



Ms [REDACTED]  
Person with Management or Control  
Emmaus Christian School Canberra Limited

Email: [REDACTED]

Dear Ms [REDACTED]

**Decision to issue Administrative Action RE: NOT-40595821**

1. As you may be aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed Notification (NOT-40595821) relating to the operation of Emmaus Christian School Canberra SE-00009670 (the Service), operated by Emmaus Christian School Canberra Limited, PR-00005855 (the Provider) on 18 November 2021.
2. The Notification related to a missing and unaccounted for child.
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 19 November 2021, the Authority received a Notification and attachments from the Provider advising a child, believed to be [REDACTED] (7:6 old), did not attend after school care as planned, instead going to the library.
5. Furthermore, it was advised that Educators did not follow roll marking procedures to identify absences. Due to this, Educators did not notice that [REDACTED] was not accounted for until his parent arrived at 5:20pm. Refer Notification and documents at Attachment A.
6. On 22 November 2021, the Authority sought additional information from the Provider, which was received on 24 November 2021. Refer email correspondence at Attachment B.

**Law**

7. The following provisions of the *Law* were relevant to the assessment:

**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 and Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied, on the balance of probabilities, that on 18 November 2021 the Provider has failed to ensure adequate policy and procedures were in place and followed, and therefore, failed to take reasonable precautions to protect [REDACTED] from any harm and from hazard likely to cause injury.
9. The Authority is satisfied that these failures contributed to a child being unaccounted for a period of over 2 hours. The very nature of the Notification and accompanying documentation submitted by the Provider, support offences under sections 167(1) of the *Law* being substantiated.
10. It is further noted that within the documents furnished by the Provider on 24 November 2021, reference is made to the Service not having any outside school hours care (OSHC) Service specific policies and procedures in place, rather these are combined preschool and OSHC. Additional documentation, received from the Provider 6 December 2021, also supported this. Refer Attachment C and D.
11. The Regulatory Authority has concerns regarding this, as Preschool and OSHC operates very differently between settings and under different learning frameworks, this therefore requires different considerations when applying policy and procedure to ensure compliance with the *Law* and associated Regulations.
12. Furthermore, it was noted that the policy identified at Attachment D does not have any policy or procedure relating to how educators account for children who are expected to be at OSHC but do not attend on the day.
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 the Provider in achieving compliance and improved outcomes for children.
14. In this circumstance, the Authority has also considered the Service's compliance history and the age and potential risks associated to the child in this matter and determined not to initiate statutory action but instead to issue this Administrative Decision.
15. Regarding the substantiated offence under section 167 of the *Law*, the Authority requires evidence of OSHC Service specific policies and procedures in relation non-attendance of children and evidence that all educators are aware of and understand the expectations and actions to be taken for children non-attendance.
16. Evidence should be produced, within 14 days of receipt of this letter, to myself at [janine.fairburn@act.gov.au](mailto:janine.fairburn@act.gov.au).

17. This decision 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 similar breaches of the *Law* or *Regulations*.

**Legislation**

18. The *Law* and *Regulations* 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>

19. 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>

20. Should you have any questions about this Decision please contact Senior Investigator Sheree Lockwood on [sheree.lockwood@act.gov.au](mailto:sheree.lockwood@act.gov.au).

Yours Sincerely,



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

06 December 2021