ACT Government
Education

[redacted]
Person with Management or Control
ACT Education Directorate
RE: Macgregor Primary School - Preschool Unit

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

Dear [redacted]

Decision to issue Administrative Action RE: NOT-00074188

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-00074188) relating to Macgregor Primary School - Preschool Unit SE-00011206 (the Service) operated by ACT Education Directorate PR-00006465 (the Provider).

2. The notification of incident advised that on 13 September 2024, four children, [redacted], [redacted] and [redacted] (4-5 yrs old) absconded from the Service via an open gate.

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 17 September 2024, a notification of incident (NOT-00074188) was submitted to the Authority by the Provider advising that on 13 September 2024, four children were able to run out of the Service perimeter gate whilst a parent was leaving, only returning when [redacted] mother herded them back inside.

5. Additional information submitted with NOT-00074188 included the following:
   - 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-00074188 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
   - Children have been spoken to about safety.
   - New signs are being made for both gates, alerting parents to the requirement of vigilance about safety.
   - Additional staff members have been placed at preschool on the days that the children attend.

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.

Decision

9. 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 of the *Law* in this instance.

10. In relation to section 165 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were adequately supervised at all times while in the care of the Service on 13 September 2024.

11. The Authority is satisfied that the very nature of the matter notified, and additional information submitted by the Provider supports, on balance of probabilities, the offence being substantiated.

12. The Authority is satisfied that [redacted] and [redacted] were not adequately supervised resulting in them exiting the gated area of the Service, unnoticed by educators responsible for their education and care at the time.

13. **This letter requires a response to the following**:

    (a) Provide evidence that inductions have been reviewed to better focus on supervision practices (specifically for casual educators).

    Please ensure a response is submitted by close of business 29 October 2024.

14. 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.

15. 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.

16. 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.

17. 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

18. 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.

19. 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

14 October 2024