

Ms [REDACTED]  
Person with Management or Control  
Montessori Standard Pty Ltd  
RE: Eucalyptus Montessori

Email: [REDACTED] [@motessori.org.au](mailto:[REDACTED]@motessori.org.au)  
[REDACTED] [@eucalyptusmontessori.com.au](mailto:[REDACTED]@eucalyptusmontessori.com.au)

Dear Ms [REDACTED]

**Decision to issue Administrative Action RE: NOT-40502073 and NOT-40502083**

1. As you may be aware, Authorised Officers from Children’s Education and Care Assurance, also known as the ACT Regulatory Authority (the Authority), recently conducted an assessment of two Notifications of Incident occurring at Eucalyptus Montessori SE-40009730 (the Service), operated by Montessori Standard Pty Ltd, PR-40008971 (the Provider).
2. The Authority is satisfied that the Provider was not complying with the provisions of the *Education and Care Services National Law (ACT) (the Law)* and the *Education and Care Services National Regulations (the Regulation)* in respect to these notifications.

**Facts**

3. On 14 January 2021, the Authority received a Notification of Incident (NOT-40502073) and associated attachments from the Provider. This Notification reported that on 11 January 2021, a child aged two years, sustained an injury requiring medical attention. Refer NOT-40502073 at Attachment A.
4. On 14 January 2021, the Authority received a Notification of Incident (NOT-40502083) and associated attachments from the Provider. This Notification reported that on 7 January 2021, a child aged one year, sustained an injury requiring medical attention. Refer NOT-40502083 at Attachment B.
5. Inquiries made by the Authority via email to the Provider on 14 January 2020 confirmed that parents of the child identified in NOT-4020283 took the child to the hospital as a result of the injury sustained, and that the parents notified the Provider of this on 8 January 2021. Refer email at Attachment C.
6. The Authority was considering whether information provided established potential contraventions of the *Law*. Specifically, the information obtained during the enquiries suggested grounds that engage offences under the *Law*.
7. Upon assessment of the matters it appeared that there were grounds of non-compliance related to notification of serious incidents within prescribed timeframes.

**Law**

**Section 174 of the Law – Offence of failing to notify certain information to Authority**

- (2) An approved provider must notify the Regulatory Authority of the following information in relation to an approved education and care service operated by the approved provider—
  - a) Any serious incident at the approved education and care service.

- (4) A notice under subsection (2) must be in writing and be provided within the relevant prescribed time to –
- a) The Regulatory Authority that granted the service approval for the education and care service to which the notice relates.

**Regulation 12 – Meaning of *serious incident***

For the purpose of the definition of *serious incident* in section 5(1) of the Law, each of the following is prescribed as a serious incident -

- b) Any incident involving serious injury or trauma to a child occurring while that child is being educated and cared for by an education and care service –
  - i. Which a reasonable person would consider required urgent medical attention from a registered medical practitioner; or
  - ii. For which a child attended, or ought reasonably to have attended, a hospital.

**Regulation 176 – Time to notify certain information to Regulatory Authority**

(2) For the purpose of section 174(4) of the Law, a notice must be provided –

- a) In the case of a notice under section 174(2)(a) –
  - iii. In the case of a serious incident, within 24 hours of the incident or the time that the person becomes aware of the incident.

**Reasons**

- 8. The Authority is satisfied that, in relation to NOT-40502073 and NOT-40502083, the advised of incidents do fall within scope of being serious incidents, of which the Provider failed to notify the Authority of within the 24 hour timeframe regulated for response pursuant to Regulation 176(2)(a)(ii), and in contravention of section 174(4) of the *Law*.
- 9. In deciding if compliance action should be taken, I have considered:
  - a. Both incidents notified, and subsequent injuries sustained by the children involved, appeared to have been appropriately managed and addressed by the staff at the Service; and
  - b. The Services compliance history.
- 10. The Authority determined that taking into account the above considerations, statutory compliance action would not be proportionate in this instance, so has determined to issue Administrative Action to address the non-compliances.
- 11. This Decision is intended to bring to your attention to the need to ensure that all information required to be notified to the Authority, pursuant to the *Law*, are notified within the prescribed timeframes set out under the *Regulations*.
- 12. For your convenience, and to support future compliance, please find web addresses to relevant legislation and educational material specific to notification of required information:

The *Law* applies to you as an approved provider and any service that 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>.

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>

Educational material specific to notification of required information can be located at  
<https://www.acecqa.gov.au/resources/applications/notification-types-and-timeframes>.

13. This Decision will be recorded on the Service's 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 associated Regulations be found.
14. If you have any queries regarding this Decision please contact me via email at [janine.fairburn@act.gov.au](mailto: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

28 January 2021