



By email: [foi+request-1611-4f7cd4dc@righttoknow.org.au](mailto:foi+request-1611-4f7cd4dc@righttoknow.org.au)

Dear Mr Small

I refer to your correspondence received by the Australian Department of Education and Training (the department) dated 25 February 2016 in which you requested, pursuant to the *Freedom of Information Act 1982* (Cth) (the FOI Act), information with regard to the following:

*"...what sports are being offered to children from grade 3-7 to play and what the most popular sports are that these children participate in. This information should be from the year 2010-2015 and schools in New South Wales."*

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

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.

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.*

The material upon which I have based my decision is as follows:

- your correspondence dated 25 February 2016;
- consultations with departmental officers as to the information held by the department and searches undertaken by them;
- the FOI Act; and
- the guidelines issued by the Australian Information Commissioner issued under section 93A of the FOI Act.

I have liaised with relevant areas of the department and am advised that the Department does not hold any records relevant to this request.

I am advised that the Australian Curriculum's health and physical education learning area does not specify particular sports that children participate in nor specify times in the school timetable. The implementation of the Australian Curriculum is the responsibility of the states and territories and the Australian Government does not play a role in determining the curriculum resources or programmes used in schools.

Noting that New South Wales is the jurisdiction relevant to your request, I encourage you to contact the FOI Coordinator at the NSW Department of Education and Communities on (02) 9561 8100 or via email at [iaunit@det.nsw.edu.au](mailto:iaunit@det.nsw.edu.au) to discuss how you may be able to obtain the sports in schools information you are seeking.

I am satisfied that reasonable steps have been taken to determine whether relevant documents exist and such steps have failed to locate any documents held by the department falling within the scope of your request.

Should you have any questions regarding the FOI decision, please do not hesitate to contact me on (02) 6240 9294 or via email at [foi@education.gov.au](mailto:foi@education.gov.au).

Yours sincerely

A handwritten signature in black ink, reading "J. Komsic". The signature is written in a cursive, slightly informal style.

Jenny Komsic  
Government Lawyer  
Schools, Skills and Corporate Legal Branch  
People, Communication and Legal Group

4 March 2016

## 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, 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 2999  
Canberra ACT 2601  
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.