

Reasons and Decision

6. The Authority has considered all the information supplied by the Provider and is satisfied, on the balance of probabilities, that the Provider has failed to ensure adequate supervision of ██████████ in the indoor space on 15 December 2021, and therefore, failed to take reasonable precautions to protect said children, from any harm and from hazard likely to cause injury.
7. The very nature of the Notification and accompanying documentation submitted by the Provider, support offences under sections 165 (1) and 167(1) of the *Law* being substantiated.
8. Additionally, the fact that ██████████ was able to enter an unsupervised area of the premises, unnoticed by the educators who were meant to be educating and caring for her, and was identified by another educator passing by the area further supports the offences being substantiated.
9. Furthermore, the information submitted by the Provider indicates that it is unknown exactly how long ██████████ was unaccounted for, with the only statement provided, completed by ██████████ ██████████, indicating that ██████████ may have been last accounted for at 12:40pm when ██████████ went on a break.
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 the Provider in achieving compliance and improved outcomes for children.
11. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue this Administrative Decision.
12. However, regarding the substantiated offences under section 165 and 167 of the *Law*, the Authority requires the following evidence to be furnished to the Regulatory Authority (as referred to in the incident report):
 - a. Copy of the reviewed Supervision maps;
 - b. A copy of the ratio daily counts form developed;
 - c. Evidence to demonstrate that all educators have reviewed and are aware of, and understand the relevant supervision policies, procedures (inclusive of copies of these documents);
 - d. A copy of the team meeting minutes discussing the revised supervision locations.
13. Evidence should be produced, within 21 days of receipt of this letter, via email to me at Janine.fairburn@act.gov.au.
14. This decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments, or waivers. This decision may also be considered in determining any future regulatory action, should there be future breaches of the *Law* or *Regulations*.

Legislation

15. The *Law and Regulations* 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>
16. 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>
17. Should you have any questions about this Decision please contact me on me
Janine.fairburn@act.gov.au.

Yours Sincerely,



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

15 December 2021