

██████████
Person with Management or Control
Young Men's Christian Association of Canberra Ltd
RE: YMCA Weetangera After School Care

Email: ██████████@ymca.org.au

Dear Ms ██████████

Decision to issue Administrative Action RE: NOT-00093294

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-00093294) relating to YMCA Weetangera After School Care SE-00009732 (the Service) operated by Young Men's Christian Association of Canberra Ltd PR-00005888 (the Provider).
2. The notification of incident advised that on 19 November 2024, two children had absconded from the Service to a relative's house of one of the children.
3. 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

4. On 20 November 2024, a notification of incident (NOT-00093294) was submitted to the Authority by the Provider advising that on 19 November 2024, two children, ██████████ (5 yr old) and ██████████ (6 yr old) were found at a relative's house of ██████████, after they absconded from the Service.
5. Additional information submitted with NOT-00093294 included the following:
 - Incident reports;
 - Staff meeting notes.
6. On 26 November 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
 - Support plans for both children;
 - Working directly with children records;
 - Child attendance records;
 - Additional staff meeting notes.
7. Please note, documents referred to in paragraph 4 through 6 are not included. These documents can be provided upon request.

8. NOT-00093294 further advised that steps taken by the Provider to prevent or minimise a similar incident included:

- Meeting with the staff will be conducted to support [REDACTED] and [REDACTED] needs and to avoid this behaviour.
- Staff will be provided with extra support and training on how to ensure effective supervision and support children with challenging behaviours.
- Meeting to be conducted with [REDACTED] and [REDACTED] family to work on strategies and Positive Behaviour Support plan.
- Active Supervision will be discussed with the staff and conversation with children about how to keep themselves safe during the Group time.

Law

9. 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

10. 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.

11. 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 you will ensure the supervision of the children in the future.

Please ensure a response is submitted by close of business 20 January 2025.

12. 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 19 November 2024.

13. 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.
14. 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.
15. 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.
16. 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

17. 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>.
18. 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

19 December 2024