

██████████
Person with Management or Control
Edge Early Learning ACT Pty Ltd
RE: Edge Early Learning Charnwood
Email: ██████████

Dear ██████████

Decision to Issue Administrative Action RE: NOT-40871256

1. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, recently assessed a Notification of Incident (NOT-40871256) relating to Edge Early Learning Charnwood SE-40014603 (the Service) operated by Edge Early Learning ACT Pty Ltd PR-40029018 (the Provider).
2. The notified incident advised that on 22 June 2023 of a 3-year-old child who was able to access, and subsequently be locked into a storage room, unnoticed by educators.
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 23 June 2023, the Authority received a Notification of Incident (NOT-40871256) from the Provider advising that, on 22 June 2023, an enrolled child, known to be ██████████ (3years), used a chair to open a storage room door, access the room, and subsequently be locked into the room unnoticed by educators. Refer copy of notification and additional documents also submitted at Attachment A.
5. On 4 July 2023, the Authority requested additional information from the Provider in relation to the notification. Additional information was submitted by the Provider via USB storage device, and included copies of:
 - a. Communications with ██████████’s mother
 - b. Indoor Supervision Plan and educator signed acknowledged supervision policy
 - c. Action plans and Risk Assessments
 - d. CCTV footage of the incident

Law

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

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

Reasons

7. Upon considering all evidence for assessment, 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.
8. The Authority is satisfied that inadequate supervision contributed to [REDACTED] being able to gain access to a storage room, and subsequently be locked into that room on 22 June 2023.
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 intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, in particular the obligation to always supervise children and ensure that every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.
11. Furthermore, 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.
12. 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.
13. 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

14. 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>.
15. 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>

16. If you have any questions in relation to this Decision, please contact me 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