

[REDACTED]  
Person with Management or Control  
WONDERSCHOOL (THROSBY) PTY LIMITED  
RE: Wonderschool Throsby

Email: [compliance@wonderschool.com.au](mailto:compliance@wonderschool.com.au)

Dear [REDACTED]

**Decision to Issue Administrative Action RE: NOT-40559673**

1. As you may be aware, the ACT Regulatory Authority (the Authority) also known as Children's Education and Care Assurance (CECA), recently assessed a Notification of Complaint (NOT-40559673), relating to the operation of Wonderschool Throsby, SE-40017295 (the Service) operated by Wonderschool (Throsby) Pty Limited, PR-40019138 (the Provider).
2. The Authority is satisfied that the Provider has contravened provisions of the *Education and Care Services National Law (ACT)* (the Law).
3. Web addresses to 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 23 July 2021, the Authority received a Notification of Complaint (NOT-40559673), advising of a parent complaint on 22 July 2021, that her child had been collected from the Service by persons not authorised to do so. Refer Attachment A.
5. On 2 August 2021, a summary of the Provider's internal investigation was submitted to the Authority outlining that on 8 July 2021, the complainant's daughter was collected from the Service by unauthorised person, and that Provider policy and procedure was not followed by educators. Refer Attachment B.

**Law**

6. The following provisions of the Law were engaged by the assessment and this Decision:

**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.

### **Regulation 99 – Children leaving the education and care service premises**

The Approved Provider of an education and care service must ensure that a child who is being educated and cared for by the education and care service does not leave the education and care service premises except in accordance with subregulation (4).

(4) The child may only leave the relevant premises if the child-

- a) Is given into the care of –
  - I. A parent of the child; or
  - II. An authorised nominee named in the child’s enrolment record; or
  - III. A person authorised by a parent or authorised nominee named in the child’s enrolment record to collect the child from the premises.

### **Reasons**

7. After consideration of all documentation submitted by the Provider, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence supplied with the Notification and furnished documents to establish a breach of *Regulation 99*, engaging an offence under section 167(1) of the *Law*.
8. The Provider’s internal findings of the matter, in addition to admissions made in relation to identification that policies and procedures had not been followed by educators supports the Authority’s substantiation of the offence.
9. In deciding if compliance action should be taken, the Authority has considered all relevant information supplied by the Provider, including the Provider’s actions undertaken to rectify and mitigate risk of similar incidents occurring.
10. The Authority has determined, in this instance and due to the Provider’s actions to mitigate risk of a similar nature, not to initiate statutory compliance action regarding the substantiated contravention of section 167(1) and of the *Law* but, rather, issue this Administrative Action to address the non-compliance.
11. This Decision is intended to bring to your attention the need to ensure educators are aware of *Regulation 99* obligations pertaining to children leaving the Service in the care of authorised persons and associated relevant internal policy and procedure to ensure the Provider always meets their obligations under s167(1) the *Law* with regard to the protection of children from harms and hazards, likely to cause injury.
12. Regarding the substantiated offences under sections 167(1) of the *Law*, the Authority is satisfied that the Provider has already implemented strategies that, if followed, will meet the expectations of the Authority, and therefore no further action is required.
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.

### **Legislation**

14. 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>.

15. The *Law and Regulations* can be viewed at:

- <http://www.acecga.gov.au/national-law>, and
- <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>

16. If you have any questions in relation to this Decision, please contact Authorised Officer Brian Cropper by email at [brian.cropper@act.gov.au](mailto:brian.cropper@act.gov.au).

Yours sincerely



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

19 August 2021