

Information for applicants

Government Information (Public Access) Act 2009 - GIPA Act

What is the GIPA Act?

The *Government Information (Public Access) Act 2009* (or 'GIPA Act') gives you a legal right to access information held by government agencies, including the NSW Department of Education unless there is an overriding public interest against disclosing the information.

There are 4 ways that the department makes information available:

1. Mandatory disclosure of open access information – the department must publish certain information on its website, free of charge
2. Routine release – the department will proactively release as much information as possible, in a variety of formats free of charge or at the lowest reasonable cost
3. Informal release – the department may informally release information in response to a request without the need for a formal access application, subject to reasonable conditions
4. Formal release – the department may provide access to information in response to a formal application under the GIPA Act.

Before you make a formal access application, please:

- visit the department's website: <https://education.nsw.gov.au/about-us/rights-and-accountability/information-access>; or
- contact the Right to Access unit by phone 02 7814 3525 or email GIPA@det.nsw.edu.au

The information may be publicly available or available outside the formal process.

The NSW Information and Privacy Commission (IPC) oversees the GIPA Act and provides information for the public about access to government records. Visit their website: www.ipc.nsw.gov.au

Should I make a request for informal release?

If you cannot find the information you want on our website, you can ask for the information to be released to you informally.

There is no fee and no application form, though we do ask you to put your request in writing. If you are seeking your own personal information, or your child's personal information, you will need to provide identification, for privacy reasons.

Information requested will generally be provided unless there is an overriding public interest against disclosing it, or if the work involved would impact unreasonably on our resources.

The department is not obliged to provide information in response to a request for informal release and can impose conditions. If the information is not available under informal release, you have the right to make a formal access application.

To find out if the information you require is suitable for informal release, please contact the business area most likely to hold the information. For general information about the department, contact the Schools and Community Senior Information Officer by phone: 02 7814 1530 or email: DECinfo@det.nsw.edu.au

What is an access application under the GIPA Act?

A formal access application is one way to ask for access to government information held by the department. It can be used when other forms of access are not available.

A formal access application:

- (a) must be in writing* and sent to or lodged in person at an office of the department,
- (b) must state it is made under the *Government Information (Public Access) Act 2009*
- (c) must be accompanied by a fee of \$30
- (d) must give a postal address for correspondence
- (e) must include enough information for the department to identify what you wish to see.

*You can write your own application or use the suggested [application form](#), available on the department's website.

What can I ask for?

You can apply for access to information that is contained in records that are currently held by the NSW Department of Education.

'Record' means information recorded in any form including paper and electronic formats.

We may decide to create a new record to respond to your application (e.g. create a summary document rather than copying individual documents), but we are not required to do so.

The department does not have to search

- for information that would need an unreasonable and substantial diversion of resources, or
- backup systems unless the record was lost or incorrectly destroyed.

If you are unsure of what to ask for, contact our Right to Access unit for help.

Accident reports

The main purpose of creating an accident report is so the department can use the information in any future legal proceedings. This means that 'legal professional privilege' applies to the accident report and statements made by departmental staff. Under the GIPA Act there is an overriding public interest against disclosing this kind of information.

For this reason, if you request information about an accident involving a student at a school, we are likely to refuse access to the report and any related statements by Department of Education staff.

We will usually provide full access to the student's statement (so long as the appropriate ID and authority are provided). We will provide partial access to statements made by witnesses who are not agency staff (e.g. other students or parents), after deleting their names and any other identifying information.

If you would like further information about access to accident reports, please contact our Right to Access unit.

How much does it cost to make a formal access application?

The access application fee is **\$30** which must accompany your application.

You can pay by credit card, cheque or money order payable to the NSW Department of Education. Please do not send cash by mail. For details, see the [application form](#) on our website.

See below for information about processing charges.

What information do I need to provide with my application?

You need to give enough details for us to identify the information you are seeking, and a specific date or time period so that searches can be targeted.

For student records, you should include the name of the student's last government school and the last year attended.

Please note: student records are kept for 7 years after the student left the school or until the student is 25 years old, and then destroyed. Student counselling records may be kept for a longer period and are not usually stored at the school.

For complaints, staff grievances, and correspondence matters, please identify the business centre likely to hold the records and the file reference number, if known.

The department is very large and contains millions of records. If you can give us relevant identifying details it will help us to target our searches and deal with your application more efficiently. A general request for "all documents containing my name" or "all records relating to me" is likely to be invalid and will take longer to process.

Do I need to provide identification?

Yes. If you are seeking access to your **personal** information or your child's personal information, we need to verify your identity and proof of the relationship between you and your child.

Suitable identification documents include:

- Australian photo driver's licence or
- current passport, or
- other forms of ID with your signature and address.

Suitable proof of relationship documents include:

- Medicare card (with names of children),
- Pension or Health Benefit Card or
- Birth certificate.

If you are applying for access to personal information on behalf of another person, you need to provide identification for both you and the person concerned. You will also need to provide an authority from the other person.

If your child is aged 12 years or over you need to have their authority to access their personal records.

An [authority form](#) is available from our website.

Identification is not required if you are applying for access to non-personal information.

Are there any other charges?

A processing charge of \$30 per hour may apply. If so, we will notify you in writing.

There is no charge for the first 20 hours of processing if you are seeking your own personal information.

You may be entitled to a 50% reduction of processing charges (but not the \$30 application fee) if the information requested is of special benefit to the public or on financial hardship grounds. A 50% reduction automatically applies to:

- holders of a current Pensioner Concession Card issued by the Commonwealth,
- full-time students, and
- non-profit organisations.

If you wish to have fees reduced you will need to provide evidence of one of the above.

How long will it take?

We will acknowledge your application within 5 working days of receiving it and let you know if we can process it.

If it is not a valid application we will let you know what is needed to make it valid.

If it cannot be processed for another reason (e.g. it is not reasonably manageable for us to process or asks for information that is excluded by the GIPA Act) we will help you to amend your application.

We are required to make a written decision within **20 working days** of receiving your valid application. This time may be extended by agreement with you or where:

- we need to consult with a third party;
- we need to get records from archives;
- part of the processing period occurs during school holidays; or
- where we ask you to pay a deposit for processing charges.

How will the information be provided?

Information may be released in full or released with deletions. If the records released amount to more than 20 pages our policy is to provide you with a copy of the records on a compact disc (CD). If you require access in another way, please contact our Right to Access unit.

The decision will include a leaflet outlining your rights of review.

Who can I speak to about GIPA?

Detailed information and links are provided on the department's webpage <https://education.nsw.gov.au/about-us/rights-and-accountability/information-access>

If you still have questions you can contact an Right to Access Officer:

By phone: 7814 3525 or

By email: GIPA@det.nsw.edu.au

Where do I send my application?

Post your access application and payment to:

Manager, Right to Access unit
NSW Department of Education
PO Box 33,
SYDNEY NSW 2001

or

Email to GIPA@det.nsw.edu.au. If you are emailing your request please scan the application and payment forms (if paying by credit card) also ID and authority (if required). Please include your name in the subject line of the email and the phrase: '*GIPA access application*'.
