

██████████
Person with Management or Control
ACT Education Directorate
RE: Lyons Early Childhood School Preschool Unit

Email: ██████████ [@act.gov.au](mailto:██████████@act.gov.au)
██████████ [@act.gov.au](mailto:██████████@act.gov.au)

Dear Ms ██████████

Decision to issue Administrative Action RE: NOT-00084044

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-00084044) relating to Lyons Early Childhood School Preschool Unit SE-00011807 (the Service) operated by ACT Education Directorate PR-00006465 (the Provider).
2. The notification of incident advised that from the beginning of 2024 until 18 October 2024, nine students, who have been identified with asthma and/or anaphylaxis, did not have medical plans in place with the Service.
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 21 October 2024, a notification of incident (NOT-00084044) was submitted to the Authority by the Provider advising that prior to 18 October 2024, staff had not developed Preschool Medical Conditions Risk Minimisation and Communication Plans for nine students. This document can be provided on request.
5. NOT-00084044 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
 - An additional check will be established, ensuring that all Service staff receive a digital reminder before the beginning of each school year to guarantee that all processes are completed in a timely manner, regardless of unexpected leave or staff changes.

Law

6. The Notification engaged the following provisions of the *Law*:

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

7. 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 167 of the *Law* in this instance.
8. In relation to section 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that every reasonable precaution was taken to protect children being educated and cared for by the service from harm or hazards, in that nine children did not have preschool medical conditions risk minimisation and communication plans in place while in the care of the Service throughout the year of 2024.
9. **This letter requires a response to the following:**
 - (a) Provide evidence and a detailed description of the strategies that have been implemented, and how you will mitigate the risk of a similar incident occurring.
Provide evidence that all staff are aware of strategies implemented to, which mitigate risk of a similar incident occurring.

Please ensure a response is submitted by close of business 3 December 2024.

10. 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. It is recommended that any new strategy or process implemented is consistent across all of the Providers approved Services to ensure children are protected from harms or hazards.
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 you to achieve compliance and improve outcomes for children.
12. 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.

13. This decision serves to remind the Provider of their obligations and responsibilities under the *Law*, and to ensure that children who need medical plans have them in place, and the processes associated with these plans are clearly communicated to staff. This is to protect children being educated and cared for by the service from potential harm.
14. 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

15. 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>.
16. 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