

POLICY NO 39: EDUCATOR AGREEMENT TERMINATION OR SUSPENSION

Key Policy Contact Person: Manager, Our Village Family Childcare

POLICY STATEMENT:

All educators engaged with our Village family Childcare Service are required to enter an Educator Agreement. This agreement outlines all obligations as well as legal responsibilities following the Education and Care Services National regulations (Current Version July 1, 2023), Education and Care Services National Law (Current Version July 1, 2023), National Quality Framework and Our Village Family Childcare Policies, Procedures, and expectation. Our Village Family Childcare Service is committed to ensuring that a fair and equitable process for termination and/or suspension of Educators.

CRITICAL INFORMATION:

Termination of the Educator Agreement by OUR VILLAGE FAMILY CHILDCARE SERVICE (see Educator Agreement)

Our Village Family Childcare Service maintains the right to terminate the services of an Educator for.

- Failure to provide a standard of education and care acceptable to the service,
- Being in breach of Our Village Family Childcare Educators Agreement or
- Practices implied in that agreement and/or the Education and Care Services National Act 2010 (current version July 1, 2023) and Education and Care Services National Regulations, (current version July 1, 2023)
- In the event that a Working with Children Check or Criminal History Check reveals offences relevant to the provision of care and education of children, education.

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PURPOSE:

To ensure that the most appropriate Educators are registered with Our Village Family Childcare Service and where termination or suspension is necessary, it is conducted in a fair and transparent way ensuring

a natural justice process is provided.

SCOPE/RESPONSIBILITIES:

This document applies to all Educators, Families and Coordination Unit Staff of Our Village Family Childcare Service.

STATEMENT OF DIVERSITY

Sunbury and Cobaw Community Health is committed to improving the health of our community and being accessible to all, including people from culturally and linguistically diverse (CALD) communities, those from Aboriginal and Torres Strait Islander background, people with a disability, Lesbian Gay Bisexual Transgender Intersex and Queer (LGBTIQ) people and other socially vulnerable groups and supporting their communities across the lifespan from birth to older age.

DEFINITIONS:

Terminate	To bring to an end.
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PROCEDURES:

Termination of the Educator Agreement by the EDUCATOR

An Educator wishing to terminate the Educator Agreement is required to give a minimum of two weeks’ notice in writing to the Manager and parents of children in care, unless exceptional circumstances arise, and the termination must be actioned immediately.

- Exceptional circumstances exist if:
 - The Educator is injured or ill.
 - The Educator has a family member who is injured or ill.
 - An unexpected event such as house fire, local bush fire or another emergency.

Termination of the Educator Agreement by OUR VILLAGE FAMILY CHILDCARE SERVICE (see Educator Agreement)

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- Being in breach of Our Village Family Childcare Educators Agreement or
- Practices implied in that agreement and/or the Education and Care Services National Act 2010 (current version July 1, 2023) and Education and Care Services National Regulations, (current version July 1, 2023)
- In the event that a Working with Children Check or Criminal History Check reveals offences relevant to the provision of care and education of children, education.

PROCEDURE for termination of the Educator Agreement by the SERVICE

Termination will usually not take place until a process of three warnings has been implemented.

When an alleged breach is reported to or identified by the Coordination Unit, a member of the Services Coordination Unit (Usually the Manager and the Coordinator) will investigate the allegation.

It is the responsibility of all involved for all Coordination Unit Staff involved to keep written records at all stages of the investigation and concisely document all discussions between all parties as well as any other relevant materials relating to the alleged breach E.G Photo.

All written records must:

- Be signed.
- State facts of the conversations only and will not express any individual opinions or interpretation of the actual conversation.
- includes the date that it was documented/received and the name of the person that provided it (e.g. coordinator, Parent, Educator)
- be kept on the Educator's file for the term of their contract.

Any Information gathered will be shared within relevant members of Our Village Family Childcare, the approved provider Sunbury and Cobaw Community Health and as required, with external departments and agencies including Child Protection, Victoria Police, DHHS, Department of Education, the Commission of Children and Youth People, and Australian Children's Education & Care Quality Authority (ACECQA), (depending on the type of alleged breach) and may undertake their own independent investigation.

If the Manager and Coordinator are satisfied that a breach has occurred, the Educator is notified verbally and in writing, specifying the details of the breach and the action the service intends to take in response. Following the First, Second, and Final warning process below.

However, the service may immediately terminate the agreement or issue a 'First and Final' warning if it is deemed warranted. The Educator will have the option of having a support person present at any formal meeting that is held in relation to the termination process. The alleged breach may be further investigated with the involvement of senior management.

FIRST WARNING

- The object of the first warning shall be to endeavour to remedy the unsatisfactory situation for both the service and the Educator.
- The relevant coordinator will raise her/his concerns with the Educator.
- The concerns will be specific, and examples of the breach of the Educator Agreement or practice will be cited verbally and in writing to the Educator.
- The Educator will be informed verbally and in writing by the Co-ordinator of the period of time (not more than two weeks) within which the Educator must improve/rectify the area/s cited as causing concern and the steps which are to be taken to resolve the issues.
- If deemed appropriate, the Educator may be suspended pending to resolution of the issue (see 'suspension' below)
- The relevant Coordination Unit staff are to be involved in ensuring that the Educator has access to appropriate resources and information to enable her/him to meet the requirements of the service, for example, in-service training (either through internal or external agencies) physical resources (toys, equipment etc.) and/or access to information about general community services that may be of assistance as well.
- An Action Support Plan may be developed to support the educator to meet the requirements of the service.

- At the expiration of the period mentioned in the first warning, the Educator, co-ordinator, and Manager shall meet to review the Educator's situation and the requirements of the Action Plan
- At this point the issue may be considered resolved, otherwise, further actions will be implemented.

SECOND WARNING

- If the initial concern has not been resolved and/or a new concern has arisen, the Educator may be issued with a further Second Warning
- The same process for review will be used as above (see First Warning)
- If at the end of this period, satisfactory progress has not been made a Final Warning will be issued.

FINAL WARNING

- If at the expiration of the period specified in the second warning the Educator has shown insufficient improvement the situation that has caused concern, the Educator will be required to meet with Manager and/or or Chief Executive Officer
- At this meeting, the situation will be reviewed, and all issues discussed in a final attempt.
 - To resolve the problems causing concern
 - The Educator will not be given more than one week to comply with requirements of the service.
 - These requirements will be specified, in writing, to the Educator.

NOTICE OF TERMINATION

If the final notice referred to above is not complied with to the satisfaction of the service, the Educator will be notified verbally and in writing by the Manager and Chief Executive Officer that the Agreement between the Educator and the service will be terminated immediately.

This notification:

- Will state the reasons for termination.
- Will be passed onto parents of all children in care. Parents will receive verbal and written notification of termination from the Manager.

All parents involved will be offered alternate care through the service, if and where vacancies exist.

PROCEDURE FOR IMMEDIATE TERMINATION (see *Our Village Family Childcare Educator Agreement*)

The Educator Agreement may be immediately terminated by the approved provider in the event of:

- The Approved Provider being made aware that the Educator, has been the subject of any police investigation, relevant charge, or conviction in relation to any matter in which, in the opinion of the Approved Provider, may be detrimental to the health, safety and wellbeing of Children in the care of the educator.
- Any wilful failure or wilful neglect on the part of the Educator carrying out the Services, any act of serious misconduct or any other serious or persistent breach of any of the terms of the Educator Agreement, the Code of Conduct or the Policies and Procedures.
- Any child, while in the care of the Educator under this Educator Agreement, being found to have been left unattended, left with a person other than the educator (except a member of the child's family or with the prior written permission of the Approved Provider and the child's parent or guardian), neglected or subjected to any form of abuse or mistreatment, whether by the Educator or any other person

- The Educator being found to be under the influence of alcohol, illegal drugs or to be abusing prescription drugs while caring for any child pursuant to this Educator Agreement.
- Any National Police Check and/or WWC Check on the Educator is in the Approved Provider's opinion unsatisfactory or unsuccessful.
- The Educator does not have a Current Public Liability Policy or
- The Educator is unable, for any reason, to perform the Services for a period of six months or more, except with the written approval of the Authorised Provider.
- Breach of the Education and Care Services National Regulations, (current version July 1, 2023) or any state and federal laws that pertains to the safety or wellbeing of the child, for example, failure to use appropriate safety restraints in a motor vehicle.

The co-ordinator in conjunction with the Manager and the Chief Executive Officer will immediately terminate the Agreement. The Educator will receive verbal and written notification of the termination. This notification:

- Will state the reasons for termination.
- Will be passed onto parents of all children in care. Parents will receive verbal and written notification of termination from the Manager.

All parents involved will be offered alternate care through the service, if and where vacancies exist

APPEALING AGAINST IMMEDIATE TERMINATION OF AGREEMENT

An Educator who feels she/he has had their agreement unreasonably terminated may appeal to the Chief Operating Officer.

SUSPENSION OF AGREEMENT (see Our Village Family Childcare Educator Agreement)

The Proprietor may suspend the Educator if the Educator:

- Fails to adhere to the Guiding Principles contained in clause 1 of this agreement.
- Is incapacitated.
- Any member of the Educators family is subject to an investigation or any allegations that impact upon the provision of the service by the Educator.
- Where the co-ordination unit through the Head of Services or Chief of Operations may need to further investigate an issue or pass onto the Department of Education and Training (DET) an issue for investigation.
- Defaults under this Agreement and the default is capable of being remedied.

SUSPENSION PROCEDURE

Suspension from the service will be until such time the Manager is satisfied that the issue is resolved and not prior to being notified, in writing, by the Educator and/or Department of Education that the matter which resulted in the suspension has been dealt with by the relevant authority and that returning the children to the Educator will have no adverse effects on them or their families.

APPEAL PROCEDURE

- An Educator who feels she/he has had their agreement unreasonably suspended may request a review by the Chief People and Capability Officer.
- Educators should supply notice that they intend to appeal to the Sunbury and Cobaw Community Health's Head of Services and/or Chief of Operations within five working days.

APPENDIX:

- Our Village Family Childcare Educator Agreement

REFERENCES:

- [Education and Care Services National Regulations, \(Current Version July 1, 2023\)](#)
- [Education and Care Services National Law ACT 2010 \(current version July 1, 2023\)](#)
- Our Village Family Childcare Educator Agreement

RELATED POLICIES & PROCEDURES/ WORK INSTRUCTIONS:

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- Child Safe Environment & Child Protection – 7
- Children’s Learning, Development & Active Play - 43
- Visitors to the FDC Residences – 47
- Fit and Proper Assessment of FDC Educators, Assistants and Person Residing at the FDC Residences – 32
- Engagement & Registration of Family Day Care Educators and Coordination Unit Staff– 13
- Assessment, Approval and Reassessment of Approved Family Day Care Residences and venues – 2
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- Educator Professional Development Work Instruction
- SCCH Code of Conduct
- SCCH Client Empowerment Policy and Procedure

VERSION CONTROL AND LEGISLATION:

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