

Ms [REDACTED]
Person with Management or Control
ACT Education Directorate
RE: Gilmore Primary School – Preschool Unit

Email: [REDACTED]@act.gov.au
[REDACTED]@act.gov.au

Dear Ms [REDACTED]

Decision to issue Administrative Action RE: NOT-40669181

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance (CECA), recently conducted an assessment into a Notification of Incident (NOT-40669181) advising of an incident at Gilmore Primary School – Preschool Unit SE-00011191 (the Service), operated by ACT Education Directorate PR-00006465 (the Provider) on 15 March 2022.
2. Web addresses to the *Education and Care Services National Law (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

3. On 16 March 2022, the Authority received a Notification of Incident (NOT-40669181) from the Provider, advising that on 15 March 2022 an enrolled child of the Service, known to be [REDACTED] (3years), was released from care by educators to his father, however the educators thought it was his stepfather that they were releasing the child to. Refer Notification of Incident and supportive documents submitted at Attachment A.
4. Additional supportive information submitted via copy of email correspondence and copy of policy for delivery and collection of children identified the following:
 - a) The Provider and Service hold no contact details for [REDACTED] father, as he is not identified on [REDACTED] enrolment form, nor any record held authorising him to collect [REDACTED] from [REDACTED] mother, understood to be [REDACTED] primary carer.
 - b) The other preschool group at the Service is identified to have a list of children and adult family members displayed in the staff office, yet there was no evidence of a similar list displayed or collated for the preschool group that [REDACTED] is engaged in;
 - c) The School Principal, also identified as the service's Nominated Supervisor, has expressed that they are unsure if or how many times this same matter may have occurred in the past; and
 - d) The Nominated Supervisor has advised via correspondence and within the Notification of actions being undertaken to mitigate risk of a similar incident inclusive of reviewing the current policy to ensure clarity of language and expectations, addressing matter with educator involved, and having [REDACTED] mother complete a form authorising [REDACTED] father to collect him.

Law

5. Information submitted via NOT-40669181 and supporting documentation engages the following sections of the *Law*:

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

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 section 167(1) of the *Law* was contravened on 15 March 2022. Section 167(1) of the *Law* was engaged by documentation obtained from the Provider.
8. Information gathered supports that the Provider, by not ensuring that person's collecting children are adequately identified and authorised prior to release of a child, has not ensured 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(1) of the *Law*.
9. The fact that an educator released [REDACTED] from education and care on the assumption that the adult was the child's stepfather when in fact it was not, supports the contravention of section 167(1) of the *Law*.

Decision

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 not to initiate statutory action but instead to issue you this Administrative Decision.
11. In determining this outcome, the Authority took into consideration the actions undertaken by the Provider at the time of the incident, and the compliance history of the Service.
12. This Decision is issued to remind the Provider, that always, adults collecting children must be appropriately identified prior to release of a child. The Provider must take reasonable steps to ensure that educators are always aware of, and understand, related policy, procedure and expectations in relation to releasing children for collection to ensure that children are protected from harm and hazard likely to cause injury.
13. 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.
14. 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>

15. If you have any queries regarding this Decision, please contact me via email at jo.williams@act.gov.au.

Yours sincerely



Jo Williams
Director
Children's Education and Care Assurance
Education and Care Regulation and Support
ACT Education Directorate

7 April 2022