

File Ref: [REDACTED]

[REDACTED]
Via email: [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 6 June 2022, in which you sought access to:

ACT schools suspension data for 2020 and 2021, including a breakdown of how many students have disability, how many are First Nations, and how many are eligible for or receiving additional support.

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 5 July 2022. You were contacted via email on 4 July 2022 by the Directorate's FOI team seeking an extension to 12 July 2022, which you responded to on 7 July 2022. Thank you for consideration and accommodation of this request.

Decision on access

Searches were completed for relevant records and two records were identified that fall within the scope of your request. One of these records is publicly available; however, I have included it within this decision for ease of access.

No records could be located that provide data for suspension of students that were eligible for or receiving additional support. Whilst the Directorate holds relevant data, it is contained in separate databases and would require dedicated resources to be applied to combining the datasets and analysing them, which is not a requirement of the Act and is outside of its intent.

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

I have decided to grant:

- full access to one record, and
- partial access to one record with deletions applied.

The records released 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 16, 17 and 50, and schedule 2;
- the content of the record that falls within the scope of your request; and
- the *Human Rights Act 2004*.

Reasons for decision

I have considered the records that are relevant to your request in accordance with the requirements of the FOI Act, particularly section 6(a) which provides for a right of access to government information unless access would, on balance, be contrary to the public interest. Contrary to the public interest information is defined at section 16 of the FOI Act as information that is taken to be contrary to the public interest to disclose under Schedule 1; or the disclosure of which would, on balance, be contrary to the public interest under the test set out in section 17.

Section 50 of the FOI Act provides for records to be partially released with deletions applied where they contain contrary to the public interest information that can be deleted, enabling the remainder of the record to be released. This provision has been applied where appropriate.

Information taken to be contrary to the public interest to disclose

None of the records within the scope of your request contain information that is taken to be contrary to the public interest to disclose.

Information, the disclosure of which would, on balance, be contrary to the public interest

All records within the scope of your request have had the public interest test applied to determine if they contain information that would be contrary to the public interest to disclose.

The public interest test requires the identification of factors favouring disclosure and non-disclosure, the balancing of those factors, and a decision whether, on balance, disclosure of the information would be contrary to the public interest.

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

- *promote open discussion of public affairs and enhance government's accountability* (Schedule 2, 2.1(a)(i));
- *contribute to positive and informed debate on important issues or matters of public interest* (Schedule 2, 2.1(a)(ii); and
- *inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community* (Schedule 2, 2.1(a)(iii)).

I have decided that the applicable factor favouring non-disclosure in the public interest, as listed at Schedule 2.2 of the Act, is that the information could reasonably be expected to prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004* (Schedule 2, 2.2(a)(ii)).

I have considered the factors favouring disclosure and the factor favouring non-disclosure.

I acknowledge the positive contribution of open discussion of public affairs, contributing to informed debate on important issues and the factors that underpin transparency of government processes as being central tenets to the effectiveness of representative democracy. As such, most of the information is released.

Information that could enable individuals to be identified has been deleted as I have concluded that disclosure would be prejudicial to their right to privacy, and that this has a higher standing of public interest not to disclose, than the public interest in disclosing the information. This has been applied to data relating to 10 or fewer individuals or cases, and in some instances to related data that could enable other data to be worked out.

Additional information

There are some small differences in the data included in the two records for the same type of information. This can be due to the timing of the data capture; movement of students into and out of ACT public schools; changes in how individuals choose to identify themselves, particularly as it relates to First Nations or disability status; and/or the timing of suspensions being appealed or overturned.

Charges

Processing charges are not applicable for this request because the number of pages involved that are material to your request does not exceed the threshold of 50 pages.

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 records 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 team on 02 6205 0720 or email EducationFOI@act.gov.au.

Yours sincerely



Paula Murray
Information Officer
12 July 2022