

The Hon Prue Car MP

Deputy Premier of New South Wales
Minister for Education and Early Learning
Minister for Western Sydney



Ref: RML24/2477

Mr Chiang Lim
CEO
ACA NSW
PO BOX 660
PARRAMATTA NSW 2124

Email: chiang.lim@childcarealliance.org.au

Dear Mr Lim *Chiang*

Thank you for your correspondence of 10 July 2024, regarding non-compliance breaches in NSW-based early childhood education and care services (ECEC).

I have sought clarification and advice from the Department of Education on this matter and I am advised of the following:

NSW implemented a new system of recording breaches by Family Day Care (FDC) services in 2019. Previously, a breach of the National Law or National Regulations at a FDC service was recorded only once. From 24 July 2019, a separate breach is recorded for each FDC educator who is in breach of the National Law or National Regulations.

The new methodology increased the number of confirmed breaches reported in NSW in the timeframe you have identified. In the Commonwealth Productivity Commission's Report on Government Services (RoGS) 2020, there were 7,773 confirmed breaches reported for NSW. This increased to 13,673 in RoGS 2021. A footnote in the ROGs 2021 report explained this increase and change in reporting.

With regards to your observation that in comparison to the number of confirmed breaches reported in NSW, 'the number and percentage of enforcements and regulatory decision actions remains extremely small', the proportion can be explained by regulatory practice. One regulatory action may be taken in response to a number of confirmed breaches. For example, where a child is injured at a service, the NSW Early Childhood Education and Care (ECEC) Regulatory Authority (RA) may assess that there are five confirmed breaches though may issue only one compliance action such as a compliance notice or direction. This approach is less administratively burdensome for the service.

Additionally, if appropriate, and where the safety, health or wellbeing of children is not at risk, regulatory guidance will be provided to support the service to rectify the matter immediately. Regulatory guidance is an effective action to quickly resolve breaches of the National Law in partnership with the service or provider.

The NSW Government acknowledges the challenges facing the ECEC sector and has made significant investment in initiatives to address them through scholarships, skills programs, accelerated pathways and other wraparound supports.

I have requested that the NSW ECEC RA further discuss the matters you have raised in your regular meetings with them.

Sincerely

Prue Car MP
Deputy Premier of New South Wales
Minister for Education and Early Learning
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52 Martin Place Sydney NSW 2000
GPO Box 5341 Sydney NSW 2001

02 7225 6010
nsw.gov.au/deputy-premier