

██████████
Person with Management or Control
ACT Education Directorate
RE: Theodore Primary School - Preschool Unit

Email: ██████████

Dear ██████████

Decision to issue Administrative Action RE: NOT-00085095

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-00085095) relating to Theodore Primary School - Preschool Unit SE-00011225 (the Service) operated by ACT Education Directorate PR-00006465 (the Provider).
2. The notification of incident advised that on 23 October 2024, a child absconded from the Service with their older sibling, managing to walk all the way home and all the way back to the Service without an authorised person.
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 24 October 2024, a notification of incident (NOT-00085095) was submitted to the Authority by the Provider advising that on 23 October 2024, ██████████ (5 yrs) left the Service with his older sibling, ██████████ (7 yrs). This resulted in both children exiting the Service and walking to their home (500 metres down the road), before they returned to the Service. The duration of their abscondment was between 10 to 15 minutes.
5. Additional information submitted with NOT-00085095 included the following:
 - Delivery and Collection of Children – Risk Assessment;
 - Amendment of risk assessment and distribution to staff;
 - Pre-school collection procedures;
 - Incident report.
6. Please note, documents referred to in paragraphs 4 and 5 are not included. These documents can be provided upon request.
7. NOT-00085095 further advised that steps taken by the Provider to prevent or minimise a similar incident included:

- Staff member is position at the gate to ensure students leaving the grounds are in the active supervision of an authorised person.
- Delivery and Collection of Children – Risk assessment was reviewed and amended.
- Revised risk assessment has been communicated to staff and families.
- Signage has now been displayed in the sibling waiting area to provide greater clarity to student/siblings.

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.

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: \$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 substantiate an offence under section 165 and 167 of the *Law* in this instance.
10. In relation to section 165 and 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were adequately supervised, or protected from harm, at all times while in the care of the Service on 23 October 2024.
11. **This letter requires a response to the following:**
- (a) Provide evidence of the strategies that have been implemented, which ensure policies and procedures are followed and mitigate the risk of a similar incident occurring, thus reassuring the Authority that these strategies are robust and adhered to.

Please ensure a response is submitted by close of business 2 December 2024.

12. For approved providers that wish to operate in the ACT, there is a high expectation. If similar incidents are identified in relation to this Service or any other service the Provider operates, then

the Authority reserve the right to take further compliance action, due to the high-risk nature of this incident.

13. 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.
14. 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.
15. 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.
16. 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

17. 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>.
18. 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
Education and Care Regulation and Support
Education Directorate

18 November 2024