



Ms [REDACTED]
Person with Management and Control
The Young Women's Christian Association of Canberra
RE: Currawong Child Care Centre

Email: [REDACTED]

Dear Ms [REDACTED]

Decision to issue Administrative Letter RE: NOT-40529942

1. As you may be aware, Authorised Officers from Children's Education and Care Assurance, also known as the ACT Regulatory Authority (the Authority), recently assessed a Notification of Incident (NOT-40529942) advising that a child was unattended outdoors at Currawong Child Care Centre SE-00009772 (the Service), operated by The Young Women's Christian Association of Canberra PR-00005876 (the Provider), on 15 April 2021.
2. The Authority is satisfied that the Provider was not complying with the provisions of the *Education and Care Services National Law (ACT) (the Law)* in respect to this notification.
3. Web addresses to the *Law* and *Education and Care Services National Regulations (the Regulation)* are provided for your convenience at the end of this Decision

Facts

4. On 16 April 2021, the Authority received a Notification of Incident (NOT-40529942) and associated attachments from the Provider. This Notification reported that on 15 April 2021, a three-year-old child, known to be [REDACTED] was located by a member of the public, being asleep in the Services playground area. Refer NOT-40529942 at Attachment A and additional submitted documentation at Attachment B.

Law

5. Evidence submitted via NOT-40529942 and supporting documentation engages the following sections of the *Law* and the *Regulations*:

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.

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.

Reasons

6. Having considered all documents submitted by the Provider the Authority is satisfied that the Provider has failed to comply with the *Law*.
7. The Authority is satisfied that, sections 165(1) and 167(1) of the *Law* were contravened on 15 April 2021. Sections 165 and 167 of the *Law* were engaged by documentation obtained from the Provider.
8. Information gathered supports that the Provider did not ensure that all children being educated and cared for by the service were adequately supervised at all times that the children are in the care of that Service, in contravention of section 165 of the *Law*.
9. Information gathered supports that the Provider, by not ensuring adequate supervision of children, has not appeared to ensure that every reasonable precaution was taken to protect children being educated and cared for by the Service from harm and from any hazard likely to cause injury, in contravention of section 167 of the *Law*.
10. The fact that [REDACTED] was asleep in the outdoor playground alone and unnoticed by educators and was only identified by educators when a member of the public raised concerns at what they observed when passing by the Service further supports the contraventions of sections 165 and 167 of the *Law*.

Decision

11. 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. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue you this Administrative Decision.
12. When determining this outcome, the Authority took into consideration the actions of the Provider and Service at the time of the incident, and the compliance history of the Service.
13. 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.
14. In addition to the above, the Provider is requested to submit documentation and evidence to demonstrate that the Nominated Supervisor and all educators at the Service are aware of, and understand, the expectations and obligation to 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, for example:
 - (a) Evidence of reviewed supervision policies, practices, and procedures in relation to the active supervision of children to mitigate risk of a child being unaccounted for or missing.
 - (b) Evidence to support that the Nominated Supervisor and all educators are aware of, and understands, policies, procedures, and practices relevant to supervision.

- (c) Evidence of supervision plans/processes in place to mitigate risk of inadequate supervision because of higher-risk environments and activities.
- (d) Evidence of the Provider's internal investigation, including evidence gathered, enquiries made, findings and outcomes.

15. The required evidence should be submitted to the Authority by close of business 14 days from the date of receipt of this Decision. Information can be sent by email to janine.fairburn@act.gov.au or by post to:

Authorised Officer, Janine Fairburn
Children's Education and Care Assurance (CECA)
ACT Education Directorate
PO Box 158, CANBERRA ACT 2601

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.

17. For your convenience, and to support future compliance, please find web addresses to relevant legislation:

The *Law* applies to you as an approved provider and any service that 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. If you have any queries regarding this Decision, please contact me via email at janine.fairburn@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Early Childhood Policy and Regulation
ACT Education Directorate

28 April 2021