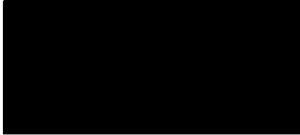




ACT
Government

Education and Training

File Ref: 2012/02427



Dear 

I refer to your request received by the Directorate on 1 May 2012 in which you sought access under the ACT *Freedom of Information Act 1989* to documents relating to anti-homophobic initiatives in schools and sports.

Your request

I understand that you are seeking access to the following:

- *Briefings, Ministerial Submissions, advice provided to the Minister for Education in relation to the schools anti-homophobic campaign and related anti-homophobic initiatives in sports and schools.*
- *Conference material prepared for delegates/attendees at the ACT Schools anti-homophobic conference on 17 May 2011.*
- *The anti-homophobic material for Anti-Sexual Harassment Contact Officers and other related homophobic material used in schools.*
- *The new homophobic training program for school counsellors and pastoral care coordinators.*
- *Costings of the anti-homophobic program prepared by the Education Directorate, the Treasury or their predecessors.*
- *Any compilation of statistics on the total number of reported incidents of violence and/or bullying in ACT government schools, and in non-government schools and in sports, broken down by type of incident (homosexual, racial, etc) on an annual basis over the last ten years. Broken down by primary, secondary schools and colleges.*
- *Any compilation of statistics on bullying or harassment on Same Sex Attracted students in ACT government schools, and in non-government schools on an annual basis over the last ten years (split between primary schools, high schools and colleges).*
- *Any emails from the Rainbow Alliance, the Australian Education Union or Latrobe University on homophobic or same sex attracted bullying.*

Your email advises that you are seeking documents for the period 1 June 2009 to 1 May 2012.

My decision

I am authorised under section 22 of the Act to make a decision in respect of your request. I understand that you have been contacted by the Directorate regarding the delay in responding to your request. The Directorate apologises for the delay.

I note that your request includes documents relating to non-government schools. The Education and Training Directorate does not hold any information relevant to your request that relates to non-government schools.

Your request also includes any compilation of statistics relating to incidents of violence and/or bullying in ACT public schools. There are no uniform statistical records kept by each school limited to violence, bullying and/or harassment.

I have established that schools keep records of incidents in different ways. Some schools keep records of incidents on individual student files and others use the MAZE student behavior module to record incidents. MAZE is an electronic student recordkeeping database with defined fields, including a student behavior module.

To search for and provide those records would involve extracting information about incidents of violence, bullying and harassment from the MAZE database in respect of those schools which use the MAZE student behavior module. In addition, it would involve approaching schools to locate relevant documents and then to process and review each document. This would result in a series of individual reports and not a compilation of statistics as you are requesting. In addition, the individual reports would contain personal information which cannot reasonably be released under the Act. The size of the task would require substantial resources to undertake.

No emails have been located from the Rainbow Alliance, the Australian Education Union or La Trobe University on homophobic or same sex attracted bullying.

A number of documents which fall within the scope of your request have been located. A schedule setting out my decisions in relation to the release of these documents is at Attachment A, and the documents are at Attachment B.

You will note from the schedule that I have decided to provide access in full to a number of documents. I have also decided to provide access to one document with deletions under sections 40 of the Act and to another document with deletions under section 43 of the Act, and to delete information which is outside the scope of your request in three documents.

Details of the exemption provisions, together with my reasons for applying them, are set out below.

Section 40(1)(d) - Documents concerning certain operations of agencies

This section states:

- (1) *Subject to subsection (2), a document is an exempt document if its disclosure under this Act would, or could reasonably be expected to—*
 - (d) *have a substantial adverse effect on the proper and efficient conduct of the operations of an agency;*
- (2) *This section does not apply to a document the disclosure of matter in which under this Act would, on balance, be in the public interest.*

The material deleted under this section of the Act contains information about ACT Government finance codes and bank account details. It is considered there is a risk that the release of the finance account code could enable persons to lodge improper claims, which may appear genuine. There is no public interest in releasing this information.

Section 43 – Documents relating to business affairs

Section 43 states:

- (1) *A document is an exempt document if its disclosure under this Act would disclose—*
 - (a) *trade secrets; or*
 - (b) *any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or*
 - (c) *information (other than trade secrets or information to which paragraph (b) applies) concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, being information—*
 - (i) *the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or*
 - (ii) *the disclosure of which under this Act could reasonably be expected to prejudice the future supply of information to the Territory or an agency for the purpose of the administration of a law or the administration of matters administered by an agency.*

I believe that the disclosure of some information contained in Document 15 would be an unreasonable disclosure of some persons in respect of their lawful business or professional affairs.

Information outside the scope of your request

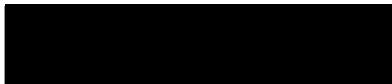
Some information in briefs to the Minister has been deleted because it is outside the scope of your request. This includes:

- letters attached to a brief and
- information about matters other than anti-homophobic initiatives in weekly briefs.

If you are dissatisfied with the outcome of your request or you do not believe that all relevant documents in the possession of the Directorate have been released to you, you have a right to seek a review under section 59 of the Act.

An information sheet regarding your review rights is enclosed with this letter.

Yours sincerely



Joanne Garrison
Director
Information, Communications and Governance Branch

4 July 2011

Freedom of Information Act 1989 **Review and Appeal Processes**

Internal review

You may request a review of a decision made under the *Freedom of Information Act 1989* (ACT). Requests for review must be made in writing to the Education and Training Directorate. Requests can be sent by fax (02 6205 9453) or by mail to:

The Director-General
C/- Information, Communications and Governance Branch
ACT Education and Training Directorate
PO Box 158
CANBERRA CITY ACT 2601

You have **28 days** from the date you received the decision to request a review. This period may be extended by the Director-General.

ACT Civil and Administrative Tribunal

If you are not satisfied after the Directorate has conducted an internal review, you may seek an independent review of the decision by the ACT Civil and Administrative Tribunal. The Tribunal is an independent body which can affirm, change or reject the decision made by the Directorate and either substitute its own decision or send the matter back to the Directorate for reconsideration in accordance with the Tribunal's recommendations.

The Tribunal can be contacted by fax (02 6205 4855), email (tribunal@act.gov.au) or by mail to:

ACT Civil and Administrative Tribunal
DX5691
GPO Box 370
CANBERRA CITY ACT 2601

You have 28 days from the date of the internal review decision to appeal to the Tribunal.

An application for a review may be made by writing to the Tribunal, or by completing the *Application for Review of a Decision* form (available on the Tribunal's website at www.acat.act.gov.au). There is a fee for lodging an appeal with the Tribunal. This fee may be remitted under certain circumstances.

ACT Ombudsman

You also have the right to complain to the ACT Ombudsman about the processing of your request. If you wish to lodge a complaint you should write to:

ACT Ombudsman
GPO Box 442
CANBERRA CITY ACT 2601

The ACT Ombudsman cannot override a decision made by the Directorate.