



### 3.3 (b) Independent Educator Contract Policy

<b>Policy number:</b> 3.3 b
<b>Date last reviewed:</b> June 2023
<b>Reviewed by:</b> Child Care Team

This policy relates to	
National Quality Standards Early Childhood Education & Care	<p>2.2.3 Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect.</p> <p>4.1.1 Organisation of educators</p> <p>5.1 Relationships between educator and child</p> <p>7.1.2 Systems are in place to manage risk and enable the effective management and operation of a quality service.</p> <p>7.1.3 Roles and responsibilities</p>
Policy relates to	<p>3.3(i) Training and Professional Development policy</p> <p>6.1 Coordinator visits and Monitoring the Quality of Care</p> <p>6.2 Role of Educator’s Family members in Family Day Care</p> <p>7.14 Premises &amp; Facilities for FDC homes &amp; Venues</p>
Resources	<p>Family day care approved provider compliance responsibilities – <a href="https://www.acecqa.gov.au/media/22851">https://www.acecqa.gov.au/media/22851</a></p> <ul style="list-style-type: none"> <li>• Family day care educator compliance responsibilities – <a href="https://www.acecqa.gov.au/media/22856">https://www.acecqa.gov.au/media/22856</a></li> <li>• Family day care nominated supervisor compliance responsibilities – <a href="https://www.acecqa.gov.au/media/22861">https://www.acecqa.gov.au/media/22861</a></li> <li>• Guide to the National Quality Framework – <a href="https://www.acecqa.gov.au/nqf/about/guide">https://www.acecqa.gov.au/nqf/about/guide</a></li> <li>• Requirements for family day care providers – <a href="https://www.acecqa.gov.au/media/23141">https://www.acecqa.gov.au/media/23141</a></li> <li>• Supporting educators in family day care and in home care – <a href="https://www.echr.edu.au/docs/default-source/resources/ipsp/supporting-educators-in-family-day-care-and-in-home-care.pdf?sfvrsn=6">https://www.echr.edu.au/docs/default-source/resources/ipsp/supporting-educators-in-family-day-care-and-in-home-care.pdf?sfvrsn=6</a></li> <li>• Working with children check (Queensland) – <a href="https://earlychildhood.qld.gov.au/legislationandguidelines/pporresources/fact%20sheets/working-with-children-check.pdf">https://earlychildhood.qld.gov.au/legislationandguidelines/pporresources/fact%20sheets/working-with-children-check.pdf</a></li> </ul>

#### Purpose

Educators’ conditions and responsibilities are clearly stated to ensure new and existing educators are fully aware of their responsibilities as independent contractors.

#### Policy

All educators sign a contract with the service prior to commencement. Both the educator and service retain a copy of the signed agreement. The contract is reviewed and professional development plan is updated on an ongoing basis.

Parent care arrangements are a signed agreement between the service, educator and family. These must be in place for all families prior to care commencing.

The educator contract is a legal and binding contract agreed to by the educator.

- (1) Nothing in the contract shall constitute, or be deemed to constitute the relationship of employer and employee, principal and agent, or a partnership between the Service and the Educator. The service is not liable for any damages including property loss or damage or personal injury or death (including any of the Educator's employees, agents or subcontractors) arising out of or in connection with the carrying out of the Educator's obligations under the Service.
- (2) The Educator shall at all times indemnify, and keep indemnified, the Service from and against all claims, legal costs, demands, writs, summons, actions, suits, proceedings, judgements, orders, decrees, costs, losses and expenses of any nature which the Service may suffer or incur in relation to any loss of life, personal injury or damage to, loss or theft of property arising from or out of or in connection with any act, omission or negligence of the Educator, or any of its employees, agents or subcontractors, including any breach of this contract;
- (3) Care will be ceased or suspended with immediate effect (no fees can be claimed during these times and the service will not be responsible for loss of income in any way) in the following circumstances:
  - a. In the case of non-compliance with the Contract where it is assessed that there is a risk to children, if a child protection issue is being investigated or where there are serious safety/wellbeing issues identified;
  - b. If there is a breach of policy or behaviour not in line with the code of conduct and or in general a breakdown of relationship with the family or the Service;
  - c. If the Educator is not honest and does not provide adequate communication with the Service about the care occurring;
  - d. In the event of a local disaster of either the care environment or the approved provider service, care may be cancelled to minimize risk associated with local disasters including floods, fire, terrorism etc. and in these situations and the Service's closed fees may not be claimed unless approved in accordance with Family Assistance Law, the Service reserves the right to make the decision to close as a preventative measure to minimize risks to children, families and educators.

**The Educator agrees:**

- (1) The Educator must maintain a Professional Development Plan including individual development and support requirements;

- (2) That, as a self-employed independent contractor, the Educator is responsible for his/her own taxation and recovery of bad debts;
- (3) The Educator is self-employed and therefore is not entitled to any leave accruals, sick leave or superannuation under the Contract.
- (4) The Educator is responsible to supply his/her own documentation and resources; the Service does have a toy library that can be accessed;
- (5) The Educator is required to have his/her own ABN prior to commencing as part of being self-employed and is encouraged to have their own income protection as part of running their own business.
- (6) To ensure that professional development of 3 training sessions per year occurs excluding child protection which is required as extra every 2 years;
- (7) To ensure that medical practices including administering medication does not occur unless specifically agreed to by the Service and family, and suitable training has occurred;
- (8) To abide by the Commonwealth Child Care Subsidy System and the Service's policies at all times. Providing the service and parents a receipt of all payments received;
- (9) To hold and maintain current \$10 million Public Liability Insurance cover
- (10) To hold and maintain current First Aid, Resuscitation, Anaphylaxis and Asthma qualifications as required by the Education and Care Service National Regulations 2011. Certificates must comply with approved list of registered training organisations as listed on ACECQA website. The Educator is required to ensure that the Service has a current certified certificate at all times;
- (11) To inform the Service of any change to their health or wellbeing that affects their competency to work with children or requires risk management. Changes may include personal injury, medical procedures or prescribed medication;
- (12) To ensure that documentation of annual vehicle car restraint check and vehicle check is submitted to the Service if a vehicle is used to transport children;
- (13) To comply with Commonwealth Government guidelines in relation to Child Care Subsidies by keeping accurate and accountable records of care provided and payment received. To ensure that the Service receives a copy of all attendance records. To report to the Service any situation that could be in breach of Child Care Subsidy guidelines (refer to CCSS handbook);
- (14) To abide by the Code of Ethics, and in particular confidentiality in relation to children/families;
- (15) To pay the educator levy and collect the service levy as determined by the Service's policy;

- (16) To provide care information in relation to any child when requested by the Service/Coordinator;
- (17) To report immediately all information of changes to the family or child circumstances including any risks or concerns of wellbeing in accordance with child protection policies and laws;
- (18) To keep the Service up to date with documentation including journal and planned experiences being provided to the child/children in care;
- (19) To maintain a positive suitability card at all times and advise the Service of any changes to blue card status;
- (20) To advise of any changes to the signed legislation declaration;
- (21) Maintain confidentiality with the Service protecting all intellectual property and not misusing or representing the Service in any way;
- (22) To maintain a professional approach at all times in line with the Service's code of conduct;
- (23) At all times to maintain professional boundaries with the family, working only in a professional capacity (no private arrangements are to occur with the family whilst the Educator is registered with the Service).

**The independent contract educator agrees to:**

- **The educator runs their own business and is to have their own ABN**
  - **It is advised that the educator should have their own income protection plan as an independent contractor.**
  - **Is able to promote and advertise their own business-**
- (A) Section 104 of the National Law states that a person must not knowingly publish or cause to be published an advertisement for an education and care service unless it is an approved education and care service.**
- (B) The ACECQA FAQ states that a family day care educator can advertise if they make clear they are part of an approved service.**
- (C) Any advertisement must show which approved service it is promoting and include contact details for that service.**
- **As an independent contractor the educator understands if there are not enough clients at any time this is the commercial risk of the educator and can lead to financial impact.**
  - **The educator has the ability to delegate or subcontract to an educator assistant where necessary (in accordance with applicable law).**
  - **The educator is able to negotiate as part of this contract the number of children including ages of children that care will be provided for ( within National Regulation guidelines) hours, days and fees for service .**
  - **In all aspects of this contract the educator has full control and responsibility.**
  - **The educator understands that all expenses for running their business are their responsibility and the service can only occur from their residential home.**
  - **It is understood by the service and the educator that any good will or reputation which is built up is “owned “ by the educator and not the service : this may include families staying with the educator if the educator chooses to leave the service.**
  - **The educator may work with other services as an educator**
  - **The educator understands that there is no salary payment or superannuation contributions, annual leave or long service leave entitlements as part of this contract.**

- **The educator is completely responsible for their own taxation.**

**The Service agrees to provide the Educator with:**

- (1) Access to the:
  - a. Commonwealth CCSS Child Care Provider Handbook;
  - b. Service policies;
  - c. Legislative changes;
- (2) Access to updates and amendments of the above mentioned documents;
- (3) An orientation for new educators.
- (4) Regular information, and access to professional development;
- (5) Regular support and monitoring through unannounced home visits, telephone contact and events e.g. playgroup, meetings, newsletters;
- (6) Processing of attendance records and payment of Child Care Subsidies according to Commonwealth legislation on a weekly basis, provided the records are accurate and received in accordance with the Service's policy;
- (7) Monitoring and support that is consistent with the Commonwealth Child Care Provider Handbook, Service policies and other relevant legislation.

**Associated Beaucare Policies and Documents**

**Relevant Legislation**

National Law

**National Regulations**

84-Awareness of child protection law

119-Family day care educator and family day care educator assistant to be at least 18 years old

127-Family day care educator qualifications

136-First aid qualifications

143 A- Minimum requirements for a family day care educator

144-Family day care educator assistants

153- Register of family day care educators, coordinators and educator assistants

163-Residents at a family day care residence and family day care educator assistants to be fit and proper persons

- 164 -Requirement for notice of new persons at residence
- 168- Education and care services must have policies and procedures
- 169-Additional policies and procedures-family day care service
- 170-Policies and procedures to be followed
- 171-Policies and procedures to be kept available
- 172-Notificaiton of change to policies or procedures

**National Quality Standard**

<https://www.education.gov.au/child-care-provider-handbook-0>

Early Childhood Australia – Code of Ethics

Child Care Legislation & Family Assistance Law

<https://www.education.gov.au/child-care-legislation>

[Family Assistance Legislation Amendment \(Jobs for Families Child Care Package\) Act 2017](#)

[A New Tax System \(Family Assistance\) Act 1999](#)

[A New Tax System \(Family Assistance\) \(Administration\) Act 1999](#)