#### The Approved Provider will:

- Notify the Educator of this decision in writing by way of a Notice of Non-Compliance and De-Registration;
- Instruct the Educator to close their service immediately;
- Notify the parents/guardians of children in the care of the Educator.
- Notify the NSW Department of Education of its decision within seven (7) days after the date shown on that Notice. This may be in addition to any report of serious incident or non-compliance that may have already been reported within the 24hr timeframe as required by the Regulations.

### Confidentiality

The Educator's right to Privacy will be respected at all times and the confidentiality of records and communications regarding the de-registration or breach will be maintained.

### Documentation

The Nominated Supervisor is responsible for maintaining written records of all telephone conversations, emails, letters and minutes of meetings that relate to the de-registration process of Educators registered with AFDC.

Breach letters issued to Educators must include:

- details of the alleged breach, including dates of the occurrence/s.
- List strategies as outlined in this Procedure, and
- Provide the Educator with a right to reply to the alleged breach.

### Right of Appeal Against De-Registration

An Educator who feels that a breach issued to them is unjustified or that their name has been unreasonably removed from the Register may appeal to the Approved Provider within fourteen (14) days of receiving the Notice for a review of the decision.

The Approved Provider will arrange for an internal review of its decision by a delegated member of the Board of Directors together with the Nominated Supervisors.

If an Educator is dissatisfied with the outcome of the Internal review, they may appeal to the NSW Civil & Administrative Tribunal (NCAT) within thirty (30) days of receiving the outcome from the internal review by the FDC Service.