



██████████
Person with Management or Control
The Young Women's Christian Association of Canberra
RE: YWCA Kingsford Smith SAC

Email: ██████████@ywca-canberra.org.au

Dear Ms ██████████

Decision to issue Administrative Action RE NOT-40654313

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Incident (NOT-40654313) relating to the operation of YWCA Kingsford Smith School Age Care, SE-00009735 (the Service), operated by The Young Women's Christian Association of Canberra, PR-00005876 (the Provider).
2. The Notification related to a incident involving a child, known to be ██████████ (aged 10years) leaving the Service unnoticed by educators on 22 February 2022.
3. Web addresses to the *Education and Care Services National Law Act (ACT)* (the Law), and the *Education and Care Services National Regulations 2011* (the Regulations) are provided for your convenience at the end of this Decision.

Facts

4. On 25 February 2022, the Authority received a Notification of Incident (NOT-40654313) from the Provider advising that an enrolled child had left the Service without being noticed. The notification further advised that the incident was being investigated by the Provider. Refer Attachment A.
5. On 28 February 2022, the Authority requested additional information from the Provider so as to conduct an assessment of the notification. The Provider responded to request on 1 March 2022. Refer relevant correspondence at Attachment B.
6. On 7 and 8 March 2022, the Provider submitted their internal investigation via email. Refer Attachment C.

Law

7. The following provisions of the Law were relevant to the assessment:

Section 165(1) of the Law - Offence to inadequately supervision children

The approved provider of an education and care service must ensure that all children being educated and cared for by the service are adequately supervised at all times that the children are in the care of that service.

Penalty: \$10 000, in the case of an individual
\$50 000, in any other case.

Section 167(1) of the *Law* - Offence relating to protection of children from harm and hazards

The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and care for by the service from harm and from any hazard likely to cause injury.

Penalty: \$10 000, in the case of an individual
\$50 000, in any other case.

Reasons and Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied that, on 22 February 2022, the Provider failed to ensure adequate supervision of all children being educated and cared for by the Service, in that ■■■ was unaccounted for at the Service between 3:15pm and 3:45pm, and, on balance of probabilities, was able to leave the Service unnoticed for an undetermined length of time.
9. The evidence and correspondence submitted by the Provider supports the substantiated offences of sections 165(1) and 167(1).
10. The *Law* outlines a range of statutory actions which may be taken by the Authority in response to non-compliance. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue you this Administrative Decision.
11. In determining this action, the Authority took into consideration the following:
 - a. The Service's compliance history; and
 - b. Actions already undertaken by the Provider to mitigate risk of a similar incident.
12. This Decision is issued to remind the Provider that staffing, and supervision levels must meet the emotional, developmental, and physiological needs of all children being educated and cared for at all times. Staffing levels may need to be above minimum regulated ratio levels to ensure adequate supervision and to ensure every reasonable precaution is taken to protect children from harm and hazard likely to cause injury – both physically and psychologically.
13. This Decision will be recorded on the Service's file and may be considered in determining any future regulatory action, should there be future similar breaches of the *Law* or *Regulations*.

Legislation

14. The Education and Care Services National Law applies to you as a provider and any service you operate. The National Law is applied in the ACT by the Education and Care

Services National Law (ACT) Act 2011 <http://www.legislation.act.gov.au/a/2011-42/default.asp>.

15. The *Law and Regulations* can be viewed at: <http://www.acecqa.gov.au/national-law>, and <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>.

16. Should you have any questions about this Decision please contact me on janine.fairburn@act.gov.au.

Yours Sincerely,



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Education Care Regulation and Support
ACT Education Directorate

16 March 2022