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This unit learning guide relates to the following National Qualifications:

- CHC30113 Certificate III in Early Childhood Education and Care
- CHC50113 Diploma of Early Childhood Education and Care
- CHC40113 Certificate IV in School Age Education and Care
- CHC50213 Diploma of School Age Education and Care

Designed by
Childcare Resources Australia

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3rd Edition (2016)

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LMCRA-001v3 CHCLEG001 Work Legally and Ethically
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How to Use This Learning Guide

In this Learning Guide, you will find the information you need to develop the skills and knowledge to become a confident, professional Educator. To help you transfer your skills into practice, we have provided a range of links to videos and other website resources and recommend you take time to look at these. All CRA Learning Guides link to the National Quality Frameworks (NQF) for each unit. This includes the National Regulations, Standards and Approved Frameworks you will need to use as an Educator working in regulated Children’s Service in Australia. We recommend you have these available on your computer or print out a copy so they are available at all times.

On the following pages, are a list of icons you will see throughout the Learning Guides to direct you to important and additional information. They will help support your understanding of the topic.

This is a sample only. Some pages have been omitted from this preview.
Learning Guide Icons

**Reading**
When you see our reading icon, go to the document specified and read to expand your knowledge of the topic.

**Recommended Videos**
When you see our video icon, you can watch great resources online. If the link does not work, (as website links will change over time) we have provided the full name of the video and location so you can do a web or YouTube search.

**Reflection**
Our reflection icon gives you a chance to think about your own experiences or about a question posed. This help will help you to link new knowledge to your past experiences and encourage reflection of your current practice.

**Useful Websites**
When you see our computer icon, you will be asked to go to the specified link for additional information.

**Your Turn**
When you see our pencil icon, you can write in your own Learning Guide or on another piece of paper. The exercises are for your learning only and are not part of the assessment.

**Check your answers**
When you see our memo icon, you can compare your ideas from completing activities, with ours. These provide some feedback to you help assess your understanding of the topic.
Tips for Successful Study!

1. Active Reading
Don't just read - you will fall asleep: it's very relaxing, you know!
   a) Read the **Learning Outcomes** first
   b) Read "Welcome to the unit" second
   c) Read the **assessment task**.
These will tell you what you need to learn and why it's important. As you read, your brain will notice what you need. You may even think "hey, that's the answer to question 4!" or "this is the type of Educator I want to be!"

2. Set yourself goals
"Today by 11am, I will have read up to Chapter 2" or "I will have completed the first two questions in my assessment!" Set a clear, realistic goal for the time you have to study. **Write down** your goal. Tell everyone you are unavailable and turn off your phone and social media! Try and finish each session on a positive.

3. Reward yourself
Reward yourself for reaching a goal. This does not need to involve cake as we are going to reward ourselves a lot! It could be a walk to the park, a break for a cuppa, going shopping or just time off. Whatever says to you: **Well done! You have achieved**.

4. I'm not getting this!
If you are not understanding something or finding something frustrating, **Good!** It means you are learning something new! Sometimes your views of life may be challenged. It means you are moving out of your comfort zone, growing and stretching in your knowledge and skill. At times this may even feel scary. It can sometimes feel easier to run away, however this is only a temporary solution! It's ok. Think back to a time when you didn't know how to do something and then you achieved it - riding a bike, driving a car etc. How great did you feel when you could do it? You can do this.

Here are some ideas to help:
* **Ease up on yourself.** It's ok not to know everything - you are learning, particularly if you are changing careers and you were an expert in your past field. Remember, you will be learning and building on your past skills but the information may be new to you.
* **Watch a video related to the topic** whilst having a cuppa - this can help your understanding and watching helps you learn.
* **Leave that bit and move to another bit!** This is particularly important if stuck on a question - you can always come back to that one.
* **Sleep on it.** We process information at night whilst we sleep. You may find when you wake up the next day, it will all make sense!
* **Contact your trainer for help.** You are not alone and they are there to help.

5. I should be spending time with others
If you have enrolled in a course it's because you have a bigger goal and made a decision. How will achieving your goal benefit others in your life? Achieving your goals will contribute to the happiness of yourself and others. Most of all, studying in front of others, including children, models lifelong learning, resilience and provides a positive role model for their own learning.

Happy Learning!
Welcome to the unit CHCLEG001 Work Legally and Ethically

Throughout this unit you will learn about legislation which governs businesses and Children services within Australia. As an Educator, you are required to implement a centre’s policies and procedures and have an awareness of legislation in Australia.

In this unit we will be referencing the following documents. As an Educator, you will use these to govern your policies and practice. You will also need to be able to research and find these. This unit will assist you with using the internet to locate current legislation. However, at times, Government Departments may change along with their websites and therefore the links may fail. If this occurs please Google the name of the legislation or department you require. You will find that this is a skill for life as you will always need to update information in your policies and procedures.

For this unit you will need to download and use the following documents:
- National Quality Framework guide
- National Quality Standards
- Education and Care services National Regulations

Happy Learning!

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LMCRA-001v3 CHCLEG001 Work Legally and Ethically
• NQF Standards
  • All National Quality Standards

• Education and Care services National Regulations
  • All of the Education and Care services National Regulations

• Links to Frameworks
  • Early Years Learning Framework
  • My Time, our place - Framework for School age care in Australia
  • Approved frameworks

• Links to Policies
  • All policies and procedures
  • Code of ethics

• Understanding of all UN Rights of the Child
Learning Outcomes

On completion of this unit you will be able to do the following:

1. Identify and respond to legal requirements
   1.1 Identify, access and interpret sources of information about the legal requirements that apply to the work role
   1.2 Identify the scope and nature of own legal rights and responsibilities
   1.3 Adhere to legal requirements in work practice according to workplace policies and procedures and scope of role
   1.4 Recognise potential or actual breaches and report according to organisation procedures

2. Identify and meet ethical responsibilities
   2.1 Identify, access and interpret sources of information about the ethical responsibilities that apply to the work role
   2.2 Identify the scope and nature of own ethical responsibilities
   2.3 Meet ethical responsibilities according to workplace policies and protocols, and scope of role
   2.4 Recognise potential ethical issues and dilemmas, and discuss with an appropriate person
   2.5 Recognise own personal values and attitudes and take into account to ensure non-judgemental practice
   2.6 Use effective problem solving techniques when exposed to competing value systems
   2.7 Recognise unethical conduct and report to an appropriate person
   2.8 Recognise potential and actual conflicts of interest and take appropriate action

3. Contribute to workplace improvements
   3.1 Identify situations where work practices could be improved to meet legal and ethical responsibilities
   3.2 Pro-actively share feedback with colleagues and supervisors
   3.3 Identify and take opportunities to contribute to the review and development of policies and protocols
Chapter 1

Identify and respond to legal requirements

In Australia, workplaces are governed by a range of Acts and Regulations which lay down the rules, that as workers and employers, we must follow to create a fair and safe environment for workers and clients.

It is important to be aware of laws and regulations which govern our practices. These are updated regularly, as an Educator, you need to know where to find these so you can ensure all policies and practices are changed in line with current legislation.

Who Makes The Law?

Laws are made at the following levels:

- International
- Federal
- State
- Local government

International Law

International laws are a set of rules which are decided and agreed upon by nations. It provides a framework for international relations. It includes the establishment of the United Nations under the UN Charter. Agreements between nations include the Geneva Convention (conduct during war or armed conflict) and the World Health Organisation which is a specialized agency within the UN which is responsible for monitoring and eradicating diseases, such as HIV and malaria, throughout the world through research, prevention and treatment and research into non-communicable diseases, sexual health, aging and nutrition.
Federal Government
The Federal government has a responsibility for laws affecting the whole of Australia. There are also international laws which the Australian Government supports – e.g. United Nations International Convention on the Rights of the Child (1990) and Human Rights Legislation.

State Government
State governments are responsible for decisions affecting their own state. Some of these (e.g. health and education) share some level of responsibility with Federal Government – e.g. the majority of education funding comes from Canberra but each state decides on the age at which a child must start school.

Local Government/Councils
Local Councils oversee everything affecting the local community. All businesses need to consult with Council regarding legal requirements. This may include the business carrying out an impact study, submitting development applications for premises and signage, permits for parking, food and handling etc. You will need to contact Council for local requirements. At times, Acts and Legislations may contradict with local requirements.

What Happens When Acts Contradict?
At times, different Acts may apply. For example WHS (Work Health and Safety) applies to all organisations however, the National Quality Standards no longer require staff to undergo ongoing food safety training. Food safety practices are covered under the Food Safety Act and are monitored by local Councils. It is important to contact your governing body (ACECQA) to gain clarification on your obligations. Even though it may not be enforced, it may be ‘best practice’ and should be included in your policies i.e. washing hands and wearing gloves are important when serving food to maintain health.

What is Legislation?
Legislation is the action of making rules that can be enforced by authorities. It includes the development of an act, regulations and standards.
What is an Act?
An ‘Act’ is a formal decision made by parliament which outlines the agreed behaviour and outcomes permitted. This is then used to develop regulations which outline specific practices and standards which will be implemented by the community and enforced by Government agencies.

What are Regulations?
Regulations are the parts of the act which need to be enforced. Here is an example of Child Protection in Australia.

Child Protection (Working with Children) Act 2012
This act outlines the need for new clearance and checks prior to working with children in all capacities. Prior to these changes, volunteers were required to undergo checks – just declarations (a signed paper saying they were safe to work with children) can be State or Federal.

Child Protection (Working with Children) Regulations 2012
Regulations are created nationally or by each state/territory based on the parts of the Act which need to be enforced. Each state is responsible for communicating changes to the public. For example, the NSW government website http://kids.nsw.gov.au/kids/working/newcheck contains information about the changes.

Office of Communities Commission For Young People NSW
A Government department or agency is then in charge of overseeing the implementation and enforcement of the new regulations. For example, there will be a new online application, audits of employers to check they have carried out checks on staff and fines for breaches of regulations i.e. failing to check an employee’s clearance.
Child protection legislation is different in every state however, has the same aim of the prevention and protection of children from abuse and neglect and ensuring that children who are identified as being at significant risk of harm are cared for and removed from harmful situations.

**Children and Young Persons (Care and Protection) Act 1998**

The Children and Young Persons (Care and Protection) Act 1998 mandates Family and Community Services (FACS) with the responsibility for the care and protection of children and young people in NSW, especially where there are concerns about their safety, welfare and wellbeing.

Key features of the Children and Young Persons (Care and Protection) Act, 1998:

- The safety, welfare and wellbeing of the child is paramount
- Using the least intrusive intervention possible
- Principle of participation of children and young people
- Risk of Harm
- Early intervention is key
- Mandatory reporting

**Who Are Mandatory Reporters?**

A ‘mandatory reporter’ is any person who delivers health care, welfare, education, Children’s Services, residential services or law...
enforcement wholly or partly to children (aged under 16) as part of their paid work and includes any person who directly manages or supervises such work.

If you are a mandatory reporter with current concerns that a child aged 16 or under is at risk of harm, you are required to make a report to FACS.

As stated in the legislation, a mandatory reporter is defined as and has the following requirements:

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<th>When To Act:</th>
<th>Main Indicators</th>
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| A person who, in the course of his or her professional work or other paid employment, delivers health care, welfare, education, Children’s Services, residential services or law enforcement, wholly or partly to children; and a person who holds a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, Children’s Services, residential services or law enforcement, wholly or partly, to children. | Reasonable grounds to suspect that a child is at risk of harm; and those grounds arise during the course of or from the person’s work. | • Physical abuse
• Sexual abuse
• Emotional/psychological abuse
• Neglect
• Exposure to family violence
• Educational
• Pre-Natal Care
• Homelessness | Sections 23 and 27 of the Children and Young Persons (Care and Protection) Act 1998 |

Child protection (Working with Children) Act 2012

Working with Children Checks
The Commonwealth Child Protection Act (2012) and Child Protection Working with Children Regulations (2013) has seen the introduction of a mandatory process for checking the suitability of people working with children. To participate in paid work or as a volunteer, student individuals now need to obtain a clearance number. This system is being phased in over the next few years starting with carers and volunteers. It now
means employers must always sight and check, through an online system, a new employees’ clearance number.

For each State and Territory, requirements for obtaining a working with children’s check can vary in the following ways:

- Act and regulation
- Who requires a check
- How to obtain a check
- Duration and cost

Below are the requirements for New South Wales. For requirements outside of NSW, please check the requirements in your State/Territory.

**Who Needs a Working with Children Check?**

The Working with Children Check is a prerequisite for paid and unpaid child-related work in NSW. Under Part 2, Section 6 of the Child Protection (Working With Children) Act 2012, ‘child-related work’ is defined as work in a specific, child-related role or face-to-face contact with children in a child-related sector.

**Child-Related Sectors**

If you have face-to-face contact with children and work in one of these industry sectors, you must apply for a Check:

- Child development and family welfare services
- Child protection services
- Children’s health services
- Clubs or other bodies providing services for children
- Disability services
- Early Education and Childcare
- Education
- Entertainment for children
- Justice centers
- Religious services
- Residential services
- Transport services for children
- Youth workers

*Not sure which sector you belong to? See website: www.kids.nsw.gov.au*
Chapter 3

Legislation for Children’s Services

Most industries or professions have legislation specific to their services. As of January 1st, 2012, Children’s Services in Australia is governed by the Australian Children’s Education and Care Quality Authority (ACECQA). ACECQA role includes:

- Providing education and information to the wider community about the importance of improving outcomes in children’s education and care.
- Facilitates the implementation and consistent delivery of the National Quality Framework (NQF) for Early Childhood Education and Care on a national basis.
- Provides access to the current, regulated research to ensure the National Quality Framework follows best practice.

The National Quality Framework (NQF) includes:

**A National legislative framework** that consists of:
- The Education and Care Services National Law Act 2010 (‘National Law’)
- The Education and Care Services National Regulations 2011 (‘National Regulations’)

**National Quality Standards** consisting of seven Quality Areas:
- Educational program and practice
- Children’s health and safety

Reading

Above is just a quick summary, for detailed information about the NQF and ACECEQA’s role visit the ACECQA website at www.acecqa.gov.au.
- Physical environment
- Staffing arrangements
- Relationships with children
- Collaborative partnerships with families and communities
- Leadership and service management.

A National Quality Rating and Assessment process is when services are assessed against the National Quality Standard by Regulatory Authorities and are provided with a rating from one of the five rating levels.

The main objectives of the NQF are:
- To ensure the safety, health and wellbeing of children attending Education and Care services
- To improve the educational and developmental outcomes for children attending Education and Care services
- To promote continuous improvement in the provision of quality Education and Care services
- To establish a system of national integration and shared responsibility between participating jurisdictions and the Commonwealth in the administration of the National Quality Framework
- To improve public knowledge, and access to information about the quality of Education and Care services
- To reduce the regulatory and administrative burden on Education and Care services by enabling information to be shared between participating jurisdictions and the Commonwealth.

Education and Care Services Regulations
The National Regulations set out application processes for:
- Provider approval
- Service approval
- Supervisor certificates
- The process for the rating and assessment of Education and Care Services against the National Quality Standard, including the rating levels
- Minimum operational requirements organised around each of the seven quality areas of the National Quality Standard
Application process for review of decisions

Arrangements to move existing services into the National Quality Framework.

The Act and the Regulations cover a large range of matters relevant to how a Children’s Service operates in relation to the children.

The Act requires a licensed Children’s Service to:

- Protect your child from harm and from hazards
- Provide an educational or recreational program for your child
- Ensure your child is not unreasonably disciplined
- Provide adequate supervision for your child
- Ensure adequacy and maintenance of the premises
- Manage anaphylaxis
- Meet the required child/staff ratios
- Manage serious incidents and, where authorised, administer medications to your child.

The Regulations set out in detail, the minimum standards with which all services must comply.

They cover the requirements for:

- How many staff the service must have on duty to care for or educate the children according to the number and ages of children present
- Training and qualifications staff must have
- Arrangements that must be in place for dealing with emergencies
- Arrangements that must be in place around who can collect your child from the service
- Arrangements for excursions and outings
- First aid and medication
- Managing anaphylaxis
- Records that must be kept at the service
- Information the service must make available to parents or carers
- Provision of food to your child
- Indoor and outdoor spaces

This is a sample only.
Some pages have been omitted from this preview.
Follow Identified Policies and Practices

What Is A Policy?
Policies are similar to ‘guidelines’ and may offer more flexibility than set ‘rules’ as they suggest a range of acceptable actions within agreed limits. Policies ensure the safety and wellbeing of all stakeholders and the business. Effective policies create common understandings and expectations about how the service will operate. They are developed by the service to give all stakeholders (everyone using the service) clear guidance about the practices that occur in the service and what is expected from management. For example, a policy for guiding children’s behaviour may outline a number of strategies that staff in your service can use to guide children’s behaviour. Within the boundaries of the policy, staff and carers decide which strategies will work best for a particular child in a certain situation. This policy will be developed by incorporating the National Quality Standards and Regulations. This ensures staff practices reflect legislation and current best practice.

Why Is It Important To Have Policies?
Policies are ‘living’ documents that should be regularly reviewed to respond to the individual needs of those working with them, to reflect new knowledge and to meet changing trends in your service and the wider community. There should be a policy for every aspect of the organisation.

Effective policies clearly define what procedures must occur in relation to a particular issue or practice. They should provide ‘step-by-step’ instructions about what procedures should occur and when they should happen.

Having clear and accessible policies can also assist new staff or relief staff to familiarise themselves with the practices of the service. Written, accessible policies also provide all stakeholders with information about what to expect from a service.
What Policies Do Children’s Services Have?

The National Regulations outline a range of policies and procedures all childcare centres must have, covering most areas of the service. For the complete list, see the National Regulations (page 108) located on the ACECQA website (www.acecqa.gov.au).

Examples of centre policies include: Accident & Injury, Behaviour Management, Children at Risk, Communications, Conflict Resolution, Diet and Nutrition, Excursions, Immunisations, HIV/AIDS, Inclusivity, Hot Weather, Hygiene, Medication, WHS, Programming, Relief and Casual Staff, Sibling Priority, Staff Absence, Sick Leave etc.

What Happens If Policies Are Ignored By Stakeholders?

As a new staff member or student, it is your responsibility to read and follow the relevant policies of the service. Breaches in policies can have major implications for an organisation. Often staff may be unaware of a policy. At other times, it may be deliberately ignored. The main factor in both cases is communication. It is the managers/directors’ responsibility to make staff aware of the policy and the potential consequences that could occur if it is not followed. Consequences could be that someone could get hurt or documents could go missing which would be inconvenient. More serious consequences could be injury or death to a stakeholder.

Communication about the policy could occur through:

- Informal discussions i.e. one to one conversations
- During staff meetings
- Through email or memos
- Newsletters or web/email updates
- Parent/staff/stakeholder information meetings
- Brochures
- Enrolment booklets
- Displays/signage in a high traffic areas
- Updated handbooks
This is a sample only.
Some pages have been omitted from this preview.

Happy Learning!

We hope you enjoyed this Learning Guide and are now ready to implement your new ideas and understandings into practice.

Want to know more?
Please see our recommended reading list for additional readings on this topic.
Resource Guide

Resources related to the topic:

ACECQA Video National Quality Framework

Online Reading Resources:

ACECQA Guide to NQF online
- www.acecqa.gov.au

Education and Care Services National Law, Regulations and Standards
- www.acecqa.gov.au

Websites:

All Children’s Services legislation: www.acecqu.gov.au
Australian Government ComCare: http://comcare.gov.au
Copyright Act, 1968 and Copyright Regulations 1969: www.copyright.org.au
Privacy Act: www.privacy.gov.au
Safe Work Australia: www.safeworkaustralia.gov.au
WorkCover NSW: www.workcover.nsw.gov.au
National Safety Council of Australia: www.nsca.org.au
WHS Code of Practice www.safeworkaustralia.gov.au
UN Convention of the Rights of the Child at www.unicef.org.au

ACECQA Australian Children’s Education and Care Quality Authority
- www.acecqa.gov.au

- Children Services Central www.cscentral.org.au

- Early childhood Australia Association www.earlychildhoodaustralia.org.au
References


Australian Government National Health and Medical Research Council (NHMRC) (2013), Staying Healthy: Preventing infectious diseases in early childhood and care services (5th ed) 2013. Canberra: NHMRC

Wikicommons- pictures
Websites listed above