



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 153-2015 PART I

University of Saskatchewan

May 24, 2016

Summary: The University of Saskatchewan identified 48 e-mail records responsive to the Applicant's request. It applied subsections 14(1)(d), 16(1)(a), 16(1)(b), 28(1), and 30(2) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) to the record. The Commissioner found that these exemptions applied to only portions of the record. He also found that the request for review was made in good faith and that the U of S did not respond within legislative timelines. At a later date, the Commissioner will release Part II to this Report dealing with solicitor-client privilege.

I BACKGROUND

[1] On April 27, 2015, the University of Saskatchewan (U of S) received the following access to information request:

All correspondence in electronic form sent or received (including those deleted from her e-mail mailbox) by [name of Dean of the University of Saskatchewan Library] (Dean of the University of Saskatchewan Library) that includes a reference to me by name (i.e.: “[full name of Applicant]”, or “[first name of Applicant]”, and/or “[last name of Applicant]”), and/or a reference to my employment history (including changes to my employment positions held by me with the University of Saskatchewan), and/or a reference to the harassment complaint filed by me” (sic) for the time period of March 1, 2014 – April 24, 2015.

[2] In a letter dated June 2, 2015, the U of S refers to correspondence it had with the Applicant and states its understanding of the clarified request. Also in that letter, the U of

S informed the Applicant that it was extending the timeline to respond to the Applicant's request by an additional 30 days to July 3, 2015.

[3] The U of S responded to the Applicant's request on July 24, 2015. It was withholding records in full or in part pursuant to subsections 14(1)(d), 16(1)(a), 16(1)(b), 21(a), 21(b), 21(c), 28(1), and 30(2) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

[4] On July 30, 2015, the Applicant requested a review by my office of the delay in response by the U of S and the application of the exemptions. On August 14, 2015, my office notified the Applicant and the U of S of our intention to undertake the review.

II RECORDS AT ISSUE

[5] This is Part I of a report which deals with the portion of the record which is not impacted by a claim of solicitor-client privilege. The portion of the record affected by solicitor-client privilege will be dealt with in Part II of this report.

[6] The record at issue in Part I of this report contains 48 email chains which totals 99 pages. The U of S has indicated it will release the first six records to the Applicant. The rest is withheld in full or in part pursuant to subsections 14(1)(d), 16(1)(a), 16(1)(b), 28(1), and 30(2) of LA FOIP. Additionally, there are 63 pages of attachments to those e-mails. The U of S indicated that the Applicant has access to some of these attachments and are not part of this review. It indicated that it was relying on the same exemptions to withhold the attachments.

III DISCUSSION OF THE ISSUES

1. Was the Applicant's request for review made in good faith?

[7] In its submission, the U of S requested that the Commissioner dismiss the request for review pursuant to subsection 39(2) of LA FOIP, arguing that the Applicant's request for

review is not made in good faith. The U of S provided arguments for this request in its submission. I requested a submission on subsection 39(2) of LA FOIP from the Applicant.

[8] My office considers the following factors in the application of subsection 39(2) of LA FOIP:

- *Number of requests*: is the number excessive? Do they obstruct or hinder the range of effectiveness of the public body's activities?
- *Scope and Nature of the requests*: are they excessively broad and varied in scope or unusually detailed? Are they identical to or similar to previous requests?
- *Purpose of the requests*: are the requests intended to accomplish some objective other than to gain access? For example, are they made for "nuisance" value, or is the applicant's aim to harass the public body or to break or burden the system?
- *Timing of the requests*: is the timing of the requests connected to the occurrence of some other related event, such as a court or tribunal proceeding?
- *Wording of the requests*: are the requests or subsequent communications in their nature offensive, vulgar, derogatory or contain unfounded allegations?

[9] Below is my analysis on each factor.

Number of requests

[10] Based on materials provided to me, the Applicant has only submitted one access to information request to the U of S. Therefore, I find that the number of access to information requests submitted by the Applicant to be reasonable.

Nature and Scope of Requests

[11] When considering whether requests are frivolous, vexatious or not in good faith it is important to consider the nature and scope of the requests. In other words, what the Applicant is requesting. A review of the requests may indicate a theme, pattern or type of conduct that indicates that access to records is not the intent of the Applicant. In many

cases, ascertaining the Applicant's purpose requires the drawing of inferences from behavior as Applicants seldom admit to a purpose other than access.

[12] In its submission, the U of S argues that the specificity of the access to information request exhibits an ulterior motive. It argued that the Applicant is attempting to acquire sensitive information relating to any of his many litigious matters against the University. It suggests that the Applicant is hoping the U of S will accidentally disclose privileged information, that the access to information request process can circumvent the legal protections available to the University or that the access to information request is a fishing expedition for additional opportunities to advance further litigation.

[13] In his submission, the Applicant argues that he has cooperated and collaborated with the U of S to keep his access to information request focused. The Applicant asserts he specified a relevant time frame for his request so he can see if his personal information was disclosed to third parties. He also said he worked with the U of S Privacy Officer to narrow his request. Based on a letter dated June 2, 2015 from the U of S to the Applicant, I see that the Applicant agreed to having his initial access to information request narrowed, which is evidence that he cooperated and collaborated with the U of S to keep his access to information request focused.

[14] Also, the Applicant asserts that the scope of the review request is determine why statutory time frames was not met by the U of S, whether the U of S applied exemptions appropriately, and whether the redacted portions of the records were appropriately redacted.

[15] I find that by narrowing his initial access to information request, the Applicant's behaviour suggests he is acting in good faith. Further, I find that the concerns raised by the Applicant are typical issues that my office normally addresses in reviews. I do not find there is a pattern or type of conduct that exists that amounts to an abuse of the right of access.

Purpose of the Request

- [16] Access to information legislation exists to ensure government accountability and to facilitate democracy. Therefore, where an Applicant's motivation is fact finding or to obtain proof of wrong-doing these purposes cannot be considered unreasonable or illegitimate. Applicants may seek information to assist them in a dispute with a public body, or to publicize what they consider to be inappropriate or problematic decisions or processes undertaken by public bodies. On the contrary, if the Applicant is rolling forward grounds and issues into subsequent actions for the purpose of harassment, nuisance or to raise an issue already determined than the motivation may not be reasonable.
- [17] The U of S asserts that the Applicant has been unwilling to articulate the nature of his concerns or the motivation for his request for review by my office. It speculates, that due to the context in which the Applicant submitted his request, the Applicant may be hoping that the U of S will accidentally disclose privileged information, that this process can circumvent the legal protections otherwise available to the U of S, or that the access to information request is a fishing expedition for additional opportunities to advance further litigation.
- [18] The Applicant advised my office that, in the midst of a job interview, he learned that the Dean of the U of S Library had shared his personal information through an email with a third party. He asserts that he has evidence to support his allegations. He says the records he received from the U of S this far do not include the documents he believes exists and asserts that the U of S is deliberately withholding responsive record which he feels ought to have been disclosed. Part of the reason for the Applicant's request is to ensure the U of S is complying with its obligations under LA FOIP, and to obtain "documents or communications containing personal information, including those that involved the sharing of personal information with third parties without his knowledge or consent". He feels that his new job interview could depend upon having knowledge of those "documents or communications".

[19] While verification of the Applicant's accusations is not part of the scope of this review, I find that the purpose of the Applicant's access to information request to be an acceptable purpose. He is in a dispute with the U of S and he is seeking information to assist him. The Applicant's right of access under LA FOIP is subject to limited and specific exemptions. These exemptions, gives the U of S the ability to rightfully withhold records. Therefore, I find that there is sufficient protection within LA FOIP to protect against the U of S's speculations that the Applicant may be trying to obtain privileged information or to circumvent legal protections that are available to the U of S.

[20] Regarding the U of S's speculation that the Applicant may be fishing to advance further litigation, I would argue that individuals should be using LA FOIP to request access to information that can hold public bodies accountable for its actions.

[21] I find that the Applicant's purpose for his request is acceptable.

Timing of the requests

[22] When considering the timing of the Applicant's access to information request and the request for review, I have to determine if the purpose of these requests is for a purpose other than to access records in the possession or control of the public body. The timing of the request could potentially suggest that the Applicant is attempting to achieve a purpose separate from accessing records.

[23] In its submission, the U of S advised that the Applicant has done the following:

- Threatened a civil lawsuit for his removal from the position of Associate Dean;
- Filed a harassment complaint pursuant to the Occupational Health and Safety provisions of *The Saskatchewan Employment Act* (the "OH&S Complaint"), which has resulted in an investigation;
- Grieved a subsequent change in his employment duties within the library; and
- Filed a complaint that the University retaliated against him for the OH&S Complaint.

[24] The U of S requested that the Commissioner exercise the authority to dismiss the request for a review, “and allow the normal course of exchanging documents to take place in due course, and pursuant to the many legal regimes he has already engaged.”

[25] The existence of other processes where the Applicant may be able to obtain the records he is seeking does not replace the Applicant’s right to request access to records in the possession or control of a public body. Subsection 4(a) of LA FOIP provides as follows:

4 This Act:

(a) complements and does not replace existing procedures for access to information or records in the possession or under the control of a local authority;

[26] Subsection 4(a) of LA FOIP does not replace existing procedures for access to information or records in the possession or under the control of a local authority. Similarly, other existing procedures do not replace an individual’s right to access records in the possession or control of a local authority under LA FOIP.

[27] I find that the timing of the Applicant’s request for review does not suggest that the Applicant’s request is not in good faith.

Wording of the request

[28] Offensive or intimidating conduct or comments, the use of derogatory or vulgar language, or the making of unfounded accusations against a public body’s staff, has been held to constitute an abuse of process in many court and tribunal cases across the country. In such cases, the persons using such language have been denied the exercise of what would otherwise be their rights, or have been denied remedies. In some cases, the decision-maker has required undertakings that the person conduct themselves appropriately, or has awarded costs against them (Alberta IPC Order F2015-16).

[29] Based on materials provided to my office, I find that the wording of the Applicant’s access to information request or any other subsequent communications with the U of S in regards to access to information requests to be appropriate. I do not find that the wording

of the Applicant's access to information request to suggest that the Applicant's request for review by my office not to be in good faith.

[30] Overall, I find that the Applicant's request for review is made in good faith. I will proceed with the rest of the issues in this review.

2. Did the U of S respond to the Applicant's access to information request within the legislated time frame?

[31] Subsection 7(2) of LA FOIP requires government institutions to respond to access to information requests within 30 days after the request is made. Subsection 7(2) of LA FOIP provides:

7(2) The head shall give written notice to the applicant within 30 days after the application is made:...

[32] Subsection 12(1) of LA FOIP enables local authorities to extend the 30 days for a reasonable period not exceeding 30 days. Below is a timeline of the processing of the Applicant's request.

- The U of S received the Applicant's access to information request on April 27, 2015.
- The U of S received the Applicant's application fee on May 4, 2015.
- Through e-mail correspondence between May 19, 2015 and May 21, 2015, the U of S and the Applicant narrowed the scope of the request. The U of S confirms such correspondence in a letter dated June 2, 2015.
- Also, in the June 2, 2015 letter, the U of S extends the time period for it to respond to the Applicant's access to request by an additional 30 days.
- The U of S sent a fee estimate letter dated July 7, 2015 to the Applicant. According to the U of S's letter dated July 13, 2015, the July 7, 2015 letter should have been dated July 6, 2015.
- The U of S received the Applicant's 50% deposit on July 6, 2015.
- The U of S responds to the Applicant's request on July 24, 2015.

[33] From the time the U of S received the Applicant's application fee to the time the U of S responded to the Applicant's request, 80 days had elapsed. 80 days exceeds the length of time allowed by LA FOIP for a local authority to respond to an access to information request.

[34] The U of S acknowledges that it exceeded the length of time allowed by LA FOIP to respond. It cited the large number of records responsive to the Applicant's request, and that the "multi-faceted nature of litigation" with the Applicant required the U of S to review records with greater diligence lest it accidentally waive privilege or compromise its legal protections in those other actions. However, the U of S asserts it did not leave the Applicant in a vacuum and kept him updated on the progress as it processed the request.

[35] I acknowledge the context in which the U of S processed the Applicant's request may have protracted the U of S's normal processing of access to information requests. I also commend its efforts to keep the Applicant updated on the progress of the processing of the Applicant's request.

[36] However, I still find that the U of S did not respond to the Applicant's request within the legislated timelines. I recommend that the U of S review its processes so that it can respond to access to information requests within the legislated timelines, and make the necessary changes to improve its response times. Some areas in which the U of S can improve its response times is issuing a fee estimate and narrowing the scope of the request earlier in the processing of the access to information request.

3. Did the U of S properly apply subsection 16(1)(a) of LA FOIP?

[37] The U of S applied subsection 16(1)(a) of LA FOIP to the majority of the e-mails and all of the attachments. Subsection 16(1)(a) of LA FOIP provides:

16(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 the local authority;

[38] Subsection 16(1)(a) is meant to allow for candor during the policy-making process, rather than providing for the non-disclosure of all forms of advice. The three part test that must be met in order for subsection 16(1)(a) of LA FOIP to apply is as follows:

1. Does the information qualify as advice, proposals, recommendations, analyses or policy options?
2. The advice, recommendations, proposals, analyses and/or policy options must:
 - i. be either sought, expected, or be part of the responsibility of the person who prepared the record; and
 - ii. be prepared for the purpose of doing something, for example, taking an action or making a decision; and
 - iii. involve or be intended for someone who can take or implement the action.
3. Was the advice, recommendations, analyses and/or policy options developed by or for the public body?

[39] The U of S has indicated that the portions of the e-mails to which it has applied this exemption contain advice and recommendations. In this context, advice includes 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 has a broader meaning than recommendations. Recommendations relate to a suggested course of action as well as the rationale for a suggested course of action. Recommendations are generally more explicit and pointed than advice.

[40] In its submission, the U of S asserts that the records it has withheld pursuant to subsection 16(1)(a) of LA FOIP contains advice that is sought, and received, relative to the Applicant. It says that the records include advice and/or recommendations regarding how to manage an increasingly complex employment relationship with the Applicant.

[41] Upon review, I find that subsection 16(1)(a) of LA FOIP applies to some but not all the records upon which the U of S applied the exemption.

[42] An example of where I find that subsection 16(1)(a) of LA FOIP applies is email 29. It features four emails in the chain. Two of the emails contain a recommendation. Upon review of the record, the two other parts of the three part test is also met. I find that subsection 16(1)(a) of LA FOIP applies to e-mail 29.

[43] An example of where I find that subsection 16(1)(a) of LA FOIP does not apply is email 8. The email states that the attachment contains the author’s recommendation. However, the text within the email itself is neither advice nor recommendations. Therefore, the first part the test for subsection 16(1)(a) of LA FOIP is not met so I find that subsection 16(1)(a) of LA FOIP is not applicable.

[44] The U of S applied subsection 16(1)(a) of LA FOIP to all of the e-mail attachments in question. Upon review, most of the attachments qualify as background information or reference material. The only exception is the memorandum that is attached to e-mail #8. The paragraphs under the headings “Recommendation” and “Next steps and timetable” qualify as advice. The memorandum is from a Dean to the University Provost. The other two tests have been satisfied. The text under these headings qualify for exemption pursuant to subsection 16(1)(a) of LA FOIP.

[45] I find that subsection 16(1)(a) of LA FOIP applies to only certain records as listed in Appendix A.

4. Did the U of S properly apply subsection 16(1)(b) of LA FOIP?

[46] The U of S applied subsection 16(1)(b) of LA FOIP to a majority of the e-mails and all of the attachments. Subsection 16(1)(b) of LA FOIP provides:

16(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

...

(b) consultations or deliberations involving officers or employees of the local authority;

[47] Subsection 16(1)(b) of LA FOIP is meant to permit local authorities to consider options and act without constant public scrutiny. A consultation occurs when the views of one or

more officers or employees of the public body are sought as to the appropriateness of a particular proposal or suggested action. A deliberation is a discussion or consideration, by the persons described in the section, of the reasons for and against an action. It refers to discussions conducted with a view towards making a decision.

[48] In order to qualify, the opinions solicited during a consultation or deliberation must:

1. be either sought, expected, or be part of the responsibility of the person who prepared the record; and
2. be prepared for the purpose of doing something, such as taking an action, making a decision or a choice.

[49] In its submission, the U of S asserts that there is considerable overlap between subsections 16(1)(a) and (b) of LA FOIP. It said a consultation will often include recommendations, advice, and deliberations and it said that the records at issue in this review exhibit such an overlap. Therefore, it was relying on reasons it had already expressed earlier in its submission for withholding records under subsection 16(1)(b).

[50] The U of S's argument for subsection 16(1)(a) is that the records contain advice that is sought, and received, relative to the Applicant. If I translate that argument for subsection 16(1)(b), presumably, the U of S is arguing that the records contain consultations or deliberations that are sought, and received, relative to the Applicant.

[51] When I review the records, I find that not all the records withheld under subsection 16(1)(b) of LA FOIP contains consultations or deliberations.

[52] An example of where I find subsection 16(1)(b) of LA FOIP applies is email 7. It features two emails in the chain. The author of the first email seeks feedback regarding a particular situation, and the second email contains the feedback.

[53] An example of where I find subsection 16(1)(b) of LA FOIP does not apply is email 48 which is a description of a situation. A description does not qualify as a consultation or deliberation as defined above.

[54] I find that subsection 16(1)(b) of LA FOIP applies to only certain records as listed in Appendix A.

5. Did the U of S properly apply subsection 14(1)(d) of LA FOIP?

[55] Subsection 14(1)(d) of LA FOIP provides as follows:

14(1) A head may refuse to give access to a record, the release of which could:

...

(d) be injurious to the local authority in the conduct of existing or anticipated legal proceedings;

[56] The U of S applied subsection 14(1)(d) of LA FOIP to certain emails and all of the attachments. The test for subsection 14(1)(d) of LA FOIP is as follows:

1. Do the proceedings qualify as legal proceedings for the purposes of LA FOIP?
2. Could disclosure of the withheld records be injurious to the public body in the conduct of existing or anticipated legal proceedings?

[57] For the first part of the test, the U of S listed the following as examples of legal proceedings:

- The Applicant threatened a civil lawsuit for his removal from the position of Associate Dean;
- The Applicant filed a harassment complaint pursuant to the Occupational Health and Safety provision of *The Saskatchewan Employment Act* (the "OH&S complaint), which has resulted in an investigation;
- The Applicant has grieved a subsequent change in his employment duties within the library;
- The Applicant filed a complaint that the University retaliated against him for the OH&S Complaint;
- The University responding to a research misconduct complaint against the Applicant;
- Potential legal action against the Applicant for surreptitious recordings of individuals;
- Potential dismissal proceedings against the Applicant pursuant to the collective bargaining agreement in place between the union and the University.

[58] For the purposes of this exemption, legal proceedings are proceedings governed by rules of court or rules of judicial or quasi-judicial tribunals that can result in a judgment of a

court or a ruling by a tribunal. Legal proceedings include all proceedings authorized or sanctioned by law, and brought or instituted in a court or legal tribunal, for the acquiring of a right or the enforcement of a remedy.

[59] With the exception of the harassment complaint, the U of S has not provided enough detail about the other matters for us to determine whether they would qualify as a “legal proceeding” for the purpose of this exemption. The proceedings dealing with the harassment complaint would qualify as “legal proceedings” pursuant to Parts III and IV of *The Saskatchewan Employment Act*.

[60] With respect to the second part of the test, the U of S must describe how disclosure of the records in question could be injurious to the conduct of the harassment complaint.

[61] My office has stated that the injury should be above and beyond any prejudice that relates to the production of a relevant, non-privileged document in the usual course of a lawsuit. Discovery and disclosure provisions of the *Rules of the Court of Queen’s Bench of Saskatchewan* operate independent of any process under LA FOIP. Section 4(c) of LA FOIP establishes that the Act does not limit access to information otherwise available by law to parties to litigation. Section 4 also establishes that the LA FOIP complements and does not replace existing procedures for access to records.

[62] Acknowledging this view, the U of S’s submission stated that “at the same time, [LA FOIP] must not be abused as a means of bypassing protections available to parties in those other regimes.” As discussed earlier in this Report, I have found that the Applicant is not abusing his access rights under LA FOIP in this case.

[63] The U of S also states that “The University withholds documents pursuant to legal privilege in the other legal forums the Applicant has engaged. Separate and apart from solicitor-client privilege... the University asserts labour relations privilege over those documents withheld pursuant to section 14(1)(d) of the Act.”

[64] I have previously stated in a report that if there were concerns or objections to the admissibility of any records in legal proceedings, such concerns could be argued before that tribunal. If a record is prejudicial to a public body’s position it would have the usual

opportunity to make a submission to the tribunal who will then make a determination as it determines appropriate.

[65] The U of S also stated that “While a tribunal or court may safeguard against admitting inappropriate evidence, the damage associated with disclosing privileged documents is experienced as soon as it is received by the opposing party. Not only does an opposing party gain unfair insight into the decision making process of an adverse party, the disclosing party loses faith in their own ability to engage necessary and candid advice. Section 14(1)(d) represents a legislative choice to avoid compromising such protections.”

[66] I have already dealt with the records that contain advice, consultations and deliberations under subsections 16(1)(a) and 16(1)(b) of LA FOIP.

[67] I find that the U of S has not demonstrated that subsection 14(1)(d) of LA FOIP applies to any portion of the record.

6. Did the U of S properly apply subsection 28(1) of LA FOIP?

[68] Subsection 28(1) of LA FOIP provides:

28(1) No local authority shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of the individual to whom the information relates except in accordance with this section or section 29.

[69] In order for subsection 28(1) to apply, the information severed in the record must first be found to qualify as “personal information” pursuant to subsection 23(1) of LA FOIP. Subsection 23(1) of LA FOIP defines personal information as:

23(1) Subject to subsections (1.1) and (2), “personal information” means personal information about an identifiable individual that is recorded in any form, and includes:

...

(b) information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;

...

(k) the name of the individual where:

- (i) it appears with other personal information that relates to the individual; or
- (ii) the disclosure of the name itself would reveal personal information about the individual.

[70] In its submission, the U of S asserts that some portions of the e-mails include individuals (other than the Applicant) leaves of absences, performance reviews, personal appointments and personal events. When I reviewed the records, I agree with the U of S for all of what it has applied, except in e-mail 34. In e-mail 34, the first name of an individual is redacted. On the face of the record, I cannot determine if revealing the first name itself would reveal personal information about the individual. Subsection 23(1)(k)(ii) defines personal information as the name of the individual where the name appears with other personal information that relates to the individual or if the disclosure of the name itself would reveal personal information about the individual.

[71] Section 8 of FOIP states:

8 Where a record contains information to which an applicant is refused access, the head shall give access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused access.

[72] Where possible, the U of S should sever personal information from the record and release further information to the Applicant.

[73] I also find that the attachment to e-mail 38 that is the curriculum vitae of one of the Applicant's references. This represents the personal information of the reference pursuant to subsection 23(1)(b) of LA FOIP.

[74] I find certain portions of the record qualify as personal information as described in Appendix A. The U of S should sever the personal information before releasing the remainder of the record to the Applicant.

7. Did the U of S properly apply subsection 30(2) of LA FOIP?

[75] The U of S applied subsection 30(2) of LA FOIP to e-mails 7, 33, and 35 and all of the attachments. Subsection 30(2) of LA FOIP provides as follows:

30(2) A head may refuse to disclose to an individual personal information that is evaluative or opinion material compiled solely for the purpose of determining the individual's suitability, eligibility or qualifications for employment or for the awarding of contracts and other benefits by the local authority, where the information is provided explicitly or implicitly in confidence.

[76] The following criteria must be met in order to qualify for the above exemption:

1. The information must be personal information that is evaluative or opinion material.
2. The personal information must be compiled solely for the purpose of determining the individual's suitability, eligibility or qualifications for employment or for the awarding of contracts and other benefits by the public body.
3. The personal information must have been provided explicitly or implicitly in confidence.

[77] I find that the contents of e-mail 7 meet the above three-part criteria and qualify for exemption under subsection 30(2) of LA FOIP.

[78] However, I find that the content of e-mails 33 and 35 does not meet the above three-part criteria. On the face of the record, the contents is not evaluative or opinion material. It is a summary of a discussion. Further, the U of S has not provided enough information to demonstrate that the material in the attachments was provided implicitly or explicitly in confidence.

IV FINDINGS

[79] I find that the Applicant's request for review is made in good faith.

[80] I find that the U of S did not respond to the Applicant's access to information request within the legislated timelines of LA FOIP.

[81] I find that the U of S properly applied subsection 16(1)(a), 16(1)(b), 28(1) and 30(2) of LA FOIP to only some of the records as described in Appendix A.

V RECOMMENDATIONS

[82] I recommend that the U of S review its processes so that it can respond to access to information requests within the legislated timelines, and make the necessary changes to improve its response times.

[83] I recommend that the U of S release the records noted in Appendix A to the Applicant.

Dated at Regina, in the Province of Saskatchewan, this 24th day of May, 2016.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy
Commissioner

Appendix A

Record	Does the exemption apply?				Release or withhold
	16(1)(a)	16(1)(b)	28(1)	30(2)	
4			Yes		Withhold – in part
6			Yes		Withhold – in part
7		Yes		Yes	Withhold
8	No	No			Release
	Attachment: Memo to Provost “Recommendation re: [Applicant]” (2 pages)				
	Yes – text under the headings “Recommendation” And “Next steps and timetable”	No	No	No	Withhold – in part
9	No	No			Release
10		Yes			Withhold
	Attachment: Timeline of events (5 pages)				
	No	No	No	No	Release
11		No			Release
12	Yes – to the second last paragraph of the email dated November 14, 2014, 9:11 am.	No			Withhold – in part
13					Release
14			Yes		Withhold severed personal information
15	Yes – only to emails dated December 5, 2014 (1:28:19) and December 5, 2014 (12:41pm)	Yes – only to emails dated December 5, 2014 (1:28:19) and December 5, 2014 (12:41pm) only, not all emails			Withhold – in part
	Attachment: Authority to assign duties (1 page)				
	No	No	No	No	Release
16			Yes		Withhold severed

Record	Does the exemption apply?				Release or withhold
	16(1)(a)	16(1)(b)	28(1)	30(2)	
					personal information
17		No			Release
18	No	No			Release
19	Yes	Yes			Withhold
20			Yes		Withhold severed personal information
21	No	No			Release
22			Yes		Withhold severed personal information
23	No	Yes			Withhold
24					Release
25	No				Release
26		No			Release
Attachment: Letter from Director of Human Resources to two Associate Deans advising of complaint and change of duties (1 page)					
	No	No	No	No	Release
27			Yes		Withhold severed personal information
28	No	No			Release
29	Yes – only emails dated January 28, 2015 (8:17pm) and January 28, 2015 (2:52pm)	No			Withhold – in part
30	Yes – only to emails dated January 28, 2015 (8:18pm) and January 28, 2015 (2:52pm)	No			Withhold – in part
31	No				Release
32	No	No			Release
33	No	No		No	Release
34			No		Release
35	No	No		No	Release
36	No	No			Release
37					Release

Record	Does the exemption apply?				Release or withhold
	16(1)(a)	16(1)(b)	28(1)	30(2)	
38	No	No			Release
	Attachment: Reference letter (3 pages)				
	No	No	No	No	Release
	Attachment: Curriculum Vitae of Reference (4 pages)				
	No	No	Yes	No	Withhold
	Attachment: Reference letter (1 page)				
	No	No	No	No	Release
	Attachment: Reference e-mail (2 pages)				
	No	No	No	No	Release
	Attachment: Timeline of Applicant's hiring process (8 pages)				
	No	No	No	No	Release
39	No	No			Release
	Attachment: Timeline of Applicant's hiring process (6 pages)				
	No	No	No	No	Release
40			Yes		Withhold severed personal information
41			Yes		Withhold severed personal information
42			Yes		Withhold severed personal information
43	No	No			Release
44	No	No			Release
45			Yes		Withhold
46			Yes		Withhold
47					Release
48	No	No			Release