

██████████
Person with Management or Control
Capital Region Community Service Limited
RE: Bruce Ridge Early Childhood Centre
Email: ██████████@crccs.com.au

Dear ██████████

Decision to issue Administrative Action RE NOT-40848136

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Incident (NOT-40848136) relating to the operation of Bruce Ridge Early Childhood Centre SE-00009755 (the Service), operated by Capital Region Community Service Limited PR-00005807, (the Provider).
2. The Notification advised of a three year old child that was found asleep unsupervised inside the service where peers and educators were outside for between 30-60 minutes on 21 April 2023.
3. Web addresses to the *Education and Care Services National Law Act (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

4. On 24 April 2023, the Authority received a Notification of Incident from the Provider in relation to a 3.5yr old child that was found asleep inside the service unsupervised. Refer Notification at Attachment A.
5. Additional information submitted with the notification on 24 April 2023 included:
 - a) Working Directly with Children Records and Incident Form 21.4.2023;
 - b) Outdoor Supervision Map; and
 - c) Reminder regarding Head Counts

Law

6. The following provision of the Law were relevant to the assessment:

Section 165(1) of the Law - Offence to inadequately supervision 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: \$10 000, in the case of an individual
\$50 000, in any other case.

Reasons and Decision

7. The Authority has considered all the information submitted via the notification and is satisfied, on balance of probabilities, that the Provider failed to ensure adequate supervision of all children being educated and cared for by the Service on 21 April 2023, in contravention of section 165 of the *Law*.
8. The fact that a three-year-old child was not noticed asleep and inside the Service by educators when all other children were outside, advised as unaccounted for between 30 and 60 minutes, supports the contravention being substantiated.
9. 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.
10. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, the steps taken by the Provider to mitigate risk of a similar incident, and the environment at the time relevant to the matters, the Authority has decided to issue this administrative action rather than take statutory compliance actions.
11. This Decision is issued to remind the Provider that at all times, staffing and supervision levels need to meet the emotional, developmental and physiological needs of children and educators alike. These staffing and supervision levels may need to be adapted to be above minimum regulated ratio levels to protect children from harm and hazard likely to cause injury – both physically and psychologically.
12. This outcome will be recorded on the Service's file and may be considered in any future applications for approvals, amendments, or waivers. This decision may also be considered in determining any future regulatory action, should there be future breaches of the *Law* or *Regulations*.

Legislation

13. The Education and Care Services National Law applies to you as a provider and any service you operate.
14. The National 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. Should you have any questions about this Decision please contact me at Janine.Fairburn@act.gov.au.

Yours Sincerely,



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Education and Care, Regulation and Support

9 May 2023