

Case No CEDUC-26-8161

25 September 2026

The Honourable Prime Minister
Office of the Prime Minister
Auberge de Castille
Castille Place
Valletta

Honourable Prime Minister

In terms of Articles 17C(1) and 22(4) of the Ombudsman Act, we draw your attention to the case of non-compliance by the Ministry responsible for education in connection with the Final Opinion delivered by this Office on 11th September 2026, after an investigation following a complaint by the parents of a girl who had applied to join the National Sports School.

The complaint revolved over the unfair advantage given to two other applicants in the swimming discipline. The pertinent findings of this Office are contained in paragraphs 5 to 7 of the above-mentioned Final Opinion, with the recommendation in paragraph 8 (DOC. A).

Subsequent correspondence with the Office of the Permanent Secretary MES (email of 11 September 2026, Doc. B, email of 14 September 2026, DOC. C, email of 23 September 2026, DOC. D, and email of 25 September 2026, DOC. E) are also attached for a complete picture and ease of reference.

As time is of the essence in this case, we bring the matter to your attention in the hope that it can be resolved by you, Sir, thus avoiding the necessity of ulterior steps as per Article 22(4).



Yours sincerely

Joseph Zammit Mckeon
Ombudsman

Vincent A De Gaetano
Commissioner for Education

Enclosed:

DOC. A – Final Opinion
DOC. B – 11 September 2026
DOC. C – 14 September 2026
DOC. D – 23 September 2026
DOC. E – 25 September 2026

Copy: Mr Oreste Cassar – DG (Coordination & Implementation) -OPM

Case No CEDUC-26-8161

11 September 2026

Mr Matthew Vella
Permanent Secretary
Ministry for Education, Sport, Youth, Research and Innovation
Great Siege Road
Floriana
Email: matthew.a.vella@edu.mt

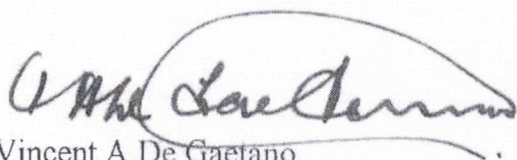
Dear Mr Vella

Final Opinion

I enclose my Final Opinion following investigations by this Office on the complaint lodged by Mr and Mrs R Muscat on behalf of their daughter against the Education Authorities.

In terms of Article 22 of the Ombudsman Act (Cap. 385), I request to be informed by Friday, 18th instant of action you intend to take in line with my recommendation.

Yours sincerely



Vincent A De Gaetano
Commissioner for Education

Encl.

Copy: The Hon Minister Dr Byron Camilleri - MES

Mr Charles Dimech – Director, IACU – MES

Ms Josephine Magro – Senior Principal – MES

Mr Oreste Cassar – DG – Coordination & Implementation – OPM

Report on Case No CEDUC-26-8161

The complaint

1. The complaint, received at this Office on the 27th August 2026, was registered with the Office of the Ombudsman by the parents of their 11-year old daughter A.M.

The evidence

2. The complaint was communicated to the Permanent Secretary at the Ministry responsible for Education on the 1st of September 2026, with a request for the Ministry's views by not later than the 9th instant in light of the time sensitive nature of the complaint. To date no reply has been forthcoming. Nevertheless, since the complainants submitted all the correspondence they had exchanged with the Education Authorities, the undersigned is in a position to rule upon said complaint.

3. From the documentary evidence before the undersigned, it transpires that A.M. applied for admission to the National Sports School as from the coming scholastic year, under the swimming discipline. She was ranked third within the swimming discipline. As only two places were available in this discipline, she ended up on the waiting list. As far as academic entry requirements were concerned, her performance exceeded by far the published entry requirements, achieving over 90% in Mathematics and over 80% in Maltese and English. The *pons asinorum* appears to have been in her fitness assessment test.

4. When the complainants requested the breakdown of the fitness assessment, it transpired that A.M. had registered a low mark in the 25m all out swim, allegedly obtaining the worst time (albeit a question of seconds) when compared to the two other swimmers. This time was recorded by the examiners with hand-held chronographs, but was never communicated to the complainants. The other two swimmers – both member of the same local swimming club – were R.B. and H.D.; A.M. belongs to a different swimming club.

5. This 25m all out swim was not a race between the three girls – it was intended solely, according to the Education Authority’s narrative, to gauge each swimmer’s speed and fitness. However, in all the correspondence with the NSS Board and with the Director General (Educational Services) no credible explanation was given as to why the three girls did not swim together. Even assuming that the hand-held chronographs registered the time correctly, swimming together in a time-trial was essential for two reasons. The first is that it would have enabled visual confirmation by all those present (including the complainants); and in the second place and more crucially, it is trite knowledge that in such time-trials a substantial difference can emerge between swimming alone (“against the time”) and swimming with others, when the very presence of those others normally enhances one’s performance albeit by a few seconds. By timing A.M. on her own, and the other two girls together, the examiners acted in a grossly unfair way with regard to A.M. It should be noted that in the official A.S.A timings for the 50m freestyle, A.M. was always ranked ahead of both R.B. and H.D. (in the case of the latter by a difference of more than four seconds).

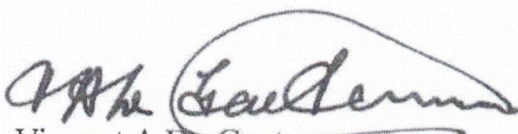
6. By their actions, the examiners gave a clear undue advantage to R.B. and H.D. It is true that as the DG abovementioned stated in her email to the complainants of the 4th of August 2026, that the overall assessment fitness result

is not determined solely by the 25m sprint but by a total of four component items. Such argument, however, is disingenuous since an undue advantage (or indeed disadvantage) to one or more competitors in one of the components automatically invalidates the results in the entire fitness test.

Conclusion and recommendation

7. For all the above reasons, the complaint is allowed (sustained) since the examiners' decision **to time A.M. separately from R.B. and H.D. was unreasonable, unjust and improperly discriminatory** within the meaning and for the purposes of Article 22(1)(b) of the Ombudsman Act.

8. As for an appropriate remedy, this must be such as not to cause prejudice to R.B. and H.D. who, through no fault of their own, have already been accepted to join the National Sports School for the coming scholastic year. The undersigned, therefore, recommends that exceptionally and because of the undue disadvantage to which she was subjected, A.M. be also accepted to commence school at the NSS this coming scholastic year.


Vincent A De Gaetano
Commissioner for Education

11 September 2026

From: Magro Josephine D at MES <josephine.d.magro@gov.mt>
Sent: 11 September 2026 13:12
To: Vincent A Degaetano
Cc: CEDUC; Camilleri Byron at MES; Vella Matthew at MES; Dimech Charles at MES; Cassar Oreste 1 at OPM
Subject: CASE NO CEDUC-26-8161
Attachments: Fitness Test - Aquatic Sports.pdf

Categories: Related to Salesforce

Dear Commissioner,

Good afternoon.

Please find below the reply prepared in relation to this case, with the aim of correcting the inaccuracies identified in the chronology of events. This reply was compiled by the technical board appointed to carry out the physical tests, whose members are experts in the field and possess detailed knowledge of the matters under consideration.

Dear Commissioner,

We refer to your notification in terms of Article 18(1) of the Ombudsman Act concerning the complaint submitted by Mr and Mrs Muscat regarding the non-admission of their daughter, Amy Muscat, to the National Sports School.

The Admissions Board fully recognises the importance of ensuring that the National Sports School admissions process is fair, transparent and consistently applied. In view of the matters raised, we wish to provide the broader context of the selection process and address specifically the concerns relating to Amy's assessment.

1. National Sports School Selection Process

Admission to the National Sports School is determined through a structured, multi-stage assessment process governed by pre-established criteria. The outcome is not based on a single assessment, nor on the judgement of a single assessor.

The first stage consists of a sport-specific assessment comprising two separate trial sessions. Candidates are assessed against criteria relevant to their respective sporting discipline, and the higher mark obtained from the two sessions is retained for the purposes of the admissions process. A minimum of two assessors is present during each assessment session.

As an additional safeguard intended to strengthen the independence and impartiality of the assessment process, every effort was made to engage qualified foreign assessors. This measure was intended to minimise the possibility, or perception, of conflicts of interest and to reinforce the objectivity of the assessment process.

Candidates are required to obtain a minimum mark of 50 in the sport-specific assessment in order to proceed to the subsequent fitness-testing stage. The fitness assessment consists of a prescribed testing battery determined according to the candidate's sporting discipline or sporting category.

The fitness-testing criteria applicable to the respective sporting disciplines were developed by the National Sports School's sport-specific teachers and coaches, drawing on their professional expertise and their understanding of the physical demands associated with the respective sports. This ensured that the fitness-testing requirements were not applied as a generic battery across all applicants, but were structured to reflect the characteristics and physical demands of the relevant sporting disciplines.

Accordingly, candidates were assessed within appropriate sporting categories, including:-
aquatic sports such as swimming;
artistic swimming and water polo;
team sports such as football;
handball and basketball;
racquet sports such as tennis;
badminton and squash; and
combat sports such as taekwondo, judo and karate, amongst others.

Candidates within the relevant category were subject to the prescribed fitness-testing battery applicable to that category. Candidates must also satisfy the prescribed academic eligibility requirements. This requires a mark of at least 50 in a minimum of three out of four core academic subjects, namely Maltese, Mathematics, English and Science.

Eligibility for admission is therefore determined through the cumulative application of sport-specific, physical fitness and academic criteria. Once the relevant assessment stages are completed, the results are compiled and considered within the established admissions framework. Candidates who satisfy the applicable eligibility requirements are subsequently ranked, and places are allocated according to the number of places available within the respective sporting disciplines, as determined by the National Sports School.

The admissions process therefore, incorporates a number of safeguards intended to promote consistency, transparency and impartiality. These include two sport-specific assessment sessions, the involvement of more than one assessor, the engagement of foreign assessors, pre-established sport-specific assessment criteria, fitness-testing criteria developed by the National Sports School's specialist teachers and coaches, category-specific fitness-testing batteries, and clearly defined academic requirements.

2. Swimming Sport-Specific Assessment Criteria

In the case of swimming, official ASA competition results forms part of the sport-specific assessment phase. The candidates' best 3 performances recorded during competitions organised by the Aquatic Sports Association throughout the relevant swimming season were considered. These results were obtained from the publicly available Swimrankings database, which records official competition performances.

Accordingly, Amy's recognised competitive swimming performance was expressly taken into account during the admissions process. Her best official results from the relevant competitions were considered in the same manner as those of the other swimming applicants. Amy got a total of 100 marks. The official ASA results were therefore neither disregarded nor given lesser consideration in Amy's case. The same approach and source of information were applied consistently to all candidates within the swimming discipline.

It is, however, important to distinguish clearly between the sport-specific assessment and the subsequent fitness assessment, as these constituted separate components of the admissions process and were designed to measure different aspects of a candidate's performance, and ability.

The sport-specific assessment was intended to evaluate the candidate's demonstrated performance and competitive standard within the sport of swimming. In this context, official ASA competition results provided objective evidence of performance achieved in recognised competitive events over the course of the swimming season.

The fitness assessment, by contrast, formed part of a separate standardised physical-testing process. Its purpose was not to reproduce, validate or replace official competition results, nor to establish which candidate was the stronger competitive swimmer. Rather, it assessed candidates against a prescribed battery of physical tests applicable to their sporting category. The 25-metre sprint formed one component of this fitness-testing battery.

The two forms of assessment must therefore be considered independently. An official competition result achieved under competition conditions and a result obtained during a separate 25-metre fitness test relate to different assessment contexts, distances and purposes. A candidate's relative ranking in official ASA competition results cannot therefore be used retrospectively to determine what that candidate's recorded result in the separate fitness assessment should have been.

The fact that Amy had achieved stronger official competition results than another applicant was already recognised through the sport-specific component of the admissions process. It does not, however, invalidate a separately recorded result obtained by either candidate during the prescribed fitness assessment. Each component was considered for the purpose for which it had been established, and the same distinction was applied consistently to all swimming applicants.

1. Fitness Assessment

The fitness-testing criteria and assessment components were communicated to candidates in advance of the testing date. The relevant criteria were issued on 9 June 2026, more than three weeks before the fitness assessments which were conducted on 3 July 2026. Candidates were therefore informed beforehand of the tests that would form part of the fitness assessment.

For candidates within the aquatic sports category (swimming, artistic swimming and waterpolo), the prescribed fitness-testing battery consisted of four separate components, each contributing to the overall fitness-assessment result. The 25-metre sprint was therefore only one component of the assessment and did not, in isolation, determine either the candidate's overall fitness result or admission to the National Sports School.

Amy's performance across the four fitness-test components was recorded as follows:

- **25-metre sprint:** 5 marks
- **Hollow Hold:** 5 marks
- **Standing Broad Jump:** 25 marks
- **Flexed Arm Hand:** 15 marks

Amy therefore obtained an overall fitness-assessment score of **50 marks out of 100**.

These results are significant in considering the complaint because they demonstrate that Amy's fitness-assessment outcome was not determined solely by her performance in the 25-metre sprint. The sprint accounted for 25% of the overall fitness-testing battery, with the remaining 75% derived from three separate physical assessments.

It is also relevant that the complainants have not raised concerns regarding the assessment or marking of the other three fitness-test components which were carried out by the same foreign assessors. The specific issue raised relates to the 25-metre sprint. The integrity of that particular result has nevertheless been subsequently checked against the original assessment records, recorded timing and applicable scoring methodology, and no recording, transcription or computational error was identified.

For ease of reference and further verification, please find below the relevant extract from the Excel assessment file, together with the attached Fitness Test Assessment Sheets completed by the foreign assessors for the three swimming applicants.

Full name	Sport	EmailAddress	IDNumber	Flexed-Arm Hang		Hollow Hold		25m all-out Swim		Standing Broad Jump		FINAL MARK
				Time	MARK	Time	MARK	Time	MARK	Distance	MARK	
Raffaella Borg	Swimming	nata_borg975@hotmail.com	0149215L	37.93	5	58.19	15	14.05	25	1.65	15	60
Amy Muscat	Swimming	jennymuscat212@gmail.com	0142015L	40.08	15	31.60	5	15.56	5	1.80	25	50
Hana Dibra	Swimming	floriandibra91@gmail.com	0214608A	57.72	25	60.11	25	15.26	15	1.65	15	80

4. The 25-metre Sprint

The specific concern raised by the complainants relates to the fact that the other two swimming candidates completed the 25-metre sprint together, whereas Amy completed the same assessment separately.

The 25-metre sprint was designed and administered as an individually **timed** fitness assessment. The relevant outcome was the **time** recorded for each candidate over the prescribed 25-metre distance. It was not structured as a head-to-head competitive race and neither finishing position within a heat nor visual comparison between swimmers formed part of the assessment criteria or scoring methodology.

Amy undertook the prescribed 25-metre assessment together with the other aquatic-sport candidates during the same testing session. For the purposes of conducting the assessment, candidates were organised into groups of four, reflecting the four swimming lanes that had been booked and allocated for these tests. Each candidate's performance was individually timed and recorded for the subsequent application of the prescribed scoring methodology.

The 25-metre pool at Tal Qroqq was used because the assessment specifically required a 25-metre sprint. The main competition pool is 50 metres in length. The 25-metre pool is not connected to the electronic timing system used for official competitions. Manual timing was therefore used for this fitness assessment and administered individually for each applicant.

The use of manual timing was applied as part of the same assessment procedure for the candidates concerned. Following the complaint, the original timing records were revisited and checked, and no recording or transcription error was identified in Amy's result.

The fact that the three swimming candidates did not undertake the assessment simultaneously did not alter the variable being assessed, namely the individually recorded time achieved over 25 metres. The assessment did not award marks on the basis of which swimmer finished first within a heat, nor did the presence or absence of another swimmer form part of the prescribed scoring criteria.

5. Scoring Methodology

Following completion of the fitness assessments, the recorded results were processed through the normative scoring methodology. The methodology and its application were discussed and reviewed in consultation with qualified fitness teachers at the National Sports School and with the Director responsible for STEM and VET Programmes, with the aim of ensuring a consistent and appropriate framework for the assessment of candidates.

For the purpose of normative scoring, candidates were compared within their respective sporting discipline. Accordingly, Amy's 25-metre sprint result was compared only with the results obtained by the other swimming candidates. She was not ranked against candidates applying through water polo or artistic swimming.

The scoring system was based on percentile bands and corresponding performance thresholds. Marks were therefore not calculated through a direct or linear conversion of the number of seconds separating one candidate from another. Instead, each recorded performance was placed within the applicable threshold band, with the corresponding mark then awarded.

This distinction is important. Under a banded normative system, two recorded times may be numerically close yet fall on opposite sides of a prescribed threshold. Where this occurs, the candidates will receive the marks corresponding to their respective bands. The difference in marks therefore reflects the applicable scoring band rather than a calculation whereby a particular fraction of a second is assigned a predetermined number of marks.

The same thresholds and calculation methodology were applied consistently to all candidates within the swimming cohort.

The thresholds applied to the 25-metre sprint were as follows:

Marks awarded	Percentile band	Recorded time threshold
25 marks	20th percentile	≤ 14.53 seconds
20 marks	40th percentile	> 14.53 to ≤ 15.02 seconds
15 marks	60th percentile	> 15.02 to ≤ 15.32 seconds
10 marks	80th percentile	> 15.32 to ≤ 15.44 seconds
5 marks	Above 80th percentile	> 15.44 seconds

Accordingly, once a candidate's recorded 25-metre time had been established, the corresponding mark was determined by reference to the applicable threshold. No discretionary adjustment was made on the basis of the identity of the candidate, the swimmer against whom the candidate undertook the test, club affiliation, or the numerical difference between individual candidates' times.

6. Verification of Amy's Result

Following the concerns raised by Mr and Mrs Muscat, the documentation relating specifically to Amy's fitness assessment was revisited and checked against the original assessment records.

This review included verification of the recorded 25-metre sprint time, the transcription of that result into the assessment documentation, the application of the relevant scoring threshold, and the subsequent calculation of the mark awarded. The corresponding records and calculations were checked for consistency.

No recording, transcription or computational error was identified. Amy's recorded time corresponded with the original assessment record, and the mark awarded was consistent with the applicable threshold within the prescribed scoring methodology.

Accordingly, the review did not identify any evidential basis for substituting a different recorded time, awarding an alternative mark, or recalculating Amy's fitness-assessment result.

7. Comparison with official ASA results

The complainants have referred to official ASA results indicating that Amy had previously recorded a better competitive performance than one of the other applicants.

The Board does not dispute the official ASA results. These were considered during the sport-specific assessment phase.

They cannot, however, be used to determine retrospectively what a candidate's result in the separate 25-metre fitness assessment ought to have been.

The two assessments involved different distances, different settings and different assessment purposes. A candidate's relative ranking in an official 50-metre competition does not necessarily determine the relative result that will be recorded in a separate 25-metre fitness test.

8. Club Affiliation

The correspondence notes that the other two swimming candidates belonged to the same swimming club, while Amy belonged to a different club. The Board wishes to address clearly any suggestion that club affiliation may have influenced the manner in which the candidates were assessed or the results subsequently awarded.

Club affiliation was not an assessment criterion at any stage of the National Sports School admissions process. It carried no weighting, conferred no advantage or disadvantage, and played no role in the recording, evaluation or scoring of the candidates' fitness-test results.

The assessment of the 25-metre sprint was based exclusively on the individual time recorded for each candidate and the subsequent application of the prescribed scoring thresholds. The identity of the candidate's swimming club did not enter into that process.

Conclusion

The Board fully understands the disappointment experienced by Amy and her parents and recognises her ability as a competitive swimmer. This is not in question. The matter under consideration, however, is whether her application was assessed fairly and in accordance with the selection framework applicable to all candidates.

Having revisited the relevant documentation, the Board remains satisfied that Amy's application was assessed within that framework and that no recording, transcription, calculation or differential treatment has been identified that would warrant altering her assessment result or revisiting the admissions outcome.

However, the number of available places within each sporting discipline was determined by the National Sports School. In the case of swimming, the National Sports School allocated two places for admission. Consequently, with three eligible applicants competing for those two available places, the Admissions Board was required to select the two candidates who achieved the strongest overall results across the established selection process.

The Board will continue to cooperate fully with your investigation and remains available to provide any further documentation or clarification that your Office may require.

Kind regards,

National Sports School Admissions Board

Charlene Azzopardi

From: Vincent A Degaetano
Sent: 14 September 2026 09:05
To: Magro Josephine D at MES
Cc: CEDUC; Camilleri Byron at MES; Vella Matthew at MES; Dimech Charles at MES; Cassar Oreste 1 at OPM; reubenjm73@gmail.com; jennymuscat212@gmail.com
Subject: RE: CASE NO CEDUC-26-8161
Categories: Related to Salesforce

Dear Ms Magro,

I acknowledge receipt of your email of the 11th instant, sent after the publication of the Final Opinion.

I have carefully gone through the report prepared by someone from, or on behalf of, the National Sports School Admissions Board. The information given therein is basically a rehash, with considerable circumlocution, of what was stated by the D.G. Educational Services in her email to the complainants of the 4th August 2026. It confirms – see the part I have highlighted in green – that the three swimming candidates did not undertake the assessment simultaneously, and, once again, the report does not give a credible explanation for the separation – two together and one on her own.

For the reasons specified in paragraph 6 of my Final Opinion, nothing in the report you sent me changes one iota of what is contained in that Final Opinion.

I await the Permanent Secretary's reply to my email of the 11th for the purposes of Article 22 of the Ombudsman Act.

Yours sincerely,

Vincent A. De Gaetano
Commissioner for Education
Office of the Parliamentary Ombudsman



OMBUDSMAN

COMMISSIONER FOR EDUCATION

Tel: +356 2248 3228;

Email: vincent.a.degaetano@ombudsman.org.mt

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Charlene Azzopardi

From: Magro Josephine D at MES <josephine.d.magro@gov.mt>
Sent: 23 September 2026 11:24
To: Vincent A Degaetano
Cc: CEDUC; Camilleri Byron at MES; Vella Matthew at MES; Dimech Charles at MES; Cassar Oreste 1 at OPM
Subject: CASE NO CEDUC-26-8161

Follow Up Flag: Follow up
Flag Status: Completed

Dear Commissioner,

Good morning.

Reference is being made to your correspondence dated 14 September 2026. Please find below the Ministry's observations and comments regarding the matters raised therein.

- *"I have carefully gone through the report prepared by someone from, or on behalf of, the National Sports School Admissions Board."*

The Ministry confirms that it asked the National Sports School Admissions Board to prepare the report in view of their technical expertise.

- *"It confirms – see the part I have highlighted in green – that the three swimming candidates did not undertake the assessment simultaneously, and, once again, the report does not give a credible explanation for the separation – two together and one on her own."*

Reference is being made to point **4, The 25-metre Sprint** (3rd paragraph).

Amy completed the prescribed 25-metre swimming physical assessment during the same testing session as the other aquatic-sport candidates. For the assessment, the Board arranged all aquatic-sports candidates in groups of four, in line with the four swimming lanes booked and allocated for these tests. The Board applied this arrangement uniformly to all candidates, and no candidate swam alone. Although the candidates represented mixed aquatic disciplines, all participants were required to swim freestyle, ensuring a consistent, comparable, and fair assessment environment. The organisation of the test did not disadvantage any candidate, as the same grouping method, lane allocation, swimming style, timing process, and scoring methodology were applied equally to every participant. The Board timed and recorded each candidate's performance individually for the subsequent application of the prescribed scoring methodology.

In light of the above clarifications, the Ministry trusts that the information provided adequately address the concerns raised in your correspondence.

Yours sincerely,

Josephine

Josephine Magro
Senior Principal
Internal Audit and Compliance Unit (IACU)
Office of the Permanent Secretary



Charlene Azzopardi

From: Vincent A Degaetano
Sent: 25 September 2026 09:59
To: Magro Josephine D at MES
Cc: CEDUC; Dimech Charles at MES; Camilleri Byron at MES; Vella Matthew at MES; Cassar Oreste 1 at OPM
Subject: CEDUC-26-8161

Follow Up Flag: Follow up
Flag Status: Completed

Dear Ms Magro,

Thank you for your email of the 23rd instant and the clarification therein contained.

As I had verbally explained to Mr Dimech, the fact that A.M. had in fact been timed with other swimmers whose specialisation was not competitive swimming but some other discipline (synchronised swimming, water polo, etc) does not detract from the conclusions in paragraphs 5 and 6 of the Final Opinion of the 11th September 2026 – if anything it reinforces those conclusions. If the examiners appointed by the Admissions Board of the NSS, or the Board itself, cannot see the obvious then I can only conclude that the Ministry is rejecting this Office's recommendation in the Final Opinion aforementioned.

I shall therefore initiate the procedure outlined in subarticle (4) of Article 22 of the Ombudsman Act.

Yours sincerely,

Vincent A. De Gaetano
Commissioner for Education
Office of the Parliamentary Ombudsman



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