



Australian Government
Department of Education

Your Ref
Our Ref LEX 561

Ras
Right to Know

By email: foi+request-9865-4ac46f79@righttoknow.org.au

Dear Ras

Your Freedom of Information request - decision

I refer to your request, received by the Department of Education (department) on 30 January 2023, under the *Freedom of Information Act 1982* (FOI Act) which was in the following terms:

Under the Freedom of Information Act, I am keen to obtain the following information related to all public (including independent) primary schools of Western Australia for the years 2015-2022.

1. School Name
2. Number of registered Students in each school year
3. Number of students reported (funding requested) under each category of adjustment for NCCD (Support through differentiation, Supplementary, Substantial, Extensive)
4. Number of students accepted (funding provided) under each category of adjustment for NCCD (Supplementary, Substantial, Extensive)
5. Total funding provided per year level per school
6. Name of School Principal for each year

On 3 February 2023, the department advised you that, as the FOI Act provides a right of access to *documents* rather than to *information*, we interpreted your request as being for documents containing the information in parts one to six of your request. The department also advised you that the department does not hold a single document containing all of the information requested. The department advised you that some of the information you sought access to is publicly available and gave you details about where to access this information. The department also sought clarification about the terms of some parts of your request and advised you about information the department does not hold.

In response, you provided clarification on the same day about the scope of your request as follows:

Part 1:

My intention is not to get a list of schools but to get the finding details for each WA school. As such if the name of the school is available under parts 3-6 that will be sufficient.

Part 2:

This information is no longer needed as I can access it from ACARA.

Part 3 and 4:

I am requesting this data in relation to individual Western Australian primary schools. If NCCD was not used for funding prior to 2018, still need the total amount of funding provided to each school. If that requires a new request kindly let me know.

For the year 2018 onwards will need it by individual schools based on each category.

Part 5:

I will need this information by school grade and not by calendar year.

Part 6 :

Can you provide partial information related to the name of the principal?

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.

My decision

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.

I have decided to refuse your request pursuant to section 24A of the FOI Act on the basis that I am advised that all reasonable steps have been taken by relevant departmental officers to find documents containing all of the information falling within the scope of your request and I am satisfied that those documents do not exist within the department. Further information in relation to each part of your request (noting your comments in relation to parts 1 and 2) is set out below.

Part 5 of your request

At part 5 of your original request, you sought access to the 'total funding provided per year level per school' in relation to the relevant schools and time period specified in your request. In the department's correspondence with you on 3 February 2023, the department sought clarification about whether your reference to 'per year level' was to calendar school year or to school grade, for example, year 1 or year 6. The department advised you that school funding per school for each calendar school year is published on the My School website using the search function and provided a link to this website.

In your reply on 3 February 2023, you clarified that your reference to 'per year level' was to school grade, rather than calendar year.

I am advised that the department does not hold any documents containing this information. I am further advised that it is not possible for the department to calculate the total school funding provided by the Commonwealth disaggregated by school grade level because per student Commonwealth funding amounts are only calculated at the primary and secondary school level, rather than at the school grade level. In relation to state school funding and fee information by school, I am advised the only information the department holds in relation to this is data produced by the Australian Curriculum, Assessment and Reporting Authority (ACARA) and that this information is publicly available on ACARA's website.

Accordingly, I am satisfied that the department does not hold documents containing the information you have requested at this part of your request.

Parts 3, 4 and 6 of your request

While I am advised that the department may hold several documents containing some small parts of information relevant to parts 3, 4 and 6 of your request, this information is scattered across multiple documents and pages. I am advised that the time required to identify every document that might potentially contain information relevant to your request would be a substantial and unreasonable diversion of the department's resources. I have also considered section 22 of the FOI Act and I do not consider that it would be reasonably practicable for the department to prepare an edited copy of the documents having regard to the nature and extent of the modifications required and the resources available to modify the documents (see section 22(1)(c)).

I have also considered whether a document can be produced under section 17 of the FOI Act. Section 17 relevantly provides:

(1) Where:

- (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;
 - (b) it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and [...]
 - (c) the agency could produce a written document containing the information in discrete form by:
 - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
 - (ii) the making of a transcript from a sound recording held in the agency;
- the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

(2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.

Section 17 of the FOI Act can apply in circumstances where the information requested is able to be produced in discrete written form by 'the use of a computer or other equipment ordinarily available to the agency or retrieving or collating stored information' (section 17(1)(c)(i) above). I am advised that while the department holds some of the information you have requested at these parts of your request, this information is not collated centrally in the department's electronic record systems and the department would be required to collate the information from various, disparate existing documents and systems. As such, section 17 of the FOI Act does not require production of a document in this case as it is not possible to produce the document you have requested using a computer or other equipment that is ordinarily available to the department for retrieving or collating stored information.

In forming this view, I have had regard to the decision of the Full Federal Court of Australia in *Collection Point Pty Ltd v Commissioner of Taxation* which stated in relation to section 17(1)(c)(i) of the FOI Act that the computer or other equipment referred to above 'must be capable of functioning independently to collate or retrieve the stored information.' For the reasons given above, the department's computer systems cannot function independently to collate the information you request.

Notwithstanding the above, I am satisfied that, even if it was found the department could produce the information requested in a discrete written form by using a computer or other equipment that is ordinarily available to the department for retrieving or collating stored information, producing such a document would constitute a substantial and unreasonable diversion of the department's resources as contemplated by subsection 17(2) of the FOI Act.

I am advised by the relevant business area within the department that substantial work would be involved in producing a discrete document containing the information to which you have sought access. I am advised that the department would be required to extract the information you have requested from multiple sources and collate the data by manually searching through existing documents to extract relevant information and disregard information outside the scope of your request. The department would then be required to undertake a quality assurance process to ensure the accuracy of the information. I am advised this would take the department in excess of approximately 30 hours and would require the involvement of multiple staff from across numerous business areas of the department. Accordingly, I am satisfied that, even if the department could produce a discrete document in written form using the computer resources available, the department would not be required to do this because the work involved would substantially and unreasonably divert the resources of the department.

I have therefore decided to refuse your request pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act. I have enclosed information about your rights of review under the FOI Act at **Attachment A**.

I refer you to the department's email to you dated 3 February 2023, outlining the publicly available information that relates to the subject matter of your request to the extent this is of assistance to you.

Yours sincerely

A handwritten signature in cursive script that reads "Alison".

Alison
Authorised decision maker
Freedom of Information Team
Department of Education

28 February 2023

YOUR RIGHTS OF REVIEW

Asking for a formal review of an FOI decision

If you believe the decision is incorrect, the FOI Act gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by:

- an internal review officer in the department and/or
- the Australian Information Commissioner.

There are no fees for applying for a formal review.

Applying for an internal review by an internal review officer

If you apply for internal review, a different decision maker to the decision maker who made the original decision will review your request. The internal review decision maker will consider all aspects of the original decision afresh and decide whether the decision should change.

An application for internal review must be made in writing within 30 days of receiving this letter. You can lodge your application by email to foi@education.gov.au.

Applying for external review by the Australian Information Commissioner

If you do not agree with the original decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.

You can lodge your application in one of the following ways:

Online:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10

Email: foidr@oaic.gov.au

Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Complaints to the Australian Information Commissioner

Australian Information Commissioner

You may complain to the Australian Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Australian Information Commissioner must be made in writing and can be lodged in one of the following ways:

Online:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICCA_1

Email: foidr@oaic.gov.au

Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001