

██████████  
Person with Management or Control  
ACT Education Directorate  
RE: Bonython Primary School - Preschool Unit

Email: ██████████  
██████████

Dear ██████████,

**Decision to issue Administrative Action RE: NOT-00096583**

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-00096583) relating to Bonython Primary School - Preschool Unit SE-00011170 (the Service) operated by ACT Education Directorate PR-00006465 (the Provider).

1. The notification of incident advised that on 2 December 2024, a child absconded into the car park of the Service.
2. 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**

3. On 2 December 2024, a notification of incident (NOT-00096583) was submitted to the Authority by the Provider advising that on 2 December 2024, ██████████ (5 yrs old) used a bike to lean over the front gate of the Service and open it, allowing him to abscond into the car park.
4. Additional information submitted with NOT-00096583 included the following:
  - Incident report;
  - Notification to School Operations.
5. On 3 December 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
  - Risk assessment;
  - Working directly with children records;
  - Child attendance records;
  - Communications with preschool team.
6. Please note, documents referred to in paragraph 3 through 5 are not included. These documents can be provided upon request.

**Law**

7. The Notification 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**

8. 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.
9. To ensure the Provider is aware of their obligation under section 165 and 167 of the *Law*, can you please provide the following information:
- (a) Provide evidence of how these risks will be mitigated in the future.
  - (b) Provide evidence of how the Service will ensure the supervision of all children in the outdoor space in the future.
  - (c) Provide evidence of educators being aware of supervision plans and procedures in the outdoor space?

Please ensure a response is submitted by close of business 10 February 2025.

10. 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, or protected from harm, at all times while in the care of the Service on 25 November 2024.
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.
12. 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

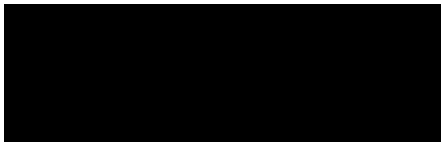
occurrence, the Authority has decided to issue this administrative action rather than statutory compliance actions to address the non-compliance.

13. 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.
14. 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**

15. 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>.
16. Should you have any questions about this Decision please contact me at [vittorio.colosimo@act.gov.au](mailto:vittorio.colosimo@act.gov.au).

Yours Sincerely,



**Vittorio Colosimo**  
A/g Assistant Director Investigations  
Education and Care Regulation and Support  
Education Directorate

19 December 2024