

Person with Management or Control  
Affinity Education Group Pty Limited  
RE: Papilio Early Learning Yarralumla

Email: [REDACTED]

Dear Ms [REDACTED]

**Decision to issue Administrative Action RE: NOT-00096081**

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-00096081) relating to Papilio Early Learning Yarralumla SE-00009805 (the Service) operated by Affinity Education Group Pty Ltd PR-40001112 (the Provider).
2. The notification of incident advised that on 26 October 2024, the Service was out of ratio due to a last-minute staff cancellation.
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 29 November 2024, a notification of incident (NOT-00096081) was submitted to the Authority by the Provider advising that on 26 October 2024, two educators did not attend their shifts, causing the Service to run out of ratio for approximately 90 minutes.
5. Additional information submitted with NOT-00096081 included the following:
  - File note
6. On 11 December 2024, the Provider submitted additional documents in response to a request for further information from the Authority, including:
  - Appendix A (file note)
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 169(1) of the Law - Offence relating to staffing arrangements**

An approved provider of an education and care service must ensure that, whenever children are being educated and cared for by the service, the relevant number of educators educating and caring for the children is no less than the number prescribed for this purpose.

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 169 of the *Law* in this instance.
10. In relation to section 169 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that there was adequate staffing during operating hours of the Service on 26 October 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 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

11 February 2025