

REPORT WITH RESPECT TO THE APPLICATION  
FOR REVIEW WITH RESPECT TO  
INFORMATION REQUESTED BY [REDACTED] FROM THE  
DEPARTMENT OF EDUCATION

[REDACTED] filed a Request for Access to Information with the Department of Education on August 6, 1992, for the: "Deloitte Touche audit of the student assistance program in Sask." (sic).

By letter dated August 10, 1992, [REDACTED] [REDACTED] was advised that his request was refused. The reasons given were:

"The audit review you requested was an operational review and cannot be released.

Information of this nature is exempt from access according to Section 17(1)(a) and (d) of The Freedom of Information and Protection of Privacy Act."

I have conducted a review of this refusal and, in particular, I have examined the final report delivered by Messrs. Deloitte & Touche Management Consultants to the Department of Education which is entitled "Operations Review of the Saskatchewan Department of Education, Student Financial Assistance Branch" consisting of some 62 pages including cover pages which are not numbered consecutively and hence cannot be identified in that manner.

As a result of my review, I concluded that:

- a) Some portions of the Report are exempt at the discretion of the head by virtue of Sections 17(1)(a) or (d) of the Act but some portions do not fall within the specifics of these exemptions;
- b) That the Department head did not consider or attempt to sever those parts of the Report which are exempt from those which are not, as required by Section 8 of the Act which requires that the head shall provide access to as much of the record as can reasonably be severed without disclosing information to which access is refused.

Consequently, I invited the head to consider what portions, if any, should be disclosed as severable, but I was unable to reach any concurrence with the Department as to what portion, if any, of the Report should be disclosed.

The provisions of the Act relied upon by the Department are as follows:

"17(1) Subject to subsection (2) a head may refuse to give access to a record that could reasonably be expected to disclose:

- (a) advice, proposals, recommendations, analyses or policy options developed by or for a government institution or a member of the Executive Council;
- (d) plans that relate to the management of personnel or the administration of a government institution and that have not yet been implemented."

It appears to me that the portions of the Report which qualify for this discretionary exemption are those in the body of the Report entitled "Conclusions" consisting of one page,

those in the body of the Report entitled "Recommendations" consisting of a further seven pages, and that portion of the Report comprised in "Attachment 3" which, including the cover page, consists of ten pages entitled "Phase III Recommendations". These portions of the Report are easily and readily severable from the balance of the Report.

I was also provided with what is entitled an "Executive Summary" which includes one page headed "Conclusions" and an additional four pages entitled "Recommendations" which also appear to me to qualify for the exemption claimed by the Department, but which also are readily severable from the remaining portion of the document.

The balance of the Report and the Executive Summary consists of a description of the review conducted by Messrs. Deloitte & Touche and a factual report of their findings which are included in "Attachment 1" and "Attachment 2" to the Report itself, and are set out in the Executive Summary (9 pages) and in the Report (16 pages) under the headings "Objectives, Work Undertaken, Findings - System Readiness, Operational Findings Summary, Organization Findings, Policies Affecting SFAB - Operational Effectiveness & Efficiency, and Findings - Policy Issues".

These portions of the Report appear to me to be factual or descriptive in nature and, in any event, do not appear to include anything that would result in disclosure of: "advice, proposals, recommendations, analyses or policy options" or "plans that relate to the management of personnel or the administration of a government institution".

The Federal Court of Appeal in a decision dealing with The Access to Information Act of Canada has held that there is a duty upon the head or his delegate to enter into the necessary examination of the material requested in order to decide what does and what does not squarely fit within the four corners of the exemptions provided under the Act, and to enter into the severance exercise required by the relevant provisions of the Act, to determine if some portion of the material may be disclosed even though some portion may be exempt.\*

It is my recommendation that the Report including the Executive Summary be disclosed to the Applicant except only the "Conclusions" and the "Recommendations" which I have previously described, for which the head appears to be entitled to claim exemption under Section 17(a) or (d).

\* Re: Rubin and President of Canada Mortgage and Housing Corp (1989) 52 DLR (4th) 671 at p. 678 and 681

Dated at Regina, Saskatchewan this 21st day of October,  
1992.

---

Derril G. McLeod, Q.C.,  
Commissioner of Information and  
Privacy for Saskatchewan