

10 August 2023

The Hon Prue Car MP
NSW Deputy Premier & Minister for Education and Early Learning
Parliament of New South Wales
52 Martin Place
SYDNEY NSW 2000

Dear Deputy Premier Car,

Re: Proposed “low hanging” reforms for NSW early childhood education and care sector

Firstly, thank you for meeting with us late last month.

We appreciate the opportunity to provide you with a package of immediate-short term solutions for the benefit of the early childhood education and care sector in New South Wales.

Attached are proposals that are designed within the existing NSW Government commitments, including budget allocations, that can produce immediate and positive outcomes without compromising on quality:

- A – Regulatory
- B – Funding
- C – Regulatory Practices
- D – Other

As the new Minister for Education and Early Learning, ACA NSW would appreciate your consideration of these proposals.

Please let us know if you need further information/clarification.

Thanking you in anticipation.

Yours sincerely,



Chiang Lim
CEO

encl Attachment A – Regulatory Reform Proposals (for the Immediate-Short Term)
Attachment B – Funding Reform Proposals (for the Immediate-Short Term)
Attachment C – Regulatory Practices Reform Proposals (for the Immediate-Short Term)
Attachment D – Other Reform Proposals (for the Immediate-Short Term)

cc Gillian White, Deputy Secretary, NSW Department of Education

**ATTACHMENT A – REGULATORY REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

AMENDMENT TO EXISTING REGULATIONS:	
#A-01	Aligning NSW's requirements for degree-qualified early childhood teachers in long daycare services with teachers' expectations about their vocations in order to maximise recruitment and retention
Background of the Problem	<p>Since 13 December 2011, NSW-based long daycare services must comply with Regulation 272. However, whether it is for 1 through to 4 degree qualified early childhood teachers required for 30 to 80 or more preschool children, Regulation 272(2)-(4) are written such that:</p> <p align="center"><i>“...early childhood teacher(s) must be in attendance at all times that a centre-based service is educating and caring for ...xx to xx children preschool age or under”.</i></p> <p>Given NSW-based long daycare services typically operate 10.5 hours from 7.30 am to 6.00 pm or 11.5 hours from 6.30 am to 6.00 pm every day, this makes the recruitment and rostering of such or more early childhood teachers challenging to near impossible. (NOTE: For every full-time degree qualified early childhood teacher, another or more degree qualified early childhood teacher(s) must be employed to cover the service's complete hours of operation as well as cater for breaks as required by industrial law.)</p> <p>This creates a structural disincentive for degree qualified early childhood teachers to work in long daycare services. There is also the question about whether such long hours is the best use of degree trained teachers' time.</p> <p>There is an inference of the NSW Government expectation of one or more than what Regulation 272(2)-(4) requires of degree qualified early childhood teachers in order to work in long daycare services to cover up to 52.5 hours per week (for services open from 7.30 am to 6.00 pm) or up to 57.5 hours per week (for services open from 6.30 am to 6.00 pm).</p> <p>Moreover, given the worsening labour shortages and currently unreliability of supply of undergraduates and graduates with early childhood teaching qualifications, recruiting such early childhood teachers has been and in the foreseeable future will be fraught with difficulty.</p> <p>The experienced consequence of the lack of early childhood teachers is the reduction of the number of places offered to children and their families. And such is already being experienced by up to 71.9% of services in NSW (which is higher than the national average of 66%).</p>
Proposed Solution	<p>Emulating the existing Regulation 272(1A), change Regulations 272(2)-(5) to be as follows:</p> <p>272(2) <i>“If a centre-based service is educating and caring for 30 to 39 children preschool age or under on a given day, one early childhood teacher must be in attendance –</i></p> <p align="center"><i>(a) for at least 6 hours on that day, if the service operates for 50 or more hours a week; or</i></p> <p align="center"><i>(b) for 60 per cent of the operating hours on that day, if the service operates less than 50 hours a week.</i></p> <p>272(3) <i>“If a centre-based service is educating and caring for 40 to 59 children preschool age or under on a given day, two early childhood teachers must be in attendance –</i></p> <p align="center"><i>(a) for at least 6 hours on that day, if the service operates for 50 or more hours a week; or</i></p>

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	<p><i>(b) for 60 per cent of the operating hours on that day, if the service operates less than 50 hours a week.</i></p> <p>272(4) <i>“If a centre-based service is educating and caring for 60 to 79 children preschool age or under on a given day, three early childhood teachers must be in attendance –</i></p> <p><i>(a) for at least 6 hours on that day, if the service operates for 50 or more hours a week; or</i></p> <p><i>(b) for 60 per cent of the operating hours on that day, if the service operates less than 50 hours a week.</i></p> <p>272(5) <i>“If a centre-based service is educating and caring for 80 or more children preschool age or under on a given day, four early childhood teachers must be in attendance –</i></p> <p><i>(a) for at least 6 hours on that day, if the service operates for 50 or more hours a week; or</i></p> <p><i>(b) for 60 per cent of the operating hours on that day, if the service operates less than 50 hours a week.</i></p> <p>This will more closely align long daycare services’ early childhood teachers with other teachers and the teaching profession generally across community preschools and schools, and more importantly alignment with early childhood teachers’ vocational expectations.</p> <p>Moreover, this will also better align NSW with all other Australian states’ requirements under Regulations 132-134.</p> <p>Please note that this change will still not reduce the number of employees due to Regulation 123 where the overall educators-to-children ratios remain unchanged.</p>
Further Comments	<p>In the context of severe and worsening labour shortages since before the COVID pandemic, workforce recruitment and retention were already extremely difficult.</p> <p>The proposed solution will provide important flexibility for NSW’s long daycare services to not only retain existing early childhood teachers but also to recruit new ones as it removes the barrier of working significantly earlier or later than teachers in schools or community preschools compared to long daycare services.</p>

**ATTACHMENT A – REGULATORY REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

#A-02 AMENDMENT TO EXISTING REGULATIONS: Removing the barriers to facilitate easier entry for potential educators	
Background of the Problem	<p>There exists a formal process for the recruitment of potential trainees into traineeships in order to be recognised legally as trainees.</p> <p>This is reinforced in NSW via Regulation 126(1)-(1B).</p> <p>Yet, for all Australian jurisdictions except NSW, potential trainees can still be employed and on an up to 3-month probationary period while such early childhood education and care services continue to be in compliance with Regulation 126.</p> <p>However, in NSW, Regulation 126(1B), the above provision afforded to all other Australian states is not allowed specifically in NSW.</p> <p>This makes it harder for NSW-based early childhood education and care services to recruit potential trainees because such trainees, without any experiences in early childhood education and care, are obliged to formalise their traineeships first.</p>
Proposed Solution	<p>Delete Regulation 126(1B):</p> <p><i>126(1B) Subregulation (1A) does not apply in relation to New South Wales</i></p>
Further Comments	<p>Deleting Regulation 126(1B) will lessen the barrier for potential trainees to consider an early childhood education and care vocation without the pressure of being obligated to a 12-month traineeship.</p> <p>This will also provide early childhood education and care a greater incentive to recruit more potential trainees by offering immediate employment opportunities.</p> <p>Moreover, as experienced in all other jurisdictions, that 3-month probationary period for such new recruits tends to be pivotal toward a longer term vocation.</p> <p>Equally, this will align NSW with all other Australian jurisdictions.</p> <p>Finally, given the NSW Regulatory Authority's extraordinarily higher surveillances for breaches and non-compliances than all other Australian jurisdictions combined, it is extremely unlikely that the deletion of Regulation 126(1B) will by itself create more risks to children.</p>

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THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

AMENDMENT TO EXISTING REGULATIONS:	
#A-03	Extending existing national provision for NSW about persons taken to be early childhood teachers
<p>Background of the Problem</p>	<p>The existing Regulation 242 states:</p> <p style="padding-left: 40px;"><i>“... an early childhood teacher included a reference to a person who —</i></p> <p style="padding-left: 40px;"><i>(a) is actively working towards an approved early childhood teaching qualification; and</i></p> <p style="padding-left: 40px;"><i>(b) provides the approved provider with documentary evidence that—</i></p> <p style="padding-left: 80px;"><i>(i) the person has completed at least 50 per cent of the course; or</i></p> <p style="padding-left: 80px;"><i>(ii) holds an approved diploma level education and care qualification.”</i></p> <p>However, due to Regulation 242(2)-(3), this provision is restricted from applying to NSW’s Regulation 272(2)-(5) because they are not listed in Regulation 242(3):</p> <p><i>242(3) In this regulation —</i></p> <p style="padding-left: 40px;"><i>relevant regulation means regulation 130, 131, 132, 133, 134, 266, 267, 272(1A), 279, 293, 294, 303, 304, 330, 331, 332, 333, 348, 349, 362, 363 or 379.</i></p> <p>In other words, NSW long daycare services and community preschools with 30 or more children do not have access to the flexibility already available via Regulation 242, whereas all other Australian jurisdictions do enjoy its benefits.</p> <p>And in the context of the severe and worsening labour shortages, NSW long daycare services and community preschools are therefore disadvantaged compared to other jurisdictions.</p>
<p>Proposed Solution</p>	<p>Amend Regulation 242(3) by replacing “272(1A)” with simply “272” as follows:</p> <p><i>242(3) In this regulation —</i></p> <p style="padding-left: 40px;"><i>relevant regulation means regulation 130, 131, 132, 133, 134, 266, 267, 272, 279, 293, 294, 303, 304, 330, 331, 332, 333, 348, 349, 362, 363 or 379.</i></p>
<p>Further Comments</p>	<p>The proposed solution will not only provide alignment with other Australian jurisdictions, but more importantly extend the same flexibility but for NSW’s long daycare services to continue their services’ number of places offered in the face of severe and worsening labour shortages.</p>

**ATTACHMENT B – FUNDING REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

#B-01 EXISTING FUNDING: Use of the balance of \$281.6m to compete with Victoria and provide similar financial incentives to recruit educators/teachers to relocate to NSW										
Background of the Problem	<p>Through their Best Start Best life reforms, the Victorian Government is offering between \$9,000 to \$50,000 to early childhood educators and teachers to relocate to Victoria or rejoin the Victorian sector.</p> <p>This impacts on NSW-based early childhood education and care services' abilities to retain existing staff, while also enabling Victorian-based services to advantageously compete for new educators and teachers.</p>									
Proposed Solution	<p>Use the balance of the \$281.6m in FY2023/2024 and onwards to match and emulate the \$9,000 to \$50,000 incentives for educators and teachers who would like to relocate to NSW or rejoin the early childhood education and care sector in NSW.</p>									
Further Comments	<p>The NSW Government's 2022 Budget had allocated \$281.6 million (see page 29) in recurrent expenses over four years to ensure quality, retention and supply of early childhood educators to address existing serious shortages and build for future demand.</p> <p>It is estimated that up to \$25m have already been committed predominantly to scholarships awarded. This means there is potentially a balance of \$256.6m available for use.</p> <p>Even if demand for more scholarships were linearly committed across the four years, there would at least be \$181.6m available to achieve the remaining goals, especially in terms of retention and supply of early childhood educators and teachers.</p> <p>The following table outlines the potential number of new early childhood educators and teachers that could be recruited to New South Wales:</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr style="background-color: #00AEEF; color: white;"> <th style="padding: 5px;">How many educators/ECTs could relocate to NSW</th> <th style="padding: 5px;">\$9,000 incentives</th> <th style="padding: 5px;">\$50,000 incentives</th> </tr> </thead> <tbody> <tr style="border-top: 1px solid black;"> <td style="padding: 5px;">If balance was \$181.6m</td> <td style="padding: 5px;">20,177 educators/ECTs</td> <td style="padding: 5px;">3,632 educators/ECTs</td> </tr> <tr style="border-top: 1px solid black; border-bottom: 1px solid black;"> <td style="padding: 5px;">If balance was \$256.6m</td> <td style="padding: 5px;">28,511 educators/ECTs</td> <td style="padding: 5px;">5,132 educators/ECTs</td> </tr> </tbody> </table> <p>Conservatively, there are at least 61,200 early childhood educators and teachers employed across NSW.</p> <p>Therefore, the above proposal could theoretically add between 5.9% to 46.6% in additional and much needed qualified workforce for NSW.</p> <p>Equally as importantly, this proposal will also help reduce the losses of existing qualified workforce from NSW to Victoria.</p>	How many educators/ECTs could relocate to NSW	\$9,000 incentives	\$50,000 incentives	If balance was \$181.6m	20,177 educators/ECTs	3,632 educators/ECTs	If balance was \$256.6m	28,511 educators/ECTs	5,132 educators/ECTs
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(IMMEDIATE-SHORT TERM)**

EXISTING FUNDING: #B-02 Use of the balance of \$281.6m for competing marketing campaigns across NSW focussing on school leavers and mature-age individuals to trial early childhood education and care as a career or alternative career path respectively	
Background of the Problem	<p>Promotion of early childhood education and care tends to be framed as a workforce solution. Ironically, the second kind of promotion tends to focus on recruitment so as to address the shortage of labour.</p> <p>Instead, early childhood education and care should be about promoting the longer-term dividends through and for children, as well as the benefits of the full spectrum of opportunities offered in the early childhood education and care sector.</p> <p>Given the severe and worsening labour shortages, one of the recruitment hurdles is due to Regulation 126(1B) specifically for NSW where interested individuals must be formalised as trainees before they can be mutually beneficial to themselves as well as early childhood education and care services.</p> <p>Consequently, the rate of early childhood education and care traineeships in NSW for school leavers and mature-age individuals tend to be lower than other Australian states.</p>
Proposed Solution	<p>Assuming Regulation 126(1B) is removed, the NSW Government should provide grants to peak bodies to produce and conduct competing marketing campaigns for at least 3 years so as to attract more school leavers as well as mature-age individuals considering a career change to try and be employed by NSW-based early childhood education and care services for at least 3 months.</p> <p>By having competing marketing campaigns while projecting the same and harmonised message over a 3-year period, such marketing campaigns will have a positive impact toward recruitment as well as a rise in traineeships.</p> <p>Using the balance of the \$281.6 million (see 2022 Budget (page 29)), two grants of \$500,000 per year for up to 2 years should be awarded to 2 peak bodies for the two most popular marketing videos produced that can best be used by all services and the sector to recruit new early childhood educators and teachers. Through a sector-wide competition, the most popular packages of marketing videos from 2 peak bodies can then be awarded the grants to promote their videos and demonstrate their recruitment rates to the NSW Department of Education.</p> <p>The winning videos generated through this competition should also be available to all services so that they can use it for their own recruitment efforts.</p> <p>The total amount of \$2m over 2 years would represent less than 1% of the entire \$281.6m budget originally earmarked to ensure quality, retention and supply of early childhood educators to address existing serious shortages and build for future demand.</p>
Further Comments	<p>Peak bodies generating competing marketing campaigns would maximise the benefits for all their members and the sectors overall.</p> <p>The opportunity also exists for this government model of leveraging industry to increase labour recruitment as well as training for the benefit of a key</p>

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THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

	<p>industry sector that offers unique multiplier effects across the NSW and Australian economy.</p> <p>Moreover, analyses of the successes and limitations of such marketing campaigns can also assist the NSW Government in replicating the most effective models for other industries affected by significant labour shortages.</p>
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**ATTACHMENT B – FUNDING REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

NEW FUNDING: #B-03 New funding allocation and distribution of up to \$549m per year to eligible long daycare services due to higher early childhood teacher qualifications requirements compared to all other Australian states	
Background of the Problem	<p>Since 1 January 2012, Regulation 272 unfairly imposed more degree qualified early childhood teachers on NSW-based early childhood education and care services when compared to all other Australian states who observed Regulations 132-134.</p> <p>The NSW Productivity Commission confirmed in late 2022 that such higher regulatory requirements contributed toward an additional cost ultimately to families and taxpayers of \$3,000 per child per year more than any other Australian state.</p> <p>Such higher regulatory requirements imposed in NSW also has never been able to produce any systemically superior outcomes under Quality Area 1 – Educational Program and Practice nor overall Quality Ratings compared to all other Australian states.</p>
Proposed Solution	<p>As of 21 July 2023, there are 2,954 long daycare services with at least 30 places.</p> <p>Assuming the existing Regulation 272 remains fundamentally intact, there should be a distribution of up to \$549m per year to affected services in order to offset the higher employment costs created due to Regulation 272 compared to services in other Australian states that observe Regulations 132-134.</p>
Further Comments	<p>While addressing to neutralise the higher operational costs imposed on NSW-based early childhood education and care services by Regulation 272, it is equally important to assist NSW-based services to achieve what should be systemically superior outcomes under Quality Area 1 – Educational Program and Practice as well as overall Quality Ratings compared to all other Australian states with fewer early childhood teachers.</p>

**ATTACHMENT C – REGULATORY PRACTICES REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

PRIORITISATION OF ASSESSMENTS & RATINGS: #C-01 Emphasis towards those services whose last A&R was more than 3 years ago (ie 2016-2020) as well as those services rated Working Towards in 2021 or prior																																																																																									
Background of the Problem	<p>In the context of significantly declining numbers of services achieving Exceeding ratings, governments' comments about 40%-45% of children being not developmentally on track upon starting school as well as parents' continuing low ranking of Quality Ratings as a selection tool have contributed towards the services', educators' and teachers' losing faith of the usefulness and integrity of the assessment and ratings process.</p> <p>Currently, the unwritten "rule" is for the cycles of assessments and ratings of NSW-based services is:</p> <ul style="list-style-type: none"> (a) for in-between periods of up to 3 years for those rated "Exceeding", up to 2 years for those rated "Meeting" and up to 1 year for those rated "Working Towards" the National Quality Standard; and (b) at dates set by the NSW Regulatory Authority due to the service's risk profile. <p>However, in practice, the spread of conducted assessments and ratings do not (at first glance) appear to follow this "rule", with over 19% of NSW-based services not yet re-assessed or rated since 2016-2018 (ie 4 to 6 years overdue).</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="text-align: left;">NSW Services as of 30 Jun 2023</th> <th>Sig Imp Req'd</th> <th>Working Towards</th> <th>Meeting</th> <th>Exceeding</th> <th>Excellent</th> <th>TOTAL</th> <th>%age</th> </tr> <tr> <th>#</th> <th>#</th> <th>#</th> <th>#</th> <th>#</th> <th>#</th> <th></th> <th></th> </tr> </thead> <tbody> <tr> <td>Last A&R in 2022</td> <td>0</td> <td>140</td> <td>667</td> <td>95</td> <td>2</td> <td>904</td> <td>17.84%</td> </tr> <tr> <td>Last A&R in 2021</td> <td>0</td> <td>96</td> <td>708</td> <td>182</td> <td>8</td> <td>994</td> <td>19.62%</td> </tr> <tr> <td>Last A&R in 2020</td> <td>0</td> <td>109</td> <td>812</td> <td>207</td> <td>4</td> <td>1,132</td> <td>22.35%</td> </tr> <tr> <td>Last A&R in 2019</td> <td>0</td> <td>94</td> <td>792</td> <td>319</td> <td>0</td> <td>1,205</td> <td>23.79%</td> </tr> <tr> <td>Last A&R in 2018</td> <td>0</td> <td>30</td> <td>555</td> <td>164</td> <td>0</td> <td>749</td> <td>14.78%</td> </tr> <tr> <td>Last A&R in 2017</td> <td>0</td> <td>6</td> <td>11</td> <td>62</td> <td>0</td> <td>79</td> <td>1.56%</td> </tr> <tr> <td>Last A&R in 2016</td> <td>0</td> <td>2</td> <td>1</td> <td>0</td> <td>0</td> <td>3</td> <td>0.06%</td> </tr> <tr> <td></td> <td></td> <td>337</td> <td>2,171</td> <td>752</td> <td>4</td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>6.65%</td> <td>42.85%</td> <td>14.84%</td> <td>0.08%</td> <td></td> <td></td> </tr> </tbody> </table> <p>Given the severe and worsening labour shortages, assessments and ratings tend to add additional stress and workload on existing services and a very fatigued workforce.</p> <p>This has been further exacerbated by ACECQA's proposal of a 5-day notification period for assessments and ratings where 77.9% of survey respondents oppose this because it can have the Approved Provider, the Nominated Supervisor or the Educational Leader being absent due to scheduled leave.</p>	NSW Services as of 30 Jun 2023	Sig Imp Req'd	Working Towards	Meeting	Exceeding	Excellent	TOTAL	%age	#	#	#	#	#	#			Last A&R in 2022	0	140	667	95	2	904	17.84%	Last A&R in 2021	0	96	708	182	8	994	19.62%	Last A&R in 2020	0	109	812	207	4	1,132	22.35%	Last A&R in 2019	0	94	792	319	0	1,205	23.79%	Last A&R in 2018	0	30	555	164	0	749	14.78%	Last A&R in 2017	0	6	11	62	0	79	1.56%	Last A&R in 2016	0	2	1	0	0	3	0.06%			337	2,171	752	4					6.65%	42.85%	14.84%	0.08%		
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Proposed Solution	<p>While maintaining the need for the NSW Regulatory Authority to conduct assessments and ratings subject to the services' risk profiles, the NSW Regulatory should also:</p> <ul style="list-style-type: none"> (a) publish the "rule" for the cycles of assessments and ratings of NSW-based services relative to their quality ratings; (b) prioritise services for re-assessment and rating if they were last rated Working Towards the NQS in 2021 or prior; (c) prioritise services for re-assessment and rating if they were last rated Meeting of higher in 2020 or before; (d) co-develop a protocol that allows services to appropriately defer their upcoming assessment and rating due to the absence of key personnel; and (e) publish a quarterly report demonstrating (a), (b), (c) and (d). <p>Ideally, the NSW Regulatory Authority should emulate the hospitals' version with up to 3 years' notice of an assessment and rating with only 1 opportunity for a deferral instead of imposing a 5-day notification of an upcoming assessment and rating where the risk of absences of key personnel is very high.</p>																																																																																								
Further Comments	<p>Even prior to COVID, there had already been signs of skilled labour shortages with ACECQA conservatively predicted in November 2019 a need of 39,000 additional educators and teachers by 2023.</p>																																																																																								

**ATTACHMENT C – REGULATORY PRACTICES REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

PRIORITISATION OF ASSESSMENTS & RATINGS:

#C-01

Emphasis towards those services whose last A&R was more than 3 years ago (ie 2016-2020) as well as those services rated Working Towards in 2021 or prior

Post COVID as well as real workforce fatigue, the NSW Regulatory Authority has ample opportunity to reduce the pressure faced by services, educators and teachers by prioritising services that are far more overdue for their assessment and ratings.

It should also be noted that NSW is effectively the most “up-to-date” with assessments and ratings of services relative to all other Australian jurisdictions, some of whom have services not re-assessed or rated since 2012.

As of 31 Dec 2022, %age of services' last A&R in	NSW	VIC	QLD	SA	WA	TAS	ACT	NT
2022	15.69%	22.75%	13.08%	8.15%	7.13%	9.79%	9.68%	19.20%
2021	17.28%	12.56%	17.38%	9.57%	9.98%	24.68%	18.82%	20.54%
2020	20.25%	4.97%	8.45%	8.86%	9.23%	13.62%	13.98%	12.95%
2019	21.31%	19.23%	16.28%	7.28%	19.35%	18.72%	17.74%	28.13%
2018	14.00%	18.50%	12.63%	10.05%	15.83%	16.17%	13.71%	13.84%
2017	5.05%	7.35%	10.01%	16.30%	16.13%	5.11%	4.30%	0.45%
2016	0.07%	1.27%	7.73%	13.13%	5.40%	1.70%	5.91%	-
2015	-	0.06%	7.63%	9.73%	-	0.43%	8.06%	-
2014	-	-	0.89%	6.65%	-	-	-	-
2013	-	-	0.13%	4.43%	-	-	-	-
2012	-	-	-	2.06%	-	-	-	-

**ATTACHMENT C – REGULATORY PRACTICES REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

RECORDING SUBSTANTIVE BREACHES ONLY:																													
#C-02	Instruct the NSW Department of Education to only record breaches that attract a financial penalty only, and conduct all other breaches as Guided Compliances with information to be only recorded internal within the NSW Department of Education																												
Background of the Problem	<p>According to the Commonwealth’s Productivity Commissioner’s annual Report on Government Services (RoGS), Table 3A.33 shows <i>Confirmed Breaches at NQF approved ECEC services, by service type</i> over the last 6 years as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr style="background-color: #0070C0; color: white;"> <th>Year</th> <th>NSW</th> <th>NSW (% of Australia)</th> <th>Rest of Australia</th> </tr> </thead> <tbody> <tr> <td>2016/2017</td> <td>3,797</td> <td>24.95%</td> <td>11,424</td> </tr> <tr> <td>2017/2018</td> <td>7,865</td> <td>39.71%</td> <td>11,943</td> </tr> <tr> <td>2018/2019</td> <td>7,773</td> <td>35.85%</td> <td>13,909</td> </tr> <tr> <td>2019/2020</td> <td>13,673</td> <td>54.39%</td> <td>11,468</td> </tr> <tr> <td>2020/2021</td> <td>17,616</td> <td>65.26%</td> <td>9,376</td> </tr> <tr> <td>2021/2022</td> <td>15,943</td> <td>57.87%</td> <td>11,608</td> </tr> </tbody> </table> <p>According to the RoGS, NSW has a 273% probability of recording a breach per early childhood education and care service compared to 39% probability for any SA early childhood education and care service.</p> <p>It was also confirmed by the NSW Department of Education that Guided Compliances were counted as breaches regardless of its severity.</p> <p>NSW-based early childhood education and care services are also severely stressed and fatigued, and with such high gross numbers of breaches recorded, such services also have to respond to the satisfaction of the NSW Department of Education. Such responses take up valuable time and human resources that either contribute towards operational costs and fees to parents, and/or relocation of such human resources away from their engagement with children under their care.</p> <p>And with NSW occupying 54.39%-65.26% of the national total of breaches per year without any substantive uplift in children’s outcomes nor quality, such workload contributes towards services’ operational costs (and ultimately fee increases) as well as declining vocational satisfaction as well as higher attrition rates.</p> <p>The NSW Department of Education’s approach to recording and resolving such breaches should be tempered by their degrees of severity and risk rather than (statistically and perhaps operationally) treat all as equals (for example, a child that was not under supervision versus a first aid kit where the bandages had just expired.)</p>	Year	NSW	NSW (% of Australia)	Rest of Australia	2016/2017	3,797	24.95%	11,424	2017/2018	7,865	39.71%	11,943	2018/2019	7,773	35.85%	13,909	2019/2020	13,673	54.39%	11,468	2020/2021	17,616	65.26%	9,376	2021/2022	15,943	57.87%	11,608
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Proposed Solution	<p>As a standing principle, the NSW Department of Education needs to continue recording all deviations from regulations.</p> <p>That said, the NSW Department of Education should consider differentiating how breaches are recorded and resolved based on the degree of severity and risk.</p> <p>In the immediate-medium term (eg from 2023-2025), the NSW Department of Education should instead record, resolve and report only regulatory breaches that attract a financial penalty, while internally record all other information and resolve them as Guided Compliances.</p>																												
Further Comments	<p>By overtly differentiating breaches on the basis of severity and risk,</p>																												

**ATTACHMENT C – REGULATORY PRACTICES REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

RECORDING SUBSTANTIVE BREACHES ONLY:	
#C-02	Instruct the NSW Department of Education to only record breaches that attract a financial penalty only, and conduct all other breaches as Guided Compliances with information to be only recorded internal within the NSW Department of Education
	<p>there should be immediate positive effects:</p> <ul style="list-style-type: none">(a) on the engagements between NSW Authorised Officers and early childhood education and care services;(b) in terms of operational workloads and priorities. <p>And should certain breaches to certain legislative and/or regulatory requirements need to be regarded as serious, then financial penalties can be introduced via legislative or regulatory amendments.</p>

**ATTACHMENT C – REGULATORY PRACTICES REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

<p>CLARITY ON A COST-EFFICIENT STANDARD ON DOCUMENTATION FOR APPLYING WAIVERS FOR REGULATION 272:</p>	
<p>#C-03 Publish a NSW minimum standard on documentation and advertising that services need to prove their inability to recruit early childhood education and care educators and teachers during the worsening labour shortages</p>	
Background of the Problem	<p>Labour shortages of qualified early childhood educators and teachers began before the COVID pandemic. Since then, the NSW early childhood education and care sector has been experiencing worsening labour shortages.</p> <p>Yet, the level of proof required by the NSW Department of Education of services' inability to recruit early childhood educators and teachers have not changed to reflect the increased challenges.</p> <p>Hence, the workload and costs to provide the level of proof is therefore significantly more especially compared to achieving the same result of no recruitment.</p> <p>Moreover, such level of proof can therefore increase operational costs (including the rising costs of advertisements) that contribute to fees without achieving the goal of recruiting qualified early childhood educators or teachers.</p> <p>And given the high probability of failure, such advertisements to recruit early childhood educators and teachers should ideally be those that can be used as well as for labour market testing to comply with the Commonwealth's requirements before they entertain overseas recruitment.</p> <p>Anecdotally, services have spent over \$1,000 per month on domestic advertisements per position without achieving any appropriate recruitment outcomes.</p>
Proposed Solution	<p>We request that the NSW Department of Education publish a NSW minimum standard on documentation and a minimum period of time for advertising (eg a 6 weeks period per 6 months).</p> <p>And this minimum standard on documentation should be simplified like a checklist so that the applicant can easily provide the requested information across a set of criteria for the NSW Department of Education to assess.</p> <p>And the NSW Department of Education should notify the service if its application for a waiver was rejected because of their historical risk profile despite fulfilling all the information requirements.</p> <p>The NSW Department of Education should also publish a list of approved websites that it regards as appropriate for advertising available positions, taking into consideration costs, effectiveness with the targeted audiences as well as maximising opportunity to recruit either from Australia or overseas.</p>
Further Comments	None.

**ATTACHMENT C – REGULATORY PRACTICES REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

REFUNDING FEE ON WAIVER APPLICATIONS FOR REGULATION 272 UPON SUCCESSFUL APPROVALS:	
#C-04	Given the worsening labour shortages that is unlikely to correct itself until at least 2025, the NSW Department of Education should not effectively charge fees on waiver applications that fail
Background of the Problem	<p>Labour shortages of qualified early childhood educators and teachers began before the COVID pandemic. Since then, the NSW early childhood education and care sector has been experiencing worsening labour shortages.</p> <p>Yet, the NSW Department of Education charges services fees for applying for waivers to Regulation 272. This is akin to the water authority charging for water during droughts and distributing no water.</p> <p>Assuming the application for a temporary waiver of Regulation 272 is appropriately and correctly completed and submitted, then approval of such applications should not attract any fees from the service due to the existing and worsening labour shortages.</p>
Proposed Solution	<p>We request that the NSW Department of Education only charge a fee for applications for waiver of Regulation 272 on the basis that:</p> <ul style="list-style-type: none"> (a) the application submitted was incomplete; and/or (b) the application submitted failed the standard of information sought and advertising period required (see #C-03); and/or (c) the application was refused on the basis of the NSW Department of Education’s assessment of historically recorded risk.
Further Comments	<p>None.</p>

**ATTACHMENT C – REGULATORY PRACTICES REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

GENUINE FEEDBACK ON ASSESSMENTS & RATINGS: #C-05	
#C-05	Appoint an external contractor who receives the feedback of assessments & ratings conducted and provide reports (deidentified of sources) on a per Authorised Officers, hubs of Authorised Officers and NSW-level basis
Background of the Problem	<p>Since early 2020, feedback of assessments and ratings conducted by NSW Authorised Officers were received to a team not associated with those NSW Associated Officers who conducted the assessments and ratings.</p> <p>However, such independent receipts of feedback is still within the NSW Department of Education and timed to occur before the Draft Report is issued by the particular NSW Authorised Officer.</p> <p>Hence, there still remains a negative perception that genuine, honest and frank feedback is not to be submitted for fear of such influencing the Draft Report and Final Report that are sent to the respective services.</p>
Proposed Solution	<p>Have the NSW Department of Education appoint an external contractor to:</p> <ul style="list-style-type: none"> (a) receive the feedback of assessments and ratings conducted by NSW Authorised Officers; (b) produce quantitative and qualitative reports a range of metrics on at least a 6-monthly basis per Authorised Officer, hubs of Authorised Officers and across NSW; (c) structure the reports so that the NSW Department of Education can compare them against ACECQA's most recent Drift Reports on individual Authorised Officers; and (d) assist the NSW Department of Education to share appropriate reports on the feedback of assessments and ratings with its internal Continuous Improvement Team; and (e) assist the NSW Department of Education to share appropriate and aggregated reports on the feedback of assessments and ratings with its Early Childhood Advisory Group (ECAG). <p>Given that on average 1,200 services have assessments and ratings conducted per year, a potential budget of \$200,000 per annum should be sufficient to fulfil the proposed solution.</p>
Further Comments	<p>The appointment of such an external contractor to provide feedback on assessments and ratings will not only bring confidence to all NSW-based early childhood education and care services, but also enable the NSW Department of Education to openly demonstrate NSW Authorised Officers are performing fairly and consistently (while enabling under-performing Authorised Officers with the opportunity to re-train).</p>

**ATTACHMENT D – OTHER REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

FIT-FOR-PURPOSE ENGLISH PROFICIENCY: #D-01 Recalibrating NSW’s early childhood educators’ and teachers’ English proficiency level that is appropriate for early childhood education and care of children aged 0-5 years old	
Background of the Problem	<p>Under both ACECQA’s Qualification Assessment Guidelines as well as the NSW Education Standards Authority (NESA)’s English proficiency requirements, a score of seven (7.0) or more in the reading and writing components, and a score of eight (8.0) or more in the speaking and listening components, in the academic version of the International English Language Testing System (IELTS) examination in the last two years must be demonstrated.</p> <p>And according to IELTS’ own reports, up to 24.9% of native English speakers would achieve such results.</p> <p>So, unless Shakespeare and Chaucer are to be taught to children aged 0-5 years old, or if the NSW Department of Education cannot demonstrate children’s outcomes are superior during 2012 to date due to such English proficiency requirements, then there appears to be no substantive reason why English proficiency requirements should be at that level.</p>
Proposed Solution	<p>The NSW Department of Education should adopt for itself as well as advocate for ACECQA to adopt:</p> <ul style="list-style-type: none"> (a) expanding the official list of nations beyond New Zealand, United Kingdom, Ireland, Canada and the United States as English-speaking nations; and (b) changing the IELTS scores requirements to six (6.0) or more in reading and writing as well as speaking and listening components. <p>If not, the NSW Department of Education should demonstrate how English proficiency requirements of IELTS score of seven (7.0) or more in the reading and writing components, and a score of eight (8.0) or more in the speaking and listening components directly impact substantively on children’s outcomes compared to alternatives.</p>
Further Comments	None.

**ATTACHMENT D – OTHER REFORM PROPOSALS FOR
THE NSW EARLY CHILDHOOD EDUCATION AND CARE SECTOR
(IMMEDIATE-SHORT TERM)**

REGULATORY IMPACT ASSESSMENT, HARMONISATION AND EFFICIENCIES:	
#D-02	New funding allocation and distribution of up to \$549m per year to eligible long daycare services due to higher early childhood teacher qualifications requirements compared to all other Australian states
<p>Background of the Problem</p>	<p>Since the introduction in January 2012 of the National Law (which is not nationally consistent), the National Regulation (which is not nationally consistent) and the National Quality Framework (which is still not nationally consistent), it is very obvious that there has been a severe lack of:</p> <ul style="list-style-type: none"> (a) real quantitative assessment of regulatory impact operationally; and (b) harmonisation of services' and governments' processes to streamline operational impact and efficiency gains. <p>Instead, services are regularly asked to provide data and information that should originally have been designed into existing processes and architecture.</p> <p>For example:</p> <ol style="list-style-type: none"> 1. community preschools cannot achieve consistent and transparent enrolment data and reporting until 2025; 2. long daycare services' enrolment and attendance data that are automatically provided to the Federal Government every Friday cannot be dynamically shared with the NSW Government; and 3. existing enrolment and attendance data across all service types are not dynamically accessible by the NSW Government for the purpose of predicting true undersupply. <p>These expose governments' inability to accurately provide accurate funding nor make informed planning decisions in the 21st century.</p>
<p>Proposed Solution</p>	<p>Independent of the Federal Government and other states and territory governments, the NSW Department of Education should establish its own dedicated Regulatory Impact Assessment, Harmonisation and Efficiencies Team so that it can achieve both:</p> <ul style="list-style-type: none"> (a) an efficient regulatory framework that leverages automated processes at services in order to reduce operational workload and costs; and (b) accurate use of limited taxpayer funds for funding services in order to achieve aspired outcomes due to informed planning decisions.
<p>Further Comments</p>	<p>It should be noted that the NSW Department of Education has established its own data team. However, without knowing its roadmap of current and future activities, it is unclear how this data team and the NSW Early Childhood Education and Care Directorate intends to overtly improve funding decisions and children's outcomes using appropriate dynamic information from all NSW-based services.</p>