



Ms [REDACTED]
Person with Management or Control
Young Mens Christian Association of Canberra Inc
RE: YMCA North Ainslie School Age Care

Email: [REDACTED]@ymca.org.au

Dear Ms [REDACTED]

Decision to issue Administrative Action RE: NOT-40894556

1. As you are aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an assessment into Notification (NOT-40894556) advising that minimum regulated ratio levels were not being always met at YMCA North Ainslie School Age Care SE-00009723 (the Service) operated by Young Men's Christian Association of Canberra Inc PR-00005888 (the Provider) on 22 August 2023.
2. Web addresses to the *Education and Care Services National Law (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

3. On 24 August 2023, the Authority received a Notification of Incident (NOT-40894556) from the Provider advising that on 22 August 2023, the Service was not meeting minimum regulated ratio levels between 3:05pm and 4:30pm. Advised of ratio being met in this timeframe was 6 educators to 72 children. Refer Attachment A
4. On 24 August 2023, the Regulatory Authority requested further information. Information was provided 29 August 2023. Refer Attachment B

Law

5. Relevant provisions of the Law engaged by the notification are as follows:

Section 169(1) of the Law – offence relating to staffing arrangements

An approved provider of an education and care service must ensure that, whenever children are being educated and cared for by the service, the relevant number of educators educating and caring for the children is no less than the number prescribed for this purpose.

Reasons

6. Having considered all the information provided in the Notification, the Authority is satisfied that on 22 August 2023, the Provider has failed to comply with the Law. The information contained in the Notification, and admission of non-compliance by the Provider supports a contravention of section 169(1) of the Law.
7. In deciding if compliance action should be taken the Authority has taken into consideration that the Provider has advised the Authority voluntarily of the identified non-compliance. In addition, the Authority has taken into consideration the length of time that the Service was non-compliant for,

as well as advised of steps taken to ensure the health, safety and wellbeing of children whilst regulated ratio levels were not being met.

8. In consideration of all relevant information, the Authority has determined in this instance not to initiate statutory compliance action regarding the substantiated contravention of section 169(1) of the *Law*, but rather issue this administrative decision to address the non-compliances.
9. The Provider is expected to have contingency plans in place to ensure ratio requirements are always met – this could include rostering additional staff on above minimum regulated ratio levels or lowering the number of children accepted at any time on any day that the staffing arrangements will not support minimum requirements being met.
10. This Decision is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, in particular the obligation that minimum regulated ratio levels must be always ensured. Meeting minimum regulated ratio levels is considered a reasonable precaution to be taken to protect children from harm and any hazard likely to cause injury.

Legislation

11. The *Law* applies to you as an approved provider and any approved service that the Provider operates. The *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>.
12. 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>
13. This Decision will be recorded on your Service file and may be considered in any future applications for approvals, amendments, or waivers. It may also be considered in determining the action to be taken, should further breaches of the *Law* or *Regulations* be found.
14. If you have any queries regarding this Decision, please contact me at janine.fairburn@act.gov.au.

Yours sincerely



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

5 September 2023