

Ms [REDACTED]  
Person with Management or Control  
Camp Australia Pty Limited  
RE: Camp Australia - St Joseph's P-6 School OSHC

Email: [REDACTED]

Dear Ms [REDACTED]

### **Decision to issue Administrative Action RE: 40507360**

1. As you are aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an assessment into Notification (NOT-40507360) advising that minimum regulated ratio levels were not being met at Camp Australia - St Joseph's P-6 School OSHC SE-40020204 (the Service), operated by Camp Australia Pty Limited PR-00002539 (the Provider).
2. Web addresses to the *Education and Care Services National Law (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**

3. On 3 February 2021, the Authority received a Notification (NOT-40507360) identifying that on 2 February 2021, an educator failed to attend a rostered shift resulting in staffing arrangements not meeting minimum required ratio levels between 2.55pm and 3.40pm. Refer Attachment A

### **Law**

4. Relevant provisions of the Law engaged by the notification are as follows:

#### **Section 167 of the Law – Offence relating to protection of children from harm and hazards**

- (1) The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from hazard likely to cause injury.

#### **Section 169 of the Law – offence relating to staffing arrangements**

- (1) 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.

### **Reasons**

5. 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, engaging a contravention of s167 of the Law.
6. In deciding if compliance action should be taken, the Authority has considered all relevant information supplied by the Provider regarding the Provider's management of the incident, length

of time the Service was not meeting minimum regulated ratio levels pursuant to *Regulation 123* and the Services compliance history.

7. In addition, the Authority took into consideration the compliance backgrounds of other ACT services operated by the Provider, whereby conditions have been imposed to service approvals as a result of similar non-compliances against s169 and s167 of the *Law*.
8. In consideration of all relevant information, the Authority has determined in this instance not to initiate statutory compliance action regarding the substantiated contravention of sections 167(1) and 169(1) of the *Law*, but rather issue this Administrative decision to address the non-compliances.
9. Noting that the Service has only recently been approved, the Authority strongly suggests the Provider have strategies in place to ensure that staffing arrangements are not determined solely on minimum regulated ratio levels, but that considerations are made to mitigate risk of not meeting compliance expectations under the *Law* and *Regulation*.
10. 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 that minimum regulated ratio levels are met at all times to ensure every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.
11. Furthermore, this Decision is to advise the Provider that the Authority will be monitoring more strictly how the Service is being operated, and that any further non-compliances may result in stronger enforcement measures being actioned by the Authority.

#### **Legislation**

12. The *Law* applies to you as an approved provider and any approved service that the Provider operates.
13. 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>.
14. 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>
15. 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.
16. If you have any queries regarding this Decision, please contact me at [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au).

Yours sincerely



Janine Fairburn  
Assistant Director  
Early Childhood Policy and Regulation  
ACT Education Directorate

16 February 2021