

██████████
Email: ██████████

Dear ██████████,

Decision to Issue Caution Letter

1. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, have recently conducted inquiries Regarding an allegation against you whilst employed at Bright Future Early Learning Belconnen – SE-40012576 (the Service) operated by L & M Khipal Pty Ltd – PR-40035221 (the Provider).
2. It was alleged that, on 05 August 2024 you picked up a child, believed to be ██████████ ██████████, and carried him outside of the room in contravention of 166(3) when employed as an Educator at the Service.
3. Web addresses to the *Education and Care Services National Law (ACT)* (the Law), and the *Education and Care Services National Regulations (the Regulations)* are provided for your convenience at the end of this notice.

Facts

4. On 05 August 2024, the Authority received a notification from the Provider advising of an allegation that you lifted and moved a child inappropriately.
5. The Authority made further enquiries and obtained numerous documents from the Provider, including all documentation relating to the Provider’s workplace investigation into the allegations raised against you.
6. A Show Cause Notice (the Notice) was sent to you via email 13 February 2025. Refer Attachment A.
7. The Notice advised you that the Authority was considering compliance action based on a suspected contravention of the Law indicated by information produced by the Provider.
8. The Notice advised you of the allegations raised against you, as well as the evidence held by the Authority supporting the suspected offence of inappropriate discipline pursuant to section 166(3) of the Law.
9. On 17 February 2025, you responded to the Notice. Your response included attachments A-D. Refer Attachment B.

10. The Authority considered compliance action based on evidence that there has been a contravention of the *Law* identified during the Authority's enquiries into the matter.

Law

11. Evidence obtained during the Authority's enquiries engages section 166(3) of the *Law*, which provides as follows:

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.

Decision and Reasons

12. The Authority has considered all evidence available and is satisfied, on the balance of probabilities, that you have contravened section 166(3) of the *Law*, as your conduct on 05 August 2024 as described is determined as discipline that was unreasonable in the circumstances.
13. The Authority determined that the discipline was unreasonable in the circumstances as it was inappropriate to physically handle and move the child in such a manner as a result of his behaviour.
14. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. On this occasion, the Authority has considered that:
 - a. The child was not injured by your conduct;
 - b. Your response to the Notice, including your status as a Trainee Educator;
 - c. You have had no previous incidents addressed by the Authority;
 - d. Additional training undertaken since the incident.
15. In the circumstances, the Authority has decided not to take statutory compliance action, but to issue you with a Caution Letter.
16. This Caution Letter 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.
17. The Authority also strongly encourages you to seek further training in how to manage children's behavioural issues in an appropriate manner. To assist you in this, and to ensure that you are aware of and understand how inappropriate discipline is viewed within an education and care setting, please find attached to this letter an ACECQA Fact Sheet on inappropriate discipline at [Attachment C](#).

18. This letter 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 Caution Letter please contact Authorised Officer Declan Barbagallo via email declan.barbagallo@act.gov.au

Yours Sincerely



Vittorio Colosimo
A/g Assistant Director
Children's Education and Care Assurance
Early Childhood Policy and Regulation

04 April 2025.