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FREEDOM OF INFORMATION (FOI) REQUEST - YOUR REF: MBROU/CEG/6358077

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 8 September 2022, in which you sought access to:

'a document or documents that provide a gender breakdown of ACT students in Year 7 who have been identified as gifted/talented for each of the following subjects – English, Humanities and Social Sciences, Mathematics and Science.

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 Education Directorate was required to provide a decision on your access application by 10 October 2022. Thank you for agreeing to an extension of 10 working days to 24 October 2022 due to school-based staff being on a stand-down period for school holidays.

Decision on access

As the information is not centrally held, all ACT public P-10 and high schools were asked to conduct individual searches, and the results have been compiled into a table for ease of reference.

I have decided to grant partial access to the compiled data, which is provided at [Attachment A](#).

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, 50 and Schedule 2;
- the content of the records that fall 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 Act.

Section 6(a) of the Act 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 removed, which enables 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

The compiled information is not taken to be contrary to the public interest to disclose.

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

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 factor favouring disclosure is that release of the information is in keeping with the objects of the Act, as specified at section 6.

I have decided that the applicable factor favouring non-disclosure, as listed at Schedule 2.2 of the FOI Act, is that disclosure of 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 factor favouring disclosure and the factor favouring non-disclosure.

I place significant weight on the right to privacy of individuals and their right to have their personal information protected. I have decided that their right to privacy in relation to their personal information has a higher standing of public interest not to disclose, than the public interest in disclosing this information. Accordingly, information that could enable individuals to be identified because of the small numbers of students involved has been deleted.

Additional information

In your review of the information released, it may be of assistance to be aware that students are generally identified as 'gifted' across a number of curriculum areas, although they may be identified as 'talented' in specific fields, such as sport or music. For these reasons, the overall numbers of gifted and talented students in Year 7 (shown in the white row) exceed the numbers for the subject areas you had identified (yellow rows). Individual students who are identified against one or more of the subject areas specified will be counted in each of the subject area rows as appropriate. In addition, testing may

be conducted throughout the year which means that numbers will vary depending on when the data is sourced.

Charges

There is no charge associated with this request because the number of pages of information related to you does not exceed the threshold of 50 specified at section 104 of the Act.

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 the 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

24 October 2022