

██████████
Person with Management or Control
Edge Early Learning ACT PTY LTD
RE: Edge Early Learning Ngunnawal

Email: ██████████@edgeearlylearning.com.au

Dear ██████████,

Decision to Issue Administrative Action

1. Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an investigation into Edge Early Learning Ngunnawal SE-40015883 (the Service) operated by Edge Early Learning ACT Pty Ltd PR-40029018 (the Provider).
2. During the investigation, it was noted that complaints were received by the Service alleging contravention of the *Law*, that were not notified to the Authority.
3. The Authority is satisfied that the Provider has not complied with provisions of the *Education and Care Services National Law Act (ACT)* (the *Law*) in this instance. Web addresses for the *Law* and the *Regulations* are provided for your convenience at the end of this decision.

Facts

4. On 9 November 2022, the Authority issued the Provider a notice under section 215 of the *Law* requiring documentation to be provided of all complaints and concerns received by the Service in August 2022 inclusive of any actions and/or responses from the Service or Provider to any received complaints or concerns. Refer Attachment A.
5. On 17 November 2022, the Authority received a response from the Provider regarding the notice issued under section 215 of the *Law*. Refer Attachment B.
6. It was noted from the Provider's response that on 22 August 2022 and 30 August 2022, the Provider received complaints alleging contravention of the *Law* at the Service. The Provider did not notify the Authority of these complaints as required under section 174 of the *Law*.

Law

7. Provisions of the *Law* relevant to the notification assessment are:

Section 174(2) of the Law – Offence to fail to notify certain information to Regulatory Authority

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;
- (b) any complaints alleging—
 - (i) that a serious incident has occurred or is occurring while a child was or is being educated and cared for by the approved education and care service; or
 - (ii) that this Law has been contravened;
- (c) information in respect of any other prescribed matters.

Penalty: \$4000, in the case of an individual.
 \$20 000, in any other case.

Reasons

8. 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 174(2) of the *Law* in this instance.
9. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the steps taken by the Provider to mitigate risk of a similar incident, the Authority has decided to issue this administrative action rather than statutory compliance actions.
10. This Decision is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, specifically that the approved provider must notify the Regulatory Authority of any complaints alleging that the *Law* has been contravened.
11. 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.

Legislation

12. 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>.
13. 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>

14. If you have any questions in relation to this Decision, please contact me by email at Vittorio.Colosimo@act.gov.au.

Yours sincerely



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

19 December 2022