



Ms [REDACTED]

[REDACTED]

[REDACTED]

RE: Milestone Early Learning Macquarie

Email: [REDACTED]@gmail.com

Dear Ms [REDACTED]

Decision to Issue Caution Letter

1. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, have recently conducted inquiries Regarding an allegation against you whilst employed at Milestones Early Learning Macquarie – SE-00009808 (the Service) operated by Affinity Education Group Limited – PR-40001112 (the Provider).
2. It was alleged that, on 24 January 2024, you used force to redirect a child when employed as an Educator at the Service. It was further alleged that, on 25 January 2024, you picked a child up by their wrists and dropped them onto the ground when employed as an Educator at the Service.
3. Web addresses to the *Education and Care Services National Law (ACT)* (the Law), and the *Education and Care Services National Regulations* (the Regulations) are provided for your convenience at the end of this notice.

Facts

4. On 25 January 2024, the Authority received a notification from the Provider advising of an allegation that 24 January 2024, you used force to redirect a child when employed as an Educator at the Service. It was further alleged that, on 25 January 2024, you picked a child up by their wrists and dropped them onto the ground when employed as an Educator at the Service.
5. The Authority made further enquiries and obtained numerous documents from the Provider, including all documentation relating to the Provider's workplace investigation into the allegations raised against you.
6. A Show Cause Notice (the Notice) was sent to you via email on 30 July 2024. Refer Attachment A.
7. The Notice advised you that the Authority was considering compliance action based on a suspected contravention of the Law indicated by information produced by the Provider.

8. The Notice advised you of the allegations raised against you, as well as the evidence held by the Authority supporting the suspected offence of inappropriate discipline pursuant to section 166(3) of the *Law*.
9. On 28 August 2024, you responded to the Show Cause Notice, within the required timeframe, extended by agreement. Refer [Attachment B](#).
10. The Authority considered compliance action based on evidence that there has been a contravention of the *Law* identified during the Authority's enquiries into the matter.

Law

11. Evidence obtained during the Authority's enquiries engages section 166(3) of the *Law*, which provides as follows:

Section 166(3) of the *Law* - Offence to use inappropriate discipline

A staff member of, or a volunteer at, an education and care service must not subject any child being educated and cared for by the service to—

- (a) any form of corporal punishment; or
- (b) any discipline that is unreasonable in the circumstances.

Decision and Reasons

12. The Authority has considered all evidence available and is satisfied, on the balance of probabilities, that you have contravened section 166(3) of the *Law*, as your conduct on 24 and 25 January 2024 as described is determined as discipline that was unreasonable in the circumstances.
13. The Authority determined that the discipline was unreasonable in the circumstances because forcefully redirecting a child, restraining them on the ground, and lifting a child off the ground by their wrists and dropping them is not a reasonable form of discipline to change a child's behaviour.
14. 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 considered that:
 - a. The children were not injured by your conduct;
 - b. You submitted a response to the Notice issued to you, raising your version of events.
 - c. You are a trainee educator undertaking ongoing learning.
15. In the circumstances, the Authority has decided not to take statutory compliance action, but to issue you with a Caution Letter.
16. This Caution Letter serves to remind you of your obligations, as an Educator, to ensure that your actions in no way compromise the safety, health and wellbeing of children being educated and cared for by yourself.

17. The Authority also strongly encourages you to seek further training in how to manage children's behavioural issues in an appropriate manner. To assist you in this, and to ensure that you are aware of and understand how inappropriate discipline is viewed within an education and care setting, please find attached to this letter an ACECQA Fact Sheet on inappropriate discipline at [Attachment C](#).
18. This letter will be recorded on our files and may be taken into consideration if any new evidence is received that warrants further investigation into this matter, or if any other matters involving your conduct with children are notified to the Authority in the future.
19. The National Law is made up of an Act and Regulations which 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 Caution Letter please contact Authorised Officer Declan Barbagallo at declan.barbagallo@act.gov.au

Yours sincerely,



Vittorio Colosimo
A/g Assistant Director Investigations
Children's Education and Care Assurance
Education and Care, Regulation and Support

2 October 2024.