



██████████
Educator
Busy Bees at Amaroo

Email ██████████

Dear ██████████

Decision to Issue Caution Letter

1. As you are aware, the ACT Regulatory Authority (the Authority), also known as the Children's Education and Care Assurance (CECA), recently investigated suspected offences at Busy Bees at Amaroo, SE-40007033 (the Service) operated by FEL Child Care Centres 4 Pty Ltd, PR-40004076 (the Provider).
2. It was alleged that on Monday, 22 January 2024, you, as an educator at the Service, subjected a child to a form of corporal punishment or discipline that was unreasonable in the circumstances in you said to the child, ██████████, ██████████ which in English translates to "you will be beaten up by shoes you dog".
3. The Authority is satisfied that you, whilst in the capacity as an educator at the Service, have contravened provisions of the Education and Care Services National Law (ACT) (the Law).
4. 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 notice.

Facts

5. On Monday, 2 September 2024, the Authority received intel alleging you were heard yelling at a child, ██████████, ██████████ which in English translates to "you will be beaten up by shoes you dog".
6. Due to the risk of harm and hazards to children, likely to cause injury resulting from inappropriate discipline, the Authority determined to investigate.
7. On 9 January 2025, the Authority sent you a Show Cause Notice (the Notice), advising that the Authority had determined there was sufficient evidence to support a case to answer regarding a suspected offences under the Law.
8. The Notice outlined the grounds for issue, relevant evidence supporting the suspected contraventions of the Law, and potential compliance actions being considered if the allegations were substantiated. Refer copy of Notice (minus attachments) at Attachment A.
9. The Notice set out the following allegations for your response:

Allegation

10. On Monday, 22 January 2024, educator [REDACTED] subjected a child to a form of corporal punishment or discipline that was unreasonable in the circumstances in that the educator, [REDACTED] said to child, [REDACTED] which in English translates to “you will be beaten up by shoes you dog”, in contravention of Section 166(3) of the National Law.
11. On Wednesday, 30 April 2025, your response to the Notice was received by the Authority. Refer copy of response (minus attachments) at Attachment B.

Obligations upon Regulatory Authority

12. 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”.
13. 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 interests of the child are paramount; ...
 - (f) that best practice is expected in the provision of education and care services.
14. Section 260 of the Law sets out the functions of the Regulatory Authority, which includes:
 - (c) to monitor and enforce compliance with this law;
 - (d) to receive and investigate complaints arising under this law.
15. 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.
16. 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.
17. 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.

Decision and Reasons

18. The Authority has considered all evidence gathered via the investigation process, inclusive of your response to the Notice, and is satisfied on the balance of probabilities, allegations are proven, therefore substantiating contraventions of section 166(3) of the Law.
19. Discipline is defined as any strategy employed by an educator with the intention of changing a child's behaviour. Discipline that is inappropriate within the meaning of section 166 of the Law includes any form of physical punishment or any behaviour management strategy likely to cause emotional or physical harm to a child. Examples include smacking, yelling, physically dragging a child, unreasonable restraint of a child, using threatening or humiliating language, isolating, or shaming children.
20. This finding is supported by the evidence gathered via witness accounts that clearly identifies [REDACTED] being subjected to inappropriate discipline by you whilst enrolled at the Service, thus supporting the allegations as detailed.
21. The Authority is satisfied your response did not contain sufficient evidence demonstrating that you, as an educator, were ensuring that no child was subjected to inappropriate discipline in this instance.
22. An educator's obligation under section 166(3) of the Law is positively and strongly framed— an educator must not subject any child being educated and cared for by the service to inappropriate conduct amounting to discipline, unreasonable in the circumstances.
23. People and entities that choose to participate in regulated activities have a legal responsibility and an obligation to accept the consequences of that responsibility. In this case, as an educator, you chose and consented to participating in the education and care of children and have a responsibility to comply with the standard of care under the Law.
24. However, in considering the evidence, the objectives and guiding principles of the Law, the fact that you have no previous compliance history, and your response to the matter raised, the Authority has decided to issue this Caution Letter rather than statutory compliance action.
25. 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.
26. 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.
27. 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>

28. Should you have any questions about this Caution Letter please contact Authorised Officer Jarrod REID via email Jarrod.Reid@act.gov.au.

Yours sincerely,



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

17 June 2025