

██████████  
Email: ██████████@hotmail.com

Dear ██████████

**Decision to Issue Formal Caution**

1. The ACT Regulatory Authority (the Authority) also known as Children’s Education and Care Assurance, have recently investigated an allegation that you belittled and shamed a child, whilst engaged as an educator at Camp Australia – Arawang Primary School OSHC SE-40003187 (the Service), operated by Camp Australia Limited PR-00002539 (the Provider), on 10 February 2021.
2. The Authority is satisfied that you, whilst in the capacity of an educator, have contravened provisions of the *Education and Care Services National Law (ACT) (the Law)*.
3. Web addresses to the *Law* and the *Education and Care Services National Regulations (the Regulations)* are provided for your convenience at the end of this decision.

***Facts***

4. On 12 February 2021, a complaint was received by the Authority advising that you belittled and shamed a child, known to be ██████████, (aged 10 years), in front of his peers in the Arawang Primary School Hall on 10 February 2021. A notification of complaint from the Provider was received on the 15 February 2021 in relation to the same incident. Refer **Attachment A.**
5. Due to the risk of harm to children when subjected to inappropriate discipline and inappropriate interactions, the Authority determined to investigate the allegations.
6. On 15 June 2021, because of evidence gathered throughout the investigation that supported contraventions of the *Law*, the Authority sent you a Show Cause Notice (the Notice). Refer copy of the Notice (minus attachments) at **Attachment B.**
7. The Notice outlined the grounds for issue, and the evidence relied on by the Authority supporting the allegation that, on 10 February 2021, you, in the capacity of an educator, contravened section 166(3) of the *Law*.
8. In addition, the Notice outlined the compliance actions being considered by the Authority should the allegation be substantiated.
9. On 17 June 2021, you emailed the Authority advising that you were relying on the record of conversation with the Provider as a response to the Notice. Refer **Attachment C.**

## **Law**

10. The following provision of the *Law* was engaged by the investigation and this Decision:

### **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.

11. Under the *Law*, discipline is interpreted as any strategy employed by an educator with the intention of changing a child's behaviour. Discipline that is inappropriate includes any form of physical punishment or any behaviour management strategy likely to cause emotional or physical harm to a child, such as (but not restricted to) yelling, using threatening or humiliating language, isolating, or shaming children.

## **Reasons**

12. The Authority is satisfied, after careful consideration of your response in the Provider's interview, and all available evidence that, on the balance of probabilities, there is sufficient evidence to substantiate a contravention of section 166(3) of the *Law* namely-
- a. That on 10 February 2021, in the hall area of the Service, you belittled and shamed a child, known to be [REDACTED], by saying loudly to children gathered and seated on the floor, "Everyone say thank-you to [REDACTED] for ruining the game" in contravention of section 166(3) of the *Law*.
13. The Authority noted in your record of conversation with the Provider that you were unaware of the child's profile, including supports needed to guide behaviour, and also that you have not come to the attention of the Authority previously.
14. Furthermore, the Authority has also taken into consideration that the *Law* has a protective role, and the Authority must consider the rights of children.
15. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. The Authority has decided, on this occasion, not to engage the proposed actions of an Enforceable Undertaking or Prohibition, but instead to issue you this Caution. This Decision is a reminder of your obligations to the health and well-being of all children while being educated and cared for at the Service.
16. The Authority has also taken into consideration that people and entities that choose, and consent, to participate in regulated activities, have a legal responsibility and obligation to accept the consequences of that responsibility. In this case you chose, and consented, to participate in the education and care of children as an educator having a responsibility to comply with the standards required by the *Law* at the very least.

17. When choosing to participate in the education and care sector by employment as an educator, or person having authority over educators as Service Coordinator, you are obligated to ensure that your conduct meets, and demonstrates, the professional standards expected under the *Law*.
18. This Decision 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 Decision please contact Senior Investigator Brian Cropper on telephone (02) 6207 1104 or email [brian.cropper@act.gov.au](mailto:brian.cropper@act.gov.au).

Yours Sincerely



Tanya Masterman  
A/g Assistant Director  
Children's Education and Care Assurance  
Education and Care Regulation and Support  
ACT Education Directorate

28 July 2021