



[REDACTED]

Person with Management or Control

Communities@Work

RE: Communities@Work Isabella Plains Child Care & Education Centre

Email: [REDACTED]@commsatwork.org

Dear [REDACTED]

Decision to issue Administrative Action RE NOT-40616872

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Incident (NOT-40616872) relating to the operation of Communities@Work Isabella Plains Child Care & Education Centre, SE-00009796 (the Service), operated by Communities@Work, PR-00005824 (the Provider).
2. The Notification related to two children missing and unaccounted for less than 10 minutes on the 12 January 2021.
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 Decision.

Facts

4. On 13 January 2021, the Authority received a Notification of Incident from the Provider in relation to two children being found playing in a storeroom space, with the door closed until located by an educator. Refer Notification and accompanying documentation at Attachment A.
5. The Authority requested additional information from the Provider the same day, which was received on 14 January 2021. The additional information included:
 - a. Working Directly with Children and Child Attendance records for 12 January 2021.
 - b. Educator email photo.
 - c. Photos of door latches and signage.

Law

6. The following provisions of the *Law* were relevant to the assessment:

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.

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 and Decision

7. The Authority has considered all information supplied by the Provider and is satisfied on the balanced of probabilities, that there is sufficient weight of evidence to substantiate that on 12 January 2021, the Provider failed to ensure adequate supervision of all children resulting in exposure of said children to a risk of harm and hazard.
8. The fact that two children were able to leave the supervised outdoor space unwitnessed by educators, enter the Service and were unaccounted for in a storeroom for up to 10 minutes, along with the evidence submitted by the Provider via the notification, support a contravention of section 165(1) of the *Law*, giving rise to a contravention of 167(1) of said *Law*.
9. 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.
10. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue you this Administrative Decision. In determining this action, the Authority considered the following:
 - a. The Service was adequately staffed at the time of the incident.
 - b. Risk mitigation actions taken by the Provider in response to the incident.
 - c. Level of potential risk to children arising from the incident.
11. This Decision is issued to remind the Provider that at all times, supervision levels need to meet the emotional, developmental and physiological needs of children and educators alike. These 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.
12. This decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments, or waivers. This decision may also be considered in determining any future regulatory action, should there be future breaches of the *Law* or *Regulations*.

Legislation

13. The Education and Care Services National Law applies to you as a provider and any service you operate. The National 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>.

14. 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>
15. Should you have any questions about this Decision please contact Brian Cropper on brian.cropper@act.gov.au.

Yours Sincerely,



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Education Care Regulation and Support
ACT Education Directorate

27 January 2021