

Mr [REDACTED]
Person with Management or Control
Extend (Australia) Pty Ltd
RE: Orana Steiner OSHC- Extend

Email: [REDACTED]
Cc: [REDACTED]

Dear Mr [REDACTED]

Decision to Issue Compliance Notice

1. I am a delegate of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance. You may be aware that an Authorised Officer from the Authority conducted an audit visit on 27 August 2024 at Covenant Christian College OSHC – Extend, SE-040011723 (the Service). As a result of the non-compliances identified at the time of the audit, the Authority has decided to issue a Compliance Notice (**Attachment A**) to Extend (Australia) Pty Ltd PR-00002530 (the Provider), regarding the operation of the Service.
2. During the compliance visit the Authorised Officer gathered evidence via their monitoring powers under the *Education and Care Services National (ACT) Law* (the Law). This consisted of documentation, photos, observations and conversations held with an employee. The evidence gathered supports contraventions of the Law and the *Education and Care Services National Regulations 2011* (the Regulations).
3. During the visits the Authorised Officer observed the following:
 - a) Inadequate staffing arrangements – the educator educating and caring for children for the service did not meet the qualification requirements relevant to the educator's role as prescribed by the Regulations.
 - b) Reasonable precautions not undertaken to protect children from hazard and harms likely to cause injury or illness.
 - i. staffing arrangements were not meeting the needs of individual children of preschool age, observed was a lack of process to ensure children preschool aged were supported; and
 - ii. staffing numbers are less than the number prescribed for the purpose of the Law.
 - iii. Medication was accessible to children.
 - c) An educator was observed implementing disciplinary action that was unreasonable under the circumstances.
 - d) Prescribed documents were not available for inspection.
 - e) No Program was implemented and the educational program was not documented nor had information been documented for children's participation within the program.

4. Various other contraventions of the Law and the Regulations were observed by the Authorised Officer during the visit and further information has been set out within this decision.
5. Despite the Approved Provider's response on 6 December 2022 (notification NOT-40800682 and NOT-40802439), to the announced compliance audit conducted on 17 November 2022, the non-compliance has continued.
6. Considering the evidence, I am satisfied that the Service was not complying with the provisions of the Law and the Regulations in respect to operating and education and care service.
7. Electronic links to the Law and Regulations are provided for your convenience at the end of this Decision.

Background Facts

8. On the 27 August 2024, the Authority conducted an unannounced compliance audit visit to the Service.
9. Evidence collected at the time of the visit demonstrates multiple contraventions of the Law and the Regulations.

Grounds

10. At the time of visit, the Authorised Officer established the number of enrolments exceeded eleven and ratio and qualification requirements are frequently not met. Reasonable precautions were not undertaken by the Provider to ensure children's safety and protection from harm or hazards in contravention of Sections 167 and 169 of the Law respectively including Regulation 123.
 - (a) █████ stated that Wednesday after school care has 12 enrolments and she is the only educator rostered on.
 - (b) █████ stated she has spoken to the Provider, regarding additional assistance and the Provider has not staffed to the number of enrolments on Wednesdays leaving the service frequently out of ratio.
11. General Early Childhood Education and Care qualifications were not met by the educator on 27 August 2024, in contravention of Section 169 of the Law.
 - (a) For the purpose of educating and caring for children of preschool age the educator does not hold a Diploma or Certificate 3 in an approved qualification in Early Childhood Education and Care.
 - (b) The educator's qualifications do not meet the requirement of 1st qualified for the purpose of educating and caring for school age children. The educator's qualification has been assessed by the Australian Children's Education and Care Quality Authority as second qualified and the Provider submitted evidence of this to the Authority via application APP-40225512 on 27 July 2023.
 - (c) Evidence of current first aid, asthma and anaphylaxis management and CPR training qualifications were not able to be provided during the visit.
12. The educator was observed scolding a child for the inadequate use of resources. The words used to communicate to the child were not reasonable nor was the action undertaken quietly as the educator continued to address the child in front of their peers. The educator's

disciplinary action was unreasonable in the circumstances and in contravention of section 166 of the Law and Regulation 155.

- (a) The educator continued to explain to the child she cannot do that, it is not using their creativity.
 - (b) The educator continued to repeat herself addressing the child and using words such as: “seriously you need to do better”.
 - (c) The educator suggested to pack up the Father’s Day card making and continued to speak to the group of children stating why she was disappointed in the way the child used the resources.
- 13. Discussions with the educator were held regarding the Provider’s policies and procedures. The educator stated they were not aware of the policies and procedures contravening Regulation 170.
 - (a) The educator could not articulate what processes would be followed if support was required from the school in the event of an emergency.
 - (b) The educator could not articulate what steps they would undertake to notify a parent of a child who had experienced an accident causing an Injury, trauma or Illness whilst in care.
 - (c) The educator was not able to answer the Authorised Officer’s questions, regarding the Provider’s medical conditions policy.
- 14. Authorised Officer held discussions with the educator, regarding the October 2023 Regulation updates. After the discussion the Authorised Officer requested copies of policies, procedures and risk assessments specific to the updates and the operation of the service. The educator was not aware that the Provider had implemented the updates shrugging their shoulders and not understanding the request, contravening Regulation 168.
- 15. When questioned by the Authorised Officer regarding the process undertaken to notify families of changes to policies and procedures and any role or responsibility the educator has informing families, the educator could not answer. This is a contravention of Regulation 172.
 - (a) It should be noted on 17 November 2022, during the audit visit the same educator could not articulate the process or the educator’s involvement in informing families of any changes that will affect the fees charged or the way in which fees are collected.
- 15. Current versions of the Law and Regulations were not displayed nor available during the visit. The educator was not aware of the Law or Regulations, in contravention of Regulation 185.
- 16. Prescribed Information about the service was displayed but was inaccurate in contravention of Regulation 173.
 - (a) The sign displayed mentioned “Holiday Care 8am-6pm”. Based on the Authority’s records of the service, the service does not operate during school holidays.
 - (b) The name and telephone number of the person at the education and care service to whom complaints may be addressed could not be found on the information displayed.

17. The menu displayed did not correctly describe the food offered contravening Regulation 84.
 - (a) No notification or sign displayed identifying the change of menu on 27 August 2024.
 - (b) The Authorised Officer enquired to the quantity of food served on the day and if the educator thought it was substantial for the number of children enrolled. The educator stated the budget allocated for grocery items did not allow the purchase of grocery items to meet the menu requirements and the number of children enrolled throughout the week.
18. On inspecting prescribed documents, the following records had not been documented or had not been accurately completed, contravening Section 175 of the Law.
 - (a) The educator was honest and stated they do not get time to program and document evaluations. The educator stated programming and documenting evaluations have not been completed and it was pointless to try to show the Authorised Officer examples of this (see Regulation 74).
 - (b) Medication records containing all required information was sighted but not completed accurately (see Regulation 92).
 - (c) No evidence of current first aid certificate could be sighted at the time of audit. The educator could not access her staff record. The Authority was provided with copy of the educator's staff record on 6 December 2022 on reviewing the staff record the first aid qualification had expired (see Regulation 145).
 - (d) Written records were not sighted for the responsible person, the educator identified as the responsible person on the day of Audit. The educator did not understand the request to sight the responsible persons record (see Regulation 150).
 - (e) The educator advised the roster lists their start time for example, 3pm however, children arrive after school at 3:15pm. The roster does not reflect accurately the time the educator is working directly with children. There was no process in place to record accurately the prescribed information within a working directly with children record (see Regulation 151)
 - (f) The educator was able to demonstrate they could navigate the attendance record of the day of the visit. The educator demonstrated she could sign children in and out but stated she could not retrieve the previous days attendance. (see Regulation 158).
 - (g) A record for the Nominated Supervisor [REDACTED] could not be sighted (see Section 162 of the Law Regulation 146).
 - (h) The provider did not appear to have a system in place to assist the service in pertaining accurate records at the time of the compliance audit (see regulation 177).
19. The educator's lack of knowledge of the Law and Regulations and of the Provider's policies and procedures has created an inability for the Provider to be advised of relevant events at the Service that needs to be notified to the Authority. The Provider's responsibility to meet their regulatory requirements to notify the Authority has been impacted, contravening Regulation 174.
20. On the day of the visit, the Educational Leader was displayed as [REDACTED] The educator self-confessed she has no knowledge on how to implement the educational program within the service. The educator also stated they have no willingness to learn the National Quality

Framework. Through conversations, it was clear that the educator has no or limited knowledge of the provider's policies and procedures and lack understanding of the Law and Regulations. This is a contravention of Regulation 148 engaging Regulation 118.

21. The Authorised Officer was unable to sight evidence of evaluation or assessments to support an educational program was being implemented and that the program considers the age of the children enrolled contravening Regulation 74.
 - (a) Conversations were held regarding how the educator assesses the ages of children as a group, ensuring each child's interests are incorporated within the day's activities and experiences are planned to meet the ages and development stages of the children enrolled. The educator stated it is commonsense and that they know the children and is like a grandparent to the children enrolled and attending the service.
 - (b) It should be noted during the scheduled compliance visit on 17 November 2022, children's assessments or evaluations were not being completed. The non-compliance has continued despite the providers response on 6 December 2022 and 9 December 2022 (NOT-40800682 and NOT- 40802439).
22. The outline of the educational program was not displayed in contravention of Regulation 75.
 - (a) On questioning the educator, the Authorised Officer was advised no program had been developed. On asking about the activities implemented the educator explained they are often based on the school curriculum and what the children are currently investigating at school. As an example, the educator showed the Authorised Officer the pirate ship.
23. No program was currently being implemented during the audit, documentation had not been completed and therefore information about the content of the program related to children enrolled could not be provided to parents on request, contravening Regulation 76.
24. The Quality improvement Plan (QIP) was not available to be sighted contravening Regulation 55.
 - (a) The educator advised the Authorised Officer that the QIP had not been updated for some time; and
 - (b) due to co-ordinators not meeting regularly the QIP has not been updated at least annually.
25. On showing the Authorised Officer printed medical management plan for a child with a peanut allergy and asthma the educator questioned if the printed copies were current. On looking up the child's enrolment record online the educator could not open the medical management plan for the peanut allergy and Asthma posing a risk to the child in an emergency. This is a contravention of Regulation 162.
 - (a) It should be noted medical information stored on children's enrolment records was not accessible on 17 November 2022. The non-compliance has continued despite the providers response on 6 December 2022 and 9 December 2022 (NOT-40800682 and NOT- 40802439).
26. There was no evidence provided to the Authorised Officer showing that a risk assessment of potential emergencies has been developed or reviewed at least annually by the provider, contravening Regulation 97(2)(2A)(2B).

27. Authorised Officer identified that the check list on the fridge was documented up-to 8 August 2022 and no further temperature checks had been conducted or documented, contravening Regulation 77.
28. The educator advised the Authorised Officer that a risk assessment for sleep and rest meeting the requirements of Regulation 84C to her knowledge was not implemented and was not able to provide the document contravening Regulation 84C.
29. Risk minimisation plans and communication plans during the audit were not in place for children who have been diagnosed with a medical condition. The Authorised Officer located medication not held within its original container. The medication was stored in the first aid cupboard and was accessible to children, contravening Regulation 90.
- (a) ■■■ – received a diagnosis of Asperger syndrome and ADHD. ■■■ has an additional need and information form in place which was sighted. There was no risk minimisation or communication plan in place.
 - i. ■■■ – medication initially was assessed as stored appropriately. Authorised Officer sighted the bottle (labelled) in the storeroom. The Medication was in its original container.
 - ii. On further assessment of the first aid cupboard Authorised Officer sighted a tablet stored within a container. The tablet container contained one white tablet and was accompanied with the medication record. Authorised Officer could not determine what the medication was.
 - iii. The first aid cupboard the tablet was located within was not locked and accessible to children.
 - iv. Authorised Officer asked the educator what the tablet in the container was, the educator replied it was ■■■ medication. The tablet container was not labelled as per the medication bottle sighted in the storeroom.
 - (b) ■■■ – Has in place a medical management plan but no risk minimisation or communication plan.
 - (c) ■■■ – Anaphylaxis and Asthma – medical management plan was available, but no risk minimisation plan or communication plan had been developed.
 - (d) It should be noted that non-compliance with this matter continues as it was already identified during the audit on 17 November 2022. The Authorised Officer identified risk minimisation plans had not been completed for children with a medical condition.
30. The Authorised Officer reviewed a medication record for a child who is administered medication daily. On reviewing the child's medication record, the Authorised Officer noted the record was missing prescribed information in contravention of Regulation 92.
- (a) the date; and
 - (b) record the date next to the parents' signature; and
 - (c) ■■■ (Mother) has witnessed the administration of medication; and
 - (d) it appears to have been administered past the request time of 3:30pm; and
 - (e) the box containing the parent's signature on pick up had been signed in retrospect.

Law

Legislative Provisions Relevant to Allegation

Section 175 of the Law - Offence relating to requirement to keep enrolment and other documents.

An approved provider of an education and care service must keep the prescribed documents available for inspection by an authorised officer in accordance with this section.

Penalty: \$4500, in the case of an individual.
\$22 900, 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: \$10 000, in the case of an individual
\$50 000, in any other case.

Section 169(1) of the Law – Offence relating to staffing arrangements.

An approved provider of an education and care service must ensure that, whenever children are being educated and cared for by the service, the relevant number of educators educating and caring for the children is no less than the number prescribed for this purpose.

Penalty: \$11 400, in the case of an individual.
\$57 400, in any other case.

Section 169(2) of the Law – Offence relating to staffing arrangements.

An approved provider of an education and care service must ensure that each educator educating and caring for children for the service meets the qualification requirements relevant to the educator's role as prescribed by the national regulations.

Penalty: \$10 000, in the case of an individual.
\$50 000, in any other case.

Section 166(1) of the Law – Offence to use inappropriate discipline.

The approved provider of an education and care service must ensure that no child being educated and cared for by the service is subjected to—

- (a) any form of corporal punishment; or
- (b) any discipline that is unreasonable in the circumstances.

Penalty: \$10 000, in the case of an individual.
\$50 000, in any other case

Regulations

Legislative Provisions Relevant to Allegation

185 Law and regulations to be available

The approved provider of an education and care service must ensure that a copy of the Law and these Regulations is accessible at the education and care service premises at all times for use by nominated supervisors, staff members, volunteers, parents of children enrolled at the service and any person seeking to make use of the service.

177(2) Prescribed enrolment and other documents to be kept by approved provider.

The approved provider of the education and care service must take reasonable steps to ensure the documents referred to in subregulation (1) are accurate.

Penalty: \$2000.

173 Prescribed information to be displayed—education and care service other than a family day care service

- (1) For the purposes of section 173(4) of the Law, a notice must be provided within 14 days of the relevant event or within 14 days of the approved provider becoming aware of the relevant event.
- (2) For the purposes of section 173(5) of the Law, a notice must be provided—
 - (aa) in the case of a notice under section 173(2)(e), at least 14 days before the change in the location of the principal office takes place; or
 - (a) in the case of a notice under section 173(2)(f), within the period referred to in section 59 of the Law;
 - (b) in any other case, within 7 days of the relevant event or within 7 days of the approved provider becoming aware of the relevant event.

173(2) Prescribed information to be displayed-education and care services other than a family day care service

For the purposes of section 172(1)(f) of the Law, the following matters and information are prescribed—

- (c) the hours and days of operation of the education and care service;
- (d) the name and telephone number of the person at the education and care service to whom complaints may be addressed;

170 Policies and procedures to be followed

The approved provider of a centre-based service must take reasonable steps to ensure that nominated supervisors and staff members of, and volunteers at, the service follow the policies and procedures required under regulation 168.

Penalty: \$1100.

168 Education and care service must have policies and procedures

The approved provider of an education and care service must ensure that the service has in place policies and procedures in relation to the matters set out in subregulation (2).

Penalty: \$1100.

162 Health information to be kept in enrolment record

- (a) the name, address and telephone number of the child's registered medical practitioner or medical service; and
- (b) if available, the child's Medicare number; and
- (c) details of any—
 - (i) specific healthcare needs of the child, including any medical condition; and

- (ii) allergies, including whether the child has been diagnosed as at risk of anaphylaxis; and
- (d) any medical management plan, anaphylaxis medical management plan or risk minimisation plan to be followed with respect to a specific healthcare need, medical condition or allergy referred to in paragraph (c); and
- (e) details of any dietary restrictions for the child; and
- (f) the immunisation status of the child; and
- (g) if the approved provider or a staff member or family day care educator has sighted a child health record for the child, a notation to that effect.

155(d) Interactions with children

An approved provider must take reasonable steps to ensure that the education and care service provides education and care to children in a way that—

- (h) encourages the children to express themselves and their opinions; and
- (i) allows the children to undertake experiences that develop self-reliance and self-esteem; and
- (j) maintains at all times the dignity and rights of each child; and
- (k) gives each child positive guidance and encouragement toward acceptable behaviour; and
- (l) has regard to the family and cultural values, age, and physical and intellectual development and abilities of each child being educated and cared for by the service.

148 Educational leader

The staff record must include the name of the person designated as the educational leader in accordance with regulation 118.

123(2) Educator to child ratios – centre based services

If children being educated and cared for at a centre-based service are of mixed ages the minimum number of educators for the children must meet the requirements of subregulation (1) at all times.

126(2) Centre – based services – general educator qualifications

The qualification requirements for educators at a centre-based service educating and caring for children over preschool age in a jurisdiction are the qualification requirements (if any) set out in Chapter 7 for that jurisdiction.

118 Educational leader

The approved provider of an education and care service must designate, in writing, a suitably qualified and experienced educator, co-ordinator or other individual as educational leader at the service to lead the development and implementation of educational programs in the service.

117B Minimum requirements for a person in day-to-day charge

(1) An approved provider or a nominated supervisor of an education and care service must not place a person in day-to-day charge unless—

- (b) the approved provider or nominated supervisor (as the case requires)—
 - (ii) has taken reasonable steps to ensure that the person has adequate knowledge and understanding of the provision of education and care to children and an ability to effectively supervise and manage an education and care service.

97 Emergency and evacuation procedures

- (1) The emergency and evacuation procedures required under regulation 168 must set out—
- (a) instructions for what must be done in the event of an emergency; and
 - (b) an emergency and evacuation floor plan; and
 - (c) if the education and care service premises is located within a multi-storey building shared with other occupants and on a storey with no direct egress to an assembly area—
 - i. all possible evacuation routes from each storey on which the premises is located; and
 - ii. the evacuation routes that are proposed to be used in an evacuation; and
 - iii. how all children will be safely evacuated from the premises, including non-ambulatory children; and
 - iv. the stages in which an evacuation will be carried out; and
 - v. the identity of the person in charge of an evacuation; and
 - vi. the roles and responsibilities of staff members during an evacuation; and
 - vii. the arrangements made with the other occupants of the multi-storey building in relation to the evacuation of the multi-storey building.

- (2) For the purposes of preparing the emergency and evacuation procedures, the approved provider of an education and care service must ensure that a risk assessment is conducted to identify potential emergencies that are relevant to the service.

Penalty: \$2200.

- (2A) The approved provider of a centre-based service must review the risk assessment conducted under subregulation (2)—

- (a) at least once every 12 months; and
- (b) as soon as practicable after becoming aware of any circumstance that may affect the safe evacuation of children from the service.

Penalty: \$2200.

- (2B) As soon as practicable after reviewing the risk assessment under subregulation (2A), the approved provider of a centre-based service must make any necessary updates to the emergency and evacuation policies and procedures.

Penalty: \$2200.

- (3) The approved provider of an education and care service must ensure that—

- (1) in the case of a centre-based service, the emergency and evacuation procedures are rehearsed every 3 months by the staff members, volunteers and children present at the service on the day of the rehearsal and the responsible person in relation to the service who is present at the time of the rehearsal; and

(ab) in the case of a family day care service, the emergency and evacuation procedures are rehearsed every 3 months by each family day care educator and the children being educated and cared for by the family day care educator on that day; and

- (a) the rehearsals of the emergency and evacuation procedures are documented.

Penalty: \$2200.

- (4) The approved provider of an education and care service must ensure that a copy of the emergency and evacuation floor plan and instructions are displayed in a prominent position near each exit at the education and care service premises, including a family day care residence and approved family day care venue.

Penalty: \$2200.

95 Procedures for administration of medication

Subject to regulation 96, if medication is administered to a child being educated and cared for by an education and care service—

- (a) the medication must be administered—
 - i. if the medication has been prescribed by a registered medical practitioner, from its original container, bearing the original label with the name of the child to whom the medication is to be administered, and before the expiry or use by date; or
 - ii. from its original container, bearing the original label and instructions and before the expiry or use by date; and
- (b) the medication must be administered in accordance with any instructions—
 - i. attached to the medication; or
 - ii. any written or verbal instructions provided by a registered medical practitioner;
- (b) except in the case of a family day care service or an education and care service that is permitted to have only 1 educator to educate and care for children, the following must be checked by a person other than the person administering the medication—
 - i. the dosage of the medication to be administered;
 - ii. the identity of the child to whom the medication is to be administered.

92 Medication record

- (1) The approved provider of an education and care service must ensure that a medication record is kept that includes the details set out in subregulation (3) for each child to whom medication is or is to be administered by the service.
- (2) A family day care educator must keep a medication record that includes the details set out in subregulation (3) for each child being educated and cared for by the educator as part of a family day care service to whom medication is or is to be administered.
- (3) The details to be recorded are—
 - (a) the name of the child;
 - (b) the authorisation to administer medication (including, if applicable, self-administration), signed by a parent or a person named in the child's enrolment record as authorised to consent to administration of medication;
 - (c) the name of the medication to be administered;
 - (d) the time and date the medication was last administered;
 - (e) the time and date, or the circumstances under which, the medication should be next administered;
 - (f) the dosage of the medication to be administered;
 - (g) the manner in which the medication is to be administered;
 - (h) if the medication is administered to the child—
 - i. the dosage that was administered; and
 - ii. the manner in which the medication was administered; and
 - iii. the time and date the medication was administered; and
 - iv. the name and signature of the person who administered the medication; and
 - v. if another person is required under regulation 95 to check the dosage and administration, the name and signature of that person.

84C Risk assessment for purposes of sleep and rest policies and procedures

(1) The approved provider of an education and care service must ensure that a sleep and rest risk assessment is conducted in accordance with this regulation—

- (a) at least once every 12 months; and
- (b) as soon as practicable after becoming aware of any circumstance that may affect the safety, health or wellbeing of children during sleep and rest.

Penalty: \$2200.

(2) A risk assessment must consider the following—

- (a) the number, ages and developmental stages of children being educated and cared for—
 - i. by the education and care service; or
 - ii. in the case of a family day care service, at each family day care residence or approved family day care venue of the service;
- (b) the sleep and rest needs of children being educated and cared for (including health care needs, cultural preferences, sleep and rest needs of individual children and requests from families about a child's sleep and rest)—
 - i. by the education and care service; or
 - ii. in the case of a family day care service, at each family day care residence or approved family day care venue of the service;
- (c) the suitability of staffing arrangements to adequately supervise and monitor children during sleep and rest periods;
- (d) the level of knowledge and training of staff supervising children during sleep and rest periods;
- (e) the location of sleep and rest areas, including the arrangement of cots and beds within the sleep and rest areas—
 - i. at the education and care service; or
 - ii. in the case of a family day care service, at each family day care residence or approved family day care venue of the service;
- (f) the safety and suitability of any cots, beds and bedding equipment, having regard to the ages and developmental stages of the children who will use the cots, bed and bedding equipment;
- (g) any potential hazards—
 - i. in sleep and rest areas; or
 - ii. on a child during sleep and rest periods;
- (h) the physical safety and suitability of sleep and rest environments (including temperature, lighting and ventilation)—
 - i. at the education and care service; or
 - ii. in the case of a family day care service, at each family day care residence or approved family day care venue of the service;
- (i) in the case of a family day care service that provides overnight care to a child, any risks that the overnight care provided at the family day care residence or approved family day care venue of the service may pose to the safety, health or wellbeing of the child.

(3) As soon as practicable after conducting a risk assessment under this regulation, the approved provider of an education and care service must make any necessary updates to the sleep and rest policies and procedures.

(4) The approved provider must keep a record of each risk assessment conducted under this regulation.

79 Service providing food and beverages

The approved provider of an education and care service that provides food or a beverage to children being educated and cared for by the service must ensure that—

- (a) the food or beverage provided is nutritious and adequate in quantity; and
- (b) the food or beverage provided is chosen having regard to the dietary requirements of individual children taking into account—
 - (i) each child’s growth and development needs; and
 - (ii) any specific cultural, religious or health requirements.

80 Weekly menu

The approved provider of an education and care service that provides food and beverages (other than water) to children being educated and cared for by the service must ensure that a weekly menu—

- (a) is displayed at a place at the education and care service premises accessible to parents of children being educated and cared for by the service; and
- (b) accurately describes the food and beverages to be provided by the service each day.

Penalty: \$1100.

77 Health, hygiene and safe food practices

(1) The approved provider of an education and care service must ensure that nominated supervisors and staff members of, and volunteers at, the service implement—

- (a) adequate health and hygiene practices; and
- (b) safe practices for handling, preparing and storing food—
to minimise risks to children being educated and cared for by the service.

Penalty: \$2200.

76 Information about educational program to be given to parents

The approved provider of an education and care service must ensure that a parent of a child being educated and cared for by the service is provided with the following information on request—

- (a) information about the content and operation of the educational program so far as it relates to that child;
- (b) information about the child’s participation in the program;
- (c) a copy of the documents kept under regulation 74 in respect of the child.

75 Information about educational program to be kept available

The approved provider of an education and care service must ensure that—

- (a) information about the contents and operation of the educational program for the service is displayed at the education and care service premises at a place accessible to parents of children being educated and cared for by the service; and
- (b) a copy of the educational program is available at the following places for inspection on request—
 - (i) in the case of a centre-based service, at the education and care service premises;
 - (ii) in the case of a family day care service, at each family day care residence or family day care venue.

74 Documenting of child assessments or evaluations for delivery of educational program

- (2) The approved provider of the education and care service must ensure that, for the purposes of the educational program, the following are documented—
 - (a) for a child preschool age or under—
 - i. assessments of the child’s developmental needs, interests, experiences and participation in the educational program; and
 - ii. (ii) assessments of the child’s progress against the outcomes of the educational program; and
 - (c) for a child over preschool age, evaluations of the child’s wellbeing, development and learning.
- (3) In preparing the documentation, the approved provider must—
 - (a) consider—
 - i. the period of time that the child is being educated and cared for by the service; and
 - ii. how the documentation will be used by the educators at the service; and
 - (b) prepare the documentation in a way that is readily understandable by the educators at the service and the parents of the child.

55 Quality improvement plans

- (1) The approved provider of an education and care service must ensure that, within 3 months of the grant of the service approval, a quality improvement plan is prepared for the service that—
 - (a) includes an assessment by the provider of the quality of the practices of the service against the National Quality Standard and these Regulations; and
 - (b) identifies any areas that the provider considers may require improvement; and
 - (c) contains a statement of the philosophy of the service.
- (2) The approved provider must submit the quality improvement plan to the Regulatory Authority on request

Compliance History

- 31. In determining appropriate compliance action, I have considered the compliance history of the Service, which has had statutory compliance actions taken prior to this Decision.

Decision

- 32. Considering the evidence obtained, the Service’s compliance history, and the objectives and guiding principles of the Law, I have determined that issuing a compliance notice would be appropriate and in the best interests of children.

- 33. The Authority is empowered to issue a compliance notice under section 177 of the Law.

34. 177 – Compliance notices

- (1) This section applies if the Regulatory Authority is satisfied that an education and care service is not complying with any provision of this Law.
- (2) The Regulatory Authority may give the approved provider a notice (a compliance notice) requiring the approved provider to take the steps specified in the notice to comply with that provision.
- (3) An approved provider must comply with a compliance notice under subsection (2) within the period (being not less than 14 days) specified in the notice.

Penalty: \$6 000, in the case of an individual
\$30 000, in any other case.

35. The compliance notice is attached to this Decision letter at Attachment A. You are required to take the steps directed in the Notice to comply with the relevant provisions.
36. You must produce evidence of the steps required by **the time indicated within the Notice at Attachment A.**
37. The Authority will also be maintaining its auditing of the Service to ensure compliance is appropriately monitored, so as to ensure the health, safety and wellbeing of children being educated and cared for.

Rights of Review

38. A decision to issue a compliance notice is a **reviewable decision** as defined in Section 190 of the *Law*. Under section 191 of the *Law*, you may apply for an internal review of this decision. Any application must be lodged within 14 days after you are notified of the decision (or, if not notified, within 14 days after becoming aware of the decision).
39. An application for review may be made by completing the form AR01 Application for Internal Review of Reviewable Decision which can be obtained from the ACECQA website.

Legislation

40. 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>.
41. 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>
42. Should you have any questions about this Decision, or the Compliance Notice please contact the Authorised Officer by email at: Nicola.Atherton@act.gov.au.

Yours Sincerely



Delphine Coutin
Assistant Director
Audit and Risk Management
Children's Education and care Assurance
Education and Care Regulation and Support

17 October 2024