

Ms [REDACTED]
Person with Management or Control
Young Men's Christian Association of Canberra Ltd
RE: YMCA Gungahlin Early Learning Centre

Email: [REDACTED]

Dear Ms [REDACTED]

Decision to issue Administrative Action RE: NOT-00057116

1. As you may be aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Incident (NOT-00057116) relating to YMCA Gungahlin Early Learning Centre SE-40003109 (the Service) operated by Young Men's Christian Association of Canberra Ltd PR-00005888 (the Provider).
2. The notification of incident advised that on 22 July 2024, [REDACTED] (4 yrs) was left out in the yard of the Service, unsupervised, for around 2 minutes.
3. The Authority is satisfied that the Provider did not comply with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in this instance. Web addresses to the Law and the associated *Regulations* are provided for your convenience at the end of this Decision.

Facts

4. On 23 July 2024, a notification of incident (NOT-00057116) was submitted to the Authority by the Provider advising that on 22 July 2024, [REDACTED] was left in the yard of the Service alone, after an in-house safety visit (Constable Kenny Koala), for around 2 minutes, with educators only realising her absence when a neighbour called the Service. Refer copy of the NOT-00057116 at [Attachment A](#).
5. Additional information submitted with NOT-00057116 included the following:
 - Incident report

Refer [Attachment B](#).

6. On 25 June 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
 - Letter of response;
 - Quality support plan;
 - Working directly with children log;
 - Record of phone conversation;
 - Required steps to be completed by educators.

Refer Attachment C.

7. NOT-00057116 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
- Educator critical reflection completed on the incident.
 - Two learning videos around supervision and ACECQA article 'Active supervision: Ensuring safety and promoting learning'.
 - POD Meeting arranged for Friday to discuss the incident and address overall supervision.
 - Compliance officer attending the centre on 24.07.2024 to educate and mentor the importance of active and effective supervision.
 - Staff immediately informed of the incident and potential dangers.
 - All staff professional development sessions will be held at next staff meeting around supervision.

Law

8. The Notification engaged the following provisions of the *Law*:

Section 165(1) of the Law - Offence to inadequately supervise 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: \$11 400, in the case of an individual

\$57 400, in any other case.

Decision

9. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to support an offence under section 165 of the *Law* in this instance.
10. In relation to section 165 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were adequately supervised at all times while in the care of the Service on 22 July 2024.
11. The Authority is satisfied that the very nature of the matter notified, and additional information submitted by the Provider supports, on balance of probabilities, the offence being substantiated.
12. The Authority is satisfied that [REDACTED] was not adequately supervised, resulting in her being left outside, unnoticed by educators responsible for her education and care at the time.
13. The Authority would like to firmly remind the Provider that the policies and procedures in place need serious revision, due to the ongoing issue of inadequate supervision this year (multiple incidents). The current issues do not seem to have abated with what is currently in place and the Provider needs to ensure this stops all future incidents from happening.

14. 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.
15. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the advised of steps taken by the Provider to mitigate risk of a similar occurrence, the Authority has decided to issue this administrative action rather than statutory compliance actions to address the non-compliance.
16. This decision services to remind the Provider of their obligations and responsibilities under the *Law*, and to ensure that staffing and supervisory processes and educator practice is monitored regularly to ensure ongoing compliance with the *Law* and encourage continual improvements for outcomes for children.
17. This Decision will be recorded on the Service's 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 associated Regulations be found.

Legislation

18. The *Law* applies to you as a provider and any service you operate. 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> . 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>.
19. Should you have any questions about this Decision please contact me at Vittorio.Colosimo@act.gov.au.

Yours Sincerely,



Vittorio Colosimo
A/g Assistant Director Investigations
Regulation and Compliance
Education Directorate

2 September 2024