



Ms [REDACTED]
Person with Management or Control
Edge Early Learning ACT Pty Ltd
RE: Edge Early Learning Charnwood

Email: [REDACTED]@edgeearlylearning.com.au

Dear [REDACTED]

Show Cause Notice – Proposed Compliance Action

1. I am a delegate of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance (CECA).
2. As you are aware, the Authority is the regulator of education and care services in the ACT and has the responsibility of monitoring and enforcing compliance with the *Education and Care Services National Law* (the *Law*). One of the Authority's roles is to investigate suspected offences under the *Law*.
3. The Authority is currently investigating multiple suspected offences at Edge Early Learning Charnwood – SE-40014603, (the *Service*) operated by Edge Early Learning ACT PTY LTD – PR-40029018, (the *Provider*). 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.
4. Authorised Officers have obtained evidence from sources and the Authority has determined that the Provider has a case to answer regarding suspected offences. However, the investigation is not complete until the Provider has had an opportunity to respond to the allegations and evidence obtained by the Authority. This is the reason for sending this Show Cause Notice (Notice) to you. Detailed instructions of how to respond appear at the end of this Notice.
5. If substantiated, the allegations may constitute offences under sections 165 and 167 of the *Law*. If, after considering all available evidence, the Authority finds any offences are substantiated on the balance of probabilities (or any combination of them) it will need to consider whether compliance action is required.
6. Where offences under the *Law* are substantiated, the Authority considers many factors when determining appropriate action, the focus being on ensuring future compliance and improved outcomes for children, rather than punishment. Further details regarding potential compliance actions appear at the end of this Notice.

Grounds for issuing Show Cause Notice

7. Evidence obtained during the investigation to date supports offences under the *Law* within the following areas: Inadequate supervision and protection from harms and hazards.

Facts

8. On 25 May 2024, the ACT Regulatory Authority (the Authority) received a direct complaint alleging that a child's hair had been cut while at the Service. Attached to the direct complaint were two images of child, [REDACTED] [REDACTED] (4:0) show pieces of hair cut from his head. Refer [Attachment A](#).
9. On 28 May 2024, the Authority received a notification from the Service in relation to the parent alleging that the child's hair had been cut and concerns with lack of supervision. Refer to [Attachment B](#).
10. Due to the risk of harms and hazards likely to cause injury if children are inadequately supervised, the Authority determined to investigate the matter, which engaged suspected offences under sections 165 and 167 of the *Law*.

Allegation

11. On 24 May 2024, the Provider failed to ensure that all children being educated and cared for by the service were adequately supervised at all times that the children were in the care of that service, in that where the child, [REDACTED] [REDACTED] (4:0) had his hair cut by a peer while attending the Service, in contravention of Section 165(1) of the National Law and giving rise to a contravention of section 167(1) of said *Law*.

Legislation Relevant to the Allegation

12. The following provisions of the *Law* are relevant to the Allegation:

Section 165(1) of the Law - Offence to inadequately supervise children.

- (1) The approved provider of an education and care service must ensure that all children being educated and cared for by the service are adequately supervised at all times that the children are in the care of that service.

Penalty: \$11 400, in the case of an individual.

\$57 400, in any other case.

Section 167(1) of the Law - Offence relating to protection of children from harm and hazards.

- (1) The Approved Provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and care for by the service from harm and from any hazard likely to cause injury.

Penalty: \$11 400, in the case of an individual

\$57 400, in any other case.

Evidence relevant to the Allegation

13. On 31 May 2024, the Provider responded to a request for further information via email. The email contained the following relevant documents:

- a) File Notes- Staff- Cutting activity occurred
- b) How to avoid this type of incidents
- c) Incident form
- d) Outdoor supervision plan
- e) Supervision policy training
- f) Supervision training assessment

Refer Attachment C.

14. On 8 July 2024, the Provider furnished documents pursuant to a 215 Notice including the following relevant documents:

- a) Action plan
- b) Staff sign in - out
- c) Supervision Policy and Procedure
- d) Rolls with DOB 24 May 2024
- e) Responsible Person Log

Refer Attachment D

15. On 21 June 2024, Nominated Supervisor, [REDACTED] delivered an envelope to Hedley Beare Centre, 51 Fremantle Drive, Stirling, ACT.

16. The envelope contained CCTV footage and a file note written by [REDACTED]

17. The file note identified CCTV times and stated that the hair cutting incident was not found and that there was supervision at all times.

Refer Attachment E - File note- [REDACTED]

18. On 8 July 2024, the Provider furnished documents pursuant to a supplementary 215 Notice including the following relevant documents:

- a) A Dropbox link to CCTV footage which captures footage from internal "camera 9" between the hours of 1:45pm, Friday, 24 May 2024 and 2:30pm, Friday, 24 May 2024.

19. The CCTV footage captures periods of time where the children are inadequately supervised.

23. Evidence gathered appears to support that on the balance of probabilities, [REDACTED] was inadequately supervised, in that he had his hair cut by a peer while attending the service on was grabbed on 24 May 2024, contravening section 165(1) of the *Law*, and giving rise to a contravention of 167(1) of the *Law*.
24. Ensuring that no child is inadequately supervised, is viewed as being a reasonable precaution to take to protect children from harm likely to cause injury.

Potential Compliance Action

25. The Authority reiterates that no decision has been made at this time – this letter is a step in the investigation process. However, procedural fairness requires that the Authority take this opportunity to advise you of potential compliance actions if an offence is substantiated. Potential compliance actions include:
- a. Non-statutory Administration Action (similar to a caution) with no further action;
 - b. Non-statutory Administrative Action with measures to be taken and evidence produced;
or
 - c. A Compliance Notice under section 177 of the *Law*, if the Authority is satisfied that the Service is not complying with the *Law*.
 - d. Imposing of Conditions on the Service’s approval under section 51 of the *Law*.
 - e. Suspension of the service approval under section 72 of the *Law*. The suspension would be in effect from the time the provider has been notified of the decision until the provider can demonstrate that they have mitigated any future risks.
 - f. Cancellation of the service approval under section 79 of the *Law*.
26. In arriving at a decision concerning compliance action, if warranted, the Authority considers many factors, such as severity of non-compliance and the compliance history of the Provider and Service.
27. If a matter is determined as warranting consideration of suspension or cancellation of a service approval, please be aware that additional opportunity to respond to the grounds for such action would be provided, as required under sections 71 and 78 of the *Law*.

Right of response

28. As mentioned previously, this is the Provider’s opportunity to respond to the allegations and evidence set out in this Notice. You may, within 14 days of receiving this Notice, make a written submission for the Authority’s consideration in deciding if any offences are substantiated and, if so, whether any compliance action should be taken.
29. At Attachment H to this Notice is a ‘4 Step Guide to Responding to a Show Cause Notice’ to assist in the development of your submission. Please direct your written submission via email to Jarrod.Reid@act.gov.au or by post to:

Children's Education and Care Assurance (CECA)
Education Directorate
Attention: Jarrod REID
GPO Box 158, Canberra ACT 2601.

Caution

30. I am informing you that the excerpts of witness accounts taken for the Authority's investigation are included in the interests of procedural fairness. The statements taken during the investigation and the excerpts provided for your consideration in the show cause process are protected disclosures under section 296 of the *Law*.
31. The *Law* provides, at section 297, for the protection of persons who make protected disclosures from serious detrimental action against them in reprisal.
32. Please also be aware that it is an offence under section 295 of the *Law* to provide the Authority with false or misleading information or documents.
33. The *Law* applies to you as a provider and any service you operate. The *Law* is applied in the ACT by the *Education and Care Services National Law (ACT) Act 2011* <http://www.legislation.act.gov.au/a/2011-42/default.asp>.
34. The *Law* and *Regulations* can be viewed at: <http://www.acecqa.gov.au/national-law>, and <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>
35. Should you have any questions about this Show Cause Notice please contact Jarrod REID on Jarrod.Reid@act.gov.au.

Yours sincerely



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

11 September 2024