August 26, 2015

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (Our File #: EDU/020/2015 and EDU/021/2015)

On August 13, 2015, the Department of Education and Early Childhood Development received two related requests for access to the following records/information:

EDU/020/2015
"All documents in the possession or control of the Ministry of Education of Newfoundland and Labrador, including correspondence, notes (handwritten or otherwise), e-mails, internal memoranda, and any other documents or communications, including all documents in electronic format, that concern, were created for, are linked to, discuss or comment on the agreements between Canada-Newfoundland and Labrador relating to minority language education and second-language instruction (the “Agreements”) since 1995..." and;

EDU/021/2015
"All documents in the possession or control of the Newfoundland and Labrador Department of Education, including correspondence, notes (handwritten or otherwise), e-mails, internal memoranda, and any other documents or communications, including all documents in electronic format, that concern, were created for, are linked to, discuss or comment on the Protocols for Agreement for Minority-Language Education and Second-Language Instruction between the Government of Canada and the Council of Ministers of Education, Canada (the “Protocols”) and the Province of Newfoundland and Labrador since 1995..."

Please be advised that a decision has been made by the Deputy Minister for the Department of Education and Early Childhood Development (Department) to refuse both requests in accordance with section 21(1)(a) and s.21(1)(c)(iii) of the Access to Information and Protection of Privacy Act ("the Act") which provides:

21. (1) The head of a public body may, not later than 5 business days after receiving a request, apply to the commissioner for approval to disregard the request where the head is of the opinion that
(a) the request would unreasonably interfere with the operations of the public body;
(b) the request is for information already provided to the applicant; or
(c) the request would amount to an abuse of the right to make a request because it is
   (i) trivial, frivolous or vexatious,
   (ii) unduly repetitive or systematic,
   (iii) excessively broad or incomprehensible, or
   (iv) otherwise made in bad faith.

Specifically, the requests would unreasonably interfere with the operations of the Department as the requests encompass 20 years of records (in any format) and responding to the request would involve a significant amount of work on behalf of the Language Programs unit and the Information Management Division. This would require all staff of both units to cease all other operational activities to focus exclusively on search and retrieval of responsive records for these requests.
Additionally, it is the Department's opinion that the request is excessively broad in terms of records requested, the level of detail and the time frame of 20 years. The wording of the request is such that it essentially encompasses every possible record produced by the Language Programs unit over 20 years.

A request was made by the Department to you on August 18, 2015 to narrow the scope of the request but no response has been received to date.

Therefore, on August 20, 2015, (five business days after receiving request) the Department submitted a request to the Information and Privacy Commissioner under section 21(1) of the Act for approval to disregard the requests.

Please be advised that on August 25, 2015, the Information and Privacy Commissioner approved the decision of the Department to disregard requests EDU/020/2015 and EDU/021/2015 pursuant with s.21(1)(a) and s.21(1)(c)(iii) of the Act.

You may appeal the decision of the Department to refuse the request to the Trial Division under section 52(1) of the Act which provides:

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).

If you have any further questions, please feel free to contact the undersigned by telephone at 709-729-1841 or by e-mail at brianevans@gov.nl.ca.

Sincerely,

Brian Evans
Director of Information Management & Special Projects
ATIPP Coordinator

Cc: Mr. Daniel Peyton, Office of the Information and Privacy Commissioner