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CHUIG: CATHAOIRLIGH BHORD GOBHARNÓIRÍ AGUS PRÍOMHOIDÍ GACH BUNSCOIL DHEONTASCHÚNTA, SCOILEANNA SPEISIALTA AGUS SCOILEANNA GRAMADAÍ A BHFUIL RANNA ULLMHÚCHÁIN IONTU

To: The Chairs of the Board of Governors and the Principals of All Grant-Aided Primary Schools, Special Schools and Grammar Schools with Preparatory Departments

9 Mí na Samhna 2009

9 November 2009

DUALGAIS AR BHUNSCOILEANNA I LEITH SOLÁTHAR NA FAISNÉISE OIDEACHASÚLA FAOINA bPÁISTÍ CHUIG PÁIRTITHE EILE

PRIMARY SCHOOLS' DUTIES WITH REGARD TO THE PROVISION OF EDUCATIONAL INFORMATION ON THEIR PUPILS TO OTHER PARTIES

Is é is cúis leis an litir seo ná comhairle a chur ar Bhoird Ghobharnóirí agus Phríomhoidí bunscoileanna faoi méid a ndualgas le faisnéis a chur ar fáil ar dhul chun cinn oideachasúil a ndaltaí do thuismitheoirí agus do scoileanna eile.

The purpose of this letter is to advise Boards of Governors and Principals of primary schools of the extent of their responsibilities to provide information on their pupils' educational progress to parents and to other schools.

Ba mhian liom scríobh chugat go díreach mar go dtuigim go bhfuil an-imní ar roinnt bunscoileanna go dtuigfidh siad a gcuid dualgas i gcásanna nuair a thagann tuismitheoirí aonair nó iar-bhunscoileanna chucu le faisnéis a fháil ar fheidhmíocht agus ar ghnóthachtáil daltaí.

I wanted to write to you directly as I am very conscious that some primary schools have been very concerned to understand their responsibilities in cases where they are approached, either by individual parents or by post-primary schools, for information on the educational performance and achievements of pupils.

Tá tú eolach cheana féin ar mo thacaíocht iomlán do bhunscoileanna san obair a dhéanann siad chun an curaclam athbhreithnithe reachtúil a

You are already aware of my full support for primary schools in their work to deliver the statutory revised curriculum and of my position in relation to the arrangements for

sholáthar agus ar mo sheasamh maidir leis an socruithe le páistí a aistriú ó bhunscoileanna go hiar-bhunscoileanna i Meán Fómhair 2010. Is é Aistriú 2010 polasaí na Roinne Oideachais (RO) le haghaidh aistriú páistí ó bhunscoil go hiar-bhunscoil. Cuirfidh an treoir seo córas éifeachtach agus cothrom ar fáil a bheas le leas gach duine. Shoiléirigh mé cheana féin do na scoileanna sin a bhfuil rún acu leanúint ar aghaidh le foirm roghnúcháin go bhfuil siad á dhéanamh in éadan chomhairle an RO agus gur ábhar baoil a bheas ann dóibh má leanann siad ar aghaidh le roghnúchán bunaithe ar chumas acadúil. Cúis dhíomá atá ann go bhfuil mionlach d'iar-bhunscoileanna ag leanúint ar aghaidh ar bhealach atá, i mo bharúil féin, míchothrom, leatromach agus a dhéanann tosaíocht de mhianta institiúidí roimh riachtanais dhaltaí. Ní féidir liom glacadh leis ach oireadh go gcuirfí brú ar bhunscoileanna cuidiú leis na scoileanna sin.

transferring children from primary to post-primary schools in September 2010. Transfer 2010 is the Department of Education's (DE) policy for the transfer of children from primary to post-primary. The guidance will deliver an effective and fair system which will benefit all. I have already made very clear to those schools planning to continue with a form of selection that they do so against the advice of DE and run many, very significant, risks should they continue to pursue selection by academic ability. It is disappointing that a small minority of post-primary schools is continuing to follow a road that, in my view, is unequal, unfair and puts the priorities of institutions before the needs of pupils. It is also unacceptable to me that primary schools should be put under any pressure to assist those schools.

Dá bhrí sin tá sé an-tábhachtach go dtuigeann bunscoileanna na dualgais atá orthu - agus na srianta atá orthu - agus na srianta atá i bhfeidhm - i gcásanna nuair ba mhian le tuismitheoirí nó le hiar-bhunscoileanna an fhaisnéis a bheith acu ar fheidhmíocht daltaí.

It is therefore very important that primary schools understand the responsibilities that they have – and the restrictions that apply - in cases where parents or post-primary schools wish to have information on the performance of pupils.

Soláthar eolais do thuismitheoirí

Provision of information to parents

Nuair a fhiosraíonn tuismitheoirí faoi dhul chun cinn a gcuid páistí féin, tá sé tábhachtach go dtagann freagraí ó bhunscoileanna go gasta agus go dearfach. Aithnímid uile an tábhacht a bhaineann le tuismitheoirí a choinneáil páirteach in oideachas a gcuid páistí agus iad a choinneáil ar an eolas.

When it comes to requests for information from parents about the progress of their own children, it is important that primary schools respond promptly and positively. We all recognise the importance of involving parents in the education of their children and keeping them informed.

Soláthraíonn na Rialúcháin Oideachais

The Education (Pupil Reporting)

(Tuairisciú ar Dhaltaí) (TÉ) 2009 sonraí faoin fhaisnéis ba chóir do scoileanna a thuairisciú ar bhonn bliantúil do thuismitheoirí agus, mar is eol duit, tá athruithe déanta againn a chinntíonn go soláthraíonn formáid na dtuairiscí sin an tsolúbthacht a d'iarr na scoileanna. Ar a bharr sin, leagtar amach sna Rialúcháin dualgais na mBord Gobharnóirí maidir le taifead foirmiúil ar ghnóthachtálacha acadúla agus eile na ndaltaí. Soiléiríonn Rialúchán 9 de Na Rialúcháin Oideachais (Taifid Daltaí agus Tuairisciú) (Idirthréimhseach) (TÉ) 2007, ar iarratas scríofa a fháil ó thuismitheoir nó ó chaomhnóir dlíthiúil dalta, go gcaithfidh scoil taifead múnlaitheach dhul chun cinn agus ghnóthachtáil an dalta chuí a nochtadh leis an tuismitheoir.

Regulations (NI) 2009 provide details of the information that schools should be reporting annually to parents and, as you know, we have made changes to ensure that the format of those reports provides the flexibility that schools have asked for. In addition, Regulations set out the duties of Boards of Governors in relation to the keeping of formal records of a pupil's academic and other achievements. Regulation 9 of The Education (Pupil Records and Reporting) (Transitional) Regulations (NI) 2007 makes clear that, upon receipt of a request made in writing by a pupil's parent or legal guardian, a school must disclose the relevant pupil's formative record of progress and achievement to the parent.

Mar is eol daoibh fosta, tá dualgas oibleagáidí ag scoileanna i leith tuismitheoirí de réir an Achta um Chosaint Sonraí. Is féidir le tuismitheoir atá ag gníomhú thar ceann a pháiste rochtain a fháil ar a s(h)onraí pearsanta atá ag scoil de réir an Achta um Chosaint Sonraí 1998 (DPA).

As you will also know, schools also have obligations to parents under the Data Protection Act. A parent acting on behalf of their child can access his/her personal data held by a school under the Data Protection Act 1998 (DPA).

Soláthar faisnéise do scoileanna eile

Maidir le faisnéis a sholáthar do scoileanna eile, ba chóir duit a bheith cinnte go mbaineann reachtaíocht oideachais le soláthar faisnéise sna cásanna sin amháin inar ghlac scoil le dalta cheana féin. Sna cásanna seo, ní mór do Bhord Gobharnóirí scoile socruithe a dhéanamh chun taifid dalta aonair a aistriú chuig scoil eile nuair a aistríonn an dalta ann. Ní mór é seo a dhéanamh taobh istigh de 15 lá scoile. Ní mór do Bhord Gobharnóirí socruithe a dhéanamh fosta lena chinntiú gur féidir taifid oideachais áirithe eile, má choinnítear mar chuid de thaifead dalta

Provision of information to other schools

When it comes to providing information to other schools, you should be assured that education legislation relates to the provision of information only in cases where a school has already accepted a pupil for admission. In these cases, the Board of Governors of a school is required to make arrangements for the transfer of an individual pupil's records to another school when the pupil has transferred there. This must be done within 15 school days. Boards of Governors must also make arrangements to ensure that certain other educational records, if kept as part of a pupil's record, can be disclosed on

iad, a nochtadh chuig tuismitheoir an dalta nó do scoil ar bith **a ghlac leis an dalta le haghaidh iontrála.** Ní féidir é seo a sholáthar roimh iontráil.

Tá dualgais eile ar scoileanna de réir an Achta um Shaoráil Faisnéise - lena n-áirítear freagra a thabhairt ar iarratais ó thuismitheoirí agus ó pháirtithe eile faoi shonraí feidhmíochta na scoile ar leibhéal níos leithne. Nuair a bhíonn measúnacht á déanamh ar iarratais den chineál seo, tá sé tábhachtach go dtuigeann tú nach bhféadfaí faisnéis a nochtadh a bhféadfadh sonraí pearsanta daltaí a bheith inti ach amháin dá mbeadh na comhshonraí struchtúrtha ar bhealach nach n-aithneofaí dalta aonair ar bith dá bharr. Mura ndéanfaí é sin, choinneofaí an fhaisnéis siar faoi Dhíolúine 40 den Acht FOI óir d'fhéadfadh nochtadh an tAcht um Shaoráil Faisnéise a shárú.

request to the pupil's parent or to any school **which has accepted the pupil for admission**. This cannot be provided prior to admission.

Schools do have other duties under the Freedom of Information Act – including in responding to requests from parents or other parties for wider school performance data. In considering such requests, it is very important that you bear in mind the fact that the disclosure of any information which may contain pupils' personal data could only be considered if the collective data was structured in such a way as not to lead to the identification of any individual pupil. Otherwise, the information would be withheld under Exemption 40 of the FOI Act as disclosure could lead to a breach of the DPA.

Eochairphointí

Is iad seo a leanas na heochairphointí ba chóir a thabhairt faoi deara:

- Níl **aon oibleagáid** ar bhunscoil tuarascálacha aonair faoi fheidhmíocht ná ghnóthachtálacha daltaí a chur ar fáil do scoileanna nár ligeadh na daltaí sin iontu go foirmeálta go fóill. Go deimhin is dócha go sáródh nochtadh faisnéise faoi dhalta le tríú páirtí an tAcht um Shaoráil Faisnéise, mura dtoilíonn an dalta nó an tuismitheoir. Mholfainn go láidir, mar sin, do bhunscoileanna cinnte a dhéanamh de go mbíonn na próisis i bhfeidhm acu le sárú den chineál seo a chosc.

- Tá oibleagáidí ar bhunscoileanna faisnéis a chur

Key points

The key points to note are as follows:

- There is **no obligation** on a primary school to provide individual reports on the educational performance or achievements of pupils to schools to which those pupils have not been formally admitted. Indeed, the disclosure of personal information about a pupil to a third party is likely to cause a breach of the DPA, unless consent is given by the pupil or parent. I would therefore strongly advise primary schools to ensure that they have the processes in place to prevent any such breach.

- Primary schools do have obligations to provide information, on request,

ar fáil, nuair a iarrtar í, do thuismitheoir faoi fheidhmíochtaí nó ghnóthachtálacha a p(h)áiste.

to a parent for information on his/her child's performance or achievements.

- De réir an Achta um Shaoráil Faisnéise, tá sé de cheart ag duine ar bith, agus tuismitheoir san áireamh, faisnéis a iarraidh faoi fheidhmíocht/ghnóthachtáil ranga, a fhad is nach bhféadfaí dalta aonair a aithint dá nochtfaí na comhshonraí. Ar ndóigh, ní mór do scoileanna ach faisnéis a nochtadh atá ar fáil cheana féin agus ní bheifí ag dúil leis go nginfeadh siad tuarascálacha.

- Under the Freedom of Information Act, any person, including a parent, has a right to request information on class performance/achievements, provided the disclosure of the collective data would not lead to the identification of an individual pupil. Naturally, schools only have to disclose information that is already available and would not be expected to generate reports.

- Tá oibleagáidí ar bhunscoileanna fosta maidir le faisnéis a chur ar fáil do scoileanna a bhfuil na daltaí ag aistriú chucu, **nuair a dheimhníonn an scoil agus an Bord Oideachais & Leabharlainne cuí iontráil** ach ní nuair a bhíonn scoileanna ag breithniú dalta le haghaidh iontrála. Ba chóir faisnéis ar bith atá le haistriú chuig scoil nua dalta a chur ar fáil do thuismitheoirí dalta.

- Primary schools also have obligations in relation to the provision of information to schools to which pupils are transferring, **where admission has been confirmed by the school and the relevant Education & Library Board** but not where schools are considering a pupil for admission. Any information transferring to a pupil's new school should also be made available to a pupil's parents.

Mar achoimre, ba mhaith liom go leanfadh bunscoileanna de dhíriú ar theagasc agus ar fhoghlaim tríd an churaclam leasaithe. Níor chóir duit ligint do do scoil bealach ar bith eile a ghlacadh ar chúis ar bith agus ba chóir duit cinnte a dhéanamh de nach dtugann tú freagraí ar iar-bhunscoileanna le haghaidh faisnéise faoi dhaltaí aonair ar bhealach a d'fhéadfaí an ASF a shárú (i. ar bhealach nach mbaineann le toil an tuismitheora/pháiste), mura ndeimhnítear agus go dtí go ndeimhnítear go nglactar leis an pháiste chuig an scoil sin.

In summary, I want to see primary schools continue to focus on teaching and learning through the revised curriculum. You should not allow your school to be diverted from this under any circumstances and you should make sure that you do not respond to requests from post-primary schools for information about individual pupils in a manner that may breach the DPA (i.e. in a manner that does not involve consent of the parent/child), unless and until admission to that school has been confirmed.

Tá súil agam gur cuidiú í an litir seo. Chomh maith leis sin tá sonraí teagmhála na ndaoine cuí sna Boird Oideachais agus Leabharlainne atá in ann freagra níos cuimsithí a thabhairt ar cheisteanna ar bith faoin chreatach reachtach a d'fhéadfadh a bheith agat ceangailte leis seo.

I hope that this letter is helpful. I have also attached contact details for the relevant people in the Department and the Education and Library Boards who can answer in more detail any queries you may have on the legislative framework.

Caitríona Ruane

CAITRÍONA RUANE MLA

SONRAÍ TEAGMHÁLA

Le haghaidh ceisteanna a bhaineann le Rialacháin Oideachais (Taifid Daltaí agus Tuairisciú) (Idirthréimhseach) (TÉ) 2007 agus Rialacháin Oideachais (Tuairisciú ar Dhaltaí) (TÉ) 2009 déan teagmháil le do thoil le:

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Faoi cheisteanna maidir leis na hoibleagáidí ar bhunscoileanna de réir an Achta um Shaoráil Faisnéise agus an Achta um Chosaint Sonraí, déan teagmháil le do thoil leis na daoine seo a leanas:

- **BELB – Liz Johnston – 028 90564316 – lizjo@belb.co.uk**
- **NEELB – Daryll Kenny – 028 25664131 – daryll.kenny@neelb.org.uk**
- **SEELB – D Cunningham – 028 90566994 - Derek.cunningham@seelb.org.uk**
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- **CCMS – H Alexandra – 028 90393862 – heather.alexandra@ccmsschools.com**

CONTACT DETAILS

For queries relating to the Education (Pupil Records and Reporting) (Transitional) Regulations (NI) 2007 and the Education (Pupil Reporting) Regulations (NI) 2009 please contact:

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Queries relating to the obligations on primary schools under the Freedom of Information and Data Protection Acts, please contact the following:

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