

Ms [REDACTED]
Person with Management or Control
Communities@Work
T/A Communities@Work Mt Rogers Out of School Hours Care

Email: [REDACTED]@commsatwork.org

Dear Ms [REDACTED]

Decision to issue Administrative Letter RE NOT-40464607

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 a Notification of Incident (NOT-40464607) relating to the operation of Communities@Work Mt Rogers Out of School Hours Care SE-00009695 (the Service), operated by Communities@Work PR-00005824 (the Provider).
2. The Notification related to a child aged 7 years [REDACTED] exiting the Service unseen by educators.
3. Web addresses to the *Education and Care Services National Law Act (ACT)* (the Law) and the *Education and Care Services National Regulations 2011* (the Regulations) are provided for your convenience at the end of this letter.

Facts

4. On 18 August 2020, the Authority received NOT-40464607 (the Notification) from the Provider that, on 17 August 2020 at approximately 5:15pm during a group game of hide and seek, [REDACTED] exited the hall unseen by educators.
5. [REDACTED] was found by his parent in the pick-up/drop-off zone out the front of the school. [REDACTED] parent brought him back to the Service to collect his belongings.
6. [REDACTED] was unaccounted for during a period of approximately 5 minutes.

Refer Attachment A for Notification and relevant documentation.

Law

7. The following provision of the Law is relevant to the facts as outlined in the Notification:

Section 165 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

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.

Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied that [REDACTED] was not adequately supervised whilst being educated and cared for the Service on 17 August 2020, in contravention of section 165(1) of the Law, which also constitutes a failure to take reasonable precautions to protect children from harm and from hazards likely to cause injury, in contravention of section 167(1) of the Law.
9. However, in mitigation, the Authority notes that the period during which [REDACTED] was unaccounted for was very short (approximately 5 minutes) and he did not leave school grounds. [REDACTED] mother apparently advised the Service that he is prone to wandering and she did not want to make a formal complaint. It is noted that a meeting between the Out of School Hours Care Manager and the educators at the Service was scheduled for 20 August 2020 regarding safety procedures, supervision plan and additional support needs for [REDACTED]
10. 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 that the contravention was appropriately addressed by the Provider and to issue this Administrative Letter rather than any statutory action.
11. However, the contravention has been recorded on the Service file and may be considered in the instance of any future similar incidents.

Legislation

12. 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>.
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. Should you have any questions about this Decision please contact Authorised Officer Tanya Masterman at Tanya.Masterman@act.gov.au.

Yours Sincerely



Jahind Fairburn
Assistant Director
Early Childhood Policy and Regulation
ACT Education Directorate

7 September 2020