



Australian Children's
Education & Care
Quality Authority

Freedom of Information Policy

As at 23 December 2011

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DOCUMENT VERSION HISTORY AND APPROVAL

Version History

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Approval

Name / Position	Signature	Date
Karen Curtis - CEO		

1. BACKGROUND

The *Education and Care Services National Law Act 2010* (Vic) as enacted in all the States and Territories (except Western Australia) (**the National Law**) established a national system to regulate education and care services for children.

The Australian Children's Education and Care Quality Authority (**ACECQA**) is established by the National Law. ACECQA has a governing body known as the Australian Children's Education and Care Quality Authority Board (**the Board**) responsible for controlling the affairs of ACECQA.

Section 264 of the National Law applies the Commonwealth *Freedom of Information Act 1982*, (**the FOI Act**) in relation to regulatory bodies that undertake the administration of the 'national education and care services quality framework', including ACECQA.

The *Education and Care Services National Regulations* (**the National Law Regulations**) modify the way in which the FOI Act applies to the national education and care services quality framework and to ACECQA. Under the National Regulations, the regulations made under the FOI Act, other than the provisions relating to fees and charges, do not apply to ACECQA.

2. SCOPE AND PURPOSE OF THE FOI ACT AND ACECQA'S FOI POLICY

The purpose of ACECQA's FOI Policy is to assist members of the public to exercise their access rights under the FOI Act. Our FOI Policy also outlines the types of documents, which may be released or exempt under the FOI Act and our procedures for processing FOI requests.

The FOI Act is intended to ensure open and accountable government. Broadly, its purpose is to enable members of the public to legally access information about them and about decisions made by government agencies that affect them. Another important aim of the Act is to give individuals access to their personal records kept by government and enable them to correct any personal information that is incomplete, incorrect, outdated or misleading.

3. DOCUMENTS AVAILABLE UNDER FOI

The FOI Act applies to all documents in the possession of ACECQA. However, some documents may be exempt from disclosure, including documents that are covered by secrecy provisions, contain trade secrets or confidential information, attract legal professional privilege, or affect an individual's personal privacy. ACECQA will decide if a particular document is exempt as part of the FOI process. More information about exemptions can be found in Parts 5 and 6 of [Freedom of Information Guidelines](#).

ACECQA already makes many of its documents available to the public through the ACECQA website as part of its obligations under the Information Publication Scheme, including documents relating to its governance. These can be accessed at www.acecqa.gov.au.

ACECQA holds several different types of documents. The following lists are indicative only and not intended to be exhaustive.

ACECQA's holds the following types of documents:

- administration and human resources documents relating to staff management, including personnel records, organisational and staffing records,
- financial and resource management records, including audit records, internal operating procedures, Requests for Tender, instructions and indexes
- general correspondence and papers with government agencies, non-government parties and

- members of the public
- agreements, memoranda of understanding and contracts between ACECQA and other bodies, organisations, individuals or corporate entities
- records of meetings and teleconferences both internal to ACECQA and with external stakeholders, including agendas and minutes
- applications for assessment of equivalence of educational qualifications and papers relevant to the consideration of those applications
- applications for assessment of excellent rating and papers relevant to the consideration of those applications
- requests for internal and external review under the National Law and files and papers relevant to the consideration of those requests and conduct of those reviews
- legal documents, including legislation, instruments of delegation, legal advices and court documents
- requests for information under the FOI Act and files and papers relevant to the consideration of those requests;
- statistics and databases

4. FOI APPLICATIONS

To make an FOI request, an applicant must write to ACECQA stating they are making an FOI request and specifying the documents they are seeking.

The applicant needs to provide an address (either mail or email) for reply.

By email: foi@acecqa.gov.au

By post: FOI Contact Officer
ACECQA
PO Box A292
Sydney NSW 1235

ACECQA will assist an applicant to make a request that complies with the requirements under the FOI Act.

If ACECQA receives a request which should have been directed to another agency ACECQA is obliged to assist the applicant to re-direct their request to the appropriate agency.

5. FEES AND CHARGES

There is no application fee for an FOI request.

There are no processing charges for requests for access to documents containing only personal information about you. For example, ACECQA generally will not charge an applicant for giving access to information about an assessment of their educational qualifications.

However, processing charges may apply to other requests. The most common charges are:

Activity item	Charge
Search and retrieval: time spent searching for or retrieving a document	\$15.00 per hour
Decision making: time spent deciding to grant or refuse a request, including examining documents, consulting with other parties, and	First five hours: Nil Subsequent hours:

making deletions	\$20 per hour
Transcript: preparing a transcript from a sound recording, shorthand or similar medium	\$4.40 per page of transcript
Photocopy	\$0.10 per page
Inspection: supervision by an agency officer of your inspection of documents or hearing or viewing an audio or visual recording at our premises	\$6.25 per half hour (or part thereof)
Delivery: posting or delivering a copy of a document at your request	Cost of postage or delivery

If ACECQA decides to impose a charge, the applicant will be given a written estimate and the basis of the calculation. Where the estimated charge is between \$20 and \$100, ACECQA may ask for a \$20 deposit. Where the estimated charge exceeds \$100, ACECQA may ask for the applicant to pay a 25% deposit before the request is processed.

An applicant can ask for the charge to be waived or reduced for any reason, including financial hardship or on the grounds of public interest. If you do so, you should explain your reasons and you may need to provide some evidence.

6. PROCESS UPON RECEIPT OF FOI REQUEST

ACECQA will notify an applicant in writing within 14 days of receiving the request, including an estimate of any charges.

ACECQA will then identify all the documents within the scope of the request. ACECQA may refuse to process an application if the work involved would substantially and unreasonably divert the resources of ACECQA from its other operations.

Once the documents have been identified, ACECQA will determine whether the documents may be exempt or conditionally exempt documents. If ACECQA decides a document is an exempt document, ACECQA may still decide to provide access. If it is possible for ACECQA to redact the document so that it is no longer exempt, for instance by removing a person's name, then ACECQA will make a redacted copy and provide it to the applicant. The applicant will be told if a document is redacted.

ACECQA is required to make a decision within 30 days. If a document contains information about a third party, ACECQA may need to consult that third party, in which case the time frame to process the request may be extended by 30 days. We may also seek your agreement to extend the time by up to another 30 days.

ACECQA will write to the applicant advising the outcome of FOI request. The letter will include any appeal rights.

7. INTERNAL REVIEW OF DECISIONS

An applicant can request a review of a decision:

- To refuse access to all or part of a document
- To impose a charge
- To refuse to change or annotate personal information about the applicant

An applicant has the right to an internal review within 30 days of the decision.

The internal review will be carried out by a person not involved with the original decision.

Decisions made by the CEO of ACECQA about FOI requests are not eligible for internal review.

8. REVIEW BY THE NATIONAL EDUCATION AND CARE SERVICES FREEDOM OF INFORMATION COMMISSIONER

If the applicant is not satisfied with the decision on internal review, they can apply to the [National Education and Care Services FOI Commissioner](#) (**NECS FOI Commissioner**) for a review of the decision. NECS FOI Commissioner can be contacted through its website at www.necsombudsmanprivacy.edu.au

9. COMPLAINT TO THE NATIONAL EDUCATION AND CARE SERVICES FREEDOM OF INFORMATION COMMISSIONER AND OMBUDSMAN

An applicant may also submit a complaint to the National Education and Care Services Freedom of Information Commissioner (**NECS FOI Commissioner**) about the handling of FOI requests by ACECQA under the FOI Act, including decisions, delays, and refusals or failure to act.

Alternatively an applicant may submit a complaint to the National Education and Care Services *Ombudsman* (**NECS Ombudsman**) about any concerns about the administrative actions of ACECQA.

Both can be contacted at www.necsombudsmanprivacy.edu.au

10. TRANSFER OF FOI APPLICATIONS BETWEEN AGENCIES

An FOI request made to ACECQA may be transferred by ACECQA to another agency where:

- ACECQA is not in possession of the document(s) sought; and
- ACECQA is aware of the agency which is in possession of the document, or the subject-matter of the request is more closely connected to another agency; and
- The other agency consents to the transfer of the request.

11. PUBLICATION OF RELEASED DOCUMENTS

To improve and enhance transparency ACECQA may when releasing documents to an applicant also publish the same documents on its website for public access. ACECQA will not release documents if it is not in the public interest or for other appropriate reasons such as privacy.

12. CHANGES TO FOI POLICY

ACECQA reserves the right to review and revise its FOI Policy from time to time as necessary. Changes to the policy will be publicised on the ACECQA website www.acecqa.gov.au.

13. CONTACT DETAILS

By email: foi@acecqa.gov.au

By post: FOI Contact Officer
ACECQA
PO Box A292
Sydney NSW 1235

14. FURTHER INFORMATION

Legislation/Regulations

- [Education and Care Services National Law Act 2010](#)
- [Education and Care Services National Regulation 2011](#)
- [Freedom of Information Act 1982 \(Commonwealth\)](#)
- [Freedom of Information \(Fees and Charges\) Amendment Regulations 2010 \(No.1\)](#)

Guidelines

- [FOI Guidelines](#)