

NSW Department of Education

Approach to services rated Significant Improvement Required

NSW Early Childhood Education and Care
Regulatory Authority

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Document summary

The policy details the approach by the NSW Early Childhood Education and Care Regulatory Authority in managing services that have been assessed and rated “Significant Improvement Required” under the National Quality Standard and on services and providers who are least likely to comply with the National Law and other statutory obligations.

1. Purpose

1.1 The NSW Department of Education is the Regulatory Authority for the early childhood education and care (NSW ECEC Regulatory Authority) sector in NSW.

This policy outlines the NSW ECEC Regulatory Authority’s approach towards managing services with a quality rating of ‘Significant Improvement Required’.

The NSW ECEC Regulatory Authority’s overarching principles for implementing its functions are set out in the [Guiding Principles for Exercise of Regulatory Authority Powers](#). The NSW ECEC Regulatory Authority will apply the Guiding Principles in its approach to services rated Significant Improvement Required.

The policy supports the NSW ECEC Regulatory Authority to effectively exercise its statutory authority while applying a responsive and risk-based approach to its regulatory functions.

It supports the regulator in making informed decisions about the most effective use of resources to ensure compliance and enforcement activities focus on the severity and likelihood of risks to children presented by services rated as “Significant Improvement Required” under the National Quality Standard.

2. Application

2.1 The policy applies to education and care services regulated under the National Quality Framework (NQF) and the National Law that have been assessed and rated at the level of ‘Significant Improvement Required’ in New South Wales. This includes centre-based, family day care, mobile and occasional care services.

The NSW ECEC Regulatory Authority will take timely action to ensure that any significant risks impacting on the safety, health and wellbeing of children are

managed appropriately for services rated 'Significant Improvement Required'. The regulatory action/s or interventions and their timeframes will be determined by the findings of the assessment and rating process and the immediacy and severity of the risks to children at the service.

The safety, health and wellbeing of children attending education and care services is the priority of the NSW ECEC Regulatory Authority and guides all decision making. A rating of 'Significant Improvement Required' presents an unacceptable risk and therefore the focus of the NSW ECEC Regulatory Authority will be mitigating these concerns and taking strong, decisive action to improve safety and quality at the service.

The NSW ECEC Regulatory Authority will continue with compliance action/s irrespective of any first or second tier review process. Once a review decision has been finalised, the regulatory authority may adjust some or all compliance action/s to align with the determination of the review.

3. Responsibilities (delegations)

3.1 The NSW ECEC Regulatory Authority exercises its regulatory functions under the following legislation:

- Children (Education and Care Services National Law) (NSW) No 104a (National Law)
- Education and Care Services National Regulations (NSW) (National Regulations)
- Children (Education and Care Services) Supplementary Provisions Act 2011 (State Law)
- Children (Education and Care Services) Supplementary Provisions Regulation 2019 (State Regulations)

The NSW ECEC Regulatory Authority administers the NQF, including:

- The assessment of approved education and care services against the National Quality Standard, determining the quality rating for those services; and
- Monitoring and enforcing compliance with the National Law and Regulations.

4. Description (policy provisions)

- 4.1 Assessment and rating visits are undertaken by authorised officers to assess and rate an education and care service against the National Quality Standard. Assessment decisions are based on sighting, observations and discussions of practices. The compliance history of a service against the National Quality Framework is also considered in determining the quality rating, as well as the service's Quality Improvement Plan or self-assessment information.
- 4.2 The NSW ECEC Regulatory Authority determines the rating for each quality area assessed, and the overall rating of the service based on the findings noted in the assessment and rating report for the visit.

The quality rating levels are (from highest to lowest quality):

- Excellent (as assessed by ACECQA)
- Exceeding the National Quality Standard
- Meeting the National Quality Standard
- Working Towards the National Quality Standard
- Significant Improvement Required

- 4.3 A service rated at Significant Improvement Required indicates an unacceptable risk to the safety, health and wellbeing of children being educated and cared for by the service. The rating is defined under Regulation 59 of the National Regulations and states;

A Significant Improvement Required rating may be given for a quality area stated in the National Quality Standard if the education and care service does not meet that quality area or a relevant regulation for that quality area in a way that the NSW ECEC Regulatory Authority is satisfied constitutes a significant risk to the safety, health or wellbeing of any child or children being educated and cared for by the service.

If an education and care service has a Significant Improvement Required rating for any quality area stated in the National Quality Standard, the overall rating of the service is to be Significant Improvement Required.

The Significant Improvement Required rating applies to a service where:

- it does not meet one of the 7 quality areas or a section of the legislation and;
- it does not meet that quality area in a way that constitutes a significant risk to the safety, health and wellbeing of children.

5. Policy Implementation

- 5.1 The NSW Regulatory Authority will issue a draft report to the approved provider following an assessment and rating visit. The draft report will conclude that a 'Significant Improvement Required' rating outcome is pending.
- 5.2 An approved provider can provide feedback and evidence on any factual inaccuracies in an assessment and rating report as outlined in the [Guide to the National Quality Framework](#). The provider has 10 business days to supply feedback from the date the draft report is issued.
- 5.3 Following review of any feedback and evidence supplied by the approved provider, or where the approved provider does not supply any feedback, the NSW ECEC Regulatory Authority will decide the final rating outcome and issue a final rating certificate and report.
- 5.4 Approved providers have the right to lodge a review if they disagree with the final rating. For more information, refer to the department's [Review of Decisions](#)

[Policy](#) and information available from [ACECQA](#). Once the assessment and rating process is finalised, the final rating will be published on the National Register located on the [ACECQA website](#) and [Australian Government Childcare Finder](#).

- 5.5 Services should communicate their rating of 'Significant Improvement Required' and its intended response to the families and communities using the service. This ensures transparency, disclosure, and open communication with families of children attending the service.
- 5.6 Where a service receives a rating of 'Significant Improvement Required', the approved provider must take immediate action to address the identified risks.
- 5.7 Once a service has been rated as 'Significant Improvement Required', the NSW ECEC Regulatory Authority will take appropriate and proportionate compliance action/s to ensure a service prioritises and addresses the risks impacting on the safety, health, and wellbeing of children at the service. Given the unacceptable risk a quality rating of 'Significant Improvement Required' presents this compliance action may include a show cause notice in relation to the cancellation of the relevant service or provider approval.
- 5.8 Where compliance action/s is taken, the NSW ECEC Regulatory Authority will expect the approved provider to respond to all requests for information and action promptly, and in accordance with specified statutory timeframes.
- 5.9 The NSW ECEC Regulatory Authority will require the approved provider, or relevant persons, to provide a response to the compliance action/s and to submit evidence of actions within a specified timeframe. The requirements regarding response and the relevant timeframes depend on the nature of the compliance action/s taken.
- 5.10 The NSW ECEC Regulatory Authority will review the service's response to the compliance action/s and decide if any further action is required. For example, if the provider fails to provide a response, or the response is inadequate, the NSW ECEC Regulatory Authority may escalate its regulatory response, which may include the initiation of more serious compliance action such as the suspension

or cancellation of an approval. Further information on compliance actions can be found at [The_Regulatory_Authority's_Approach_to_Compliance](#).

- 5.11 In determining the adequacy of the response provided, the NSW ECEC Regulatory Authority may also consider an approved provider's fitness and propriety and whether a commitment to resolve compliance issues and improve service quality has been demonstrated.
- 5.12 The NSW ECEC Regulatory Authority may conduct subsequent visits to determine whether the service has responded adequately to any compliance action/s and addressed risks to children. A visit will also assess the service's capacity to operate in the future, address non-compliance and make quality improvements, and to consider whether the service will be able to achieve a quality rating of at least Working Towards National Quality Standard.
- 5.13 An approved provider may elect to apply for a voluntary suspension of the service approval impacted by the 'Significant Improvement Required' rating in order to enact improvements or for any other reason. More information about how to apply for a voluntary suspension can be found [Children \(Education and Care Services\) National Law \(NSW\) No 104a of 2010](#).
- 5.14 An approved provider may apply for an internal and/or external review of some compliance actions. For more information, see sections 190 and 192 of the National Law, and the [Review of Decisions policy](#).
- 5.15 The NSW ECEC Regulatory Authority may exchange information with other agencies where the disclosure of that information is:
- Reasonably necessary to promote the objectives of the national education and care services quality framework; or
 - For the purposes of enabling or assisting the other entity to perform or exercise any of its functions or powers under this Law; or
 - For the purposes of research or the development of National, State or Territory policy with respect to education and care services; or

- For a purpose relating to the funding of education and care services; or
- For a purpose relating to the payment of benefits or allowances to persons using education and care services, provided the disclosure of information is not otherwise prohibited by law.
- The regulator may also investigate any other services that the approved provider, or its persons with management or control, are involved with at any time.

6. Approval

Approved by: Nicholas Backo

Designation: R/Executive Director, NSW Early Childhood and Education Care
Regulatory Authority

Signed: 

Dated: 24 September 2024

7. Document history

7.1 Document information

Policy title	NSW Early Childhood Education and Care Regulatory Authority Approach to Services Rated 'Significant Improvement Required'
Current version	2.0
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7.2 Document version history

Version	Date	Author	Change description
1.0	3 December 2020	Director Statewide Operations Network	Policy developed
2.0	23 September 2024	R/Director Statewide Operations Network	Document revised and template updated

8. Terms and definitions

ACECQA Australian Children's Education and Care Quality Authority

Assessment and Rating The national quality rating and assessment process evaluates services against the National Quality Standards and the National Regulations.

Authorised Officer Authorised officers are employed by state and territory regulatory authorities. The roles and responsibilities of an authorised officer are set out in the Education and Care Services National Law and may include:

- Monitoring education and care services and enforcing compliance
- Assessing applications for approval
- Conducting assessment and rating visits
- Investigating incidents and complaints
- Providing advice and guidance.

NQF

National Quality Framework - provides a national approach to regulation, assessment and quality improvement for early childhood education and care and outside school hours care services across Australia.

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