

Ms [REDACTED]
Person with Management or Control
Camp Australia Pty Limited
RE: Camp Australia - St Joseph's P-6 School OSHC

Email: [REDACTED]

Dear Ms [REDACTED]

Decision to issue Administrative Action RE: 40526393

1. As you are aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an assessment into Notification (NOT-40526393) advising that regulated ratio levels were not being met at Camp Australia - St Joseph's P-6 School OSHC SE-40020204 (the Service), operated by Camp Australia Pty Limited PR-00002539 (the Provider).
2. 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

3. On 1 April 2021, the Authority received a Notification (NOT-40526393) from the Provider, advising that the Service did not maintain minimum regulated ratio levels on 30 March 2021, by four children because a Randstad educator failed to attend their rostered shift. The service's staffing arrangements were not meeting required ratio levels between 2.55pm and 3.37pm. Refer Attachment A

Law

Section 167 of the Law – Offence relating to protection of children from harm and hazards

- (1) The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from hazard likely to cause injury.

Section 169 of the Law – offence relating to staffing arrangements

- (1) 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.

Reasons

4. Upon considering all evidence for assessment, inclusive of Provider supplied information, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence to substantiate an offence under section 169 of the Law in this instance, engaging a contravention of s167 of the Law.
5. In deciding if compliance action should be taken, the Authority has considered all relevant information supplied by the Provider regarding the Provider's management of the incident, length

of time the Service was not meeting minimum regulated ratio levels pursuant to *Regulation 123* and the Services compliance history.

6. The Authority noted that the Service was issued an Administrative action for identical non-compliances on 16 February 2021. This action advised the Provider that the Authority strongly encouraged the Provider have strategies in place to ensure that staffing arrangements are not determined solely on minimum regulated ratio levels, but that considerations are made to mitigate risk of not meeting compliance expectations under the *Law and Regulation*.

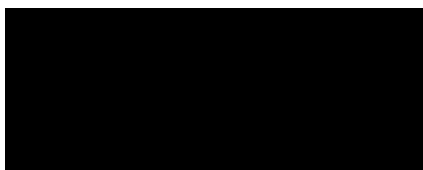
Decision

7. In consideration of all relevant information, the Authority has determined not to initiate statutory compliance action regarding the substantiated contravention of sections 167(1) and 169(1) of the *Law*, but rather issue this Administrative Decision to address the non-compliances.
8. The Authority notes that the Provider has advised via NOT-40526393 that booking caps have now been implemented at the Service to mitigate risk of similar non-compliances occurring, and to reduce the Provider's need to rely on educators from employment agencies.
9. This Decision is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, in particular the obligation that minimum regulated ratio levels are met at all times to ensure every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.
10. Please be aware that any further contraventions of section 169 of the *Law* will be addressed via stronger statutory action.
11. This Decision will be recorded on your Service file and may also 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

12. The *Law* applies to you as an approved provider and any approved service that the Provider operates.
13. 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>.
14. 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. If you have any queries regarding this Decision, please contact me at janine.fairburn@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Early Childhood Policy and Regulation
ACT Education Directorate
13 April 2021