

[REDACTED]

E: [REDACTED]

Dear [REDACTED]

FREEDOM OF INFORMATION (FOI) REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Education Directorate (the Directorate) on 5 September 2019 in which you sought access to documents specifically relating to:

- *A 2018 audit by the ACT Government for Brindabella Christian College;*
- *Details of all ACT Government grants received by Brindabella Christian College in the past 5 years; and*
- *Any communications sent/received by the ACT Government to Brindabella Christian College concerning:*
 - *Staff bullying and harassment allegations;*
 - *Board conduct in regards to hiring teachers, changing timetables, decision to recount the student election for college captain in 2012, lack of community consultation;*
 - *Governance and financial viability of Brindabella Christian College; and*
 - *Alleged conflicts of interest in Board decisions, including the decision to use at least one government grant to purchase goods/services from a company owned by the Board Chair.*

On 22 October 2019, the Directorate contacted your office to clarify the scope of your request. On this date it was agreed that the third point of your request would be amended to:

- *Any communications sent/received by the ACT Government to/from Brindabella Christian College concerning...*

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

The Directorate was required to provide a decision on your access application by 24 October 2019. As previously agreed with your office, the material is due to you by 15 November 2019. The additional time allowed for extensive third party consultation and this has now been finalised. Thank you to agreeing to the additional time for a response.

Decision on access

Searches were completed for relevant documents and eight documents were identified that fall within the scope of your request.

My decision is to grant access to the documents relevant to your request as follows:

- partial access to six documents with deletions applied; and
- not release two documents.

I have included as Attachment A to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

The documents released to you are provided as Attachment B to this letter.

My access decisions are detailed further in the following statement of reasons.

Material considered

In reaching my access decision, I have taken the following into account:

- the FOI Act, particularly sections 17 and 50, and schedule 2;
- the content of the documents that fall within the scope of your request;
- the *Human Rights Act 2004*.

Reasons for decision

In making my decision I have applied the public interest test that is set out in section 17 of the Act.

I have decided to grant access, where possible, under section 50 of the Act, to copies of documents with information deleted that I consider is, on balance, contrary to the public interest to disclose.

I have decided that the factor favouring disclosure, as listed at Schedule 2.1 of the Act, is that disclosure of the information could reasonably be expected to:

- *contribute to positive and informed debate on important issues or matters of public interest (Schedule 2.1 (a)(ii)).*

I have decided that the applicable factors favouring non-disclosure in the public interest, as listed at Schedule 2.2 of the Act, are that the information could reasonably:

- *prejudice trade secrets, business affairs or research of an agency or person (Schedule 2.2(a)(xi)); and*
- *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004 (Schedule 2.2(a)(ii)).*

I have also given consideration to confidentiality of information where this has been mutually agreed between the parties, as a factor that would favour non-disclosure.

I have considered the factor favouring disclosure and the factors favouring non-disclosure. I place some weight on the positive contribution of open discussion of important issues and public affairs, but place significant weight on factors that could impact on an individual's right to privacy, information that could reasonably prejudice the business affairs of Brindabella Christian College and mutually agreed confidentiality.

I have decided that two of the documents within the scope of the request will not be released:

- One of these is a financial viability assessment report undertaken as part of the 2018 re-registration process for Brindabella Christian College, which I have determined would be prejudicial to Brindabella Christian College's business affairs if it were released.
- The other document is a copy of statements of acquittal of grants for Brindabella Christian College. There is a non-disclosure agreement between the Directorate and Brindabella Christian College about this information. As such I have decided that disclosure of this document would be contrary to that agreement.

There are six documents with deletions applied to information that I do not consider to be in the public interest to release.

Information relating to third parties or for which the release of this information could lead to the identification of individuals has been deleted. I have concluded that the individual's right to privacy has a higher standing of public interest not to disclose than the public interest in disclosing this information.

The names of businesses supplying services to Brindabella Christian College have been deleted. I have concluded that their right to privacy in relation to their business affairs has a higher standing of public interest not to disclose, than the public interest in disclosing

this information. I note that these deletions are minor in nature and do not substantially alter the content of the material to be released.

Material that is outside of the scope of the request has also been deleted.

Online publishing – disclosure log

Under section 28 of the Act, the Directorate maintains an online record of access applications called a disclosure log. Information about your request, my decision and documents released to you in response to your access application will be published in the Directorate’s disclosure log between three and 10 working days after a decision on access has been provided to you. Your personal information will not be published.

You may view the Directorate’s disclosure log at
https://www.education.act.gov.au/about_us/freedom_of_information/disclosure-log.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the Directorate’s disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601

Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

If you have any queries concerning the Directorate’s processing of your request, or would like further information, please contact the Directorate’s FOI Coordinator on

02 6205 0720 or email EDULegalLiaison@act.gov.au.

Yours sincerely



Paula Murray
Information Officer

15 November 2019

