

**Response to Applicant – No Records Responsive
Form 4D**

December 12, 2019

Section 40(1)



Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act File #: CSSD/74/2019

On November 21, 2019, the Department of Children, Seniors and Social Development (CSSD) received your request for access to the following records/information:

“Any and all records about, in relation to or which mention: any guidelines, policies or practices relating to immigrant and refugee children in government care or children in government care without Canadian citizenship. (For example, no status, stateless, temporary status, refugee status, permanent resident status, citizenship to another country) Any reports on ministerial briefing notes/materials on immigrant and refugee children in government care or children in government care without Canadian citizenship. (For example, no status, stateless, temporary status, refugee status, permanent resident status, citizenship to another country) Data/records/documents on the: The number of children in care by immigration status (for example, number of children in care with no status, stateless, temporary status, refugee status, permanent resident status, and Canadian citizenship status, citizenship to another country) Number of contacts to the legal services to request the appointment of an immigration lawyer for a child in care Number of applications for Canadian citizenship made by the Ministry on behalf of children in care Number of applications for Canadian permanent residence made by the Ministry on behalf of children in care Amount in dollars and in number of cases of financial assistance for citizenship applications or to obtain counsel for immigration applications for youth Please eliminate exact duplicate records when possible and eliminate email records which are duplicated in the final/longest email string when possible. Date Range for Record Search: From Jan/01/2015 to today”

Please be advised that the Deputy Minister for CSSD has reviewed this request and CSSD has no records responsive to your request. The Department for Children, Seniors and Social Development documents a child's immigration status in individual case files; however, data related to immigration status is not recorded in a form that can be aggregated for reporting purposes.

Additionally, requests pertaining to information related to children in care would be considered under the *Children, Youth and Families Act (CYFA)*, not the *Access to Information and Protection of Privacy Act (ATIPPA)*. Please be advised, however, you would not be privy to the requested information as per section 92 of the *CYFA*, which defines persons who may obtain information. A copy of this section of the *CYFA* has been enclosed for your reference.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act (the Act)*. A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act*.

If you have any further questions, please feel free to contact me by telephone at (709) 729-6370 or by email at andrealawlor@gov.nl.ca.

Sincerely,



Andrea Lawlor, B.A., B.S.W. (Hons), R.S.W.
Program and Policy Development Specialist / ATIPP Coordinator

Children, Youth and Families Act

Access to Information and Protection of Privacy Act, 2015 does not apply

90. Notwithstanding the *Access to Information and Protection of Privacy Act, 2015*, the collection of, use of, disclosure of and access to information in records pertaining to the care and protection of children and youth obtained under this Act, regardless of where the information or records are located, shall be governed by this Act.

Definition

91. In this Part, "information" means personal information obtained under this Act or a predecessor Act which is held in government records by, or is in the custody of or under the control of, the department, and includes information that is written, photographed, recorded or stored in any manner.

Persons Who May Obtain Information

92. (1) A person over 12 years of age has the right to and shall, on request, be given information relating to himself or herself.

(2) A person over 12 years of age who is, or has been, in the care or custody of a manager has the right to and shall, on request, be given information relating to himself or herself including

- (a) information relating to his or her birth family that the minister determines is appropriate to release;
- (b) the reasons why he or she was removed from his or her parent and information relating to the continuation of a court order relating to him or her; and
- (c) the identity of a former foster parent, family-based caregiver or the name of a former residential placement.

(3) A person who has custody of a child has the right to and shall, on request, be given information about himself or herself and the child.

(4) A person who had custody of a child has the right to and shall, on request, be given information about himself or herself and the child, but only for the period of time that the person had custody.

(5) Where information excepted from disclosure under section 93 can reasonably be severed, a person who is otherwise permitted to receive information under this section shall be given the remainder of the information.

Access to Information and Protection of Privacy Act

Access or Correction Complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

- (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21 ;

(b) a decision respecting an extension of time under section 23 ;

(c) a variation of a procedure under section 24 ; or

(d) an estimate of costs or a decision not to waive a cost under section 26 .

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct Appeal to Trial Division by an Applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42 , the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45 (2).