

[REDACTED]

Email: [REDACTED]

Dear [REDACTED]

FREEDOM OF INFORMATION (FOI) REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the FOI Act), received by the Education Directorate (the Directorate) on 19 May 2026, in which you sought access to:

All documents, correspondence, briefings and advice discussing the Education Directorate's Learning and Teaching Policy for ACT Government Schools; specifically, its impact on Telopea Park Primary School, Mawson Primary School and Yarralumla Primary School bilingual programs, and any exemptions from the new learning and teaching policy granted from 1 January 2025 to 19 May 2026 to enable schools to maintain bilingual status.

I am an Information Officer appointed by the Director-General under section 18 of the FOI Act to deal with access applications made under Part 5 of the FOI Act.

In accordance with section 40 of the FOI Act, the Directorate was required to provide a decision on your access application within 30 working days of receipt, being 2 July 2026.

Decision on access

Searches were completed for relevant records and 32 records were identified that fall within the scope of your request.

I have included as Attachment A to this decision the schedule of relevant records. This provides a description of each record that falls within the scope of your request and the access decision for each of those records.

In summary, my decision is:

- full access to 11 records,
- partial access to 20 records with deletions applied, and
- non-release of one record.

The records released to you are provided as Attachment B to this letter.

My access decisions are detailed further in the following statement of reasons.

Material considered

In reaching my access decision, I have taken the following into account:

- the FOI Act, particularly sections 16, 17, 35 and 50, and schedules 1 and 2,
- the content of the records that fall within the scope of your request,
- the *Human Rights Act 2004*,
- the *Information Privacy Act 2014*, and
- the FOI Guidelines issued under section 66 of the FOI Act by the Ombudsman.

Reasons for decision

I have considered the records that are relevant to your request in accordance with the requirements of the FOI Act.

Section 6(a) of the FOI Act provides for a right of access to government information unless access would, on balance, be contrary to the public interest. Contrary to the public interest information is defined at section 16 of the FOI Act as information that is taken to be contrary to the public interest to disclose under Schedule 1; or the disclosure of which would, on balance, be contrary to the public interest under the test set out in section 17.

Section 50 of the FOI Act provides for records to be partially released with deletions applied where they contain contrary to the public interest information that can be removed, which enables the remainder of the record to be released. This provision has been applied where appropriate.

Information taken to be contrary to the public interest to disclose

Some of the records contain information that is taken to be contrary to the public interest to disclose.

Schedule 1, 1.2 specifies that information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege is taken to be contrary to the public interest to disclose. The information concerned is communication between a lawyer employed by the ACT Government Solicitor (ACTGS) and the Education Directorate (the Directorate) as the client. The communication between the Directorate and ACTGS was confidential in nature and for the dominant purpose of ACTGS providing legal advice or professional legal services to the Directorate. For these reasons, legal professional privilege applies, resulting in redaction of this information.

Information, the disclosure of which would, on balance, be contrary to the public interest

The public interest test requires the identification of factors favouring disclosure and non-disclosure, the balancing of those factors, and a decision whether, on balance, disclosure of the information would be contrary to the public interest.

I have decided that the factors favouring disclosure, as listed at Schedule 2, 2.1 of the FOI Act, are that disclosure of the information could reasonably be expected to:

- *promote open discussion of public affairs and enhance the government's accountability* (Schedule 2, 2.1(a)(i));
- *contribute to positive and informed debate on important issues or matters of public interest* (Schedule 2, 2.1(a)(ii)); and
- *inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community* (Schedule 2, 2.1(a)(iii)).

The information sought is in the public interest to release because it relates to key issues in ACT public schools, including matters concerning enrolments in a bilingual school and the development of curriculum and enrolment policies, particularly in the context of enrolment demand and equity considerations. Disclosure would promote transparency in government decision-making, enhance accountability, and contribute to positive and informed debate on significant matters of public interest. These factors favouring disclosure are given strong weight.

I have decided that the applicable factors favouring non-disclosure, as listed at Schedule 2.2 of the FOI Act, are that disclosure of the information could reasonably be expected to prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004* (Schedule 2, 2.2(a)(ii)).

The consideration of the right to privacy of individuals and their right to have their personal information protected activates provisions of the *Human Rights Act 2004* and the *Information Privacy Act 2014*. Section 12(a) of the Human Rights Act provides that everyone has the right '*not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily*'. Ombudsman review decisions addressing this matter have stated that this "can essentially be viewed as the right of an individual to preserve their personal sphere from interference by others". In addition, the Territory Privacy Principles contained in the *Information Privacy Act 2014*, set out the expectation that, in ordinary circumstances, individuals are required to give consent before their personal information, which includes information that could lead to them being identified, is disclosed. Consequently, I have decided that the right to privacy of individuals in relation to their personal information as a factor favouring non-disclosure has significant weight.

Some of the records contain information comprising communications to and from a School Board member. The School Board Handbook available on the Directorate's

website clearly establishes that a school board will be most effective in meeting its objective of acting in the best interests of the school and its students if members contribute to discussions, ask questions and put forward ideas, as this will foster an environment enabling “robust forward-thinking governance at the local level to ensure that schools meet the present and future needs of the school community” (School Board Handbook - Essentials, p5). The School Board Handbook also indicates that board members must engage with school board matters whilst maintaining confidentiality and privacy considerations (p9). This contextual information is instructive. I have decided that records of discussions between board members and the Directorate, including the school, are not to be disclosed because the discussions occurred in an environment where confidentiality was expected by members, and it would be detrimental to future discussions and the board’s effectiveness if this information were released. Whilst this situation is not covered by the factors favouring non-disclosure specified at Schedule 2, 2.2 of the FOI Act, it is not an exhaustive list. For the reasons outlined, I give significant weight to Board confidentiality as a factor favouring non-disclosure.

I have considered the factors favouring disclosure and the factors favouring non-disclosure.

As the factors favouring non-disclosure has been given significant weight and the factors favouring disclosure have strong weight, information within the records has been redacted where it has been deemed contrary to the public interest to disclose.

In addition, information outside of the scope of your request has been redacted.

Charges

Processing charges are not applicable for this request in accordance with section [REDACTED] of the FOI Act.

Online publishing – disclosure log

Under section 28 of the FOI Act, the Directorate maintains an online record of access applications called a disclosure log. Information about your request, my decision and records released to you in response to your access application will be published in the Directorate’s disclosure log between three and 10 working days after a decision on access has been provided to you. Your personal information will not be published.

You may view the Directorate’s disclosure log at www.act.gov.au/open/foi-disclosure-logs/education-foi-disclosure-logs.

Review of decision

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek Ombudsman review of this outcome under section 73 of the FOI Act within 20 working days from the day my decision is provided to you, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the FOI Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Allara House, 15 Constitution Ave
GPO Box 370
Canberra City ACT 2601

Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

If you have any questions concerning the Directorate's processing of your request, please contact the Directorate's FOI team on 02 6205 0720 or email EducationFOI@act.gov.au.

Yours sincerely



Paula Murray
Information Officer

30 June 2026