

working towards her Bachelor of Early Childhood teaching, record for each day on which students and volunteers participated in the service, the date and the hours of participation (for the period of 2 November 2020 until today). All documents requested were provided to the Authority.

7. Analysis of the documents collected and provided revealed that, record of educators working with children are not always completed accurately or at all by all educators and the staff records do not always correctly record the qualifications that educators may be working towards.

Regulations

8. Regulations relevant to the assessment engaged the following:

145 Staff record

- (1) The approved provider of a centre-based service must ensure that a staff record is kept for that service in accordance with this Division.
- (2) The staff record must include—
 - (a) the information about nominated supervisors set out in regulation 146; and
 - (b) the information about staff members set out in regulation 147; and
 - (c) the information about the educational leader set out in regulation 148; and
 - (d) the information about volunteers set out in regulation 149(1).

151 Record of educators working directly with children

The approved provider of a centre-based service must keep a record of educators working directly with children that includes the following information—



- (a) the name of each educator who works directly with children being educated and cared for by the service;
 - (b) the hours that each educator works directly with children being educated and cared for by the service.
9. The Authority has considered all the information supplied by the Service and the Provider and is satisfied that staff records did not record accurately the qualification being completed by ██████████ demonstrating a breach of Regulation 145 (b).
10. The Authority has considered all the information supplied by the Service and the Provider and is satisfied that the records of educators working directly with children kept at the service did not always record when educators were leaving the room, demonstrating a breach of Regulation 151.
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. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue you this Administrative Letter.

12. When determining to issue a non-statutory action, the Authority considered the following:
- a) The Provider has managed the failings identified from educators appropriately;
 - b) The Provider has appropriate policies and guidelines in place informing educators of expectations in relation to supervision of children; and
 - c) The Provider has implemented additional strategies and communications with all educators to mitigate risk of a similar incident.
13. This decision, however, is intended to bring to your attention the need to ensure that, at all times, the prescribed documents, including the staff record and the records of educators working directly with children, need to be kept in an accurate manner.

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.acecqa.gov.au/national-law>, and
 - <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>
16. This letter 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.
17. If you have any queries regarding this letter or if you require any information in order to understand your obligations under the *Law* and *Regulation*, please contact me at Janine.fairburn@act.gov.au.

Yours sincerely



Delphine Coutin
A/g Assistant Director Audit and Risk Management
Children's Education and Care Assurance
ACT Education Directorate
16 December 2020

Note: This document has been approved via email due to the Regulatory Authority working remotely during the COVID-19 Health Emergency.