



██████████
Person with Management or Control
OORAMA Operation PTY Limited
PO Box 515
Varsity Lakes QLD 4227

Email: ██████████

Cc: ██████████

Dear ██████████

Decision to Issue Compliance Notice

1. As you are aware, an Authorised Officer from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted a compliance audit at Kindy Patch Bonython SE- 00009841 (the Service), operated by OORAMA OPERATIONS PTY LIMITED PR-40001489 (the Provider).
2. I am satisfied that the Provider did not comply with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) and the *Education and Care Services National Regulations* (the Regulations).
3. Web addresses for the Law and the Regulations are provided for your convenience at the end of this notice.

Facts

4. On 10 August and 16 August 2022, an Authorised Officer (AO) entered the service to conduct a compliance audit. The audit report has been finalised and it has been determined based on the evidence collected there are contraventions of Section 165(1), 167 (1), 168(1) of the *National Law* and Regulation 177(2) of the *Regulations*.
5. The Authority, in addition to the Compliance Notice, has issued communication via a non-statutory email itemising other non-compliance identified during the audit. The approved provider and nominated supervisor will be required to respond to the email and table in the timeframe stipulated within the email body.
6. The audit report has been provided at Attachment A and outlines the non-compliance identified during both visits.
7. Conversations held with the nominated supervisor identified that staffing impacts have impeded her ability to lead and govern the service. In particular, the ability to implement the Providers' policies and procedures and ensure prescribed documents are accurate and mitigate risks to protect children from harm and hazards.

8. At the time of the audit child enrolment files were missing current medical information and one child's enrolment file identified as empty.
9. The audit identified a lack of process around health and hygiene practices and supervision was not sustainable failing to protecting children from harm and hazards.
 - (a) The rooms were challenging during both visits. Children's needs were not being met and impacted the safety of children within the nursery room when grouping in the morning, making it difficult to supervise and intervene preventing hands and feed being stood on.
 - (b) The preschool room contained one educator to 14 children. The educator identified as the responsible person and was tasked to making telephone calls, speaking to parents and answering incoming calls while supervising, educating and caring for children in her care.
 - (c) In the absence of the cook temperature checks of prepared food, fridges and freezers and cleaning regimes were not being documented and carried out in the absence of the cook.
10. A program was displayed in each room and during both audits the indoor learning environments were not set-up in a way that responded to children's needs, encouraged ideas nor guided children's behaviour and promoted constructive learning. The lack of room planning, and implementation impacted on social and physical environments and children were observed disengaged and lack of participation.
11. Educators were not able to respond to children's health and safety needs to ensure children's individual comfort and wellbeing were met.
 - (a) A child was left in a soiled nappy as children within the toddler's room egressed from the indoor to outdoor play.
 - (b) The change mat located within the toddler's bathroom had not been cleaned and was dirty.
 - (c) During the morning children grouped within the infant's room. Infants feeding, sleep and playtime routines were disrupted due to the overcrowding within the room, failing to ensure the comfort and wellbeing of infants were met during the morning grouping.
12. The audit report at [Attachment A](#) provides a more detailed account of the audit findings and is required to be read in conjunction with the compliance notice.
13. On its face, such evidence supported the following breaches of the Law and Regulations listed below.

Law and Regulations

Legislative Provisions Relevant to Allegation

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 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 168(1) of the Law – Offence relating to required programs

The approved provider of an education and care service must ensure that the program is delivered to all children being educated and cared for by the service that-

- (a) is based on an approved learning framework; and
- (b) is delivered in a manner that accords with the approved learning framework; and
- (c) is based on the developmental needs, interests and experiences of each child;
and
- (d) is designed to take into account the individual differences of each child.

Penalty: \$4 000, in the case of an individual

\$20 000, in any other case.

Regulation 177 – Prescribed enrolment and other documents to be kept by approved provider

- (1) For the purposes of section 175(1) of the Law, the following documents are prescribed in relation to each education and care service operated by the approved provider-
 - (a) the documentation of child assessments or evaluations for delivery of the educational program as set out in regulation 74;
 - (b) an incident, injury, trauma and illness record as set out in regulation 87;
 - (c) a medication record as set out in regulation 92;
 - (d) in the case of a centre-based service, a staff record as set out in regulation 145;
 - (h) in the case of a centre-based service, a record of educators working directly with children as set out in regulation 151;
 - (l) child enrolment records as set out in regulation 160;
- (2) 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

Compliance History

14. 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

15. 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.

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

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.

17. The compliance notice is Attachment B to this Decision letter. You are required to take the steps directed in the Notice to comply with the relevant provisions.
18. You must produce evidence of the steps required by **the time indicated within the Notice at Attachment B**.
19. 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

20. 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).
21. 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

22. 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>.

23. 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>

24. Should you have any questions about this Decision, or the Compliance Notice please contact

delphine.coutin@act.gov.au or by phone on 6207 1114.

Yours Sincerely



Jo Williams
Director
Education and Care Regulation and Support
ACT Education Directorate

14 September 2022