



Jane Doe/M Bevan  
C/- Right to Know

By email: [foi+request-1169-d66c6b54@righttoknow.org.au](mailto:foi+request-1169-d66c6b54@righttoknow.org.au)

Dear Jane Doe/M Bevan

1. I refer to your request under the *Freedom of Information Act 1982* (the FOI Act) received by the Department of Education and Training (the department) on 13 August 2015 in which you requested access to:

*"I request the most recent figures on the Teacher Improvement Program (TIP)... The information requested is this:*

*For the most recent available 5 year figures*

- *How many teachers were put on a TIP?*
- *How many teachers passed the TIP?*
- *How many teachers resigned following a TIP?*
- *How many were dismissed?*
- *How many were given some form of remedial action as a result of the TIP outcome?*
- *How many of the teachers had more than five years experience?*
- *The gender breakdown?*
- *The age breakdown?"*

2. I am authorised to make decisions under the FOI Act and my decision regarding your request and the reasons for my decision are set out below.

#### **Decision on access to documents**

3. I have decided to refuse your request pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act on the basis that the documents you are requesting do not exist (that is, they are not in the possession of the department).

#### **Reasons for decision**

4. An agency or Minister may refuse a request for access under subsection 24A(1) of the FOI Act if:
  - (a) *all reasonable steps have been taken to find the document; and*
  - (b) *the agency or Minister is satisfied that the document:*
    - (i) *is in the agency's or Minister's possession but cannot be found; or*
    - (ii) *does not exist.*
5. I have decided to refuse your request pursuant to section 24A of the FOI Act on the basis that all reasonable searches have been undertaken to find documents falling within the scope of your request, and I am satisfied that those documents do not exist.

6. The evidence upon which I have based my decision is as follows:
- your correspondence received on 13 August 2015;
  - consultations with departmental officers as to the information held by the department and the searches undertaken by them;
  - the FOI Act; and
  - the Guidelines issued by the Australian Information Commissioner issued under section 93A of the FOI Act.
7. I am advised by departmental officers in the Teaching and Learning Branch, Schools and Youth Cluster that the department does not have any information in its possession within the scope of your request. The Teacher Improvement Program (TIP) is administered by the NSW Department of Education and Communities (DEC), and the department has no records on its systems in relation to this programme.
8. Accordingly, I am satisfied that reasonable steps have been taken to determine whether relevant documents exist and such steps have failed to locate any documents falling within the scope of your request. I have therefore decided to refuse your request pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act on the basis that the documents you are seeking do not exist.
9. I have enclosed information about your rights of review under the FOI Act at **Attachment A**.
10. Should you have any questions, please do not hesitate to contact me via email at [foi@education.gov.au](mailto:foi@education.gov.au).

Yours sincerely



Sarah dell'Aquila  
Government Lawyer  
Schools, Youth, Child Care and Corporate Legal Branch  
People, Communication and Legal Group

04 September 2015

## Your rights of review

### Internal Review

Section 54 of the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision you must apply for the review, in writing, within 30 days of receipt of this letter.

No particular form is required for an application for internal review, but to assist the decision-maker you should clearly outline the grounds upon which you consider the decision should be reviewed.

Applications for internal review can be lodged in one of the following ways:

Post: The FOI Coordinator  
Schools, Youth, Child Care and Corporate Legal Branch  
Location Code: C50MA10  
GPO BOX 9880  
CANBERRA ACT 2601

Email: [foi@education.gov.au](mailto:foi@education.gov.au)

### External Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (AIC) to seek a review of this decision.

If you wish to have the decision reviewed by the AIC you must apply for the review, in writing or by using the online merits review form available on the AIC's website at [www.oaic.gov.au](http://www.oaic.gov.au), within 60 days of receipt of this letter. To assist the AIC your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the AIC about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

Applications for review or complaint can be lodged in one of the following ways:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)  
Post: GPO Box 5218  
SYDNEY NSW 2001  
Fax: +61 2 9284 9666  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
In person: Level 3, 175 Pitt Street  
Sydney, NSW 2000

For general enquiries, please call 1300 363 992 or +61 2 9284 9749 for international.

### The Commonwealth Ombudsman

You can complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Commonwealth Ombudsman may be made orally or in writing. The Ombudsman may be contacted for the cost of a local call from anywhere in Australia on telephone 1300 362 072.