



██████████
Person with Management or Control
Communities@Work
RE: Communities@Work Mt Rogers Out of School Hours Care

Email: ██████████@commsatwork.org

Dear Ms ██████████

Decision to issue Administrative Action RE: NOT-00096626 and NOT-00101727

1. As you may be aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed two Notification of Incidents (NOT-00096626 and NOT-00101727) relating to Communities@Work Mt Rogers Out of School Hours Care SE-00009695 (the Service) operated by Communities@Work PR-00005824 (the Provider).
2. For NOT-00096626, the notification of incident advised that on 29 November 2024, two children were found outside in the school yard, unsupervised, for less than 10 minutes.
3. For NOT-00101727, the notification of incident advised that on 13 December 2024, a child slipped off a climbing frame and got their neck caught on a hanging/looped skipping rope.
4. The Authority is satisfied that the Provider did not comply with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in this instance. Web addresses to the Law and the associated *Regulations* are provided for your convenience at the end of this Decision.

Facts

5. On 2 December 2024, a notification of incident (NOT-00096626) was submitted to the Authority by the Provider advising that on 29 November 2024, two children, ██████████ (6 yrs old) and ██████████ (7 yrs old) absconded into the outdoor environment via the bathroom exit. They were later discovered by an Educator doing outdoor checks (around 10 minutes later).
6. On 16 December 2024, a notification of incident (NOT-00101727) was submitted to the Authority by the Provider advising that on 13 December 2024, ██████████ (8 yrs old) was on a climbing frame (unsupervised) and slipped off, causing her neck to be caught in a looped skipping rope attached to the climbing equipment.
7. Additional information submitted with NOT-00096626 included the following:
 - Educator communications;
 - Copy of incident reports for both children;
 - Working directly with children records;
 - Supervision plan.

8. Additional information submitted with NOT-00101727 included the following:
 - Child attendance records;
 - Incident report;
 - Detailed account of incident;
 - Witness statement;
 - Parental communication;
 - Educator communications;
 - Activity risk minimisation plan (sign off);
 - Working directly with children records;
 - Photo of play equipment.

9. For NOT-00096626, on 5 December 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
 - Parental communications;
 - Educator communications;
 - Walkthrough of Service for children (reminding of boundaries);
 - Follow up with parents regarding children.

10. For NOT-00101727, on 20 December 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
 - Updated risk assessment;
 - Team meeting notes.

11. Please note, documents referred to in paragraph 5 through 10 are not included. These documents can be provided upon request.

12. NOT-00101727 further advised that steps taken by the Provider to prevent or minimise a similar incident included:
 - The service risk assessment outlines the expectation that skipping ropes are not to be used on fixed equipment. This has been re-read by the supervising team members, and will be read by all team members in a team meeting planned for 17/12/2024.
 - Supervision expectations will be revised in the team meeting planned for 17/12/2024.

Law

13. Notification (NOT-00096626) 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.

14. Notification (NOT-00101727) 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

15. 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.
16. For NOT-00096626, in relation to section 165 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were adequately supervised at all times while in the care of the Service on 29 November 2024.
17. For NOT-00101727, 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 at all times or protected from harm while in the care of the Service on 13 December 2024.
18. 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.
19. 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.
20. In the future, ensure that all Educators are aware of plans in place for each individual child's needs; and that all risk assessments are understood (this includes any new Educators from casual recruitment agencies).

21. 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.
22. 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

23. 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>.
24. 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

11 February 2025