

Ms [REDACTED]
Person with Management or Control
EDGE EARLY LEARNING ACT PTY LTD
RE: Edge Early Learning Higgins

Email: [REDACTED]

Dear Ms [REDACTED]

Decision to issue Administrative Action RE: NOT-00042590

1. As you may be aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification of Incident (NOT-00042590) relating to Edge Early Learning Higgins SE-40011068 (the Service) operated by EDGE EARLY LEARNING ACT PTY LTD PR-40029018 (the Provider).
2. The notification of incident advised that on 3 June 2024, [REDACTED] was fed solids prematurely (at 2 months old, corrected age) and against the parents' request.
3. The Authority is satisfied that the Provider did not comply with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) in this instance. Web addresses to the Law and the associated *Regulations* are provided for your convenience at the end of this Decision.

Facts

4. On 4 June 2024, a notification of incident (NOT-00042590) was submitted to the Authority by the Provider advising that on 3 June 2024, [REDACTED] (4 months, 2 months corrected age) was fed puree by Educators (instead of breast milk), potentially exposing him to harm due to head/mouth control at this age. Refer copy of the NOT-00042590 at Attachment A.
5. Additional information submitted with NOT-00042590 included the following:
 - Bottle information record;
 - Daily information record;
 - Director statement/parental communication;
 - Food Safety Training record (Educator 1);
 - Food Safety Training record (Educator 2); and
 - Parental communication on child's file.

Refer Attachment B.

6. Additional documents submitted in response to Request for Information (returned 17 July 2024) included the following:
 - File note with Parent;
 - Orientation information for Child;
 - Nappy change record;
 - Handwritten information from Parent about Child;
 - Child risk factor checklist and action plan;

- Provider and Parent communication – Morning (4 June 2024);
- Provider and Parent communication - Afternoon (3 June 2024);
- Feeding record;
- Daily Roster;
- Confirmation of documents submitted to RA;
- Children sign in/out sheet;
- Bottle feeding record;
- Sleep record;
- Room sign in record.

Refer Attachment C.

- Team meeting record;
- Communication stating Child will resume with Service;
- Meeting notes – Educator One;
- Meeting notes – Educator Two;
- Meeting notes – Educator Three;
- Meeting notes – Educator Four;
- Meeting notes – Educator Five;
- Confirmation of documents submitted to RA;

Refer Attachment D.

Law

7. The Notification engaged the following provisions of the *Law*:

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

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.

Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to support an offence under section 167 of the *Law* in this instance.
9. In relation to section 167 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure that all children were provided food appropriate to their age while in the care of the Service on 3 June 2024, in that [REDACTED] was not adequately protected from harm, due to being fed solids by educators responsible for his care at the time.
10. The Authority is satisfied that the very nature of the matter notified, and additional information submitted by the Provider supports, on balance of probabilities, the offence being substantiated.
11. The evidence provided demonstrates that procedures need to be reviewed upon commencement of any child, especially those with identified needs and on the introduction of solids to children.

Therefore, the Authority requires the Provider to respond with evidence with 14 days of this notice, that the Service is doing something to ensure that Educators are aware of their responsibilities regarding infants and feeding, such as renewed training documentation.

12. The *Law* outlines a range of statutory actions which may be taken by the Authority in response to non-compliance. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children.
13. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the advised of steps taken by the Provider to mitigate risk of a similar occurrence, the Authority has decided to issue this administrative action rather than statutory compliance actions to address the non-compliance.
14. This decision services to remind the Provider of their obligations and responsibilities under the *Law*, and to ensure that practices are monitored regularly to ensure ongoing compliance with the *Law* and encourage continual improvements for outcomes for children.
15. This Decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments, or waivers. It may also be considered in determining the action to be taken, should further breaches of the Law or associated Regulations be found.

Legislation

16. 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> . 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>.
17. Should you have any questions about this Decision please contact me at nicole.withers@act.gov.au.

Yours Sincerely,



Nicole Withers
Team Leader Investigations
Regulation and Compliance
Education Directorate

2 August 2024