



[REDACTED]
Person with Management or Control
ACT Education Directorate
RE: Neville Bonner Primary School - Preschool Unit

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

Dear [REDACTED]

Decision to issue Administrative Action RE: NOT-00115783

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-00115783) relating to Neville Bonner Primary School - Preschool Unit SE-00014259 (the Service) operated by ACT Education Directorate PR-00006465 (the Provider).
2. The notification of incident advised that on 3 February 2025, a child bit into a sensory ball containing foaming gel/polyvinyl alcohol, and it popped into their mouth.
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 4 February 2025, a notification of incident (NOT-00115783) was submitted to the Authority by the Provider advising that on 3 February 2025, [REDACTED] (4 yrs old) was playing with a sensory squish toy and bit into it, causing it to pop foam into his mouth (containing foaming gel/polyvinyl alcohol).
5. Additional information submitted with NOT-00115783 included the following:
 - Incident report.
6. On 4 February 2025 and 13 February 2025, the Provider submitted additional documents in response to a requests for further information from the Authority, including:
 - Photos of toy packaging;
 - Supervision mud map.
7. Please note, documents referred to in paragraph 4 through 6 are not included. These documents can be provided upon request.

Law

8. The Notification engaged the following provisions 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: \$11 400, in the case of an individual

\$57 400, in any other case.

Decision

9. 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 167 of the *Law* in this instance.
10. To ensure the Provider is aware of their obligation under section 167 of the *Law*, can you please provide the following information:
 - (a) Provide evidence that the equipment in the preschool space is fit for purpose in that space and appropriate to the age of the children.

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

11. In relation to section 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were protected from harm or hazard at all times while in the care of the Service on 3 February 2025.
12. 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.
13. 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.
14. 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.
15. 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

16. 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>.
17. 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

5 March 2025