



8. The Provider also furnished a document which were the minutes of meeting between the Service and [REDACTED] parents. In this document, it is again conceded by the Service that the incident occurred. Refer Attachment D.
9. In addition, the Authority noted the information supplied in relation to additional preventative measures that were to be put in place as a result of the incident. Refer Attachment E.

### **Law**

10. As a result of its assessment and in considering the documents furnished by the Provider, the Authority found evidence to support non-compliance with the following provision 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**

11. Having considered all information and documentation supplied by the Provider in relation to the Notification, the Authority is satisfied that the Provider has failed to comply with the *Law*.
12. The Authority is satisfied that all advised of new precautions being implemented as a result of the incident on 11 February 2021 are reasonable, and that if these reasonable precautions had been in place prior to 11 February 2021, then [REDACTED] anaphylactic reaction requiring an ambulance could have been prevented.
13. Therefore, the Authority is satisfied that on 11 February 2021, the Provider did not ensure that every reasonable precaution was taken to protect children being educated and care for by the service from harm and from any hazard likely to cause injury, in contravention of section 167(1) of the *Law*.

### **Decision**

14. The *Law* outlines a range of statutory actions which may be taken by the Authority in response to non-compliance. Many of these options allow the Authority to publish details of substantiated non-compliance.
15. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. On this occasion, the Authority has determined to issue you with this Administrative Action rather than impose any statutory compliance actions.
16. In determining whether to issue the Provider with an Administrative Action, the Authority took the following into consideration:
  - a) The serious nature of the incident;
  - b) The Notification of Incident was submitted within the prescribed timeframe;
  - c) Appropriate first aid was administered by the educators at the time;

- d) The Provider engaged promptly with [REDACTED] parents in relation to the incident;
- e) The Provider's own internal enquiries in relation to the incident; and
- f) The Provider has advised of strategies which, if implemented and followed correctly, are deemed appropriate in mitigating risk of a similar incident.

17. This Decision is intended as a reminder to the Provider to ensure that, at all times the needs of all children, individually and as a group are considered to ensure that every reasonable precaution was taken to protect children being educated and care for by the service from harm and from any hazard likely to cause injury.

18. This Decision will be recorded on your Service 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 *Regulations* be found.

### Legislation

19. 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>.

20. 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>

21. If you have any questions in relation to this letter, please contact me by email at [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au).

Yours sincerely



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