

Ms [REDACTED]
Person with Management or Control
Community Services #1 Incorporated
RE: Forrest Early Education and Care Centre

Email: [REDACTED]@communityservices1.org
Cc: [REDACTED]@communityservices1.org

Dear Ms [REDACTED]

Decision to Issue Administrative Action RE: NOT-40876978

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance (CECA), recently assessed a Notification of Complaint (NOT-40876978) relating to Forrest Early Education and Care Centre SE-00009775 (the Service) operated by Community Services #1 Incorporated PR-00005865 (the Provider).
2. The notified complaint advised that a one-year-old child was located by her parents alone and unsupervised in the Service on 7 July 2023.
3. 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 this instance. Web addresses for the *Law* and the *Regulations* are provided for your convenience at the end of this decision.

Facts

4. On 10 July 2023, the Authority received a Notification of Complaint (NOT-40876978) from the Provider advising that, on 7 July 2023, a complaint was received from the father of [REDACTED] (aged 1yr) alleging that his wife located [REDACTED] alone and unsupervised upon pick up that day. Refer NOT-40876978 and attached documents at Attachment A.
5. On 11 July 2023, additional information was requested from the Provider in respect to the NOT-40876978. The Provider forwarded additional information on 12 July 2023 (Attachment B), which included:
 - a) Supervision policy and processes.
 - b) Internal Incident report.
 - c) Child and educator attendance records.
 - d) Internal investigation summary, educator statements and email response to the family (Attachment C).

Law

6. Provisions of the *Law* and *Regulations* relevant to the notification assessment are:

Section 165(1) of the *Law* – Offence relating 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 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.

Reasons

7. After carefully considering all information submitted via NOT-40876978, the Authority is satisfied, on the balance of probabilities, that the Provider has contravened section 165(1) of the *Law* in this instance.
8. The Authority is satisfied that on 7 July 2023, the Provider has not ensured that all children were adequately supervised, in that [REDACTED] was able to leave the leave the nursery room unnoticed by educators. Additional information submitted with the notification identified that even with sufficient staffing arrangements in place the incident still occurred.
9. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the steps taken by the Provider to mitigate risk of a similar incident, the Authority has decided to issue this administrative action rather than statutory compliance actions.
10. This Decision is issued to remind the Provider, that always, staffing and supervision levels need to meet the emotional, developmental, and physiological needs of children and educators alike. 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.
11. 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

12. 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>.

13. 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>

14. If you have any questions in relation to this Decision, please contact Assistant Director Janine Fairburn by email at Janine.Fairburn@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Education and Care, Regulation and Support
28 July 2023