



[REDACTED]
Person with Management and Control
Wonderschool (Throsby) Pty Limited
RE: Wonderschool Throsby

Email: [REDACTED]
Cc: compliance@wonderschool.com.au

Dea [REDACTED]

Decision to issue Administrative Action RE NOT-40603246

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed Notification (NOT-40603246) relating to the operation of Wonderschool Throsby SE-40017295 (the Service), operated by Wonderschool (Throsby) Pty Limited, PR-40019138 (the Provider).
2. The Notification related to missing and unaccounted for children.
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 13 December 2021, the Authority received a Notification and attachments from the Provider advising two children, believed to be [REDACTED] (4:8 old) and [REDACTED] (4:7 old), were unsupervised for up to 10 minutes in the outdoor space before being located by in the Intentional Teaching yard. Refer Notification and documents at Attachment A.
5. On 15 December 2021, the Authority received additional information from the Provider. Refer Attachment B.
6. The documentation received from the Provider included:
 - a. Details of CCTV timeline – indicating that the two children were missing/unaccounted for 29 minutes; and
 - b. [REDACTED] and [REDACTED] Incident Reports

Law

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

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: \$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, on the balance of probabilities, that the Provider has failed to ensure adequate supervision of [REDACTED] and [REDACTED] in the outdoor space on 11 December 2021, and therefore, failed to take reasonable precautions to protect said children, from any harm and from hazard likely to cause injury.
9. Further, it is noted that the Incident report indicates the children were unsupervised for a period of less than 10 minutes however the CCTV synopsis provided, indicates the children were unsupervised for up to 29 minutes. It is also noted in the synopsis that two Educators were observed to be standing at the door engaging in conversation, therefore not engaged in active supervision of the children.
10. 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.
11. 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.
12. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue this Administrative Decision.
13. 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:
 - a. Copy of Provider's internal investigation, findings and outcomes;
 - b. Copy of reviewed and/or updated supervision plans and outdoor curriculum;

- c. Evidence to demonstrate that all educators are aware of, and understand the relevant supervision policies, procedures (inclusive of copies of these documents);
 - d. Evidence to demonstrate that educators are aware of and understand the expectations of the provision of adequate and active supervision at all times that children are being educated and cared for at the service, as well as communication of incidents via established internal reporting lines (ie Ed to RP/NS).
 - e. A review/risk assessment to be conducted of the fence that the children were able to crawl under, with evidence of any rectification of any hazards identified to mitigate risk of children crawling under fence line again.
14. Evidence should be produced, within 21 days of receipt of this letter, via email to me at Janine.fairburn@act.gov.au.
15. 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

16. 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>
17. 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>
18. 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

17 December 2021