



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 008-2025

Ministry of Education

July 14, 2025

Summary: The Applicant requested records from the Ministry of Education (Education). Education withheld portions pursuant to section 17(1)(a) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Applicant requested that the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) review Education's decision. The Commissioner found that Education properly applied section 17(1)(a) of FOIP to some but not all of the redacted information. The Commissioner recommended that Education continue to withhold or release portions of the record accordingly. Where release was recommended, Education should do so within 30 days of the issuance of this Report.

I BACKGROUND

[1] On December 17, 2024, the Ministry of Education (Education) received the Applicant's access to information request for the following:

Please provide records all briefing notes on school changeroom policy.
October 1, 2024 - Present

[2] Education provided its written section 7 decision, dated January 16, 2025, to the Applicant. Education attached a two-page briefing note as the responsive record, denying access to portions pursuant to section 17(1)(a) of *The Freedom of Information and Protection of Privacy Act* (FOIP). On the same day, the Applicant requested that the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) review Education's decision.

- [3] On February 20, 2025, OIPC sent its notice of review to the Applicant and Education. Under review is Education's reliance on section 17(1)(a) of FOIP to deny access to portions of the record.
- [4] On March 24, 2025, Education emailed OIPC the record and its index of records (index). It provided its submission to OIPC on April 17, 2024, agreeing its index and submission can be shared with the Applicant. OIPC shared these documents with the Applicant by email on April 27, 2025; the Applicant did not respond. The Applicant also did not provide a submission.

II RECORDS AT ISSUE

- [5] Education withheld portions of a two-paged briefing note pursuant to section 17(1)(a) of FOIP as follows:

Page Number	Redaction Number(s)	Status of redacted information Education withheld under section 17(1)(a) of FOIP
1	1	Advice, Recommendation, Policy Option
	2	Recommendation, Policy Option, Analysis
	3	Recommendation, Policy Option
	4	Advice, Recommendation, Policy Option
	5	Advice, Recommendation, Policy Option
	6	Advice, Recommendation, Policy Option
	7	Advice
	8	Advice
2	1	Advice, Recommendation, Policy Option
	2	Advice, Recommendation, Policy Option
	3	Advice, Recommendation, Policy Option, Analysis

III DISCUSSION OF THE ISSUES

1. Does OIPC have jurisdiction?

- [6] Education is a "government institution" pursuant to section 2(1)(d)(i) of FOIP. OIPC has jurisdiction to undertake this review.

2. Did Education properly apply section 17(1)(a) FOIP?

[7] Education is denying access to portions of the record pursuant to section 17(1)(a) of FOIP, which provides as follows:

17(1) Subject to section (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;

[8] OIPC uses the following two-part test to determine if a government institution properly applied section 17(1)(a) of FOIP:¹

1. Does the information qualify as advice, proposals, recommendations, analyses or policy options?
2. Were the advice, proposals, recommendations, analyses and/or policy options developed by or for a government institution or a member of the Executive Council?

1. Does the information qualify as advice, proposals, recommendations, analyses or policy options?

[9] Education submits that the withheld portions of the record contain advice, recommendations, policy options and analysis as follows:

Page one, redactions four to seven, and **page two, redactions one to three** of the briefing note contain information that would reveal the Ministry of Education's priorities and strategic guidance on the key issues relating to student safety and school policies. This information constitutes "advice" as defined in Chapter four of the Guide to FOIP, where advice encompasses guidance or perspectives offered to inform decision-making...

...

Recommendations and policy options outlined in **page one, redactions two to six**, and **page two, redactions one to three** of the briefing note, contain

¹ See OIPC [Review Report 232-2024](#) at paragraph [28].

recommendations and policy options that are focused on developing consistent approaches to address specific issues. Recommendations include creating a structured framework and policies to guide the ministry's future actions and exploring policy options that identify differences in current practices to help address variations that will inform future decisions and direction...

...

Page one, redaction two and page two, redaction nine of the briefing note identifies information that involves an assessment of the current state of administrative procedures to understand the justification behind policy creation, and evaluation of variations to inform forthcoming policy actions.² This information qualifies as analysis because it provides an understanding of how the issues are being addressed by stakeholders and how these should be addressed going forward, as the factors from analysis will provide further information that will help formulate recommendations and policy options as the ministry works through the process... Thus, aligning with analysis and the application of section 17(1)(a).

[10] OIPC defines advice, recommendations, policy options and analyses as follows:³

- “Advice” is guidance offered by one person to another. It can include the analysis of a situation or issue that may require action and the presentation of options for future action, but not the presentation of facts. Advice encompasses material that permits the drawing of inferences with respect to a suggested course of action, but which does not itself make a specific recommendation. It can be an implied recommendation. The “pros” and “cons” of various options also qualify as advice. It should not be given a restricted meaning. Rather, it should be interpreted to include an opinion that involves exercising judgement and skill in weighing the significance of fact. It includes expert opinion on matters of fact on which a government institution must make a decision for future action.
- A “recommendation” is a specific piece of advice about what to do, especially when given officially; it is a suggestion that someone should choose a particular thing or person that one thinks particularly good or meritorious. Recommendations relate to a suggested course of action more explicitly and pointedly than “advice”.
- “Policy options” are lists of alternative courses of action to be accepted or rejected in relation to a decision that is to be made. They would include

² While Education refers to “redaction nine” here, it confirmed with OIPC that this redaction refers to redaction 3 on page 2 as outlined in the table at the “Records at Issue” in paragraph [5] of this Report.

³ See OIPC [Review Report 144-2024](#) at paragraph [34].

matters such as the public servant's identification and consideration of alternative decisions that could be made. In other words, they constitute an evaluative analysis as opposed to objective information.

- “Analyses” (or analysis) is the detailed examination of the elements or structure of something; the process of separating something into its constituent elements.

[11] Redaction 1 (page 1) – Education claims this information contains advice recommendations and/or policy options. Based on the context of the briefing note, the information under redaction 1 would qualify as advice or something that the government needs to do. The first part of the test is met.

[12] Redaction 2 (page 1) – Education claims this information contains recommendations, policy option and/or analysis. On review, the information under redaction 2 contains a statement of what will occur, which is neither a recommendation, policy option and/or analysis. The first part of the test is **not** met.

[13] Redaction 3 (page 1) – Education claims this information contains a recommendation and/or a policy option. Based on the context of the briefing note, redaction 3 appears to contain a summary of alternate practices currently being employed by different bodies. This is neither a recommendation nor a policy option. It is not even an “exploration of a policy option” – but a simple statement of different practices. The first part of the test is **not** met.

[14] Redactions 4 to 6 (page 1) – Education claims this information is advice, recommendations and/or policy options. The information under redactions 4 and 5 relate to current activities being undertaken by Education, and the information under redaction 6 is factual.⁴ Factual information is distinct from advice, recommendations and/or policy options. These factual observations are simple statements, and they are not advice, recommendations or policy options.

⁴ In OIPC [Review Report 148-2023](#) at paragraph [48].

- [15] Again, the information under redactions 7 and 8 discuss information that is factual in nature. The factual information under redactions 7 and 8 informs the Ministry priority, but it is not advice, recommendations and/or a policy option. The first part of the test is not met.
- [16] Redaction 1 (page 2) – Education claims this information contains advice, recommendations and/or a policy option. The information under this redaction contains a question asking why Education is doing something regarding a decision already made. This is not advice, a recommendation or a policy option. The first part of the test is **not** met.
- [17] Redaction 2 (page 2) – Education claims this information contains advice, recommendation and/or a policy option. The information under this redaction contains a response to the question posed in redaction 1 and reiterates an identified need. It does not contain advice, recommendation and/or a policy option. The first part of the test is **not** met.
- [18] Redaction 3 (page 2) – Education claims this information contains advice, recommendation, policy option and/or analysis. This information under this redaction, which is also responding to the question posed in redaction 1, contains an analysis of the current situation. The first part of the test is met.
- [19] There will be a finding that Education has not properly applied section 17(1)(a) of FOIP to the information under redactions 2 to 8 (page 1) and the information under redactions 1 and 2 (page 2), and a recommendation that it release the information under these redactions to the Applicant within 30 days of the issuance of this Report.

2. Were the advice, proposals, recommendations, analyses and/or policy options developed by or for a government institution or a member of the Executive Council?

- [20] The second part of the test will now be reviewed for redaction 1 (page 1) and redaction 3 (page 2). The information under redaction 1 (page 1) and redaction 3 (page 2) are being reviewed as advice and analysis respectively. Education submits that the advice and analysis in the briefing note have been developed by Education for the minister. The

purpose is to guide the government's "decisions and actions." Education added that its "Strategic Policy and Planning branch" was engaged in the process.

[21] To be "developed by or for" means the advice and analysis must have been created within the government institution or outside it, but for a government institution and at its request.⁵

[22] Portions of the briefing note disclosed to the Applicant reveal that it was created by an Education employee. Given the context of the information in the briefing note, it is obvious the briefing note was created for Education's internal knowledge and to brief the minister, who is a member of Executive Council, on the status. The second part of the test is met.

[23] There will be a finding that Education properly applied section 17(1)(a) of FOIP to the information under redaction 1 (page 1) and redaction 3 (page 2) and a recommendation that it continue to withhold the information under these redactions pursuant to section 17(1)(a) of FOIP.

IV FINDINGS

[24] OIPC has jurisdiction to conduct this review.

[25] I find that Education properly applied section 17(1)(a) of FOIP to the information under redaction 1 (page 1) and under redaction 3 (page 2), but not to the information under its remaining redactions.

V RECOMMENDATION

[26] I recommend that Education continue to withhold the information under redaction 1 (page 1) and redaction 3 (page 2) pursuant to section 17(1)(a) of FOIP and release the information under its remaining redactions to the Applicant within 30 days of the issuance of this Report.

⁵ See OIPC [Review Report 002-2025](#) at paragraph [24].

Dated at Regina, in the Province of Saskatchewan, this 14th day of July, 2025.

Grace Hession David
Saskatchewan Information and Privacy Commissioner