

FOI final decision letter

12 January 2015

Our ref: F13/566-29

Dr Mark R Diamond

Right to Know website:

https://www.righttoknow.org.au/request/request_for_correspondence_relating_to_outgoing-1813

Dear Dr Diamond

Your Freedom of Information Request

I refer to your posting on the Right to Know website on 26 November 2014 to the Australian Curriculum, Assessment and Reporting Authority (**ACARA**), seeking access to documents under the Freedom of Information Act 1982 (Commonwealth) (**FOI Act**). I also refer to our subsequent correspondence.

1. Your request

I note that you seek access to the following:

“access to copies of the letters, emails or other correspondence from ACARA to the Australian newspaper regarding apparent breaches of the terms of use of the *My School* website by the Australian (including, for instance, any cease-and-desist demands) and copies of the replies from the Australian newspaper to ACARA”.

2. Correspondence since your request

I note that there has been some correspondence between you and an ACARA staff member in relation to your request. I summarise the relevant correspondence in the table below:

Date of posting	To/From	Summary of content
26 November 2014	Your posting on the Right to Know website to ACARA	Your FOI request
5 December 2014	Peter Matheson's posting on the Right to Know website to you	My acknowledgement letter

3. My decision

I have identified three (3) documents relevant to your request. I have decided to release all these documents in full. I set out at [Attachment 1](#) details relating to these documents and enclose a copies of these documents.

4. Undated letter

I refer to one of the enclosed documents, being the undated letter from Professor Barry McGaw AO, Chair, ACARA Board, to Mr Clive Mathieson, the Editor, *The Australian*. I advise that:

- my staff have been un-able to locate the signed PDF version of this letter which was sent, and believe this is the final form letter; and
- whilst this letter anticipates that there would be an ongoing dialogue between ACARA and *The Australian*, that did not eventuate.

5. Decision On Charges

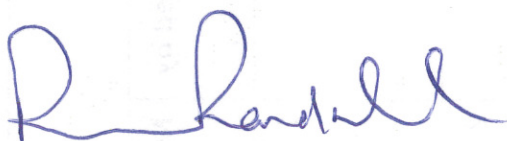
The Freedom of Information (Fees and Charges) Regulations (**Regulations**) prescribes the charges that can be levied in respect of a request for access to a document or the provision of access to a document. These charges are set out in the Regulations and are for search and retrieval of documents, decision making and provision of access (for example, copying and postage).

Sub-regulation 3(1) of the Regulations provides an agency with a discretion as to whether it will impose any charge. In relation to this request, I have decided not to impose a charge.

6. Contact person

If you require clarification of any of the matters discussed in this letter, please do not hesitate to contact Peter Matheson, Board Secretary, on peter.matheson@acara.edu.au or 02 8098 3116.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'R. Randall', written in a cursive style.

Robert Randall

Chief Executive Officer, ACARA

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Attachment 1

No.	Title of document	Authored by	Number of pages	Description of contents	Decision
1	Letter dated 17 May 2012 from ACARA to Mr Clive Mathieson, <i>The Australian</i>	ACARA	1	ACARA's concerns regarding <i>The Australian's</i> online database 'Your School'	Release in full
2	Two emails dated 24 May 2012	Peter Matheson and Clive Mathieson	2	Settling meeting arrangements	Release in full
3	Undated letter from ACARA to Mr Clive Mathieson, <i>The Australian</i>	ACARA	4	ACARA identifies inaccuracies regarding <i>The Australian's</i> online database 'Your School'	Release in full

17 May 2012

Our ref: D12/5216

Mr Clive Mathieson
The Editor
The Australian
2 Holt Street
Surry Hills NSW 2010

Dear Mr Mathieson

I write to express the concern of the Australian Curriculum, Assessment and Reporting Authority (ACARA) that in publishing the 'Your School' online databases¹ released on 7 April, 2012, *The Australian* has breached the terms of use of the *My School* website.

Furthermore, the 'Your School' databases potentially mislead consumers through their exclusion of measures of error and statistical confidence and their combination of data across years of schooling and domains of NAPLAN tests.

ACARA has been directed by the Standing Council on School Education and Early Childhood (SCSEEC), which comprises Commonwealth, State and Territory ministers for education, to protect *My School* data from misuse. At the 20 April 2012 SCSEEC meeting, ministers reaffirmed their opposition to league tables that compare schools without taking account of context as counterproductive and harmful to the educational purpose of schooling.

I would appreciate the opportunity to meet with you to discuss these matters and propose that ACARA staff contact your staff to arrange a time for us to meet as soon as possible.

Yours sincerely



Professor Barry McGaw AO
Chair, ACARA Board

¹ <http://www.theaustralian.com.au/national-affairs/in-depth/your-school/interactive>

From: "Mathieson, Clive" <mathiesonc@theaustralian.com.au>
Date: 24 May 2012 3:00:58 PM AEST
To: "Matheson, Peter" <peter.matheson@acara.edu.au>
Subject: RE: Meeting with ACARA representatives re publication of online databases

Peter, if it's all right, given we will be discussing legal issues, I will bring along our in-house counsel. Let me know if this is a problem. Kind regards, Clive

Clive Mathieson

Editor

The Australian

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From: Matheson, Peter [<mailto:peter.matheson@acara.edu.au>]
Sent: Thursday, 24 May 2012 1:38 PM
To: Mathieson, Clive
Subject: Meeting with ACARA representatives re publication of online databases

Dear Clive

Just a quick follow-up to confirm the meeting proposed for 3:45pm-4:45pm on 5 June at your offices in Surry Hills between yourself, Justine Ferrari, Professor McGaw (Chair), Robert Randall (CEO) and myself.

I look forward to meeting with you then.

Kind regards

Peter

Peter Matheson

Board Secretary, Office of the CEO

Australian Curriculum, Assessment and Reporting Authority
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Email: peter.matheson@acara.edu.au

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Our ref: D12/6518

Mr Clive Mathieson
The Editor
The Australian
2 Holt Street
Surry Hills NSW 2010

Dear Clive

Thanks to you and Justine Ferrari for meeting with me and ACARA staff on 5 June 2012, regarding *The Australian's* online database which produces information using directly, or deriving indirectly, data taken from the *My School* website.

I enjoyed the positive exchange of ideas and information, as well as the opportunity to continue further with this shared approach to accountability and transparency.

I would also like to express my appreciation of your willingness to listen to the concerns of our stakeholders about league tables, as well as how such tables can potentially mislead the public.

Over the coming months, we look forward to:

1. considering how ACARA may be able to provide information which will allow you to publish, as desired, positive stories around school improvement –
 - a. at appropriate points in time, for example, when NAPLAN results become available, the 2013 launch of *My School*,
 - b. with value added data regarding NSW schools which show the most gain, contextualised against schools with comparable, key indicators,
 – which will mean ACARA being more proactive in terms of the information it has available ahead of time for use by the media,
2. discussing ways ACARA can improve the information we publish via the *NAPLAN National Report* so that it is more interpretable - so far, you have mentioned the desirability of embargoed access to the report and/or a lock in and briefing,
3. hearing from you regarding changes which your organisation may be able to make to your online databases based on the suggestions ACARA offered at our meeting and in consideration of the subsequent information provided to you in Attachment 1 of this letter.

Thank you for advising that Justine is the contact point for ongoing exchange between our two organisations. On ACARA's side, the contact point is James Morrow, Senior Manager, Communications. James' email is james.morrow@acara.edu.au and his mobile number is 0424 727 016.

Yours sincerely

Professor Barry McGaw AO
Chair
ACARA Board

Attachment 1 – Online databases – Inaccuracies identified

Issue 1 – Calculation of average scores for Queensland, South Australia and Western Australia and comparison of these scores against the rest of Australia

In Queensland, South Australia and Western Australia, primary schooling includes Year 7. The formula for calculating average scores in primary schools adopted by *The Australian* is not appropriate as it ignores Year 7. Moreover, the Year 7 mean scores are never accounted for in these three states.

For example, Rainworth State School in Queensland has Reading mean scores of 486, 662 and 612 for years 3, 5 and 7 respectively, which would give an average primary reading score of 550. However, the score reported on the website is 519, which is an average of scores from their Year 3 and Year 5 cohorts only.

In this example, the misapplication of the general (Australia-wide) formula to the Queensland context has given Rainworth State School a lower average score than it actually achieved, given that the mean score for their Year 7 cohort has not been accounted for in the calculations. On a wider scale, the application of this formula can skew the average scores reported for all schools in Queensland, South Australia and Western Australia.

Similarly, the comparison of average scores for secondary schools is complicated by calculating average scores from Year 7 and Year 9, while secondary schools in Queensland, South Australia and Western Australia do not have a Year 7 cohort. As such, the reported average score is systematically inflated (being a single Year 9 score) in these jurisdictions, and hence it would be inappropriate to compare them to other states with both Year 7 and Year 9 cohorts.

Issue 2 – Calculation of average scores by domain

For primary schools, this calculation is done by adding Year 3 and Year 5 scores and dividing this sum by two. If one year level is missing, the mean for one cohort is reported, not an average of two means and hence, as the site itself notes, the means for schools with no data for one school year are inflated.

This is the reason why, for example, Kinchela Public School appears at the top of the schools list (with an average score of 583) when filtering to NSW Government – Primary in Reading. This school has only a Year 5 cohort which results in an artificial inflation of its position on the published school list. This applies to secondary schools whereby the average is calculated from Year 7 and Year 9 scores.

Issue 3 – Calculation of average scores across NAPLAN domains

Combining across domains of NAPLAN involves averaging averages which is not defensible from a statistical perspective. While *The Australian* database does not rank schools (noting that top ranked schools are published separately), by ordering schools by overall average a ranking of school is implied. This is independent from the issues explained above.

Issue 4- Editorial comment

The editorial comment that the information provided on the website is sufficient to inform parental choice is highly problematic from ACARA's perspective given the problems identified above, and also the limited information about schools which is represented on *The Australian* site. In ACARA's view this editorial comment should be amended.

Issue 5 – Contextualisation of data

The website includes an overly simplified (and in the case of the vast majority of schools, factually incorrect) definition of ICSEA: "ICSEA is the Index of Community Socio-Educational Advantage, which reflects the income and level of education in students' families". A more accurate description that could be used is: ICSEA reflects the levels of educational advantage or disadvantage that students bring to their academic studies based on a range of student and school factors.