



[REDACTED]
Person with Management or Control
French-Australian Preschool Association Incorporated
RE: French-Australian Preschool

Email: [REDACTED]

Dear [REDACTED]

Decision to issue Administrative Letter

1. As you are aware, Authorised Officers from Children's Education and Care Assurance, also known as the ACT Regulatory Authority (the Authority), recently conducted enquiries related to a Notification of Incident (NOT-40472359), submitted to the Authority on 16 September 2020 by French Australian Preschool Association Incorporated PR-00005834 (the Provider), the operator of French-Australian Preschool SE-00009776 (the Service).
2. I am satisfied that the Provider contravened the provisions of the *Education and Care Services National Law (ACT) (the Law)* and the *Education and Care Services National Regulations 2011 (the Regulations)*.
3. Web addresses to the *Law* and *Regulations* are provided for your convenience at the end of this notice.

Facts

4. On 16 September 2020, the Authority received a Notification of Incident (NOT-40472359) from the Provider. The notification advised that one of the educators of the Service, known to be [REDACTED] used a children's book to lightly smack a four-year-old child on the back of her legs and bottom on 15 September 2020. The notification advised that the child was not hurt, nor did the child react and that the conduct took place during a transition time.
5. Furthermore, the notification advised that the children were very noisy, and that the educator was trying to get them to join her for a circle time. Subsequently, the Provider made a report to the ACT Ombudsman of the conduct of the educator. Refer Notification at Attachment A.
6. On 16 September 2020, the Authority requested further documents and information from the Provider, which were provided on 18 September 2020. Refer additional information correspondence at Attachment B.
7. Additional information provided indicated as follows:
 - a) A copy of [REDACTED] staff file/ employment contract;
 - b) A copy of the Notification to the ACT Ombudsman; and
 - c) A copy of the Incident Report.
8. Information obtained during the enquiries supports grounds that engage offences under the *Law*, being inappropriate interactions engaging risk of harm or hazard to a child.

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.

Regulation 155 – Interactions with children

An approved provider must take reasonable steps to ensure that the education and care service provides education and care to children in a way that—

- (a) encourages the children to express themselves and their opinions; and
- (b) allows the children to undertake experiences that develop self-reliance and self-esteem; and
- (c) maintains at all times the dignity and rights of each child; and
- (d) gives each child positive guidance and encouragement toward acceptable behaviour; and
- (e) has regard to the family and cultural values, age, and physical and intellectual development and abilities of each child being educated and cared for by the service.

Reasons


9. Having considered the information submitted by the Provider in relation to NOT-40472359, the Authority am satisfied that, on 16 September 2020, *Regulation 155* was contravened, engaging a contravention of section 167(1) of the *Law*.
10. The Authority took into consideration that the alleged actions were more a means to an end, with little to no consideration of potential harm that may have come from the conduct, noting also that no child sustained any reportable injury while in, or due to the educators conduct on 16 September 2020.
11. The Authority is satisfied that the educators behaviour towards the child was not ensuring that interactions with children encouraged their development, including the development of self-reliance and self-esteem, maintain the dignity and rights of the child or give the child positive guidance and encouragement toward acceptable behaviour with regard to the age and physical and intellectual development of the child.
12. The Authority also took into consideration that the vulnerability of the children that the educator was educating and caring for, would make them more susceptible to potential injury should the guiding and handling of the child have been rough and or forceful.


Decision

13. The Authority has determined that the strategies utilised by [REDACTED] were inappropriate, but that risk of harm or hazard likely to cause injury, either physical or psychological, to the child were low in this instance.
14. Due to this, the Authority will not be initiating statutory compliance action in this instance and has determined the most appropriate action is to issue this Administrative Decision to acknowledge the substantiated breaches.
15. This decision, however, is intended to bring to your attention to the Provider's obligation to take reasonable steps to ensure interactions are appropriate. Educators must be supported by the Provider and their conduct must be adequately monitored to ensure interactions are appropriate.

16. In relation to strategies to be implemented, the Authority requires evidence demonstrating the following:
 - a. review of policies and procedures relating to educator interactions with children to ensure that they reflect the expectations outlined in Regulation 155;
 - b. Policies and procedures are communicated to all educators, and that educators knowledge and awareness of such policies and procedures is embedded, and appropriate interaction practices are followed at all times.
17. The required evidence should be submitted to the Authority by close of business 14 days from the date of receipt of this letter.
18. Information can be sent by email to janine.fairburn@act.gov.au or by post to:

Janine Fairburn
Authorised Officer
Children's Education and Care Assurance
PO Box 158
CANBERRA ACT 2601
19. The *Law* applies to you as a Provider engaged within the early education and care sector.
20. 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>.
21. 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>
22. This letter will be recorded on your Service file and may 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.
23. If you have any queries regarding this letter or if you require any information in order to understand your obligations under the *Law* and *Regulations*, please contact me on (02) 6205 4390 or alternatively at 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

30 September 2020