



Person with Management or Control
CHABAD ACT LIMITED
RE: My Little Star Early Learning Centre
Email: [REDACTED]

Dear [REDACTED]

Decision to issue Administrative Action
RE: NOT-40783302, NOT-40790157 and NOT-40790124

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted assessments of several Notifications of Incident (NOT-40783302, NOT-40790157 and NOT-40790124). The notifications advised of children being unsupervised on three separate occasions at My Little Star Early Learning Centre - SE-00014279 (the Service) operated by CHABAD ACT LIMITED - PR-40001919 (the Provider).
2. The Authority is satisfied that the Provider has not complied with provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in these instances. Web addresses for the Law and the Regulations are provided for your convenience at the end of this decision.

Facts

3. On 14 October 2022, the Authority received a Notification of Incident (NOT-40783302) from the Provider advising that, on 14 October 2022, a child, known to be [REDACTED] (DOB: [REDACTED]), was located outside by himself by a preschool educator. Refer NOT-40783302 at [Attachment A](#).
4. On 17 October 2022, the Service's Director was emailed by the Authority, and additional information was requested in regard to the notification. Additional information was received on 20 October 2022. Refer email correspondence and response at [Attachment B](#).
5. On 3 November 2022, the Authority received a Notification of Incident (NOT-40790124) from the Provider advising that, on 25 October 2022, a child, known to be [REDACTED] (DOB [REDACTED]), was left alone in the front outside yard for a short period of time. An educator had left [REDACTED] to collect a different child, leaving [REDACTED] alone. An educator had seen [REDACTED] at the front entrance and let her in immediately. Refer NOT-40790124 at [Attachment C](#).
6. On 3 November 2022, the Authority received a Notification of Incident (NOT-40790157) from the Provider advising that, on 26 October 2022, a child, known to be [REDACTED] (DOB [REDACTED]), was located outside by himself by an educator. The educator brought the child inside and comforted him. Refer NOT-40790157 at [Attachment D](#).

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: \$10 000, in the case of an individual
\$50 000, 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 cared for by the service from harm and from hazard likely to cause injury.

Penalty: \$10 000, in the case of an individual

\$50 000, in any other case.

Reasons

7. 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 165 of the *Law* in this instance, engaging a contravention of s167 of the *Law* for each instance that a child was found alone and unsupervised.
8. The Authority is satisfied that inadequate supervision of children aging one year, has contributed to the three instances of these children being left alone outdoors. The Authority is further satisfied that by not ensuring adequate supervision of all children at all times, the Provider has not taken reasonable precautions to protect children from harms and hazards likely to cause injury in these instances.
9. The Authority notes that the Provider has advised via the notifications, that during the times of non-compliance, steps were undertaken to mitigate potential risks relating to inadequate supervision, yet these steps appear to have been ineffective in preventing a subsequent similar incident occurring.
10. In consideration of all relevant information, the objectives and guiding principles of the *Law*, and the Services compliance history, the Authority has determined not to initiate statutory compliance action regarding the substantiated contraventions of sections 165(1) and 167(1) of the *Law*, but rather issue this Administrative Decision to address the non-compliances.
11. Regarding substantiated offences under sections 165 and 167 of the *Law*, the Provider is requested to submit the following, within 14 days of receipt of this Decision, to demonstrate correction of non-compliances:
 - a) Evidence of strategies/processes in place to ensure that all children, especially younger cohorts, are being adequately supervised at all times
 - b) Evidence supporting that all educators, inclusive of the Nominated Supervisor and agency staff, are aware of and understand the expectations of the *Law* and the Provider regarding the provision of adequate supervision at all times.
12. This evidence should be submitted to the Authority to Authorised Officer, Vittorio Colosimo, at vittorio.colosimo@act.gov.au, or by post to:

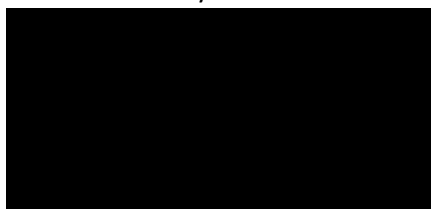
Vittorio Colosimo, Authorised Officer
Children’s Education and Care Assurance
PO Box 158, CANBERRA ACT 2601
13. This Decision is issued to remind the Provider, that always, staffing and supervision levels need to meet the emotional, developmental, and physiological needs of all children at all times. These staffing and supervision levels may need to be adapted to be above minimum regulated ratio levels to protect children from harm and hazard likely to cause injury – both physically and psychologically.

14. This Decision will be recorded on your Service file and may also 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.

Legislation

15. The *Law* applies to you as an approved provider and any approved service that the Provider operates.
16. 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>.
17. 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>
18. If you have any queries regarding this Decision, please contact Assistant Director, Janine Fairburn, at janine.fairburn@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Education and Care, Regulation and Support
ACT Education Directorate

23 November 2022