



Ms [REDACTED]

Email: [REDACTED] [goodstart.org.au](mailto:[REDACTED]@goodstart.org.au)

Dear Ms [REDACTED]

Decision to issue Formal Caution

1. As you are already aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently investigated allegations that the safety, health and wellbeing of a child was compromised due to inappropriate discipline at Goodstart Early Learning Isaacs SE-00009783 (the Service) operated by Goodstart Early Learning Ltd PR-00001129 (the Provider).
2. Specifically, it was alleged that on 1 October 2020, you, an educator at the Service, lifted a young person [REDACTED] up off the ground in the Preschool playground at the Service, by his clothes, yelled at that young person close to their face and then removed the young person from the playground which caused the young person to become upset.
3. Web addresses to the *Education and Care Services National Law (ACT) (the Law)* and the *Education and Care Services National Regulations 2011 (the Regulations)*.

Facts

4. On 2 October 2020, the Authority was advised by the Provider that they had received a complaint alleging that you, in the capacity of an educator, had inappropriately disciplined [REDACTED] (aged 4 years) on 1 October 2020.
5. It was alleged that on 1 October 2020 at approximately 4.00pm, you were witnessed lifting [REDACTED] up from the floor by his clothes and take him by the wrist, removing him from the playground. It was alleged that you were holding onto his wrist while walking to the gate and shouting at [REDACTED]. It was further alleged that as a result of your actions [REDACTED] was visibly upset and was then comforted by another educator.
6. Due to the risks to children if inappropriately disciplined. The Authority determined to investigate the allegations.
7. During the course of the Authority's investigation, records and information was obtained from the Provider, inclusive of witness statements, which suggested there had been an inappropriate disciplinary interaction between yourself and [REDACTED].

8. Further, documents secured from the Provider included three documents which were taken to be your recollection of the incident in question. Refer documents referred to at Attachment A, Attachment B and Attachment C.
9. On 21 December 2020, the Authority wrote to you in relation to your recollection of the incident in question, and, on 8 January 2021, you responded to that request. Refer correspondence at Attachment D.

Law

10. Evidence obtained during the investigation engaged sections 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.

Penalty: \$10 000.

Decision and Reasons

11. The Authority is satisfied, in consideration of all the available evidence and your response, that on the balance of probabilities, there is sufficient evidence to substantiate a contravention of sections 166(3) of the *Law*, namely:
 - i. That on 1 October 2020, you, an educator at the Service, lifted a young person [REDACTED] up off the ground in the Preschool playground at the Service, by his clothes, yelled at that young person close to their face and then removed the young person from the playground which caused the young person to become upset.
12. In this particular set of circumstances, taking into consideration the evidence gathered by the investigation, your response to the Authority, and the information you furnished in relation to mitigating circumstances at the time, the Authority is satisfied statutory compliance action is not required to address the contravention in this instance.
13. However, the Authority has determined it appropriate to issue you with a Formal Caution acknowledging the substantiated offence.
14. This Decision serves to remind you of your obligations, as an educator, to ensure that at all times your actions –
 - a) in no way compromise the safety, health and wellbeing of children being educated and cared for at an approved service; and
 - b) in no way compromise maintaining compliance with the *Law* and *Regulations*.

15. 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.
16. The *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>
17. Should you have any questions about this Decision please contact Senior Investigator Jeff Beaver on telephone (02) 6207 3917 or email Jeffrey.beaver@act.gov.au.

Yours Sincerely



Janine Fairburn
Assistant Director
Early Childhood Policy and Regulation
ACT Education Directorate

21 January 2021