

Person with Management and Control
Camp Australia Pty Limited
RE: Camp Australia – St Jude’s Primary School OSHC

Email: [REDACTED]

Dear [REDACTED]

Decision to issue Administrative Action

1. The ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, is satisfied that Camp Australia Pty Limited, PR-00002539 (the Provider) was not complying with the provisions of the *Education and Care Services National Law (ACT)* (the Law) in respect to admissions made via several Notifications of Incident relating to the operation of Camp Australia – St Jude’s Primary School OSHC SE-40016130 (the Service).
2. Web addresses to 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

3. On 24 September 2020, the Authority issued the Provider statutory compliance action, which included imposing a condition on the Service’s approval as follows:

“For each day on which the Service is educating and caring for children, the Provider must roster one additional educator, for every 1 to 66 children booked in to attend the Service on that same day who is in excess of the educators required to meet the minimum number prescribed by Regulation 123 (including provision of cover for all breaks or other times an educator is not working directly with children as defined by Regulation 13).”
4. The condition came into force 14 days after the issue of the enforcement action of 24 September 2020 – being 7 October 2020.
5. On 16 February 2021, the Authority received a Notification of Incident (NOT-40511209) from the Provider advising that the Service was unable to meet the conditions of its approval by failing to have +1 over ratio educators in attendance. Refer Notification at Attachment A.
6. On 24 March 2021, the Authority received a Notification of Incident (NOT-40523305) from the Provider advising that the Service was operated in non-compliance with its approval, as the Provider did not roster on the required additional educator. Refer Notification at Attachment B.
7. On 26 March 2021, the Authority received a Notification of Incident (NOT-40524316) from the Provider advising that the Service was operated without additional educators as required by the approval conditions, as the Provider utilised these additional staff at another service that was not meeting minimum regulated ratio levels. Refer Notification at Attachment C.
8. On 30 March 2021, the Authority received a Notification of Incident (NOT-40525092) from the Provider advising that the Service was operated without the mandated educator that is required on

the service approval condition. The service operated with 97 children and 10 educators. Refer Notification at Attachment D.

9. On 1 April 2021, the Authority received a Notification of Incident (NOT-40526397) from the Provider advising that the Service was operated without the mandated educators that is required on the service approval condition. The service operated with 113 children and 11 educators, and the Provider advised that they are currently experiencing a staffing shortage. Refer Notification at Attachment E.

Law

10. The Notifications engage the following provisions of the *Law*:

Section 51 of the *Law* – *Conditions on service approval*

- (1) A service approval is granted subject to the condition that the education and care service is operated in a way that –
 - a) Ensures the safety, health and wellbeing of children being educated and cared for by the service; and
 - b) Meets the educational and developmental needs of the children being educated and cared for by the service.
- (5) A service approval is granted subject to any other conditions prescribed in the national regulations or imposed by –
 - a) This Law; or
 - b) The Regulatory Authority
- (8) An approved provider must comply with the conditions of a service approval held by the approved provider.

Reasons for Decision

11. Having considered all the information provided in the Notifications, the Authority is satisfied that the Provider has failed to comply with the *Law*. The information contained in the Notifications is an admission of contravention of section 51(8) of the *Law*.
12. In deciding if compliance action should be taken the Authority has considered that the Provider has advised of appropriate steps via booking caps being implemented for Term 2 which will not be lifted until the Provider has confidence that there are sufficient available educators to allow for further bookings to be made.
13. Furthermore, the Authority has considered that the Provider has been proactive in monitoring internally its compliance with the service approval condition and has advised the Authority voluntarily of the identified non-compliance. Accordingly, the Authority will not be initiating statutory compliance action in this instance.
14. This decision, however, is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, in particular the obligations to ensure that the conditions of the service approval are always adhered to ensure that all children are adequately supervised at all times, and that every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.

15. This decision will be recorded on your service 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*.
16. Please be aware that any further contraventions of section 51(8) of the *Law* will be addressed via stronger statutory action.

Legislation

17. 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>.
18. 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>
19. Should you have any queries regarding this Decision please contact me on (02) 6205 4309 or email Janine.fairburn@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Early Childhood Policy and Regulation
ACT Education Directorate

13 April 2021

CC'd: [REDACTED]