

Instructions

This form should be used to lodge a complaint to the ACT Regulatory Authority in circumstances where your complaint alleges possible offences and/or engage a risk to the safety, health and wellbeing of children or a child attending an education and care service.

The completed form should be forwarded to complaintsCECA@act.gov.au

The Authority is obligated to protect personal information in accordance with the Privacy Act 1988 (Cth) and the Australian Privacy Principles contained in the Privacy Amendment (Enhancing Privacy Protection) Act 2012. Information provided in this form would only be shared subject to the information sharing provisions under the relevant Legislation.

Direct Complaint Form - Online

Date completing form:	11/03/2021
Time completing form:	6:09 PM
Your full name:	P01 P01 P01
Date of birth	P02
Contact details: (phone and email)	P03 P03
Service to which the complaint relates?	Childcare
Has the complaint been raised directly with the service? If <i>yes</i> what was the response? If <i>not</i> why?	Yes – the childcare providers do not want to enter into a contract with me on the grounds that I do not wish to disclose the private medical information of my children, namely vaccination status or ‘written exception by doctor’.
Complainant’s relationship to the service (how long have you had an association <i>parent/educator</i> for)?	Since 10/03/2022
Date/time of incident/ issue to which the complaint relates. If unknown, approximate timeframes?	10/03/2022, 11/03/2022
If delay in reporting, reasons for delay?	

<p>Name of children (in full if possible) involved in the incident/ issue to which the complaint relates?</p>	<p>P01 P01 P01 P01 P01 P01 P01 P01</p>
<p>Age of Children (DOB if possible and relevant?)</p>	<p>P02 P02</p>
<p>Name of educator(s), staff member(s) or other persons involved?</p>	<p>Nido Early School: P03 Manager and staff. [REDACTED]</p>
<p>Details of the incident/issue:</p> <p><i>Consider details such as:</i></p> <p><i>What happened?</i></p> <p><i>Where did it happen?</i></p> <p><i>Has it ever happened before?</i></p> <p><i>Has it happened to anyone else?</i></p> <p><i>Who was present?</i></p> <p><i>Who was involved?</i></p> <p><i>Have you discussed the incident/issue with anyone else?</i></p> <p><i>Has any action been taken?</i></p>	<p>Nido:</p> <p>My wife had visited Nido Early School on the 10th of March 2022 and informed me that she liked the look of their premises. I then made a phone call to Nido at 2:53 pm to make enquiries. I asked them if they would be willing to provide our children services without requiring my childrens vaccination status. They told me they would not be willing to proceed unless that information is provided. I then asked them if they could quote me the statutory act or law where they get their claimed authority from that enables or authorizes them to require my children’s private medical information.</p> <p>On the 11th of March 2022, I call Nido Early School again to inform them that I am in possession of a letter from the ACT Department of Education that states any child can enrol in both childcare centres and schools.</p> <p>I offered the letter to them to try and convince them to enrol my children. They agreed to inspect the letter and provided me an email to forward it.</p> <p>In our email correspondence I wrote: <i>“Hi there, just following up on our phone call earlier. Attached is a letter from ACT Education written personally to me. The letter itself does not disclose the vaccination status of my children.</i></p> <p><i>Again, the vaccination status of my children is confidential, and I would need to see proof of authorisation that would allow a person to access that information.</i></p> <p><i>I also understand my children cannot be denied educational services under the Human Rights Act.”</i></p>

In the email, I also forwarded a copy of the 'ACT Immunisation Requirements for entry into school, preschool and childcare 2018' brochure. I directed their attention to page 7, which states that if the immunisation history is not provided, then a child will be "recorded" as not being fully immunised. The next section specifically states that immunisation is not compulsory.

At 2:52 pm, Nido Early School replied: "Hi **P01** ,

After having discussions with my area manager and also viewing our policies and procedures, unfortunately we can't offer you children a space at our service unless you can provide us with evidence of an exception from a doctor to say that your children for whatever reasons can't get vaccinated.

It also means that if you gave us an exception, we wouldn't be able to apply for CCS so you would have to pay full fees.

If you wanted to discuss further, please let me know.

Kind Regards, **P01** **P01** , Executive Service Manager".

I then followed up with another email reply: "Greetings,

Unfortunately I may have to make a complaint with the Human Rights Commission and/or the Department of Education.

In the meantime, I hope you can satisfy my following questions:

1: Can you please provide the law that states that a vaccination "exemption" must be in writing? (I did not realise until as of drafting this letter that they wrote "exception", which I take may be the same thing)

Given that I choose to withhold the vaccination status [of] my children due to it being private medical information, (Section 16B of the Privacy Act 1988) it is unsatisfactory for me to attempt acquiring a written 'exemption' because it would still disclose the private medical information of my children.

2: Can you please provide the lawfully enacted law or proof of authorisation (instrument of delegation / certificate of authority) that enables any person or entity employed or contracting for Nido Early School to:

- a) Require any child's private medical information, and*
- b) Require any child to be vaccinated or injected with foreign substances."*

[REDACTED]

[REDACTED]

[REDACTED], [REDACTED]

[REDACTED].

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

Other:

I have come across other childcare facilities that have expressed similar conclusions.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Comments:

I take note there are no laws that I am aware of that compel my children to visit the doctor for the purpose of obtaining a written "exception" that would enable them to access childcare or school.

And no laws that compel any child to be vaccinated or injected with foreign substances in order to access childcare, school or education.

	<p>I take note of section 8 of the <i>Public Health Regulation 2000</i> which states that the person in charge of a childcare centre “must” require the parent of a child to provide a copy of their child’s immunisation record, and it is an offence not to.</p> <p>I take note that there can exist a reasonable excuse for failure to provide the immunisation record to the person in charge of the childcare. There does, in fact, exist more than one reasonable excuse, and I refer to section 109 of the Commonwealth Constitution which states: “<i>When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.</i>”</p> <p>I take note that section 16.B of the <i>Privacy Act 1988 (Cth)</i> which states that the collection, use of or disclosure of health information is lawful only in an existing permitted health situation, namely for the provision of a health service or research.</p> <p>I have attempted to make a complaint to the ACT Human Rights Commission by phone on 11/03/2022 but there was no one available at the time I made the call who could receive the complaint. I may yet make a complaint.</p> <p>I have called Legal Aid ACT to see if they could be of any help. They told me they are not able to assist.</p> <p>I take note of section 10, 11, 12, and 27A of the <i>Human Rights Act 2004 (ACT)</i>.</p>
<p>Did you make any notes at the time, or send any emails? Are you prepared to provide a copy?</p>	<p>Yes</p>
<p>If necessary would you be prepared to make a statement?</p>	<p>Yes</p>
<p>Is there any other information (documents, memos, emails etc) that you may have that would substantiate the allegation(s)?</p>	<p>Yes</p> <p>I wrote a Notice of Demand to the Minister of Education, Yvette Berry, dated 12th November 2021, expressing My Will, which was stamped by a court exercising summary jurisdiction.</p>