

7. Please note, documents referred to in paragraph 4 through 6 are not included. These documents can be provided upon request.
8. NOT-00123155 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
 - FASC educators will continually be reminded that they must be aware of their surroundings and be extremely cautious of potential exit points.
 - Conversations with [REDACTED] parents and teacher have occurred, and future strategies have been discussed which will be put in place for risk minimisation. All educators will be informed about these strategies.

Law

9. 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.

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

Decision

10. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to substantiate an offence under section 165 and 167 of the *Law* in this instance.
11. To ensure the Provider is aware of their obligation under section 165 and 167 of the *Law*, can you please provide the following information:
 - (a) Submit evidence of strategies to mitigate the risk of a similar incident;
 - (b) Submit evidence of communications with [REDACTED] family and School;
 - (c) Submit any plans in place to support [REDACTED] and;
 - (d) Submit evidence that educators know how to identify and manage the risks to support [REDACTED] needs and triggers.

Please ensure a response is submitted by close of business 9 April 2025.

12. In relation to section 165 and 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were adequately supervised, or protected from harm, while in the care of the Service on 20 February 2025.
13. 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.
14. 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.
15. 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.
16. 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

17. 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>.
18. 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

26 March 2025