

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.

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

Reasons

7. Upon considering all evidence for assessment, inclusive of Provider supplied information, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence to substantiate an offence under section 169 of the *Law* in this instance.
8. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the steps taken by the Provider to mitigate risk of a similar incident, the Authority has decided to issue this administrative action rather than statutory compliance actions.
9. 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 to ensure minimum regulated ratio levels are always met. Meeting this requirement is viewed as a reasonable precaution to undertake to ensure every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.
10. 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 on any day that the staffing arrangements will not support minimum requirements being met.
11. 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

12. 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>

13. If you have any questions in relation to this Decision, please contact me by email at janine.fairburn@act.gov.au.

Yours sincerely



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10 March 2023