

Person with Management or Control  
ACT Education Directorate  
RE: Kingsford Smith School - Preschool Unit

Email: [REDACTED]@act.gov.au  
[REDACTED]@act.gov.au

Dear Ms [REDACTED]

**Decision to issue Administrative Action RE: NOT-00074889**

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-00074889) relating to Kingsford Smith School - Preschool Unit SE-00011203 (the Service) operated by ACT Education Directorate PR-00006465 (the Provider).
2. The notification of incident advised that on 17 September 2024, a preschool child absconded from the library via an unlocked security gate and was found near the back carpark by high school students..
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 18 September 2024, a notification of incident (NOT-00074889) was submitted to the Authority by the Provider advising that on 17 September 2024, [REDACTED] (4 yrs) was found near the back carpark by high school students (including his sibling) unsupervised after he had absconded. His sibling then took [REDACTED] to a high school cooking class where educators located [REDACTED] and took him back to preschool.
5. Additional information submitted with NOT-00074889 included the following:
  - Incident report;
  - Incident summary;
  - Email to staff regarding gate security.
6. On 27 September 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
  - Incident notice to staff;
  - Child attendance records;
  - Working directly with children records (multiple rooms);
  - Abscondment plan;
  - Supervision map;

- Meeting minutes;
  - Risk assessment;
  - Increased Supervision at School process.
7. Please note, documents referred to in paragraph 4 through 6 are not included due to size. These documents can be provided upon request.
8. NOT-00074889 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
- Email to all staff regarding closing of gates and supervision (attached).
  - Preschool team will undertake priority review of supervision procedures.
  - Review of the student's safety plans.
  - School Operations are coordinating additional support for the preschool as a priority.

### **Law**

9. 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**

10. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to support an offence under section 165 and 167 of the *Law* in this instance.
11. 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, nor were they protected from harm, at all times while in the care of the Service on 17 September 2024.

12. 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.
13. 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.
14. 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.
15. 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**

16. 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>.
17. Should you have any questions about this Decision please contact me at [vittorio.colosimo@act.gov.au](mailto:vittorio.colosimo@act.gov.au).

Yours Sincerely,



**Vittorio Colosimo**  
A/g Assistant Director Investigations  
Education and Care Regulation and Support  
Education Directorate

23 October 2024