

RE: Edge Early Learning Charnwood

Email: [REDACTED]

Dear [REDACTED]

### ***Decision to Issue Warning Letter***

1. I am a delegate of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance (CECA). The Authority is the regulator of education and care services in the ACT and has the responsibility of monitoring and enforcing compliance with the *Education and Care Services National Law (ACT)* (the Law), together with receiving and investigating complaints arising under the Law.
2. As you are aware, the ACT Regulatory Authority (the Authority), also known as the Children's Education and Care Assurance (CECA), recently assessed a notification of complaint that raised suspected offences at Edge Early Learning Charnwood – SE-40014603 (the Service) operated by Edge Early Learning ACT Pty Ltd – PR-40029018 (the Provider).

#### **Facts**

3. On 16 September 2024, the Authority received a notification of complaint alleging that a staff member used inappropriate discipline by grabbing/twisting a child by the arm and head to redirect him from the bathroom.

#### **Allegation of Inappropriate Discipline**

4. It is alleged that on 16 September 2024, you, [REDACTED], as an educator at the Service, subjected a child, believed to be [REDACTED] (4:3) to discipline unreasonable under the circumstances, took the child by the arm and head, twisting him, in order to redirect the child away from the bathroom, in contravention of section 166(3) of the Law.

#### **Law**

5. The following provision of the Law was engaged by the allegation:

##### **Section 166(3) of the Law – Offence to use inappropriate discipline.**

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

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

Penalty: \$11 400, in the case of an individual

#### **Obligations upon Regulatory Authority**

6. The foundation for the Authority's obligations is the Law. Section 3 of the Law sets out objectives and guiding principles. Relevant to this decision is the objective at section 3(2)(a),

namely: “to ensure the safety, health and wellbeing of children attending education and care services”.

7. The guiding principles of the national Quality Framework at sections 3(3)(a) and (f) of the *Law* have specific application in this instance, being:
  - (a) *That the rights and best interest of the child are paramount; ...*
  - (f) *That best practice is expected in the provision of education and care services.*
8. Section 260 of the *Law* sets out the functions of the Regulatory Authority, which includes:
  - (a) *To monitor and enforce compliance with this law;*
  - (b) *To receive and investigate complaints arising under this law.*
9. The *Law* works to protect a particularly vulnerable group in our society – children – when they are in the care of people other than their parents or guardians. The *Law* authorises providers and services to participate in a regulated environment and requires those participants to comply with the *Law*.
10. A key objective of the *Law* is to protect children in the context of education and care services. The Authority looks to exercise its powers to emphasise and require best practice, as the *Law* requires, which is also inherently in the best interests of children.
11. The *Law* is predominantly a protective *Law* and the exercise of disciplinary powers in this type of regulatory context is recognised by Courts as not being punitive: *New South Wales Bar Association v Evatt* (1968) 117 CLR 177.

### **Reason and Decision**

12. The Authority has considered all evidence obtained from the approved provider, including CCTV footage. The Authority is not satisfied that on the balance of probabilities, there is enough available evidence to substantiate a contravention of section 166(3) of the *Law*.
13. The Authority is satisfied that the interaction was an inappropriate interaction with the child and would like to take this opportunity to remind you of your obligations to ensure interactions with children remain in line with Regulation 155 of the Education and Care Services National Regulations.
14. In the circumstances, the Authority has decided to issue you with this letter as a formal Caution.
15. This Caution 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.
16. In choosing to participate in the education and care sector, you have a responsibility, and obligation, to ensure that, always, your interactions with children meet the professional standards expected under the *Law and Regulations*, to support the health and well-being of all children being educated and cared for by you.
17. More helpful information can also be located at:  
<https://www.acecqa.gov.au/resources/supporting-materials/infosheet>

18. The Authority has determined that, unless new relevant information is received, no further enquiry or action is required in this instance, and therefore consider this matter now finalised.
19. If you have any questions relating to the investigation findings, please contact Authorised Officer Vittorio Colosimo via email at [Vittorio.Colosimo@act.gov.au](mailto:Vittorio.Colosimo@act.gov.au).

Yours sincerely



Vittorio Colosimo  
Acting Assistant Director  
Children's Education and Care Assurance  
Education and Care, Regulation and Support

21 October 2024