ACT Government
Education

Ms [redacted]
Nominated Supervisor
RE: Ngunnawal Primary School – Preschool Unit

Email: [redacted]

Dear Ms [redacted]

Decision to Issue Caution Letter

1. I am a delegate of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance (CECA). 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 (ACT) (the Law).*

2. As you are aware, the Authority has recently assessed a notification of incident that a child (5:0), was climbing a triangle ladder rope when a peer stood on the rung that their hand was on, causing a portion of their finger to be dismembered, while attending Ngunnawal Primary School – Preschool Unit SE-00011214 (the Service) operated by ACT Education Directorate PR-00006465 (the Provider).

3. Web addresses to the *Education and Care Services National Law (ACT)* (the *Law*), and the *Education and Care Services National Regulations* (the *Regulations*) are provided for your convenience at the end of this notice.

Facts

4. On 4 November 2024, while you were the Nominated Supervisor at the Service, the Authority received a notification from the Provider advising that a child known as [redacted] had a part of their finger severed on the playground.

5. The Authority made further enquiries and obtained numerous documents from the Provider.

6. A Show Cause Notice (the Notice) was sent to you via email on 20 December 2024. Refer Attachment A (minus attachments).

7. The Notice advised you that the Authority was considering compliance action based on a suspected contravention of the *Law* indicated by information produced by the Provider.

8. The Notice advised you of the allegations raised against you, as well as the evidence held by the Authority supporting the suspected offence of inappropriate discipline pursuant to section 167(2) of the *Law*.

9. On 18 February 2025, School Operations responded to the Show Cause Notice on your behalf, within the required timeframe, extended by agreement. Refer Attachment B (minus attachments).

10. The Authority considered compliance action based on evidence that there has been a contravention of the *Law* identified during the Authority's enquiries into the matter.

Law

11. Evidence obtained during the Authority's enquiries engages section 167(2) of the *Law,* which provides as follows:

    Section 167(2) of the *Law* – Offence relating to protection of children from harm and hazards
    A Nominated Supervisor of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared 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 and Reasons

12. The Authority has considered all evidence available, inclusive of your response to the Notice and is satisfied, on the balance of probabilities, that you have contravened section 167(2) of the *Law*, as you were the Nominated Supervisor on 4 November 2024 when a child received a severe and serious injury at the service without reasonable precautions taken to protect the child from harm and from any hazard likely to cause injury.

13. The Notice response from yourself as Nominated Supervisor raises additional concerns of inadequate supervision in Attachment 1.H – Ngunnawal Preschool playground mud map indicating supervision of students at the relevant time, 4 November 2024, as a placement student was supervising at the time and not an educator. Placement students are not responsible and are not to be included in ratios or supervision plans as they are not educators under the Law. It is noted that the placement student was the only adult on that side of the playground as identified in the supervision map. This fails to ensure every reasonable precaution is taken to protect children from harm and from any hazard likely to cause injury.

14. Additional documentation submitted yourself as Nominated Supervisor, in Attachment 1.B Climbing Frame Documentation (various) of the Notice response also notes that comparable similar equipment is for domestic purposes and contains warning to ensure children are supervised at all times and has maximum weight limits on them. As noted above, placement students are not educators and are not included to be included in ratios or supervision plans, and there was no risk assessment in place for this piece of equipment to ensure educators were aware of weight limits or specific requirements. This fails to ensure every reasonable precaution is taken to protect children from harm and from any hazard likely to cause injury.

15. Attachments 1.C, 1.D, 1.E, 1.F, 1.G, and 1.H of the Notice response from yourself as Nominated Supervisor did not identify the piece of equipment involved in the incident being included of

the safety checks conducted, or that equipment is suitable in the setting. This fails to ensure every reasonable precaution is taken to protect children from harm and from any hazard likely to cause injury

16. The Authority determined that every reasonable precaution was not taken to protect children from harm or from any hazard likely to cause injury, in contravention of s167(2) of the *Law*.

17. The Authority has the flexibility to choose the most appropriate action. In the circumstances, the Authority has decided not to take statutory compliance action, but to issue you with a Caution Letter.

18. This Caution Letter serves to remind you of your obligations, as a Nominated Supervisor, to ensure that reasonable precaution is taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause injury.

19. 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. Further serious non-compliance with the *Law* may result in prohibition as a nominated supervisor.

20. 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

21. Should you have any questions about this Caution Letter please contact Authorised Officer Vittorio Colosimo at Vittorio.Colosimo@act.gov.au.

Yours sincerely,

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

25 March 2025