Policies and procedures make it clear that these processes protect student privacy

Evidence	Pages
FERPA ▪ UVU Policy 542, FERPA (Student Records Privacy) ▪ FERPA Annual Notice to Students ▪ FERPA Webpage on UVU Website	 2-9 10-11 12
General Data Protection Regulation Privacy Notice	13
UVU Policy Manual ▪ UVU Policy 446, Privacy and Disclosure	14-20
UVU Privacy Statement	21
USHE Policy (R345, Information Technology Resource Security)	22-28
Utah Code (63G-2, Government Records Access and Management Act)	29-90

UTAH VALLEY UNIVERSITY
Policies and Procedures

POLICY TITLE	FERPA (Student Records Privacy)	Policy Number	542
Section	Student Affairs	Approval Date	March 27, 2019
Subsection	Student Rights	Effective Date	March 27, 2019
Responsible Office	Office of the Vice President of Student Affairs		

1.0 PURPOSE

1.1 The *Family Educational Rights and Privacy Act of 1974 (FERPA),* as amended, sets forth requirements regarding the privacy of student records. In accordance with FERPA, Utah Valley University is committed to protecting the privacy of students while providing access to student information when required to fill the University's educational mission.

2.0 REFERENCES

2.1 *Federal Education and Privacy Act (FERPA)*, 20 U.S.C. § 1232g (1974) (as amended by Pub. L. No. 107-56, 115 stat. 272)

2.2 *Internal Revenue Code of 1986*, 26 U.S.C. § 152 (1954)

2.3 *Family Education Rights and Privacy*, 34 C.F.R. § 99 (1988)

3.0 DEFINITIONS

3.1 Education records: Records directly related to a student and maintained by the University or by a person acting for the University. These records include but are not limited to grades, transcripts, class lists, student course schedules, student financial information, and student discipline files. The information may be recorded in any way, including but not limited to handwriting, print, computer media, videotape, audiotape, film, microfilm, microfiche, and email. Education records exclude:

3.1.1 Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

3.1.2 Records created and maintained by University Police for a law enforcement purpose;

3.1.3 Records relating to university employees who may be students unless the position requires that the employee be a student in attendance at the institution;

3.1.4 Records made, maintained, or used only in the connection with the treatment of an eligible student that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity, and are disclosed only to the individuals providing treatment;

3.1.5 Records created or received by the University after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student (i.e., alumni records); and

3.1.6 Grades on peer-graded papers before they are collected and recorded by faculty.

3.2 Eligible student: A student who has reached 18 years of age or (who at any age) is attending an institution of postsecondary education.

3.3 Financial aid: For the purposes of this policy, a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an educational agency or institution.

3.4 Legitimate educational interest: The need for a school official to review student education records for the purpose of performing an appropriate educational, research, or administrative function for the University.

3.5 School officials: Members of the University who act in the student's educational interest within the limitations of the scope of their employment. Members may include faculty, administration, clerical, and professional employees and others who manage student education records information, including student employees. Members may also include contractors, volunteers, and others performing institutional functions under the conditions described in section 4.4 of this policy.

4.0 POLICY

4.1 Scope of this Policy

4.1.1 This policy applies to school officials and volunteers who access students' educational records as part of their duties to support the University's educational mission. It also applies to eligible students who wish to determine how their directory information is used and who wish to view and/or request amendments to their records.

4.1.2 Utah Valley University shall adhere to FERPA and is committed to protecting the privacy of students while providing access to student information when required to fulfill the University's educational mission. The University, therefore, will not disclose personally identifiable information from education records without the student's consent, subject to the

exceptions described in section 4.4 of this policy. Currently enrolled students are notified annually of these rights.

4.2 Students' Rights to Education Records

4.2.1 All eligible students have the right to inspect and review their own educational records. An eligible student may not receive an official copy of their academic transcripts when certain holds exist on the student's record. Regardless of hold status, eligible students may receive an unofficial copy of their academic transcript, and/or inspect an official copy of their academic transcript.

4.2.2 An eligible student is not permitted to inspect the following records:

4.2.2.1 Financial records, including any information those records contain of the student's parents;

4.2.2.2 Confidential letters and statements of recommendation that were placed in the student's education records before January 1, 1975, if they are used only for the purposes for which they were intended;

4.2.2.3 Confidential letters and statements of recommendation concerning admission to an educational institution, an application for employment, or receipt of an honor that were placed in the student's education records after January 1, 1975, where the student has waived in writing the right to inspect those letters and statements.

4.2.3 If the student's education records contain information about another student, each student may inspect only the information that directly relates to them.

4.2.4 An eligible student has the right to request amendments to their educational records that the eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

4.2.5 An eligible student has the right to stipulate written consent before the University discloses personally identifiable information from the student's education records, except to the extent that FERPA authorizes disclosure without consent. The types of disclosures permitted without student consent are described in section 4.4 of this policy.

4.2.6 An eligible student has the right to file a written complaint with the U.S. Department of Education Family Policy Compliance Office regarding an alleged violation under FERPA.

4.3 Parents' Rights to Education Records

4.3.1 Parents or guardians may have access to an eligible student's educational records with the written consent of the eligible student or upon establishing student dependency as defined by

Internal Revenue Code of 1986, Section 152. Parents and guardians must provide the University a copy of their filed *Federal Income Tax Form* from the most recently completed calendar tax year.

4.4 Disclosures Permitted without Student Consent

4.4.1 The University may, but is not required to, disclose personally identifiable information from a student's education records without prior written consent in the following situations, after using reasonable methods to identify and authenticate the identity of the parties to whom it discloses such information:

4.4.1.1 The disclosure is to other school officials, including teachers, within the University whom the University has determined to have legitimate educational interests.

4.4.1.2 The disclosure is to a contractor, consultant, volunteer, or another party to whom the University has outsourced institutional services or functions, provided that the party

- Is considered a school official by the University and has a legitimate educational interest;
- Performs an institutional service or function for which the University would otherwise use employees;
- Does not disclose the information to any other party without the prior consent of the eligible student; and
- Uses the information for the purposes only for which the disclosure was made.

4.4.1.3 Subject to the requirements of 34 C.F.R. 99.34, the disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer.

4.4.1.4 Subject to the requirements of 34 C.F.R. 99.35, the disclosure is to authorized representatives of

- The Comptroller General of the United States;
- The Attorney General of the United States;
- The Secretary of the U.S. Department of Education or an official or employee of the Department of Education acting for the Secretary under a delegation of authority; or
- State and local educational authorities.

4.4.1.5 The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to

- Determine eligibility, amount, and/or conditions for the financial aid; or

- Enforce the terms and conditions of aid.

4.4.1.6 The disclosure is to state and local officials or authorities to whom this information is specifically

- Allowed to be reported or disclosed pursuant to state statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released; or

- Allowed to be reported or disclosed pursuant to state statute adopted after November 19, 1974, subject to the requirements of 34 C.F.R. 99.38.

4.4.1.7 The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to: (1) develop, validate, or administer predictive tests; (2) administer student aid programs; or (3) improve instruction.

4.4.1.7.1 The University may disclose personally identifiable information under this section, only if

- The study is conducted in a manner that does not permit personal identification of parents and/or students by individuals other than representatives of the organization that have legitimate interests in the information;

- The information is permanently destroyed when no longer needed for the purposes for which the study was conducted; and

- The University enters into a written agreement with the organization that (a) specifies the purpose, scope, and duration of the study or studies and the information to be disclosed; (b) requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement; (c) requires the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests; and (d) requires the organization to destroy permanently all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed. The University is not required to initiate a study or agree with or endorse the conclusions or results of the study.

4.4.1.8 The disclosure is to accrediting organizations to carry out their accrediting functions.

4.4.1.9 The disclosure is to comply with a judicial order or lawfully issued subpoena for records. These requests shall be directed to the Office of General Counsel. The University shall make a reasonable effort to notify the student prior to release of information in response to the subpoenas or judicial orders, unless the subpoena or court order specifies that the student is not to be notified.

4.4.1.10 The disclosure is in connection with a health or safety emergency and knowledge of the student's information is necessary to protect the health or safety of the student or other individuals. When determining whether a health or safety emergency exists, the University may consider the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the University determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

4.4.1.11 Subject to the requirements in 34 C.F.R. 99.39, the disclosure is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the University with respect to that alleged crime or offense. The University may disclose the final results of the disciplinary proceeding, whether or not the University concluded a violation was committed.

4.4.1.12 Subject to the requirements in 34 C.F.R.99.39, the disclosure is in connection with a disciplinary proceeding at the University. The University must not disclose the final results of the disciplinary proceeding unless it determines that (1) the student is an alleged perpetrator of a crime of violence or non-forcible sex offense and (2) with respect to the allegation made against them, the student has committed a violation of the institution's rules or policies. The University may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student. This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

4.4.1.13 The disclosure is to a parent of a student at the University regarding the student's violation of any federal, state, or local law, or of any rule or policy of the University, governing the use or possession of alcohol or a controlled substance if (1) the institution determines that the student has committed a disciplinary violation with respect to that use or possession and (2) the student is under the age of 21 at the time of the disclosure to the parent. This section does not supersede any provision of state law that prohibits the University from disclosing information.

4.4.1.14 The disclosure concerns sex offenders and other individuals required to register under section 170101 of the *Violent Crime Control and Law Enforcement Act of 1994*, 42 U.S.C. 14071, and the information was provided to the University under that statute and applicable federal guidelines.

4.4.1.15 The disclosure is information the University has designated as "directory information." Directory information at the University is defined as follows:

- Name
- Student identification number
- Telephone number(s)
- University student email address
- Photographs
- Participation in officially recognized activities and sports
- Weight and height of members of athletic teams
- Hometown city and state
- Verification of current enrollment
- Dates of enrollment
- Degrees conferred, dates, major or field of concentration, and honors received.

4.5 No student's Social Security number shall be disclosed to individuals or agencies outside the University except in accordance with this policy.

4.6 Any university employee who violates this policy may be subject to disciplinary action, up to and including termination.

5.0 PROCEDURES

5.1 Students' Inspection Rights

5.1.1 An eligible student who wishes to inspect their student records should submit to the Registrar's Office a written request that identifies the record(s) the eligible student wishes to inspect. The Registrar's Office will review the request and forward as necessary if the records are kept by another office. The office where the records are held will make arrangements with the student for access and inspection. The office providing the copies may charge a reasonable fee to cover copying costs, but will not charge a fee to search for or retrieve the requested records. The office that houses the records may deny a request for a copy of education records if the copies and records are so voluminous that copying them would be unreasonably burdensome.

5.2 Student's Amendment Rights

5.2.1 An eligible student who wishes to request an amendment should retrieve and complete the appropriate form by contacting the University Registrar's Office. If the University decides not to amend the record as requested, the student will be notified in writing of the decision and of the student's right to a hearing regarding the request for amendment. In addition, the student will also receive information about the hearing procedures.

5.3 Directory Information

5.3.1 Students may request, at any time, that directory information be withheld by retrieving and completing appropriate form by contacting the University Registrar's Office. Eligible students should be aware that restricting the release of directory information has other consequences. For instance, a FERPA restriction makes it difficult or impossible for potential employers to verify enrollment or to verify degrees earned from the University.

5.4 Students' Right to Consent

5.4.1 An eligible student who wishes to provide the University signed and written consent to disclose their eligible student records should retrieve and complete the appropriate form by contacting the University Registrar's Office.

POLICY HISTORY		
February 10, 2005	Approved for entrance to Policy Manual.	UVU Board of Trustees
March 27, 2019	Revised policy approved.	UVU Board of Trustees

FERPA Annual Notice to Students

Last Update: August 16, 2023

Dear Student:

In accordance with Federal regulations, this notification provides you with 1) a summary of your rights under the Family Educational Rights and Privacy Act (FERPA); 2) Information about *school officials*; 3) definitions of *directory information* and your right to prevent its disclosure, and 4) basic procedures for exercising certain FERPA rights.

Your Rights Under FERPA:

1. The right to access, inspect, and review your education records.
2. The right to request an amendment of your education records if you believe information is inaccurate, misleading, or otherwise in violation of your privacy or other rights. This includes the right to a hearing if your request for amendment is denied.
3. The right to provide written consent before disclosure of personally identifiable information contained in your education records, except to the extent that FERPA authorizes disclosure without consent, as is the case with School Officials.
4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the university to comply with the requirements of FERPA.

Exception to Written Consent: School Officials

School officials are those members of the institution who act in the student's educational interest within the limitations of their "need to know." These may include faculty, administration, clerical and professional employees, and other persons who manage student education records information including student employees or agents. It may also include contractors, volunteers, and others performing institutional functions.

UVU does not need your written consent to release your education records information to school officials who have a "legitimate educational interest." A school official has a legitimate educational interest if the official has a "need to know" information from your education records to fulfill their official responsibilities for the university.

Directory Information

Directory information is information contained in your education records that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information at UVU is name, student ID, telephone number(s), UVU email address, photographs, participation in officially recognized activities and sports, weight, and height of members of athletic teams, home city and state, verification of current enrollment, dates of enrollment, degrees conferred (including dates of conferral), major or field of study/concentration, and honors received.

Directory information may be released without your written consent unless you exercise your right to withhold its release. If you choose to exercise your right to withhold directory information, the following consequences exist (not an exhaustive list):

- University personnel cannot discuss anything with you over the phone or even confirm your enrollment at UVU unless you first volunteer your UVID and security phrase. If you do not or cannot volunteer this information over the phone, you must appear in person or contact us via email with your UVU student email address.
- Information regarding your student status will be suppressed, so that if a student loan company, prospective employer, family member, or anyone else enquires about you, they will be informed that we have no record of your attendance or existence at UVU.
- Your name will not appear on Dean's Lists.
- Your name will not appear in the UVU graduation/commencement publications.

A "No Release" applies to all elements of directory information on your record. Utah Valley University does not apply a "No Release" differentially to the various directory information data elements.

Procedures

The following are the basic procedures for exercising your rights under FERPA. Contact the Registrar's Office for additional details.

Procedure: Inspect and Review your Records

Many of your education records are available to you electronically through the UVU student portal. If you cannot review your records online, or certain records are not found online, submit a written request (from your assigned student email address, or on paper with your signature) to the Registrar's Office identifying the records you wish to inspect (contact information below). The Registrar's Office will make appropriate arrangements for access and notify you of the time and place where the records may be inspected. Under FERPA, the Registrar has 45 days to comply with your request. Note that the Registrar's Office does not have to provide you with a copy of your records to keep except for your official transcript which you can purchase at any time.

Procedure: Request an Amendment to your Records (and Request a Hearing)

If you believe information in your education records is inaccurate, misleading, or otherwise in violation of your privacy or other rights, you can submit a written statement to the Registrar's Office clearly identifying the part of the record you want changed and why you believe it is inaccurate, misleading, or in violation of your rights. The Registrar's Office may request additional information or action from you to facilitate this request.

The Registrar's Office will always notify you of the decision in writing. If the Registrar's Office decides not to amend the record as requested, you have the right to request a hearing.

Procedure: Provide Written Consent

If you wish to provide written consent for UVU to share certain information from your education records with others, two methods may be used.

1. Add a delegate to your student account via the Student Information Release Authorization (SIRA) system (https://apps.uvu.edu/sira). Adding a delegate allows UVU employees to discuss and share certain information from your education records with another person of your choice. This is generally ongoing access, though it can be expired or revoked at any time.
2. Give one-time consent for a very limited purpose and duration. https://www.uvu.edu/registration/ferpa.

Procedure: Withhold Directory Information

You may request your directory information to be blocked/withheld at any time through the Student Information Release Authorization (SIRA) system (https://apps.uvu.edu/sira). Contact the Registrar's Office for more information.

Procedure: File a Complaint with the U.S. Department of Education

https://studentprivacy.ed.gov/file-a-complaint.

Additional Information

More information on FERPA is available from the Registrar's Office. Please feel free to contact us at any time:

UVU Registrar's Office

Call: (801) 863-8468
Text: (801) 876-6499
Email: registration@uvu.edu
Visit: Browning Administration (BA) 113 (near the Hall of Flags)

Mail: Registrar's Office, 800 West University Parkway, Orem, UT 84058, MS 213

Student Information Release Authorization (SIRA) system: https://apps.uvu.edu/sira.

FERPA

The Family Educational Rights and Privacy Act

WHAT IS FERPA?

FERPA stands for the Family Educational Rights and Privacy Act. The act came about in 1974 and has been amended periodically since that time. Essentially, FERPA gives rights to students and governs the disclosure of and access to student educational records.

Many records exist across the University that are directly related to students. UVU, in accordance with FERPA, protects student education records and information from unauthorized disclosure.

WHAT ARE STUDENT EDUCATION RECORDS?

An education record is any record that is directly related to a student that is maintained by the university or by a party or organization acting on behalf of the university.

Education records may exist in any medium including:

- Written and printed documents
- Electronic media
- Film
- Magnetic tape (microfilm and microfiche)
- Diskette or CDs
- Video or audio tapes and files

This includes transcripts or other records obtained from a school in which a student was previously enrolled.

WHAT INFORMATION IS NOT CONSIDERED PART OF AN EDUCATION RECORD?

- Sole possession records or private notes of individual staff or faculty that are not accessible or released to other personnel.
- Law enforcement or campus security records (if made, maintained, and used soley by the law enforcement unit).
- Employee records (unless contingent upon attendance).
- Medical records (if made, maintained, and used only in connection with treatment of the student).
- Alumni records (records created or received after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student).
- Grades on peer-graded papers before they are collected and recorded by the instructor.

STUDENT RIGHTS UNDER FERPA

- The right to inspect and review your records.
- The right to seek an amendment to your education records which you believe are inaccurate, misleading, or otherwise in violation of your privacy rights.
- The right to restrict the disclosure of Directory Information, except in specific circumstances where unauthorized disclosure of Directory Information is permitted.
- The right to file a complaint with the Department of Education's Student Privacy Policy Office concerning alleged failures by the university to comply with FERPA.

RESOURCES

- UVU Official FERPA policy
- Annual FERPA Notice to Students
- Department of Education
- American Association of Collegiate Registrars and Admissions Officers
- FERPA Tools and Resources for Staff and Faculty (log-in required)

UVU FORMS

STUDENT INFORMATION RELEASE AUTHORIZATION (SECURITY PHRASE AND DELEGATES)

PERMISSION TO RELEASE EDUCATION RECORD INFORMATION (ONLINE FORM)

PERMISSION TO RELEASE EDUCATION RECORD INFORMATION (PDF)

PREVENT DISCLOSURE OF DIRECTORY INFORMATION

ONE-TIME GUEST CONSENT FORM

QUESTIONS? ASK WILSON

CATEGORIES OF INFORMATION AND RECORDS

It is important to note that there is a distinction in the types of information and records that may or may not be disclosed to others:

Directory Information

This is general information that *may* be released to anyone without student consent, unless the student has explicitly prohibited its release. These are things that could, for example, show up in the program distributed at the graduation ceremonies. Each institution is allowed some flexibility in determining what is considered directory information at that institution.

At UVU, directory information is:

- Student Name
- *Student ID
- Telephone Number(s)
- UVU Email Address
- Photographs
- Participation in officially recognized activities and sports
- Weight and height of members of athletic teams
- Home City and State
- Verification of Current Enrollment
- Dates of Enrollment
- Degrees Conferred (including Dates of Conferral)
- Major or Field of Study/Concentration
- Honors Received

*Directory information includes the student ID number because this identifier cannot be used to gain access to education records without the student's personal password and multi-factor authentication (MFA).

UVU is not required to release directory information, and as a matter or practice, does not release lists of directory information to third parties.

Non-Directory Information

This information may not be released without the express written consent of the student.

Non-directory information includes, but is not limited to:

- Student Schedule and Schedule Details
- Grades
- GPA
- Academic Standing
- Race
- Gender
- Religion
- National Origin
- Date of Birth
- Mailing / Permanent Address(es)
- Personal Email Address(es)
- Social Security Number (any part)
- Visa Status
- All other information and records not found in the 'Directory Information' category

Registrar's Office Registration Department | registration@uvu.edu | (801) 863-8493 | BA 113

Utah Valley University GDPR Privacy Notice

1. Purpose

Utah Valley University ("UVU") is committed to respecting and protecting the privacy rights of persons in the European Economic Area ("EEA"), comprised of the European Union ("EU") and the countries of Iceland, Norway, and Liechtenstein, pursuant to the EU General Data Protection Regulation ("GDPR"). This GDPR Privacy Notice describes UVU's commitment to the privacy of persons in the EEA, and supplements the Utah Valley University Privacy Statement for certain persons in the EEA.

2. Does This GDPR Privacy Notice Apply to Me?

This GDPR Privacy Notice applies to you if:

- You are a "Person" or "Data Subject"—meaning a natural person, not a corporation, partnership, or other legal entity—who is physically present in the EEA;
- It is with respect to your "Personal Information"—meaning any information relating to an identified or identifiable person—that is provided while you are physically present in the EEA;
- Such Personal Information is not earlier or later provided to UVU while you are outside the EEA; and
- Such Personal Information is provided for:
  - During the course of UVU offering you goods or services;
  - While UVU is monitoring your behavior; or
  - While you are associated with any of UVU's programs in the EEA.

Please note that information pertaining to current, former, or prospective employment with UVU in the United States is not considered "Personal Information" and is excluded from this GDPR Privacy Notice.

3. What Personal Information Does UVU Process?

A. General Categories

Depending on the specific purpose for processing Personal Information, UVU may process the following general categories of Personal Information:

- Names
- Addresses
- Telephone numbers
- Email addresses
- Identification numbers, including but not limited to social security numbers and driver's license numbers
- UVU identification numbers
- Personal identification numbers
- Usernames
- Passwords
- Demographic information
- Education history and transcripts
- Entrance exam scores
- Background check information
- Personal references
- Emergency contact information
- Financial information, including but not limited to credit and debit card numbers, tax information, and financial aid information
- Transaction history
- Business information
- Passport and visa information
- Work history
- Medical history
- Donation history
- Insurance information
- Military service
- IP addresses
- Location information
- Device information
- Metadata
- Education records, including but not limited to coursework, correspondence, evaluations, disciplinary complaints, and other records, and files maintained by UVU as part of the education process
- Any requests for accommodations or leave

B. Special Categories

In order to fulfill certain of the purposes identified in the table below, UVU may need to request special categories of Personal Information—information revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership; genetic data; biometric data for the purpose of uniquely identifying a natural person; data concerning health; or data concerning a natural person's sex life or sexual orientation.

Before UVU processes your special category Personal Information or your criminal conviction Personal Information, if any, UVU will ask for your affirmative consent unless UVU has another legal basis for the processing, in which case UVU will inform you of that basis.

4. Why UVU Processes Your Personal Information

UVU requires Personal Information only when necessary. The table below describes the Personal Information and Sensitive Personal Information that we may collect, why we may collect it, and our potential legal basis for processing it.

Personal Information and Sensitive Personal Information collection details.

Purpose of Processing	Categories of Personal Information	Legal Basis
As part of the admissions process, we collect applicant Personal Information to evaluate applications. We also may obtain Personal Information from third parties, such as other schools, references, family members, and education as part of an application package.	Name, address, contact details, race/ethnicity, demographic information, educational history, reference letters, emergency contacts, and other relevant information as part of the application package.	*Contract* Personal Information collected through the UVU application is necessary for the performance of a contract to provide you education services or to take steps at your request prior to entering into a contract to provide you education services. *Legitimate Interest* Personal Information collected through the UVU application is necessary to evaluate candidates for admission and for our internal statistical and analytics purposes.
To support course registration	Name, UVU ID, contact information.	*Contract* Personal Information collected through the UVU course registration sites is necessary for the performance of a contract to provide you education services. *Legitimate Interest* Personal Information collected for matriculated students, staff, faculty and members of the public, as appropriate for the course, to register in courses or classes.
To evaluate and determine whether financial aid opportunities are available to an applicant	Name, address, contact details, demographic information, salary history, tax forms and other relevant information to evaluate financial aid eligibility and opportunities.	*Legitimate Interest* Personal Information collected through the financial aid application is necessary to evaluate whether the applicant is eligible to receive financial aid and for our internal statistical and analytics purposes. *Contract* Personal Information collected through the financial aid application is necessary for the performance of a contract to provide you financial aid or to take steps at your request prior to entering into a contract to provide you financial aid.
To provide online training and educational programs	Name, UVU ID, contact information, demographic information.	*Contract* Personal Information collected through the UVU application is necessary for the performance of a contract to provide you education services or to take steps at your request prior to entering into a contract to provide you education services. *Legitimate Interest* To facilitate provision of on-line education courses to matriculated students, staff, faculty and members of the public, as appropriate for the course
To process employment applications	Name, UVU ID (if available), demographic information, resumes	*Legitimate Interest* For individuals interested in employment opportunities, processing applications
To receive donations	Name, contact information, payment information	*Legitimate Interest* To collect and process donations/gifts and donor information
To purchase tickets to events	Name, UVU ID (if available), contact information	*Contract* To process ticket payment for a variety of events
For event registration	Name, UVU ID (if available), contact information	*Legitimate Interest* To process registration for sports, cultural, educational and other UVU events
To purchase parking passes and permits	Name, UVU ID, contact information	*Contract* To facilitate payments for parking passes and permits
To submit requests for services (e.g., IT, help desk, help line, CAPS, etc.)	Name, UVU ID, contact information	*Legitimate Interest* To process service requests from students, staff and faculty *Contract* If there is a contract that governs your use of such services, Personal Information is processed pursuant to that contract
Travel sites	Name, UVU ID, contact information, passport number, faculty membership information, emergency contacts	*Legitimate Interest* To facilitate travel arrangements and coordination for students and affiliated travelers through UVU programs. *Contract* If there is a contract that governs your use of travel sites, Personal Information is processed pursuant to that contract.
Emergency situations	Name, personal health information, emergency contacts	*Vital Interest* Our processing of your Sensitive Personal Information is to protect an interest that is essential to your life or the life of someone else

5. How Does UVU Receive Your Personal Information

A. From You, the Data Subject:

UVU may receive your Personal Information when you visit UVU websites, apply for or attend UVU classes or programs, apply for or take online courses with UVU, travel with UVU to a location in the EEA, attend events sponsored by UVU in the EEA, or otherwise interact with UVU in the EEA.

B. From Third Parties:

UVU may also receive your Personal Information from third parties. Examples include college entrance exam scores received from testing agencies, and online course registration information received from third parties that administer online courses.

6. Who Processes Your Personal Information?

A. UVU Personnel:

Your Personal Information may be processed by UVU trustees and employees, including faculty, researchers, medical professionals, financial aid counselors, human resources professionals, law enforcement officers, and others, as may be necessary to carry out the purposes for processing the information and UVU activities.

B. UVU Related Organizations:

UVU may share your Personal Information with UVU related organizations, such as the Utah Valley University Foundation.

C. Third Parties:

UVU may share your Personal Information with third parties, such as: educational platform providers and course partners to further the purposes for processing the information and UVU activities; U.S. and foreign government entities to fulfill regulatory obligations (e.g., visa processing) and to facilitate access to funding sources (e.g., financial aid); partner institutions to facilitate study abroad activities; and vendors to provide services related to your affiliation with UVU (e.g., print diplomas, arrange housing) and to improve UVU outreach efforts.

Please note that UVU may provide anonymized data developed from Personal Information to third parties, such as government entities and research collaborators, and that such anonymized data is outside the scope of this GDPR Privacy Notice.

7. How Long Does UVU Keep Your Personal Information?

UVU keeps your Personal Information as required by law or our policies to perform our legitimate interests, contracts, and substantial public interests. Many of our record retention schedules can be found at the Utah Division of Archives and Record Services' website. View our retention schedules.

View retention schedules for the State of Utah which apply if we do not have a retention schedule for the type of records in our retention schedules.

8. What Are Your Rights as a Data Subject?

As a Data Subject pursuant to the GDPR, you have certain rights. This GDPR Privacy Notice summarizes what these rights under the GDPR involve and how you can exercise these rights. More detail about each right, including exceptions and limitations, can be found in Articles 15-21 and 77 of the GDPR.

Please note: Nothing in this GDPR Privacy Notice is intended by UVU to waive sovereign immunity or any other defenses or immunities afforded by any or all U.S. federal law, Utah state law, and EU law.

The Right of Access

You have the right to request that UVU confirm whether it is processing your Personal Information. If UVU is processing your Personal Information, you have the right to access that Personal Information, and UVU will provide you with a copy of that Personal Information unless prevented by applicable law.

The Right of Correction

You have the right to request that UVU correct any inaccurate Personal Information that it maintains about you. You also have the right to request that UVU complete any incomplete Personal Information that it maintains about you, which could be accomplished by incorporating a supplementary statement that you submit. If UVU concurs that the Personal Information is incorrect or incomplete, UVU will promptly correct or complete it.

The Right to Erasure

You have the right to request the erasure of Personal Information that UVU maintains about you in certain circumstances. These circumstances are identified in Article 17 of the GDPR and include that the Personal Information is no longer necessary in relation to the purpose(s) for which it was collected.

Subject to applicable U.S. state, and EU law and UVU policies, including but not limited to its Privacy Statement, and provided that there are no overriding legitimate grounds for UVU to retain the Personal Information, UVU will comply with the request and will take reasonable steps to inform any third parties with whom the personal information was shared.

The Right to Restrict Processing of Personal Information

You have the right to request that UVU restrict the processing of your Personal Information where one of the reasons identified in Article 18 of the GDPR applies. These reasons include that the Personal Information is inaccurate, the processing is unlawful, or UVU no longer needs the Personal Information.

If UVU grants your request to restrict processing, UVU will only process that Personal Information with your consent, for the protection of the rights of another natural or legal person, for reasons of important public interest, for the establishment, exercise or defense of legal claims, or as otherwise required by applicable U.S., state, or EU law.

The Right to Data Portability

Where the basis for processing is either consent or performance of a contract between you and UVU, and where the processing is carried out by automated means, you have the right to receive your Personal Information that you have provided to UVU. UVU will provide the Personal Information in a structured, commonly used, and machine-readable format. Where technically feasible and upon your request, UVU will transmit the Personal Information directly to another entity.

The Right to Withdraw Consent

If the basis for processing your Personal Information is consent, you may revoke your consent at any time. Upon receipt of your notice withdrawing consent, and if there are no other legal grounds for the processing, UVU will stop processing the Personal Information unless the processing is necessary for the establishment, exercise, or defense of legal claims. Revoking consent does not affect the lawfulness of processing that occurred before the revocation.

The Right to Object to Processing

In certain situations, you may have the right to object to processing of your Personal Information

- *Public Interest or Legitimate Interests.* If the basis for processing your Personal Information is public interest or legitimate interests, you have the right to object to processing the Personal Information. UVU will cease processing unless UVU demonstrates overriding legitimate grounds for processing or the processing is necessary for the establishment, exercise, or defense of legal claims.
- *Direct Marketing.* If UVU is using your Personal Information for direct marketing purposes such as fundraising, you have the right to object at any time, and UVU will stop using your Personal Information for that purpose.

The Right to File a Complaint

You have the right to submit a complaint with an EU supervisory authority, in particular the one in the EU Member State of your habitual residence, place of work, or place of the alleged violation, if you believe that UVU's processing of your Personal Information violates the GDPR.

For more information on the process for submitting a complaint, consult the relevant EU supervisory authority.

How to Exercise Your Rights

In order to exercise any of these rights, except the right to file a complaint with an EU supervisory authority, you should submit your request to UVU's Information Systems Department:

Email: compliance@uvu.edu

Telephone: +1 (801) 863-8245

Address:
Utah Valley University Information Technology
800 West University Parkway, MS 130
Orem, UT 84058
Attn: GDPR Compliance

In that time, you will be asked to:

- Identify yourself
- Provide information to support that the GDPR applies to you (see Section 2, above)
- Identify the specific information or data that you are concerned about
- State what right(s) you wish to exercise

To expedite processing your request, please identify the data collection location (e.g., the website where your Personal Information was collected), if known.

10. How Does UVU Respond to Requests for Personal Information?

In addition to the rights provided by the GDPR, you may also have rights with respect to your Personal Information pursuant to U.S. federal law, state law, or UVU policy. When you submit a request to UVU to exercise your rights, UVU will respond in accordance with existing UVU policies and procedures that implement the relevant privacy law(s). These include, but are not limited to, policies pertaining to student education records and policies pertaining to certain health records that UVU maintains.

11. Existence of Automated Individual Decision-Making

UVU may use automated decision-making, including profiling, to help identify prospective UVU supporters and its activities. The logic takes an all-factor approach to assessing a possible donor's propensity to support UVU and may result in a prospective donor being contacted to explore support opportunities.

You will not be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning you or similarly significantly affects you, unless the decision is necessary for entering into or performing a contract or unless you explicitly consent.

12. Transfer of Personal Information outside the EEA

UVU is based in the U.S. and is subject to U.S. and Utah law. Personal Information that you provide to UVU will generally be hosted on U.S. servers. To the extent that UVU needs to transfer your information either (a) from the EEA to the U.S. or another country or (b) from the U.S. to another country, UVU will do so on the basis of either (i) an "adequacy decision" by the European Commission; (ii) EU-sanctioned "appropriate safeguards" for transfer such as model clauses, a copy of which you may request, if applicable, by contacting UVU as set forth in Section 11 (on your explicit and informed consent; or (iv) it being necessary for the performance of a contract or the implementation of pre-contractual measures with UVU, in which case UVU will inform you of the intent to transfer the Personal Information. Please note that the U.S. is not currently considered a safe harbor country under the GDPR.

13. How Do I Contact UVU, the Data Controller?

UVU is the data controller. If you have any questions about anything contained in this GDPR Privacy Notice, please contact UVU's Information Systems Department:

Email: compliance@uvu.edu

Telephone: +1 (801) 863-8245

Address:
Utah Valley University Information Technology
800 West University Parkway, MS 130
Orem, UT 84058
Attn: GDPR Compliance

14. GDPR

If you are interested in reviewing an English version of the GDPR, please see the Regulation document.

15. Updates to GDPR Privacy Notice

UVU may update this GDPR Privacy Notice from time to time. Any changes will become effective upon posting of the revised GDPR Privacy Notice.

POLICY TITLE	Privacy and Disclosure	Policy Number	446
Section	Facilities, Operations, and Information Technology	Approval Date	May 9, 2023
Subsection	Information Technology	Effective Date	May 9, 2023
Responsible Office	Office of the Vice President of Digital Transformation		

1.0 PURPOSE

1.1 Utah Valley University (UVU) respects the privacy of its students, faculty, and staff and is committed to protecting the privacy of information within its control in a manner consistent with applicable laws, regulations, and university policies.

1.2 To provide services to students and employees, administer its programs, and perform contractual obligations, the University may collect, process, and transfer various types of personal data, including but not limited to names; application information; attendance; academic records; employment records; contact information including phone numbers, email addresses, and mailing addresses; and date of birth.

2.0 REFERENCES

2.1 *The Privacy Act of 1974*, 5 U.S.C. § 552a (1974)

2.2 *The Freedom of Information Act,* 5 U.S.C. § 552 (1977) (as amended by Pub. L. No. 104–231, 110 Stat. 3048)

2.3 *The Gramm-Leach-Bliley Act*, 15 U.S.C. § 6801 (1999)

2.4 *Family Educational Rights and Privacy Act (FERPA)*, 20 U.S.C. § 1232g (1974)

2.5 *Privacy of Consumer Information*, 16 C.F.R. § 313.1 (2000)

2.6 *Standards for Safeguarding Customer Information*, 16 C.F.R. § 314.1 (2021)

2.7 *Health Information Technology for Economic and Clinical Health Act (HITECH)*, Pub. L. No. 111–115 § 13001, 123 stat. 226 (2009)

2.8 *Health Insurance Portability and Accountability Act (HIPAA)*, Utah Code Ann. § 63-2-101 to -901 (1996)

2.9 *Government Records Access and Management Act (GRAMA)*, Utah Code Ann. § 63G-2-101 (2008)

2.10 *Electronic Information and Data Privacy Act*, Utah Code Ann. § 77-23c-101 et seq. (2019)

2.11 Utah Board of Higher Education Policy R840 *Institutional Business Communications*

2.12 UVU Policy 133 *Compliance with Government Records Access and Management Act*

2.13 UVU Policy 135 *Use of Copyrighted Materials*

2.14 UVU Policy 445 *Institutional Data Management and Access*

2.15 UVU Policy 541 *Student Code of Conduct*

2.16 UVU Policy 542 *FERPA (Student Records Act)*

3.0 DEFINITIONS

3.1 Confidential information: Any information that is not generally available to the public and that university has identified as confidential, that should reasonably be understood to be confidential, or that university is obligated to keep confidential under applicable laws, regulations, contractual obligations, university policies, or the policies of relevant government agencies, including but not limited to PII, student records, financial information, research data, and sensitive information.

3.2 Disclosure: The release, transfer, provision of access to, or other communication of information outside of the UVU community.

3.3 Personally Identifiable Information (PII): Unique identifiers, including a person's Social Security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses.

3.4 Sensitive information: Race or ethnic origin, religion, political affiliations, sexual orientation, criminal history, and trade union or association memberships are all considered sensitive information. Any information about biometrics, genetics or medical history is also treated as sensitive information.

3.5 University community: University community members include all persons employed by or affiliated with Utah Valley University in any way and all persons participating in any university program or activity, including but not limited to trustees, advisory board members,

administrators, faculty, staff, students, independent contractors, volunteers, and guests or visitors to any university campus or any property owned or leased by the University.

3.6 UVU electronic communication systems: UVU-authorized and licensed systems for university-related communications, including communications by email, instant messaging, social media, file-sharing, websites, and other cloud-based offerings.

3.7 Institutional data: All UVU public, restricted, and sensitive data, whether in electronic or paper format, as defined in UVU Policy 445 *Institutional Data Management and Access*.

4.0 POLICY

4.1 Responsibilities of the University

4.1.1 UVU respects and values the privacy of its faculty, students, staff, and other constituents.

4.1.2 UVU limits the collection, use, disclosure, and storage of information that reasonably serves the University's academic, research, or administrative functions or other legally required purposes. Such collection, use, disclosure, and storage shall comply with applicable federal and state laws, regulations, and university policies.

4.2 Institutional Data as UVU Property and Records

4.2.1 All institutional data, including communications created for UVU business or maintained in technology assets or information systems, is the property of UVU in accordance with Policy 136 *Intellectual Property*. Institutional data, including those personal in nature and unrelated to university business, may be subject to public records requests under state law. Employees, including student employees acting in their capacity as employees, shall have no expectation of privacy when using university information systems, including but not limited to UVU networks, electronic communications systems, and other systems to store or transmit files, data, and messages, regardless of whether such systems are accessed on university-owned technology assets or an employee's own personal equipment.

4.2.2 The University does not routinely monitor individual usage of its electronic communication systems; however, consistent with this policy, institutional data that is transmitted over or stored in university electronic communication systems is subject to being monitored, reviewed, and disclosed to fulfill legitimate university business interests which may include, but are not limited to, the following:

4.2.2.1 To comply with legal requirements or process (e.g., Utah Governmental Records Access & Management Act or subpoena);

4.2.2.2 To yield information necessary for the investigation of a suspected violation of law, university policy, or any other applicable regulation or university policy governing disciplinary action;

4.2.2.3 To maintain the security of university computing systems and networks; for system administrators to diagnose and correct problems with system software or hardware; to yield information needed to deal with an emergency;

4.2.2.4 For the ordinary business of the university to proceed, (e.g., access to data associated with an employee who has been terminated/separated or is pending termination/separation, is deceased, is on extended sick leave, or is otherwise unavailable);

4.2.2.5 To comply with a written request on behalf of the parents, guardian, or personal representative of the estate of a deceased student; or

4.2.2.6 For research authorized by the university under a data use agreement that precludes the disclosure of personally identifiable information."

4.2.3 Notice of monitoring, reviewing, and disclosing will be provided when required by other university policies, such as those addressing misconduct.

4.2.4 Access to institutional data is a privilege that UVU may restrict wholly or partially without prior notice and without the employee's consent. Generally, access will be restricted only when there is reason to believe that serious violations of law or UVU policy have occurred, when an employee is placed on administrative leave, whether paid or unpaid, employment is terminated for cause, or when other urgent or compelling circumstances arise.

4.2.5 Employees shall not use institutional data or technology assets, including electronic communication systems for activities prohibited by law or UVU policy, for personal political activity or for activities that interfere with UVU operations.

4.2.6 Consistent with USHE Policy R840, employees or other designated individuals who conduct university business shall use only UVU electronic communication systems for university-related communications. Conducting university business on any personal or non-UVU enterprise email, unapproved electronic messaging or file-sharing systems, or other non-UVU electronic communication systems or methods is prohibited.

4.3 Unauthorized Access and Disclosure

4.3.1 Employees shall not attempt to gain unconsented access to another employee's university information or UVU electronic communication accounts where they lack a university business

justification properly related to their job function.

4.3.2 2 Employees shall not disclose confidential information to unauthorized individuals or entities, including employees or third parties.

4.4 Mass Communications

4.4.1 Only departments authorized by University Marketing and Communications may send messages to the entire faculty, staff, administration, and/or student body using authorized methods.

4.4.2 Those who wish to send unsolicited messages to an external audience must seek preauthorization from their college/school/division University Marketing and Communications director or manager. (List of University Marking and Communications directors and managers can be found at https://www.uvu.edu/marketing/index.html.)

4.5 Photography and Recording on Campus

4.5.1 The University campus is public property. UVU community members may make photographs and videos, audio, and other recordings in university spaces that are generally open to members of the public, such as outdoor spaces and main hallways, in accordance with university policy.

4.5.2 Recording in classrooms, libraries, laboratories, gymnasiums, or other nonpublic spaces may occur only without disruption or distraction from the intended use and purpose of the space, as determined by the instructor or other authorized university manager of the space, and in accordance with university policy. Requests for photography or recording in nonpublic spaces should be directed to the Communications Office in University Marketing and Communications, who will coordinate with the relevant university managers.

4.5.3 Filming and photography may not use the University's name or trademarks in a way that infringes on those marks or that implies University endorsement for any product, service, or activity (see UVU Policy 136 *Intellectual Property*).

4.5.4 Photography or recording activities that substantially disrupt university activities, endanger people or property, or otherwise violate law or UVU policy are prohibited.

4.6 Responsibilities of University Privacy Officer

4.6.1 The University shall have a privacy officer who is appointed by the Vice President of Digital Transformation and who is responsible for the following:

1) Interpreting this policy; or

2) In conjunction with the Office of General Counsel, coordinating compliance with all privacy laws and regulations (except those specifically noted section 4.5 through 4.8); or

3) Improving privacy practices, promoting privacy best practices, and recommending privacy policies and policy changes in all areas related to privacy at UVU.

4.6.2 The university privacy officer will collaborate with UVU's information security officer, General Counsel, and other university privacy officials and university administration as appropriate.

4.7 FERPA Privacy Responsibilities

4.7.1.1 The university registrar has primary responsibility for establishing policies, procedures, and guidelines related to compliance with the *Family Educational Rights and Privacy Act (FERPA).* For more information, see UVU Policy 542 *FERPA (Student Records Act)*.

4.8 GRAMA Privacy Responsibilities

4.8.1 The university GRAMA officer has primary responsibility for establishing policies, procedures, and guidelines related to compliance with the *Government Records Access and Management Act.*

4.9 Responsibilities of System Owners

4.9.1 Each system owner and each individual who retains custody of information is responsible for complying with all related university policies for information under their care or control.

4.10 Legal and University Process

4.10.1 Notwithstanding section 4.1, for the proper functioning of the University and to protect the safety and well-being of individuals or the community, the University may disclose information in the course of investigations and lawsuits, in response to subpoenas, and as permitted by law.

4.10.2 To comply with privacy laws, UVU shall post its privacy statement on all websites collecting personal information.

4.11 Violations of this Policy

4.11.1 Any violation of this policy, including failure to follow proper university policies and procedures concerning access, storage, and transmission of information may result in disciplinary action up to and including termination of employment.

4.11.2 Members of the UVU community who believe that university policy has been violated should report such violations to the university privacy officer or Internal Audit. Complaints or concerns may also be reported anonymously by calling or reporting through EthicsPoint.

4.11.3 Any university unit found to have violated this policy may be held accountable for the financial penalties and remediation costs that directly result from this failure.

5.0 PROCEDURES

5.1 Required Privacy Notices Regarding Personally Identifiable Information

5.1.1 When UVU (or an authorized third party) collects personally identifiable information on one of the commercial areas of its website or as the operator of an online service, it will conspicuously post either a privacy policy or a link to a privacy policy on the portal page for the commercial activity. This policy will

1) Identify the categories of personally identifiable information collected through the commercial portions of the operator's website or through the operator's online service; and

2) Identify the categories of third parties with whom UVU may share that personally identifiable information; and

3) Provide a description of how an individual may request changes to their personally identifiable information collected through the website or online service and retained by UVU, if any process exists; and

4) Describe the process by which UVU will notify users of the commercial portion of UVU's website or its online service of material changes to UVU's privacy policy for that portion of the website or online service. It is sufficient to say that the policy will be updated online; and

5) Identify the effective date of the privacy policy and all updates.

5.2 UVU's General Data Protection Regulation (GDPR) Privacy Notice will be kept up to date and made available via a link at https://www.uvu.edu/legal/gdpr.html.

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity
May 9, 2023	New policy approved.	UVU Board of Trustees

Utah Valley University Privacy Statement

Purpose

Utah Valley University ("UVU") has created this Privacy Statement to explain why UVU collects particular information and how UVU will protect your personal privacy when you visit UVU websites. In order to fully understand your rights UVU encourages you to read this Privacy Statement. By choosing to continue to use UVU websites, you agree to UVU's collection and use of personal information and non-personal information as described in this Privacy Statement. UVU reserves the right to modify this Privacy Statement at any time, and UVU encourages you to frequently check this page for any changes to this Privacy Statement.

Scope

This Privacy Statement applies to all UVU websites, domains, services, applications, and technology products, except that a privacy notice specific to another department or unit of UVU will supplement and may supersede this Privacy Statement.

Please be aware of UVU's GDPR Privacy Notice that supplements this Privacy Statement. The GDPR Privacy Notice applies generally to the provision of personal information by individuals in the European Economic Area. The GDPR Privacy Notice explains how UVU meets its obligations under the European Union General Data Protection Regulation with respect to such information. For details, please refer to the GDPR Privacy Notice.

Collection of Information

UVU collects information via UVU websites that falls into one of two categories: personally identifiable information and non-personally identifiable information. Personally identifiable information is any information that personally identifies you or from which you could be identified. UVU collects personally identifiable information whenever you voluntarily submit it to UVU websites, including your name, email, mailing address, telephone number, plus your preferences regarding UVU services.

Non-personally identifiable information is information that is not directly tied to a specific user, such as the number of people who visit UVU websites from various states. Unless you take steps to browse the Internet anonymously, or opt-out, UVU, like most institutions and organizations on the Internet, tracks web browsing patterns to inform understanding of how UVU websites are being used. Generic information is collected through the use of "cookies," which are text files placed on your computer, to evaluate usage patterns so that UVU can improve both content and distribution. You may refuse the use of cookies by selecting the appropriate settings on your browser; however, doing so may prevent you from using the full functionality of all UVU websites. The generic information UVU collects is based on IP address, which is the location of a computer or network, and is not linked to your specific email address in any of the reports or other material compiled by UVU. UVU will not associate your IP address and web usage data with any other information held by UVU that can specifically identify you unless required to do so by law.

Use of Information

By providing information to UVU through its websites you acknowledge that, where permitted by federal or state law, UVU may use this information for the express purposes for which the information was provided, which may include to:

- Respond to your requests for information
- Process applications for admission or employment
- Process information for administrative purposes
- Process orders for goods or services
- Notify you of products or services
- Improve online content and communications
- Improve UVU services
- Process information for purposes as may be detailed on UVU websites or mobile applications

Sharing of Information

UVU works with many vendors and contractors who assist UVU with its day-to-day affairs. Information that you provide to UVU or which UVU automatically collects is used or shared with these organizations for the express purposes for which the information was collected or as otherwise expressed in this Privacy Statement. UVU vendors and contractors are only permitted to use personal information for the express purposes permitted in their agreements with UVU. Otherwise, personally identifiable information is not released to third parties unless permitted by applicable law, including in instances where the information needs to be disclosed to protect the safety and security of the UVU community or UVU property, or where UVU is legally compelled by law or judicial order.

Public Forums

UVU websites may provide chat rooms, forums, message boards, and news groups for their users. Any information that is disclosed in these areas may become public information and a user should therefore exercise caution when deciding to disclose one's personal information in such places. Chat sessions and discussion forums may be logged.

Protecting Children's Privacy

If a user of UVU websites is under the age of thirteen, such user is not authorized to provide the UVU with personally identifiable information, and UVU will not use any such information in its database or other data collection activities. UVU appreciates cooperation with this federally mandated requirement. Users under the age of thirteen and their parents or guardians are cautioned that the collection of personally identifiable information volunteered by unauthorized children online or by e-mail will be treated the same as information given by an adult until UVU becomes aware that the user is under the age of thirteen and such information may be subject to public access.

Utah Government Records Access and Management Act

As a public institution, and instrumentality of the State of Utah, UVU is subject to the Government Records Access and Management Act of the Utah Code, Section 63G-2-101 *et seq.*, 1953, as may be amended ("GRAMA"). This means that records, in all forms including email, provided to UVU are subject to public disclosure, unless the record is designated by law as confidential or not a public record.

Security

UVU implements appropriate technical and organizational security measures to protect your information when you transmit it to us that ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected. While UVU strives to protect your information, UVU cannot ensure or warrant the security of such information.

Related Policies

- Policies & Procedures 441 – Appropriate Use of Computing Facilities
- Policies & Procedures 443 – Ethics in Computer Usage
- Policies & Procedures 445 – Institutional Data Management and Access
- Policies & Procedures 446 – Monitoring and Review of Employee Electronic Communications or Files
- Policies & Procedures 449 – Private Sensitive Information

Questions

If a user has questions about this Privacy Statement or believes that the user's personal information has been released without consent, please send an e-mail to: compliance@uvu.edu.

University Compliance | compliance@uvu.edu | (801) 863-8245

R345, Information Technology Resource Security[1]

R345-1 Purpose: To provide minimum security standards for protecting Personally Identifiable Information at institutions in the Utah System of Higher Education ("USHE") from potential threats such as human error, accident, system failures, natural disasters, and criminal or malicious action.

R345-2 References

2.1 Board Policy R132, Government Records Access and Management Act Guidelines

2.2 Board Policy R341, Computing Systems Programs

2.3 Center for Internet Security Critical Security Controls

2.4 Utah Code Title 78B, Chapter 4, Part 7, Cybersecurity Affirmative Defense Act.

2.5 U. S. Department of Homeland Security Handbook for Safeguarding Sensitive PII/Privacy Policy Directive 047-01-007, Revision 3

R345-3 Definitions

3.1 Center for Internet Security ("CIS") Critical Security Controls are a prescriptive, prioritized set of cybersecurity best practices and defensive actions that can help prevent the most pervasive and dangerous attacks, and support compliance in a multi-framework era. These actionable best practices for cyber defense are formulated by a group of IT experts using the information gathered from actual attacks and their effective defenses. The CIS Controls provide specific guidance and a clear pathway for organizations to achieve the goals and objectives described by multiple legal, regulatory, and policy frameworks.

3.2 Critical IT Resource is an IT Resource which is required for the continuing operation of the institution and/or its colleges and departments, including any IT Resource which, if it fails to function correctly and/or on schedule, could result in a major failure of mission-critical business functions, a significant loss of funds, or a significant liability or other legal exposure. For example, General Ledger monthly financial reporting may be considered non-Critical IT Resources by the institution, but financial reporting at fiscal year-end may be considered a Critical IT Resource.

[1] *Adopted March 21, 2008; amended September 16, 2016, November 16, 2018, and November 18, 2022.*

3.3 Information Security Office(s) ("ISO") is the office that develops and maintains security strategies for the institution's IT Resource systems, risk assessments, compliance with ISO policies and guidelines, and for the resolution of campus IT security incidents. The institution may have ISO functions performed by one or more individuals or offices. If multiple individuals or offices are involved, their respective roles and assignments should be clearly delineated.

3.4 Information Technology Resource ("IT Resource") means a resource used for electronic storage, processing or transmitting of any data or information, as well as the data or information itself. This definition includes but is not limited to electronic mail, voice mail, local databases, externally accessed databases, Internet-based storage, mobile devices, removable storage, CD-ROM, recorded magnetic media, photographs, digitized information, or microfilm. This also includes any wire, radio, electromagnetic, photo optical, photo electronic or other facility used in transmitting electronic communications, and any computer facilities or related electronic equipment that electronically stores such communications.

3.5 IT Resource Steward means the individual who has policy level responsibility for determining what IT Resources will be stored, who will have access, what security and privacy risk is acceptable, and what measures will be taken to prevent the loss of Information Resources.

3.6 IT Resource Custodian means the organization or individual who implements the policy defined by the IT Resource Steward and has responsibility for IT systems that store, process, or transmit IT resources.

3.7 IT Resource Administrator means institutional staff that, under the direction of the IT Resource Steward and with operational instructions from the IT Resource Custodian, have day-to-day operational responsibility for data capture, maintenance, and dissemination.

3.8 Personally Identifiable Information ("PII") is information protected by federal and state laws and regulations, including federal regulations administered by the United States Department of Homeland Security ("DHS"), and is defined by DHS as "any information that permits the identity of an individual to be directly or indirectly inferred, which if lost, compromised, or disclosed without authorization could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual." PII must be protected prior to release in accordance with the Utah Government Records Access Management Act ("GRAMA") or other disclosures required by law. PII includes but is not limited to the following:

3.8.1 Full Social Security Number ("SSN")

3.8.2 Driver's license or State ID Number

3.8.3 Passport Number

3.8.4 Visa Number

3.8.5 Alien Registration Number

3.8.6 Fingerprints or Other Biometric Identifiers

3.8.7 Full Name in Combination with:

3.8.7.1 Mother's Maiden Name

3.8.7.2 Date of Birth

3.8.7.3 Last Four Digits of SSN

3.8.7.4 Citizenship or Immigration Status

3.8.7.5 Ethnic or Religious Affiliation

3.8.8 Protected Health Information, as defined by the Health Insurance Portability and Accountability Act ("HIPAA").

3.8.9 PII does not include "public information" as defined by GRAMA, or in the case of student records, "directory information" as defined by the Family Education Rights and Privacy Act ("FERPA").

3.9 Security means measures taken to reduce the risk of (a) unauthorized access to IT Resources, via either logical, physical, managerial, or social engineering means; and/or (b) damage to or loss of IT Resources through any type of disaster, including cases in which a violation of security or a disaster occurs despite preventive measures.

3.10 Security Plan means a formal document that provides an overview of the security requirements for an information system and describes the security controls in place or planned for meeting those requirements.

3.11 User means any person, including a faculty member, staff member, student, patient, contractor, consultant, intern, or temporary employee, who accesses and uses institutional IT Resources.

R345-4 Policy: Each institution and its colleges, departments, and divisions shall take measures to protect PII that is stored, processed, or transmitted using IT Resources under their control.

4.1 Institutions shall adopt and strive to implement the CIS Critical Security Controls as a guiding security framework and the minimum institutional security standard. Institutions may implement additional frameworks, standards, or regulations as required by law, contract, or specific circumstances and may be more restrictive than this policy. Each institution shall develop and maintain a written information Security Plan and program informed by the CIS Critical Security Controls and other applicable requirements.

4.2 Institutions shall design reasonable and appropriate security procedures informed by their written Security Plan to prevent unauthorized individuals or organizations from accessing IT Resources that store, process, or transmit PII or any IT Resources that provide a possible vector or avenue to a breach of PII or Critical IT resources.

4.3. Institutions shall maintain commercial insurance, captive insurance, and/or self-insurance covering loss or breach of PII.

R345-5 Roles and Responsibilities: Each institution shall clearly define the roles and responsibilities of persons charged with the security of institutional information resources. The ISO office(s) at an institution may be comprised of one or more persons or groups based on the institution's IT Security needs. The institution may also choose to use designations other than "IT Resource Steward, IT Resource Custodian, and IT Resource Administrators" to describe the persons charged with the following roles and responsibilities.

5.1 Institutional ISO: The ISO reports directly to a senior institutional administrator. The ISO is responsible to coordinate, review, and approve procedures used to provide the requisite security for PII or Critical IT Resources. The ISO is also responsible for coordinating compliance with this policy and shall:

5.1.1 Implement and enforce adherence to the CIS Critical Security Controls;

5.1.2 Develop and maintain security policies, plans, procedures, strategies, architectures, best practices, and minimum requirements;

5.1.3 Provide guidance consistent with institutional policy to IT Resource Stewards and IT Resource Custodians;

5.1.4 Operate or coordinate the operation of technical security controls and security systems;

5.1.5 Conduct periodic and ongoing security audits to confirm compliance with this policy;

5.1.6 Direct the campus Incident Response Team, incident response activities, and incident resolution at institutional, departmental, and individual levels, and take appropriate and reasonable remedial action to resolve security incidents;

5.1.7 Assist institutional or third-party auditors in the analysis of campus IT Resources to further ensure policy compliance; and

5.1.8 Monitor compliance with security policies and procedures and report compliance violations to the relevant cognizant authority.

5.2 IT Resource Custodian: IT Resource Custodians (Computer Services and other IT Resources related work units or individuals) will manage the campus network and other IT systems and resources and, as related to their security roles and responsibilities, shall:

5.2.1 Implement and administer the security of IT Resources in accordance with the CIS Controls;

5.2.2 Inform the Information Security Officer of indicators of attack, which pursuant to best practices, procedures, and standards, may indicate a potential or actual threat to the network and campus IT Resources; and

5.2.3 Apply security policy and procedures to IT Resources as directed by the ISO.

5.3 Incident Response Team: Under the direction of the Information Security Officer, the Incident Response Team is responsible for immediate response to any breach of security. This team is also responsible for determining and disseminating remedies and preventative measures that develop as a result of responding to and resolving security breaches.

5.4 IT Resource Steward: The IT Resource Steward is designated by the cognizant authority of the relevant group or work unit, is familiar with data issues, laws, and regulations.

5.4.1 The IT Resource Steward shall:

5.4.1.1 Determine the purpose and function of the IT Resource;

5.4.1.2 Determine the level of security required based on the sensitivity of the IT Resource;

5.4.1.3 Determine the criticality of the IT Resource;

5.4.1.4 Determine accessibility rights to the IT Resource;

5.4.1.5 Determine the appropriate method for providing business continuity for Critical IT Resources (e.g., performing service continuity at an alternate site, performing equivalent manual procedures, etc.); and

5.4.1.6 Specify adequate data retention, in accordance with the institution's policies, and state and federal laws for IT Resources consisting of applications or data.

5.4.2 An IT Resource Steward in a work unit that lacks the professional IT staff or expertise to accomplish items 5.4.1 through 5.4.7, or to fulfill the responsibilities of the IT Resource Administrators, may request assistance from the Information Security Officer.

5.5 IT Resource Administrator: The IT Resource Administrator(s) performs security functions and procedures as directed by the IT Resource Steward, and implements and administers the security of IT Resources in accordance with institutional policy and industry best practices and standards.

R345-6 Sanctions and Remedies

6.1 Emergency Action by the ISO: The ISO may discontinue service to any User who violates this policy or other IT policies when continuation of the service threatens the security (including integrity, privacy, and availability) of the institution's IT Resources. The ISO may also discontinue service to any network segment or networked device if the continued operation of such segments or devices threatens the security of the institution's IT Resources. Unless non-compliance is causing a direct and imminent threat to the institution's IT Resources necessitating emergency action, the ISO will notify the IT Resource Steward or their designee to assist with resolving non-compliance issues before discontinuing service(s).

6.2 Emergency Action by the IT Resource Steward: The IT Resource Steward may discontinue service or request that the ISO discontinue service to network segments, network devices, or Users under their jurisdiction, that are not in compliance with this policy. Unless non-compliance is causing a direct and imminent threat to the institution's IT Resources necessitating emergency action, the IT Resource Steward will notify, or request that the ISO notify, affected individuals to assist with resolving non-compliance issues before discontinuing service(s),

6.3 Restoration of Access: A User's access may be restored as soon as the direct and imminent security threat has been remedied.

6.4 Revocation of Access: USHE institutions shall reserve the right to revoke access to any IT Resource for any User who violates the institution's policy, or for any other business reasons as allowed by applicable institutional policies.

6.5 Disciplinary Action: Violation of the institution's policy may result in disciplinary action, including termination of employment. Employees may appeal revocation of access to IT Resources or disciplinary actions taken against them pursuant to institutional policy.

Chapter 2
Government Records Access and Management Act

Part 1
General Provisions

63G-2-101 Title.

This chapter is known as the "Government Records Access and Management Act."

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-102 Legislative intent.

(1) In enacting this act, the Legislature recognizes two constitutional rights:
(a) the public's right of access to information concerning the conduct of the public's business; and
(b) the right of privacy in relation to personal data gathered by governmental entities.
(2) The Legislature also recognizes a public policy interest in allowing a government to restrict access to certain records, as specified in this chapter, for the public good.
(3) It is the intent of the Legislature to:
(a) promote the public's right of easy and reasonable access to unrestricted public records;
(b) specify those conditions under which the public interest in allowing restrictions on access to records may outweigh the public's interest in access;
(c) prevent abuse of confidentiality by governmental entities by permitting confidential treatment of records only as provided in this chapter;
(d) provide guidelines for both disclosure and restrictions on access to government records, which are based on the equitable weighing of the pertinent interests and which are consistent with nationwide standards of information practices;
(e) favor public access when, in the application of this act, countervailing interests are of equal weight; and
(f) establish fair and reasonable records management practices.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-103 Definitions.

As used in this chapter:
(1) "Audit" means:
(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or
(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.
(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:
(a) the time and general nature of police, fire, and paramedic calls made to the agency; and
(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4)

(a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5)

(a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11)

(a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the

Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14)

(a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.
(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.
(17) "Person" means:
(a) an individual;
(b) a nonprofit or profit corporation;
(c) a partnership;
(d) a sole proprietorship;
(e) other type of business organization; or
(f) any combination acting in concert with one another.
(18) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.
(19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.
(20) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.
(21) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.
(22) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.
(23) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).
(24) "Reasonable search" means a search that is:
(a) reasonable in scope and intensity; and
(b) not unreasonably burdensome for the government entity.
(25)
(a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:
(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and
(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.
(b) "Record" does not mean:
(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:
(A) in a capacity other than the employee's or officer's governmental capacity; or
(B) that is unrelated to the conduct of the public's business;
(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;
(iii) material that is legally owned by an individual in the individual's private capacity;
(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;
(v) proprietary software;
(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;
(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;
(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;
(x) a computer program that is developed or purchased by or for any governmental entity for its own use;
(xi) a note or internal memorandum prepared as part of the deliberative process by:
(A) a member of the judiciary;
(B) an administrative law judge;
(C) a member of the Board of Pardons and Parole; or
(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;
(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;
(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);
(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;
(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;
(xvi) child sexual abuse material, as defined by Section 76-5b-103;
(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:
(A) a Senate or House Ethics Committee;
(B) the Independent Legislative Ethics Commission;
(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or
(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; or
(xviii) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702.
(26) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.
(27) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.
(28) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.
(29) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:
(a) conducted:
(i) by an institution within the state system of higher education defined in Section 53B-1-102; and
(ii) through an office responsible for sponsored projects or programs; and
(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or
(ii) federal, state, or local governmental entity.
(30) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.
(31) "State archivist" means the director of the state archives.
(32) "State Records Committee" means the State Records Committee created in Section 63G-2-501.
(33) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Amended by Chapter 16, 2023 General Session
Amended by Chapter 173, 2023 General Session
Amended by Chapter 231, 2023 General Session
Amended by Chapter 516, 2023 General Session

63G-2-104 Administrative Procedures Act not applicable.

Title 63G, Chapter 4, Administrative Procedures Act, does not apply to this chapter except as provided in Section 63G-2-603.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-105 Confidentiality agreements.

If a governmental entity or political subdivision receives a request for a record that is subject to a confidentiality agreement executed before April 1, 1992, the law in effect at the time the agreement was executed, including late judicial interpretations of the law, shall govern access to the record, unless all parties to the confidentiality agreement agree in writing to be governed by the provisions of this chapter.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-106 Records of security measures.

(1) The records of a governmental entity or political subdivision regarding security measures designed for the protection of persons or property, public or private, are not subject to this chapter.
(2) The records described in Subsection (1) include:
(a) security plans, including a plan:
(i) to prepare for or mitigate terrorist activity; or
(ii) for emergency and disaster response and recovery;
(b) security codes and combinations, and passwords;
(c) passes and keys;
(d) security procedures;
(e) except as provided in Subsection (3), results of, or data collected from, a public entity's risk assessment or security audit; and
(f) building and public works designs, to the extent that the records or information relate to the ongoing security measures of a public entity.

(3) The records described in Subsection (1) do not include a certification that a community water system has conducted a risk and resilience assessment under 42 U.S.C. Sec. 300i-2.

Amended by Chapter 109, 2022 General Session

63G-2-107 Disclosure of records subject to federal law or other provisions of state law.

(1)
(a) The disclosure of a record to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.
(b) Except as provided in Subsection (2), this chapter applies to records described in Subsection (1)(a) to the extent that this chapter is not inconsistent with the statute, rule, or regulation.

(2) Except as provided in Subsection (3), this chapter does not apply to a record containing protected health information as defined in 45 C.F.R., Part 164, Standards for Privacy of Individually Identifiable Health Information, if the record is:
(a) controlled or maintained by a governmental entity; and
(b) governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information.
(c) The disclosure of an education record as defined in the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99, that is controlled or maintained by a governmental entity shall be governed by the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

(3) This section does not exempt any record or record series from the provisions of Subsection 63G-2-601(1).

Amended by Chapter 173, 2023 General Session

63G-2-108 Certification of records officer.

Each records officer of a governmental entity or political subdivision shall, on an annual basis, successfully complete online training and obtain certification from state archives in accordance with Section 63A-12-110.

Enacted by Chapter 377, 2012 General Session

Part 2
Access to Records

63G-2-201 Provisions relating to records -- Public records -- Private, controlled, protected, and other restricted records -- Disclosure and nondisclosure of records -- Certified copy of record -- Limits on obligation to respond to record request.

(1)
(a) Except as provided in Subsection (1)(b), a person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.
(b) A right under Subsection (1)(a) does not apply with respect to a record:

(i) a copy of which the governmental entity has already provided to the person;
(ii) that is the subject of a records request that the governmental entity is not required to fill under Subsection (7)(a)(v); or
(iii)
(A) that is accessible only by a computer or other electronic device owned or controlled by the governmental entity;
(B) that is part of an electronic file that also contains a record that is private, controlled, or protected; and
(C) that the governmental entity cannot readily segregate from the part of the electronic file that contains a private, controlled, or protected record.
(2) A record is public unless otherwise expressly provided by statute.
(3) The following records are not public:
(a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and
(b) a record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.
(4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305 may be classified private, controlled, or protected.
(5)
(a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.
(b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee, determines that:
(i) there is no interest in restricting access to the record; or
(ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.
(c) In addition to the disclosure under Subsection (5)(b), a governmental entity may disclose a record that is protected under Subsection 63G-2-305(51) if:
(i) the head of the governmental entity, or a designee, determines that the disclosure:
(A) is mutually beneficial to:
(I) the subject of the record;
(II) the governmental entity; and
(III) the public; and
(B) serves a public purpose related to:
(I) public safety; or
(II) consumer protection; and
(ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.
(6) A governmental entity shall provide a person with a certified copy of a record if:
(a) the person requesting the record has a right to inspect it;
(b) the person identifies the record with reasonable specificity; and
(c) the person pays the lawful fees.
(7)
(a) In response to a request, a governmental entity is not required to:
(i) create a record;

(ii) compile, format, manipulate, package, summarize, or tailor information;
(iii) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;
(iv) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person;
(v) fill a person's records request if:
(A) the record requested is:
(I) publicly accessible online; or
(II) included in a public publication or product produced by the governmental entity receiving the request; and
(B) the governmental entity:
(I) specifies to the person requesting the record where the record is accessible online; or
(II) provides the person requesting the record with the public publication or product and specifies where the record can be found in the public publication or product; or
(vi) fulfill a person's records request if:
(A) the person has been determined under Section 63G-2-209 to be a vexatious requester;
(B) the State Records Committee order determining the person to be a vexatious requester provides that the governmental entity is not required to fulfill a request from the person for a period of time; and
(C) the period of time described in Subsection (7)(a)(vi)(B) has not expired.
(b) A governmental entity shall conduct a reasonable search for a requested record.
(8)
(a) Although not required to do so, a governmental entity may, upon request from the person who submitted the records request, compile, format, manipulate, package, summarize, or tailor information or provide a record in a format, medium, or program not currently maintained by the governmental entity.
(b) In determining whether to fulfill a request described in Subsection (8)(a), a governmental entity may consider whether the governmental entity is able to fulfill the request without unreasonably interfering with the governmental entity's duties and responsibilities.
(c) A governmental entity may require a person who makes a request under Subsection (8)(a) to pay the governmental entity, in accordance with Section 63G-2-203, for providing the information or record as requested.
(9)
(a) Notwithstanding any other provision of this chapter, and subject to Subsection (9)(b), a governmental entity is not required to respond to, or provide a record in response to, a record request if the request is submitted by or in behalf of an individual who is confined in a jail or other correctional facility following the individual's conviction.
(b) Subsection (9)(a) does not apply to:
(i) the first five record requests submitted to the governmental entity by or in behalf of an individual described in Subsection (9)(a) during any calendar year requesting only a record that contains a specific reference to the individual; or
(ii) a record request that is submitted by an attorney of an individual described in Subsection (9)(a).
(10)
(a) A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:

(i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or controlled information from disclosure; and
(ii) the governmental entity provides reasonable safeguards to protect the public from the potential for loss of a public record.
(b) If the requirements of Subsection (10)(a) are met, the governmental entity may:
(i) provide the requester with the facilities for copying the requested records and require that the requester make the copies; or
(ii) allow the requester to provide the requester's own copying facilities and personnel to make the copies at the governmental entity's offices and waive the fees for copying the records.
(11)
(a) A governmental entity that owns an intellectual property right and that offers the intellectual property right for sale or license may control by ordinance or policy the duplication and distribution of the material based on terms the governmental entity considers to be in the public interest.
(b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the governmental entity under federal copyright or patent law as a result of its ownership of the intellectual property right.
(12) A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record under this chapter.
(13) Subject to the requirements of Subsection (7), a governmental entity shall provide access to an electronic copy of a record in lieu of providing access to its paper equivalent if:
(a) the person making the request requests or states a preference for an electronic copy;
(b) the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and
(c) the electronic copy of the record:
(i) does not disclose other records that are exempt from disclosure; or
(ii) may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.
(14) In determining whether a record is properly classified as private under Subsection 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals board, or court shall consider and weigh:
(a) any personal privacy interests, including those in images, that would be affected by disclosure of the records in question; and
(b) any public interests served by disclosure.

Amended by Chapter 173, 2023 General Session
Amended by Chapter 516, 2023 General Session

63G-2-202 Access to private, controlled, and protected documents.
(1) Except as provided in Subsection (11)(a), a governmental entity:
(a) shall, upon request, disclose a private record to:
(i) the subject of the record;
(ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;
(iii) the legal guardian of a legally incapacitated individual who is the subject of the record;
(iv) any other individual who:
(A) has a power of attorney from the subject of the record;

(B) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or
(C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26B-8-501, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or
(v) any person to whom the record must be provided pursuant to:
(A) court order as provided in Subsection (7); or
(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; and
(b) may disclose a private record described in Subsections 63G-2-302(1)(j) through (m), without complying with Section 63G-2-206, to another governmental entity for a purpose related to:
(i) voter registration; or
(ii) the administration of an election.
(2)
(a) Upon request, a governmental entity shall disclose a controlled record to:
(i) a physician, physician assistant, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:
(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and
(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and
(ii) any person to whom the record must be disclosed pursuant to:
(A) a court order as provided in Subsection (7); or
(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.
(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.
(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.
(4) Upon request, and except as provided in Subsection (11)(b), a governmental entity shall disclose a protected record to:
(a) the person that submitted the record;
(b) any other individual who:
(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or
(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;
(c) any person to whom the record must be provided pursuant to:
(i) a court order as provided in Subsection (7); or
(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or
(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).
(5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.
(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:
(a) the record deals with a matter in controversy over which the court has jurisdiction;
(b) the court has considered the merits of the request for access to the record;
(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:
(i) privacy interests in the case of private or controlled records;
(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and
(iii) privacy interests or the public interest in the case of other protected records;
(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and
(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.
(8)
(a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:
(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;
(ii) determines that:
(A) the proposed research is bona fide; and
(B) the value of the research is greater than or equal to the infringement upon personal privacy;
(iii)
(A) requires the researcher to assure the integrity, confidentiality, and security of the records; and
(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;
(iv) prohibits the researcher from:
(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or
(B) using the record for purposes other than the research approved by the governmental entity; and
(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.
(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.
(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).
(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(w).
(9)

(a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:
(i) private under Section 63G-2-302; or
(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.
(b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the disclosure to persons other than those specified in this section of records that are:
(i) private under Section 63G-2-302;
(ii) controlled under Section 63G-2-304; or
(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.
(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.
(10)
(a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(a)(v).
(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 26B-6-212.
(11)
(a) A private, protected, or controlled record described in Section 26B-1-506 shall be disclosed as required under:
(i) Subsections 26B-1-506(1)(b), (2), and (4)(c); and
(ii) Subsections 26B-1-507(1) and (6).
(b) A record disclosed under Subsection (11)(a) shall retain its character as private, protected, or controlled.

Amended by Chapter 329, 2023 General Session

63G-2-203 Fees.
(1)
(a) Subject to Subsection (5), a governmental entity may charge a reasonable fee to cover the governmental entity's actual cost of providing a record.
(b) A fee under Subsection (1)(a) shall be approved by the governmental entity's executive officer.
(2)
(a) When a governmental entity compiles a record in a form other than that normally maintained by the governmental entity, the actual costs under this section may include the following:
(i) the cost of staff time for compiling, formatting, manipulating, packaging, summarizing, or tailoring the record either into an organization or media to meet the person's request;
(ii) the cost of staff time for search, retrieval, and other direct administrative costs for complying with a request; and
(iii) in the case of fees for a record that is the result of computer output other than word processing, the actual incremental cost of providing the electronic services and products together with a reasonable portion of the costs associated with formatting or interfacing the information for particular users, and the administrative costs as set forth in Subsections (2)(a)(i) and (ii).

(b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest paid employee who, in the discretion of the custodian of records, has the necessary skill and training to perform the request.

(3)

(a) Fees shall be established as provided in this Subsection (3).

(b) A governmental entity with fees established by the Legislature:

(i) shall establish the fees defined in Subsection (2), or other actual costs associated with this section through the budget process; and

(ii) may use the procedures of Section 63J-1-504 to set fees until the Legislature establishes fees through the budget process.

(c) Political subdivisions shall establish fees by ordinance or written formal policy adopted by the governing body.

(d) The judiciary shall establish fees by rules of the judicial council.

(4) A governmental entity may fulfill a record request without charge and is encouraged to do so if it determines that:

(a) releasing the record primarily benefits the public rather than a person;

(b) the individual requesting the record is the subject of the record, or an individual specified in Subsection 63G-2-202(1) or (2); or

(c) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

(5)

(a) As used in this Subsection (5), "media representative":

(i) means a person who requests a record to obtain information for a story or report for publication or broadcast to the general public; and

(ii) does not include a person who requests a record to obtain information for a blog, podcast, social media account, or other means of mass communication generally available to a member of the public.

(b) A governmental entity may not charge a fee for:

(i) reviewing a record to determine whether it is subject to disclosure, except as permitted by Subsection (2)(a)(ii);

(ii) inspecting a record; or

(iii) the first quarter hour of staff time spent in responding to a request under Section 63G-2-204.

(c) Notwithstanding Subsection (5)(b)(iii), a governmental entity is not prevented from charging a fee for the first quarter hour of staff time spent in responding to a request under Section 63G-2-204 if the person who submits the request:

(i) is not a Utah media representative; and

(ii) previously submitted a separate request within the 10-day period immediately before the date of the request to which the governmental entity is responding.

(6)

(a) A person who believes that there has been an unreasonable denial of a fee waiver under Subsection (4) may appeal the denial in the same manner as a person appeals when inspection of a public record is denied under Section 63G-2-205.

(b) The adjudicative body hearing the appeal:

(i) shall review the fee waiver de novo, but shall review and consider the governmental entity's denial of the fee waiver and any determination under Subsection (4); and

(ii) has the same authority when a fee waiver or reduction is denied as it has when the inspection of a public record is denied.

(7)
(a) All fees received under this section by a governmental entity subject to Subsection (3)(b) shall be retained by the governmental entity as a dedicated credit.
(b) Those funds shall be used to recover the actual cost and expenses incurred by the governmental entity in providing the requested record or record series.
(8)
(a) A governmental entity may require payment of past fees and future estimated fees before beginning to process a request if:
(i) fees are expected to exceed $50; or
(ii) the requester has not paid fees from previous requests.
(b) Any prepaid amount in excess of fees due shall be returned to the requester.
(9) This section does not alter, repeal, or reduce fees established by other statutes or legislative acts.
(10)
(a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be set as provided in this Subsection (10).
(b) The lieutenant governor shall:
(i) after consultation with county clerks, establish uniform fees for voter registration and voter history records that meet the requirements of this section; and
(ii) obtain legislative approval of those fees by following the procedures and requirements of Section 63J-1-504.

Amended by Chapter 128, 2022 General Session

63G-2-204 Record request -- Response -- Time for responding.
(1)
(a) A person making a request for a record shall submit to the governmental entity that retains the record a written request containing:
(i) the person's:
(A) name;
(B) mailing address;
(C) email address, if the person has an email address and is willing to accept communications by email relating to the person's records request; and
(D) daytime telephone number; and
(ii) a description of the record requested that identifies the record with reasonable specificity.
(b)
(i) A single record request may not be submitted to multiple governmental entities.
(ii) Subsection (1)(b)(i) may not be construed to prevent a person from submitting a separate record request to each of multiple governmental entities, even if each of the separate requests seeks access to the same record.
(2)
(a) In response to a request for a record, a governmental entity may not provide a record that it has received under Section 63G-2-206 as a shared record.
(b) If a governmental entity is prohibited from providing a record under Subsection (2)(a), the governmental entity shall:
(i) deny the records request; and
(ii) inform the person making the request of the identity of the governmental entity from which the shared record was received.

(3) A governmental entity may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall be directed.

(4) After receiving a request for a record, a governmental entity shall:

(a) review each request that seeks an expedited response and notify, within five business days after receiving the request, each requester that has not demonstrated that their record request benefits the public rather than the person that their response will not be expedited; and

(b) as soon as reasonably possible, but no later than 10 business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person:

(i) approve the request and provide a copy of the record;

(ii) deny the request in accordance with the procedures and requirements of Section 63G-2-205;

(iii) notify the requester that it does not maintain the record requested and provide, if known, the name and address of the governmental entity that does maintain the record; or

(iv) notify the requester that because of one of the extraordinary circumstances listed in Subsection (6), it cannot immediately approve or deny the request, and include with the notice:

(A) a description of the circumstances that constitute the extraordinary circumstances; and

(B) the date when the records will be available, consistent with the requirements of Subsection (7).

(5) Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

(6) The following circumstances constitute "extraordinary circumstances" that allow a governmental entity to delay approval or denial by an additional period of time as specified in Subsection (7) if the governmental entity determines that due to the extraordinary circumstances it cannot respond within the time limits provided in Subsection (4):

(a) another governmental entity is using the record, in which case the originating governmental entity shall promptly request that the governmental entity currently in possession return the record;

(b) another governmental entity is using the record as part of an audit, and returning the record before the completion of the audit would impair the conduct of the audit;

(c)

(i) the request is for a voluminous quantity of records or a record series containing a substantial number of records; or

(ii) the requester seeks a substantial number of records or records series in requests filed within five working days of each other;

(d) the governmental entity is currently processing a large number of records requests;

(e) the request requires the governmental entity to review a large number of records to locate the records requested;

(f) the decision to release a record involves legal issues that require the governmental entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law;

(g) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or

(h) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.

(7) If one of the extraordinary circumstances listed in Subsection (6) precludes approval or denial within the time specified in Subsection (4), the following time limits apply to the extraordinary circumstances:
(a) for claims under Subsection (6)(a), the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work;
(b) for claims under Subsection (6)(b), the originating governmental entity shall notify the requester when the record is available for inspection and copying;
(c) for claims under Subsections (6)(c), (d), and (e), the governmental entity shall:
(i) disclose the records that it has located which the requester is entitled to inspect;
(ii) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request;
(iii) complete the work and disclose those records that the requester is entitled to inspect as soon as reasonably possible; and
(iv) for any person that does not establish a right to an expedited response as authorized by Subsection (4), a governmental entity may choose to:
(A) require the person to provide for copying of the records as provided in Subsection 63G-2-201(10); or
(B) treat a request for multiple records as separate record requests, and respond sequentially to each request;
(d) for claims under Subsection (6)(f), the governmental entity shall either approve or deny the request within five business days after the response time specified for the original request has expired;
(e) for claims under Subsection (6)(g), the governmental entity shall fulfill the request within 15 business days from the date of the original request; or
(f) for claims under Subsection (6)(h), the governmental entity shall complete its programming and disclose the requested records as soon as reasonably possible.
(8)
(a) If a request for access is submitted to an office of a governmental entity other than that specified by rule in accordance with Subsection (3), the office shall promptly forward the request to the appropriate office.
(b) If the request is forwarded promptly, the time limit for response begins when the request is received by the office specified by rule.
(9) If the governmental entity fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the record.

Amended by Chapter 173, 2023 General Session

63G-2-205 Denials.
(1) If the governmental entity denies the request in whole or part, it shall provide a notice of denial to the requester either in person or by sending the notice to the requester's address.
(2) The notice of denial shall contain the following information:
(a) a description of the record or portions of the record to which access was denied, provided that the description does not disclose private, controlled, or protected information or information exempt from disclosure under Subsection 63G-2-201(3)(b);
(b) citations to the provisions of this chapter, court rule or order, another state statute, federal statute, or federal regulation that exempt the record or portions of the record from disclosure,

provided that the citations do not disclose private, controlled, or protected information or information exempt from disclosure under Subsection 63G-2-201(3)(b);
(c) a statement that the requester has the right to appeal the denial to the chief administrative officer of the governmental entity; and
(d) the time limits for filing an appeal, and the name and business address of the chief administrative officer of the governmental entity.
(3) Unless otherwise required by a court or agency of competent jurisdiction, a governmental entity may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-206 Sharing records.
(1) A governmental entity may provide a record that is private, controlled, or protected to another governmental entity, a government-managed corporation, a political subdivision, the federal government, or another state if the requesting entity:
(a) serves as a repository or archives for purposes of historical preservation, administrative maintenance, or destruction;
(b) enforces, litigates, or investigates civil, criminal, or administrative law, and the record is necessary to a proceeding or investigation;
(c) is authorized by state statute to conduct an audit and the record is needed for that purpose;
(d) is one that collects information for presentence, probationary, or parole purposes; or
(e)
(i) is:
(A) the Legislature;
(B) a legislative committee;
(C) a member of the Legislature; or
(D) a legislative staff member acting at the request of the Legislature, a legislative committee, or a member of the Legislature; and
(ii) requests the record in relation to the Legislature's duties including:
(A) the preparation or review of a legislative proposal or legislation;
(B) appropriations; or
(C) an investigation or review conducted by the Legislature or a legislative committee.
(2)
(a) A governmental entity may provide a private, controlled, or protected record or record series to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity provides written assurance:
(i) that the record or record series is necessary to the performance of the governmental entity's duties and functions;
(ii) that the record or record series will be used for a purpose similar to the purpose for which the information in the record or record series was collected or obtained; and
(iii) that the use of the record or record series produces a public benefit that is greater than or equal to the individual privacy right that protects the record or record series.
(b) A governmental entity may provide a private, controlled, or protected record or record series to a contractor or a private provider according to the requirements of Subsection (6)(b).
(3)

(a) A governmental entity shall provide a private, controlled, or protected record to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity:
(i) is entitled by law to inspect the record;
(ii) is required to inspect the record as a condition of participating in a state or federal program or for receiving state or federal funds; or
(iii) is an entity described in Subsection (1)(a), (b), (c), (d), or (e).
(b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection 63G-2-305(4).
(4) Before disclosing a record or record series under this section to another governmental entity, another state, the United States, a foreign government, or to a contractor or private provider, the originating governmental entity shall:
(a) inform the recipient of the record's classification and the accompanying restrictions on access; and
(b) if the recipient is not a governmental entity to which this chapter applies, obtain the recipient's written agreement which may be by mechanical or electronic transmission that it will abide by those restrictions on access unless a statute, federal regulation, or interstate agreement otherwise governs the sharing of the record or record series.
(5) A governmental entity may disclose a record to another state, the United States, or a foreign government for the reasons listed in Subsections (1) and (2) without complying with the procedures of Subsection (2) or (4) if disclosure is authorized by executive agreement, treaty, federal statute, compact, federal regulation, or state statute.
(6)
(a) Subject to Subsections (6)(b) and (c), an entity receiving a record under this section is subject to the same restrictions on disclosure of the record as the originating entity.
(b) A contractor or a private provider may receive information under this section only if:
(i) the contractor or private provider's use of the record or record series produces a public benefit that is greater than or equal to the individual privacy right that protects the record or record series;
(ii) the record or record series it requests:
(A) is necessary for the performance of a contract with a governmental entity;
(B) will only be used for the performance of the contract with the governmental entity;
(C) will not be disclosed to any other person; and
(D) will not be used for advertising or solicitation purposes; and
(iii) the contractor or private provider gives written assurance to the governmental entity that is providing the record or record series that it will adhere to the restrictions of this Subsection (6)(b).
(c) The classification of a record already held by a governmental entity and the applicable restrictions on disclosure of that record are not affected by the governmental entity's receipt under this section of a record with a different classification that contains information that is also included in the previously held record.
(7) Notwithstanding any other provision of this section, if a more specific court rule or order, state statute, federal statute, or federal regulation prohibits or requires sharing information, that rule, order, statute, or federal regulation controls.
(8)
(a) The following records may not be shared under this section:
(i) records held by the Division of Oil, Gas, and Mining that pertain to any person and that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining;

(ii) except as provided in Subsection (8)(b), records of publicly funded libraries as described in Subsection 63G-2-302(1)(c); and
(iii) a record described in Section 63G-12-210.
(b) A publicly funded library may share a record that is a private record under Subsection 63G-2-302(1)(c) with a law enforcement agency, as defined in Section 53-1-102, if:
(i) the record is a video surveillance recording of the library premises; and
(ii) the law enforcement agency certifies in writing that:
(A) the law enforcement agency believes that the record will provide important information for a pending investigation into criminal or potentially criminal behavior; and
(B) the law enforcement agency's receipt of the record will assist the agency to prevent imminent harm to an individual or imminent and substantial damage to property.
(9) Records that may evidence or relate to a violation of law may be disclosed to a government prosecutor, peace officer, or auditor.

Amended by Chapter 334, 2019 General Session

63G-2-207 Subpoenas -- Court ordered disclosure for discovery.
(1) Subpoenas and other methods of discovery under the state or federal statutes or rules of civil, criminal, administrative, or legislative procedure are not written requests under Section 63G-2-204.
(2)
(a)
(i) Except as otherwise provided in Subsection (2)(c), in judicial or administrative proceedings in which an individual is requesting discovery of records classified private, controlled, or protected under this chapter, or otherwise restricted from access by other statutes, the court, or an administrative law judge shall follow the procedure in Subsection 63G-2-202(7) before ordering disclosure.
(ii) Until the court or an administrative law judge orders disclosure, these records are privileged from discovery.
(b) If, the court or administrative order requires disclosure, the terms of the order may limit the requester's further use and disclosure of the record in accordance with Subsection 63G-2-202(7), in order to protect the privacy interests recognized in this chapter.
(c) Unless a court or administrative law judge imposes limitations in a restrictive order, this section does not limit the right to obtain:
(i) records through the procedures set forth in this chapter; or
(ii) medical records discoverable under state or federal court rules as authorized by Subsection 63G-2-302(3).

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-208 Public repository of legislative email.
(1) As used in this section, "repository" means the repository of email described in Subsection (2).
(2)
(a) On or before January 1, 2014, the Legislature shall post on its website a publicly accessible repository containing email that legislators transfer to it as provided in this section.
(b) The repository shall be searchable by sender, receiver, and subject.
(3) A legislator may transfer to the repository an email that the legislator sent or received.
(4) An email in the repository may be removed from the repository if:

(a) the email was accidentally transferred to the repository;
(b) it is determined that the email is not a record or that the email is a private, protected, or controlled record;
(c) the email is deleted pursuant to the Legislature's record retention policy; or
(d) for an email that is not removed from the repository earlier under Subsection (4)(a), (b), or (c), at least two years have passed after the day the legislator first sent or received the email.
(5) A legislator's failure to transfer an email to the repository does not alone mean that the email is a private, protected, or controlled record.

Enacted by Chapter 231, 2013 General Session

63G-2-209 Vexatious requester.
(1) As used in this section:
(a) "Committee" means the State Records Committee created in Section 63G-2-501.
(b) "Executive secretary" means an individual appointed as executive secretary under Subsection 63G-2-502(3).
(c) "Respondent" means a person that a governmental entity claims is a vexatious requester under this section.
(2)
(a) A governmental entity may file a petition with the committee to request relief from a person that the governmental entity claims is a vexatious requester.
(b) A petition under Subsection (2)(a) shall:
(i) be filed with the committee by submitting the petition to the executive secretary; and
(ii) contain:
(A) the name, phone number, mailing address, and email address that the respondent submitted to the governmental entity;
(B) a description of the conduct that the governmental entity claims demonstrates that the respondent is a vexatious requester;
(C) a statement of the relief the governmental entity seeks; and
(D) a sworn declaration or an unsworn declaration, as those terms are defined in Section 78B-18a-102.
(c) On the day the governmental entity files a petition under Subsection (2)(a), the governmental entity shall send a copy of the petition to the respondent.
(3)
(a) Except as provided in Subsection (3)(c), no later than seven business days after receiving the petition the executive secretary shall schedule a hearing for the committee to consider the petition, to be held:
(i)
(A) at the next regularly scheduled committee meeting falling at least 16 calendar days after the date the petition is filed but no later than 64 calendar days after the date the petition is filed; or
(B) at a regularly scheduled committee meeting that is later than the period described in Subsection (3)(a)(i)(A) if the later committee meeting is the first regularly scheduled committee meeting at which there are fewer than 10 appeals scheduled to be heard; or
(ii) at a date sooner than a period described in Subsection (3)(a)(i) if the governmental entity:
(A) requests an expedited hearing; and
(B) shows good cause for the expedited hearing.

(b) If the executive secretary schedules a hearing under Subsection (3)(a), the executive secretary shall:
(i) send a copy of the petition to each member of the committee;
(ii) send a copy of the notice of hearing to the governmental entity, the respondent, and each member of the committee; and
(iii) if applicable, send a copy of the respondent's statement under Subsection (3)(c)(ii) to the governmental entity and each member of the committee.
(c)
(i) The executive secretary may decline to schedule a hearing if:
(A) the executive secretary recommends that the committee deny the petition without a hearing because the petition does not warrant a hearing;
(B) the executive secretary consults with the chair of the committee and at least one other member of the committee; and
(C) the chair of the committee and all committee members with whom the executive secretary consults under this Subsection (3)(c)(i) agree with the executive secretary's recommendation to deny the petition without a hearing.
(ii) The executive secretary may, in making the determination described in Subsection (3)(c)(i)(A), request that the respondent submit a written response to the petition.
(d) If the executive secretary declines to schedule a hearing in accordance with Subsection (3)(c):
(i) the executive secretary shall send a notice to the governmental entity and the respondent indicating that the request for a hearing has been denied and the reasons for the denial; and
(ii) the committee shall:
(A) vote at the committee's next regular meeting to accept or reject the recommendation to deny the petition without a hearing;
(B) issue an order that includes the reasons for the committee's decision to accept or reject the recommendation; and
(C) if the committee rejects the recommendation to deny the petition without a hearing, direct the executive secretary to schedule a hearing as provided in Subsection (3)(a).
(4)
(a) No later than five business days before the hearing, the respondent may submit to the executive secretary and the governmental entity a written statement in response to the governmental entity's petition.
(b) The written statement described in Subsection (4)(a) may be the same document as the respondent's written response described in Subsection (3)(c)(ii).
(5) No later than 10 business days before a hearing under this section, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention with the committee as provided in Subsection 63G-2-403(6).
(6) If a respondent fails to submit a written statement under Subsection (4) or fails to appear at the hearing, the committee shall:
(a) cancel the hearing; or
(b) hold the hearing in accordance with Subsection (7).
(7)
(a) If the committee holds a hearing scheduled under Subsection (3), the committee shall:
(i) allow the governmental entity to testify, present evidence, and comment on the issues; and
(ii) allow the respondent to testify, present evidence, and comment on the issues if the respondent appears at the hearing.
(b) At the hearing, the committee may allow another interested person to comment on the issues.

(c)
(i) Discovery is prohibited, but the committee may issue subpoenas or other orders to compel production of necessary testimony or evidence.
(ii) If the subject of a committee subpoena disobeys or fails to comply with the subpoena, the committee may file a motion with the district court for an order to compel obedience to the subpoena.

(8)
(a) No later than seven business days after a hearing is held as scheduled under Subsection (3) or the date on which a hearing cancelled under Subsection (6) was scheduled to be held, the committee shall:
(i) determine, in accordance with Subsection (9), whether the governmental entity has demonstrated that the respondent is a vexatious requester; and
(ii) issue a signed order that grants or denies the petition in whole or in part.
(b) Upon granting the petition in whole or in part, the committee may order that the governmental entity is not required to fulfill requests from the respondent or a person that submits a request on the respondent's behalf for a period of time that may not exceed one year.
(c) The committee's order shall contain:
(i) a statement of the reasons for the committee's decision;
(ii) if the petition is granted in whole or in part, a specific description of the conduct the committee determines demonstrates that the respondent is a vexatious requester, including any conduct the committee finds to constitute an abuse of the right of access to information under this chapter or a substantial interference with the operations of the governmental entity;
(iii) a statement that the respondent or governmental entity may seek judicial review of the committee's decision in district court as provided in Section 63G-2-404; and
(iv) a brief summary of the judicial review process, the time limits for seeking judicial review, and a notice that, in order to protect applicable rights in connection with the judicial review, the person seeking judicial review of the committee's decision may wish to seek advice from an attorney.

(9) In determining whether a governmental entity has demonstrated that the respondent is a vexatious requester, the committee shall consider:
(a) the interests described in Section 63G-2-102;
(b) as applicable:
(i) the number of requests the respondent has submitted to the governmental entity, including the number of pending record requests;
(ii) the scope, nature, content, language, and subject matter of record requests the respondent has submitted to the governmental entity;
(iii) the nature, content, language, and subject matter of any communications to the governmental entity related to a record request of the respondent; and
(iv) any pattern of conduct that the committee determines to constitute:
(A) an abuse of the right of access to information under this chapter; or
(B) substantial interference with the operations of the governmental entity; and
(c) any other factor the committee considers relevant.

(10)
(a) A governmental entity or respondent aggrieved by the committee's decision under this section may seek judicial review of the decision as provided in Section 63G-2-404.
(b) In a judicial review under Subsection (10)(a), the court may award reasonable attorney fees to a respondent if:

(i) the respondent substantially prevails; and
(ii) the court determines that:
(A) the petition filed by the governmental entity under Subsection (2) is without merit; and
(B) the governmental entity's actions in filing the petition lack a reasonable basis in fact or law.
(c) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees under this Subsection (10) is not subject to Chapter 7, Governmental Immunity Act of Utah.
(11) Notwithstanding any other provision of this chapter, a records request that a governmental entity is not required to fulfill in accordance with an order issued under this section may not be the subject of an appeal under Part 4, Appeals.
(12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee shall make rules to implement this section.

Enacted by Chapter 516, 2023 General Session

Part 3
Classification

63G-2-301 Public records.
(1) As used in this section:
(a) "Business address" means a single address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.
(b) "Business email address" means a single email address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.
(c) "Business telephone number" means a single telephone number of a governmental agency designated for the public to contact an employee or officer of the governmental agency.
(d) "Correctional facility" means the same as that term is defined in Section 77-16b-102.
(2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):
(a) laws;
(b) the name, gender, gross compensation, job title, job description, business address, business email address, business telephone number, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of a current or former employee or officer of the governmental entity, excluding:
(i) undercover law enforcement personnel; and
(ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;
(c) final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;
(d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsection 63G-2-305(17) or (18);

(e) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public Meetings Act, including the records of all votes of each member of the governmental entity;
(f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;
(g) unless otherwise classified as private under Section 63G-2-303, records or parts of records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or other governmental entities that give public notice of:
(i) titles or encumbrances to real property;
(ii) restrictions on the use of real property;
(iii) the capacity of persons to take or convey title to real property; or
(iv) tax status for real and personal property;
(h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;
(i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public;
(j) documentation of the compensation that a governmental entity pays to a contractor or private provider;
(k) summary data;
(l) voter registration records, including an individual's voting history, except for a voter registration record or those parts of a voter registration record that are classified as private under Subsections 63G-2-302(1)(j) through (m) or withheld under Subsection 20A-2-104(7);
(m) for an elected official, as defined in Section 11-47-102, a telephone number, if available, and email address, if available, where that elected official may be reached as required in Title 11, Chapter 47, Access to Elected Officials;
(n) for a school community council member, a telephone number, if available, and email address, if available, where that elected official may be reached directly as required in Section 53G-7-1203;
(o) annual audited financial statements of the Utah Educational Savings Plan described in Section 53B-8a-111; and
(p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as defined in Section 20A-7-101, after the packet is submitted to a county clerk.
(3) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:
(a) administrative staff manuals, instructions to staff, and statements of policy;
(b) records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;
(c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the governmental entity;
(d) contracts entered into by a governmental entity;
(e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;

(f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);
(g) chronological logs and initial contact reports;
(h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;
(i) empirical data contained in drafts if:
  (i) the empirical data is not reasonably available to the requester elsewhere in similar form; and
  (ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;
(j) drafts that are circulated to anyone other than:
  (i) a governmental entity;
  (ii) a political subdivision;
  (iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;
  (iv) a government-managed corporation; or
  (v) a contractor or private provider;
(k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;
(l) original data in a computer program if the governmental entity chooses not to disclose the program;
(m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;
(n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;
(o) records that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if:
  (i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and
  (ii) the charges on which the disciplinary action was based were sustained;
(p) records maintained by the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that evidence mineral production on government lands;
(q) final audit reports;
(r) occupational and professional licenses;
(s) business licenses;
(t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by a governmental entity, but not including records that initiate employee discipline; and
(u)
  (i) records that disclose a standard, regulation, policy, guideline, or rule regarding the operation of a correctional facility or the care and control of inmates committed to the custody of a correctional facility; and
  (ii) records that disclose the results of an audit or other inspection assessing a correctional facility's compliance with a standard, regulation, policy, guideline, or rule described in Subsection (3)(u)(i).

(4) The list of public records in this section is not exhaustive and should not be used to limit access to records.

Amended by Chapter 255, 2020 General Session
Amended by Chapter 399, 2020 General Session

63G-2-302 Private records.

(1) The following records are private:
- (a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;
- (b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;
- (c) records of publicly funded libraries that when examined alone or with other records identify a patron;
- (d) records received by or generated by or for:
  - (i) the Independent Legislative Ethics Commission, except for:
    - (A) the commission's summary data report that is required under legislative rule; and
    - (B) any other document that is classified as public under legislative rule; or
  - (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;
- (e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;
- (f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:
  - (i) if, prior to the meeting, the chair of the committee determines release of the records:
    - (A) reasonably could be expected to interfere with the investigation undertaken by the committee; or
    - (B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and
  - (ii) after the meeting, if the meeting was closed to the public;
- (g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;
- (h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;
- (i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- (j) that part of a voter registration record identifying a voter's:
  - (i) driver license or identification card number;
  - (ii) social security number, or last four digits of the social security number;
  - (iii) email address;
  - (iv) date of birth; or
  - (v) phone number;
- (k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);
(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;
(n) a record that:
(i) contains information about an individual;
(ii) is voluntarily provided by the individual; and
(iii) goes into an electronic database that:
(A) is designated by and administered under the authority of the Chief Information Officer; and
(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;
(o) information provided to the Commissioner of Insurance under:
(i) Subsection 31A-23a-115(3)(a);
(ii) Subsection 31A-23a-302(4); or
(iii) Subsection 31A-26-210(4);
(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
(q) information provided by an offender that is:
(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and
(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);
(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;
(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;
(t) an email address provided by a military or overseas voter under Section 20A-16-501;
(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;
(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:
(i) the commission's summary data report that is required in Section 63A-15-202; and
(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;
(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;
(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;
(y) a record described in Subsection 53-5a-104(7);
(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:
(i) email address;
(ii) phone number; or
(iii) personal financial information related to a person's payment method;
(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:
(i)Title 59, Chapter 2, Part 11, Exemptions;

(ii)Title 59, Chapter 2, Part 12, Property Tax Relief;
(iii)Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
(iv)Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);
(cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); and
(dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004.
(2) The following records are private if properly classified by a governmental entity:
(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);
(b) records describing an individual's finances, except that the following are public:
(i) records described in Subsection 63G-2-301(2);
(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or
(iii) records that must be disclosed in accordance with another statute;
(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;
(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;
(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;
(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:
(i) depict the commission of an alleged crime;
(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or
(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.
(3)
(a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.
(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:
(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or
(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Amended by Chapter 329, 2023 General Session
Amended by Chapter 471, 2023 General Session

63G-2-303 Private information concerning certain government employees.

(1) As used in this section:
(a) "At-risk government employee" means a current or former:
(i) peace officer as specified in Section 53-13-102;
(ii) state or federal judge of an appellate, district, justice, or juvenile court, or court commissioner;
(iii) judge authorized by Title 39A, Chapter 5, Utah Code of Military Justice;
(iv) judge authorized by Armed Forces, Title 10, United States Code;
(v) federal prosecutor;
(vi) prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;
(vii) law enforcement official as defined in Section 53-5-711;
(viii) prosecutor authorized by Title 39A, Chapter 5, Utah Code of Military Justice; or
(ix) state or local government employee who, because of the unique nature of the employee's regular work assignments or because of one or more recent credible threats directed to or against the employee, would be at immediate and substantial risk of physical harm if the employee's personal information is disclosed.
(b) "Family member" means the spouse, child, sibling, parent, or grandparent of an at-risk government employee who is living with the employee.
(c) "Personal information" means the employee's or the employee's family member's home address, home telephone number, personal mobile telephone number, personal pager number, personal email address, social security number, insurance coverage, marital status, or payroll deductions.
(2)
(a) Pursuant to Subsection 63G-2-302(1)(h), an at-risk government employee may file a written application that:
(i) gives notice of the employee's status as an at-risk government employee to each agency of a government entity holding a record or a part of a record that would disclose the employee's personal information; and
(ii) requests that the government agency classify those records or parts of records as private.
(b) An at-risk government employee desiring to file an application under this section may request assistance from the government agency to identify the individual records containing personal information.
(c) Each government agency shall develop a form that:
(i) requires the at-risk government employee to designate each specific record or part of a record containing the employee's personal information that the applicant desires to be classified as private;
(ii) affirmatively requests that the government entity holding those records classify them as private;
(iii) informs the employee that by submitting a completed form the employee may not receive official announcements affecting the employee's property, including notices about proposed municipal annexations, incorporations, or zoning modifications; and

(iv) contains a place for the signature required under Subsection (2)(d).
(d) A form submitted by an employee under Subsection (2)(c) shall be signed by the highest ranking elected or appointed official in the employee's chain of command certifying that the employee submitting the form is an at-risk government employee.
(3) A county recorder, county treasurer, county auditor, or a county tax assessor may fully satisfy the requirements of this section by:
(a) providing a method for the assessment roll and index and the tax roll and index that will block public access to the home address, home telephone number, situs address, and Social Security number; and
(b) providing the at-risk government employee requesting the classification with a disclaimer informing the employee that the employee may not receive official announcements affecting the employee's property, including notices about proposed annexations, incorporations, or zoning modifications.
(4) A government agency holding records of an at-risk government employee classified as private under this section may release the record or part of the record if:
(a) the employee or former employee gives written consent;
(b) a court orders release of the records; or
(c) the government agency receives a certified death certificate for the employee or former employee.
(5)
(a) If the government agency holding the private record receives a subpoena for the records, the government agency shall attempt to notify the at-risk government employee or former employee by mailing a copy of the subpoena to the employee's last-known mailing address together with a request that the employee either:
(i) authorize release of the record; or
(ii) within 10 days of the date that the copy and request are mailed, deliver to the government agency holding the private record a copy of a motion to quash filed with the court who issued the subpoena.
(b) The government agency shall comply with the subpoena if the government agency has:
(i) received permission from the at-risk government employee or former employee to comply with the subpoena;
(ii) not received a copy of a motion to quash within 10 days of the date that the copy of the subpoena was mailed; or
(iii) received a court order requiring release of the records.
(6)
(a) Except as provided in Subsection (6)(b), a form submitted under this section remains in effect until the earlier of:
(i) four years after the date the employee signs the form, whether or not the employee's employment terminates before the end of the four-year period; and
(ii) one year after the government agency receives official notice of the death of the employee.
(b) A form submitted under this section may be rescinded at any time by:
(i) the at-risk government employee who submitted the form; or
(ii) if the at-risk government employee is deceased, a member of the employee's immediate family.

Amended by Chapter 402, 2019 General Session

63G-2-304 Controlled records.

A record is controlled if:
(1) the record contains medical, psychiatric, or psychological data about an individual;
(2) the governmental entity reasonably believes that:
(a) releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual; or
(b) releasing the information would constitute a violation of normal professional practice and medical ethics; and
(3) the governmental entity has properly classified the record.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-305 Protected records.
The following records are protected if properly classified by a governmental entity:
(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;
(2) commercial information or nonindividual financial information obtained from a person if:
(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;
(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and
(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;
(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;
(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);
(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;
(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:
(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:
(i) an invitation for bids;
(ii) a request for proposals;
(iii) a request for quotes;
(iv) a grant; or
(v) other similar document; or
(b) an unsolicited proposal, as defined in Section 63G-6a-712;
(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or
(b)
(i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and
(ii) at least two years have passed after the day on which the request for information is issued;
(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:
(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;
(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;
(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or
(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;
(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:
(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or
(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:
(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;
(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;
(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;
(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or
(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;
(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;
(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;
(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;
(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;
(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;
(17) records that are subject to the attorney client privilege;
(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;
(19)
(a)
(i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and
(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and
(b)
(i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:
(A) members of a legislative body;
(B) a member of a legislative body and a member of the legislative body's staff; or
(C) members of a legislative body's staff; and
(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;
(20)
(a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and
(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;
(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;
(22) drafts, unless otherwise classified as public;
(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or
(b) imminent or pending litigation;
(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;
(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;
(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;
(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;
(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;
(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;
(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;
(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;
(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;
(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;
(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;
(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;
(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;
(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information

concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:
(a) the donor requests anonymity in writing;
(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and
(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;
(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;
(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;
(40)
(a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:
(i) unpublished lecture notes;
(ii) unpublished notes, data, and information:
(A) relating to research; and
(B) of:
(I) the institution within the state system of higher education defined in Section 53B-1-102; or
(II) a sponsor of sponsored research;
(iii) unpublished manuscripts;
(iv) creative works in process;
(v) scholarly correspondence; and
(vi) confidential information contained in research proposals;
(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
(c) Subsection (40)(a) may not be construed to affect the ownership of a record;
(41)
(a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and
(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;
(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:
(a) a production facility; or
(b) a magazine;
(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;
(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;
(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;
(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:
(a) the safety of the general public; or
(b) the security of:
(i) governmental property;
(ii) governmental programs; or
(iii) the property of a private person who provides the Division of Emergency Management information;
(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;
(50) as provided in Section 26B-2-408:
(a) information or records held by the Department of Health and Human Services related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and
(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a child care program or residential child care;
(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:
(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and
(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:
(i) the nature of the law, ordinance, rule, or order; and
(ii) the individual complying with the law, ordinance, rule, or order;
(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:
(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;
(b) an affidavit of impecuniosity, described in Section 20A-9-201; or
(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;
(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:
(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and
(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);
(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;
(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;
(57) information requested by and provided to the 911 Division under Section 63H-7a-302;
(58) in accordance with Section 73-10-33:
(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or
(b) an outline of an emergency response plan in possession of the state or a county or municipality;
(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:
(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;
(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;
(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;
(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or
(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;
(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;
(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);
(62) a record described in Section 63G-12-210;
(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;
(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:
(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and
(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;
(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:
(a) depict the commission of an alleged crime;
(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or
(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;
(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;
(67) an audio recording that is:
(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;
(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:
(i) is responding to an individual needing resuscitation or with a life-threatening condition; and
(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and
(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;
(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;
(69) work papers as defined in Section 31A-2-204;
(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;
(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;
(72) a record described in Section 31A-37-503;
(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);
(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;
(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:
(a)Title 10, Utah Municipal Code;

(b)Title 17, Counties;
(c)Title 17B, Limited Purpose Local Government Entities - Special Districts;
(d)Title 17D, Limited Purpose Local Government Entities - Other Entities; and
(e)Title 20A, Election Code;
(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;
(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;
(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;
(79) a record submitted to the Insurance Department under Section 31A-48-103;
(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;
(81) an image taken of an individual during the process of booking the individual into jail, unless:
(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;
(b) a law enforcement agency releases or disseminates the image:
(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or
(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or
(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;
(82) a record:
(a) concerning an interstate claim to the use of waters in the Colorado River system;
(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and
(c) the disclosure of which would:
(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;
(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or
(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;
(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision;
(84) the following records of a drinking water or wastewater facility:
(a) an engineering or architectural drawing of the drinking water or wastewater facility; and
(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a);

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:
  (a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and
  (b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;
(86) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401; and
(87) a record:
  (a) concerning a claim to the use of waters in the Great Salt Lake;
  (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and
  (c) the disclosure of which would:
    (i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;
    (ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or
    (iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake.

Amended by Chapter 1, 2023 General Session
Amended by Chapter 16, 2023 General Session
Amended by Chapter 205, 2023 General Session
Amended by Chapter 329, 2023 General Session

63G-2-305.5 Viewing or obtaining lists of signatures.
(1) The records custodian of a signature described in Subsection 63G-2-305(75) shall, upon request, except for a name or signature classified as private under Title 20A, Chapter 2, Voter Registration:
  (a) provide a list of the names of the individuals who signed the petition or request; and
  (b) permit an individual to view, but not take a copy or other image of, the signatures on a political petition described in Subsection 63G-2-305(75).
(2) The records custodian of a signature described in Subsection 63G-2-305(76) shall, upon request, except for a name or signature classified as private under Title 20A, Chapter 2, Voter Registration:
  (a) provide a list of the names of registered voters, excluding the names that are classified as private under Title 20A, Chapter 2, Voter Registration; and
  (b) except for a signature classified as private under Title 20A, Chapter 2, Voter Registration, permit an individual to view, but not take a copy or other image of, the signature on a voter registration record.
(3) Except for a signature classified as private under Title 20A, Chapter 2, Voter Registration, the records custodian of a signature described in Subsection 63G-2-305(77) shall, upon request, permit an individual to view, but not take a copy or other image of, a signature.

Amended by Chapter 231, 2021 General Session

63G-2-306 Procedure to determine classification.

(1) If more than one provision of this chapter could govern the classification of a record, the governmental entity shall classify the record by considering the nature of the interests intended to be protected and the specificity of the competing provisions.

(2) Nothing in Subsection 63G-2-302(2), Section 63G-2-304, or 63G-2-305 requires a governmental entity to classify a record as private, controlled, or protected.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-307 Duty to evaluate records and make designations, classifications, and annotations.

(1) A governmental entity shall, for each record series that the governmental entity keeps, uses, or creates:

(a) evaluate all record series;

(b) designate each record series as provided by this chapter and Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records; and

(c) report to the state archives:

(i) the designation described in Subsection (1)(b); and

(ii) if the governmental entity is an executive branch agency, as defined in Section 63A-12-100.5, the privacy annotation.

(2) A governmental entity may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested.

(3) A governmental entity may redesignate a record series or reclassify a record or record series, or information within a record at any time.

Amended by Chapter 173, 2023 General Session

63G-2-308 Allowing or denying access based on status of information in a record.

Notwithstanding any other provision in this chapter, if a governmental entity receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this chapter, and, if the information the requester is entitled to inspect is intelligible, the governmental entity:

(1) shall, except as provided in Subsection 63G-2-201(1)(b)(iii), allow access to information in the record that the requester is entitled to inspect under this chapter; and

(2) may deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial as provided in Section 63G-2-205.

Amended by Chapter 334, 2019 General Session

63G-2-309 Confidentiality claims.

(1)

(a)

(i) Any person who provides to a governmental entity a record that the person believes should be protected under Subsection 63G-2-305(1) or (2) or both Subsections 63G-2-305(1) and (2) shall provide with the record:

(A) a written claim of business confidentiality; and

(B) a concise statement of reasons supporting the claim of business confidentiality.
(ii) Any of the following who provides to an institution within the state system of higher education defined in Section 53B-1-102 a record that the person or governmental entity believes should be protected under Subsection 63G-2-305(40)(a)(ii) or (vi) or both Subsections 63G-2-305(40)(a)(ii) and (vi) shall provide the institution within the state system of higher education a written claim of business confidentiality in accordance with Section 53B-16-304:
(A) a person;
(B) a federal governmental entity;
(C) a state governmental entity; or
(D) a local governmental entity.
(b) A person or governmental entity who complies with this Subsection (1) shall be notified by the governmental entity to whom the request for a record is made if:
(i) a record claimed to be protected under one of the following is classified public:
(A) Subsection 63G-2-305(1);
(B) Subsection 63G-2-305(2);
(C) Subsection 63G-2-305(40)(a)(ii);
(D) Subsection 63G-2-305(40)(a)(vi); or
(E) a combination of the provisions described in Subsections (1)(b)(i)(A) through (D); or
(ii) the governmental entity to whom the request for a record is made determines that the record claimed to be protected under a provision listed in Subsection (1)(b)(i) should be released after balancing interests under Subsection 63G-2-201(5)(b) or 63G-2-401(6).
(c) A person who makes a claim of business confidentiality under this Subsection (1) shall protect, defend, and indemnify the governmental entity that retains the record, and all staff and employees of the governmental entity from and against any claims, liability, or damages resulting from or arising from a denial of access to the record as a protected record based on the claim of business confidentiality.
(2)
(a) Except as provided in Subsection (2)(b) or by court order, the governmental entity to whom the request for a record is made may not disclose a record claimed to be protected under a provision listed in Subsection (1)(b)(i) but which the governmental entity or State Records Committee determines should be disclosed until the period in which to bring an appeal expires or the end of the appeals process, including judicial appeal.
(b) Subsection (2)(a) does not apply where the claimant, after notice, has waived the claim by not appealing or intervening before the State Records Committee.
(3) Disclosure or acquisition of information under this chapter does not constitute misappropriation under Subsection 13-24-2(2).

Amended by Chapter 516, 2023 General Session

63G-2-310 Records made public after 75 years.
(1) The classification of a record is not permanent and a record that was not classified public under this act shall become a public record when the justification for the original or any subsequent restrictive classification no longer exists. A record shall be presumed to be public 75 years after its creation, except that a record that contains information about an individual 21 years old or younger at the time of the record's creation shall be presumed to be public 100 years after its creation.

(2) Subsection (1) does not apply to records of unclaimed property held by the state treasurer in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

Renumbered and Amended by Chapter 382, 2008 General Session

Part 4
Appeals

63G-2-400.5 Definitions.

As used in this part:

(1) "Access denial" means a governmental entity's denial, under Subsection 63G-2-204(9) or Section 63G-2-205, in whole or in part, of a record request.

(2) "Appellate affirmation" means a decision of a chief administrative officer, local appeals board, or State Records Committee affirming an access denial.

(3) "Interested party" means a person, other than a requester, who is aggrieved by an access denial or an appellate affirmation, whether or not the person participated in proceedings leading to the access denial or appellate affirmation.

(4) "Local appeals board" means an appeals board established by a political subdivision under Subsection 63G-2-701(5)(c).

(5) "Record request" means a request for a record under Section 63G-2-204.

(6) "Records committee appellant" means:

(a) a political subdivision that seeks to appeal a decision of a local appeals board to the State Records Committee; or

(b) a requester or interested party who seeks to appeal to the State Records Committee a decision affirming an access denial.

(7) "Requester" means a person who submits a record request to a governmental entity.

Amended by Chapter 254, 2019 General Session
Amended by Chapter 334, 2019 General Session

63G-2-401 Appeal to chief administrative officer -- Notice of the decision of the appeal.

(1)

(a) A requester or interested party may appeal an access denial to the chief administrative officer of the governmental entity by filing a notice of appeal with the chief administrative officer within 30 days after:

(i) the governmental entity sends a notice of denial under Section 63G-2-205, if the governmental entity denies a record request under Subsection 63G-2-205(1); or

(ii) the record request is considered denied under Subsection 63G-2-204(9), if that subsection applies.

(b) If a governmental entity claims extraordinary circumstances and specifies the date when the records will be available under Subsection 63G-2-204(4), and, if the requester believes the extraordinary circumstances do not exist or that the date specified is unreasonable, the requester may appeal the governmental entity's claim of extraordinary circumstances or date for compliance to the chief administrative officer by filing a notice of appeal with the chief administrative officer within 30 days after notification of a claim of extraordinary

circumstances by the governmental entity, despite the lack of a "determination" or its equivalent under Subsection 63G-2-204(9).

(2) A notice of appeal shall contain:

(a) the name, mailing address, and daytime telephone number of the requester or interested party; and

(b) the relief sought.

(3) The requester or interested party may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4)

(a) If the appeal involves a record that is the subject of a business confidentiality claim under Section 63G-2-309, the chief administrative officer shall:

(i) send notice of the appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than 35 persons, it shall be given as soon as reasonably possible; and

(ii) send notice of the business confidentiality claim and the schedule for the chief administrative officer's determination to the requester or interested party within three business days after receiving notice of the appeal.

(b) The business confidentiality claimant shall have seven business days after notice is sent by the administrative officer to submit further support for the claim of business confidentiality.

(5)

(a) The chief administrative officer shall make a decision on the appeal within:

(i)

(A) 10 business days after the chief administrative officer's receipt of the notice of appeal; or

(B) five business days after the chief administrative officer's receipt of the notice of appeal, if the requester or interested party demonstrates that an expedited decision benefits the public rather than the requester or interested party; or

(ii) 12 business days after the governmental entity sends the notice of appeal to a person who submitted a claim of business confidentiality.

(b)

(i) If the chief administrative officer fails to make a decision on an appeal of an access denial within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the access denial.

(ii) If the chief administrative officer fails to make a decision on an appeal under Subsection (1)(b) within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the claim of extraordinary circumstances or the reasonableness of the date specified when the records will be available.

(c) The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.

(6) Except as provided in Section 63G-2-406, the chief administrative officer may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 if the interests favoring access are greater than or equal to the interests favoring restriction of access.

(7)

(a) The governmental entity shall send written notice of the chief administrative officer's decision to all participants.

(b) If the chief administrative officer's decision is to affirm the access denial in whole or in part, the notice under Subsection (7)(a) shall include:
(i) a statement that the requester or interested party has the right to appeal the decision, as provided in Section 63G-2-402, to:
(A) the State Records Committee or district court; or
(B) the local appeals board, if the governmental entity is a political subdivision and the governmental entity has established a local appeals board;
(ii) the time limits for filing an appeal; and
(iii) the name and business address of:
(A) the executive secretary of the State Records Committee; and
(B) the individual designated as the contact individual for the appeals board, if the governmental entity is a political subdivision that has established an appeals board under Subsection 63G-2-701(5)(c).
(8) A person aggrieved by a governmental entity's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequester is the only appellant, the procedures provided in this section shall apply, except that the decision on the appeal shall be made within 30 days after receiving the notice of appeal.
(9) The duties of the chief administrative officer under this section may be delegated.

Amended by Chapter 254, 2019 General Session
Amended by Chapter 334, 2019 General Session

63G-2-402 Appealing a decision of a chief administrative officer.
(1) If the decision of the chief administrative officer of a governmental entity under Section 63G-2-401 is to affirm the denial of a record request, the requester may:
(a)
(i) appeal the decision to the State Records Committee, as provided in Section 63G-2-403; or
(ii) petition for judicial review of the decision in district court, as provided in Section 63G-2-404; or
(b) appeal the decision to the local appeals board if:
(i) the decision is of a chief administrative officer of a governmental entity that is a political subdivision; and
(ii) the political subdivision has established a local appeals board.
(2) A requester who appeals a chief administrative officer's decision to the State Records Committee or a local appeals board does not lose or waive the right to seek judicial review of the decision of the State Records Committee or local appeals board.
(3) As provided in Section 63G-2-403, an interested party may appeal to the State Records Committee a chief administrative officer's decision under Section 63G-2-401 affirming an access denial.

Amended by Chapter 254, 2019 General Session

63G-2-403 Appeals to the State Records Committee.
(1)
(a) A records committee appellant appeals to the State Records Committee by filing a notice of appeal with the executive secretary of the State Records Committee no later than 30 days after the date of issuance of the decision being appealed.

(b) Notwithstanding Subsection (1)(a), a requester may file a notice of appeal with the executive secretary of the State Records Committee no later than 45 days after the day on which the record request is made if:
(i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and
(ii) the chief administrative officer fails to make a decision under Section 63G-2-401.
(2) The notice of appeal shall:
(a) contain the name, mailing address, and daytime telephone number of the records committee appellant;
(b) be accompanied by a copy of the decision being appealed; and
(c) state the relief sought.
(3) The records committee appellant:
(a) shall, on the day on which the notice of appeal is filed with the State Records Committee, serve a copy of the notice of appeal on:
(i) the governmental entity whose access denial is the subject of the appeal, if the records committee appellant is a requester or interested party; or
(ii) the requester or interested party who is a party to the local appeals board proceeding that resulted in the decision that the political subdivision is appealing to the committee, if the records committee appellant is a political subdivision; and
(b) may file a short statement of facts, reasons, and legal authority in support of the appeal.
(4)
(a) Except as provided in Subsections (4)(b) and (c), no later than seven business days after receiving a notice of appeal, the executive secretary of the State Records Committee shall:
(i) schedule a hearing for the State Records Committee to discuss the appeal at the next regularly scheduled committee meeting falling at least 16 days after the date the notice of appeal is filed but no longer than 64 calendar days after the date the notice of appeal was filed except that the committee may schedule an expedited hearing upon application of the records committee appellant and good cause shown;
(ii) send a copy of the notice of hearing to the records committee appellant; and
(iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing to:
(A) each member of the State Records Committee;
(B) the records officer and the chief administrative officer of the governmental entity whose access denial is the subject of the appeal, if the records committee appellant is a requester or interested party;
(C) any person who made a business confidentiality claim under Section 63G-2-309 for a record that is the subject of the appeal; and
(D) all persons who participated in the proceedings before the governmental entity's chief administrative officer, if the appeal is of the chief administrative officer's decision affirming an access denial.
(b)
(i) The executive secretary of the State Records Committee may decline to schedule a hearing if the record series that is the subject of the appeal has been found by the committee in a previous hearing involving the same governmental entity to be appropriately classified as private, controlled, or protected.
(ii)
(A) If the executive secretary of the State Records Committee declines to schedule a hearing, the executive secretary shall send a notice to the records committee appellant indicating that the request for hearing has been denied and the reason for the denial.

(B) The State Records Committee shall make rules to implement this section as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) The executive secretary of the State Records Committee may schedule a hearing on an appeal to the State Records Committee at a regularly scheduled State Records Committee meeting that is later than the period described in Subsection (4)(a)(i) if that committee meeting is the first regularly scheduled State Records Committee meeting at which there are fewer than 10 appeals scheduled to be heard.

(5)

(a) No later than five business days before the hearing, a governmental entity shall submit to the executive secretary of the State Records Committee a written statement of facts, reasons, and legal authority in support of the governmental entity's position.

(b) The governmental entity shall send a copy of the written statement by first class mail, postage prepaid, to the requester or interested party involved in the appeal. The executive secretary shall forward a copy of the written statement to each member of the State Records Committee.

(6)

(a) No later than 10 business days after the day on which the executive secretary sends the notice of appeal, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention with the State Records Committee.

(b) Any written statement of facts, reasons, and legal authority in support of the intervener's position shall be filed with the request for intervention.

(c) The person seeking intervention shall provide copies of the statement described in Subsection (6)(b) to all parties to the proceedings before the State Records Committee.

(7) The State Records Committee shall hold a hearing within the period of time described in Subsection (4).

(8) At the hearing, the State Records Committee shall allow the parties to testify, present evidence, and comment on the issues. The committee may allow other interested persons to comment on the issues.

(9)

(a)

(i) The State Records Committee:

(A) may review the disputed records; and

(B) shall review the disputed records, if the committee is weighing the various interests under Subsection (11).

(ii) A review of the disputed records under Subsection (9)(a)(i) shall be in camera.

(b) Members of the State Records Committee may not disclose any information or record reviewed by the committee in camera unless the disclosure is otherwise authorized by this chapter.

(10)

(a) Discovery is prohibited, but the State Records Committee may issue subpoenas or other orders to compel production of necessary evidence.

(b) When the subject of a State Records Committee subpoena disobeys or fails to comply with the subpoena, the committee may file a motion for an order to compel obedience to the subpoena with the district court.

(c)

(i) The State Records Committee's review shall be de novo, if the appeal is an appeal from a decision of a chief administrative officer:

(A) issued under Section 63G-2-401; or

(B) issued by a chief administrative officer of a political subdivision that has not established a local appeals board.

(ii) For an appeal from a decision of a local appeals board, the State Records Committee shall review and consider the decision of the local appeals board.

(11)

(a) No later than seven business days after the hearing, the State Records Committee shall issue a signed order:

(i) granting the relief sought, in whole or in part; or

(ii) upholding the governmental entity's access denial, in whole or in part.

(b) Except as provided in Section 63G-2-406, the State Records Committee may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the public interest favoring access is greater than or equal to the interest favoring restriction of access.

(c) In making a determination under Subsection (11)(b), the State Records Committee shall consider and, where appropriate, limit the requester's or interested party's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of a private or controlled record;

(ii) business confidentiality interests in the case of a record protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records.

(12) The order of the State Records Committee shall include:

(a) a statement of reasons for the decision, including citations to this chapter, court rule or order, another state statute, federal statute, or federal regulation that governs disclosure of the record, if the citations do not disclose private, controlled, or protected information;

(b) a description of the record or portions of the record to which access was ordered or denied, if the description does not disclose private, controlled, or protected information or information exempt from disclosure under Subsection 63G-2-201(3)(b);

(c) a statement that any party to the proceeding before the State Records Committee may appeal the committee's decision to district court; and

(d) a brief summary of the appeals process, the time limits for filing an appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.

(13) If the State Records Committee fails to issue a decision within 73 calendar days of the filing of the notice of appeal, that failure is the equivalent of an order denying the appeal. A records committee appellant shall notify the State Records Committee in writing if the records committee appellant considers the appeal denied.

(14) A party to a proceeding before the State Records Committee may seek judicial review in district court of a State Records Committee order by filing a petition for review of the order as provided in Section 63G-2-404.

(15)

(a) Unless a notice of intent to appeal is filed under Subsection (15)(b), each party to the proceeding shall comply with the order of the State Records Committee.

(b) If a party disagrees with the order of the State Records Committee, that party may file a notice of intent to appeal the order.

(c) If the State Records Committee orders the governmental entity to produce a record and no appeal is filed, or if, as a result of the appeal, the governmental entity is required to produce a record, the governmental entity shall:

(i) produce the record; and

(ii) file a notice of compliance with the committee.
(d)
(i) If the governmental entity that is ordered to produce a record fails to file a notice of compliance or a notice of intent to appeal, the State Records Committee may do either or both of the following:
(A) impose a civil penalty of up to $500 for each day of continuing noncompliance; or
(B) send written notice of the governmental entity's noncompliance to the governor.
(ii) In imposing a civil penalty, the State Records Committee shall consider the gravity and circumstances of the violation, including whether the failure to comply was due to neglect or was willful or intentional.

Amended by Chapter 254, 2019 General Session

63G-2-404 Judicial review.
(1)
(a) A petition for judicial review of an order or decision, as allowed under this part, in Section 63G-2-209, or in Subsection 63G-2-701(6)(a)(ii), shall be filed no later than 30 days after the date of the order or decision.
(b) The State Records Committee is a necessary party to a petition for judicial review of a State Records Committee order.
(c) The executive secretary of the State Records Committee shall be served with notice of a petition for judicial review of a State Records Committee order, in accordance with the Utah Rules of Civil Procedure.
(2)
(a) A petition for judicial review is a complaint governed by the Utah Rules of Civil Procedure and shall contain:
(i) the petitioner's name and mailing address;
(ii) a copy of the State Records Committee order from which the appeal is taken, if the petitioner is seeking judicial review of an order of the State Records Committee;
(iii) the name and mailing address of the governmental entity that issued the initial determination with a copy of that determination;
(iv) a request for relief specifying the type and extent of relief requested; and
(v) a statement of the reasons why the petitioner is entitled to relief.
(b) Except in exceptional circumstances, a petition for judicial review may not raise an issue that was not raised in the underlying appeal and order.
(3) If the appeal is based on the denial of access to a protected record based on a claim of business confidentiality, the court shall allow the claimant of business confidentiality to provide to the court the reasons for the claim of business confidentiality.
(4) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.
(5) The district court may review the disputed records. The review shall be in camera.
(6)
(a) The court shall:
(i) make the court's decision de novo, but, for a petition seeking judicial review of a State Records Committee order, allow introduction of evidence presented to the State Records Committee;
(ii) determine all questions of fact and law without a jury; and
(iii) decide the issue at the earliest practical opportunity.

(b) A court may remand a petition for judicial review to the State Records Committee if:
(i) the remand is to allow the State Records Committee to decide an issue that:
(A) involves access to a record; and
(B) the State Records Committee has not previously addressed in the proceeding that led to the petition for judicial review; and
(ii) the court determines that remanding to the State Records Committee is in the best interests of justice.
(7)
(a) Except as provided in Section 63G-2-406, the court may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the interest favoring access is greater than or equal to the interest favoring restriction of access.
(b) The court shall consider and, where appropriate, limit the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of other protected records.

Amended by Chapter 516, 2023 General Session

63G-2-405 Confidential treatment of records for which no exemption applies.
(1) A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:
(a) there are compelling interests favoring restriction of access to the record; and
(b) the interests favoring restriction of access clearly are greater than or equal to the interests favoring access.
(2) If a governmental entity requests a court to restrict access to a record under this section, the court shall require the governmental entity to pay the reasonable attorney fees and costs incurred by the lead party in opposing the governmental entity's request, if:
(a) the court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; and
(b) the court denies confidential treatment under this section.
(3) This section does not apply to records that are specifically required to be public under statutory provisions outside of this chapter or under Section 63G-2-301, except as provided in Subsection (4).
(4)
(a) Access to drafts and empirical data in drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the deliberative nature of the record.
(b) Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.
(5) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees or costs under this section is not subject to Chapter 7, Governmental Immunity Act of Utah.

Amended by Chapter 388, 2022 General Session

63G-2-406 Evidentiary standards for release of certain enforcement and litigation records.

(1) A record that is classified as protected under Subsection 63G-2-305(10), (17), (18), (23), (24), or (33) may be ordered to be disclosed under the provisions of Subsection 63G-2-401(6), 63G-2-403(11)(b), or 63G-2-404(7)(a) only if the person or party seeking disclosure of the record has established, by a preponderance of the evidence, that the public interest favoring access is equal to or greater than the interest favoring restriction of access.

(2) A record that is classified as protected under Subsection 63G-2-305(11) may be ordered to be disclosed under the provisions of Subsection 63G-2-401(6), 63G-2-403(11)(b), or 63G-2-404(7) only if the person or party seeking disclosure of the record has established, by clear and convincing evidence, that the public interest favoring access is equal to or greater than the interest favoring restriction of access.

Amended by Chapter 445, 2013 General Session

Part 5
State Records Committee

63G-2-501 State Records Committee created -- Membership -- Terms -- Vacancies -- Expenses.

(1) There is created the State Records Committee within the Department of Government Operations consisting of the following seven individuals:
  (a) an individual in the private sector whose profession requires the individual to create or manage records that, if created by a governmental entity, would be private or controlled;
  (b) an individual with experience with electronic records and databases, as recommended by a statewide technology advocacy organization that represents the public, private, and nonprofit sectors;
  (c) the director of the Division of Archives and Records Services or the director's designee;
  (d) two citizen members;
  (e) one person representing political subdivisions, as recommended by the Utah League of Cities and Towns; and
  (f) one individual representing the news media.

(2) The governor shall appoint the members described in Subsections (1)(a), (b), (d), (e), and (f) with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(3)
  (a) Except as provided in Subsection (3)(b), the governor shall appoint each member to a four-year term.
  (b) Notwithstanding Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.
  (c) Each appointed member is eligible for reappointment for one additional term.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member of the State Records Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:
  (a) Section 63A-3-106;
  (b) Section 63A-3-107; and
  (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
(6) A member described in Subsection (1)(a), (b), (d), (e), or (f) shall comply with the conflict of interest provisions described in Chapter 24, Part 3, Conflicts of Interest.

Amended by Chapter 344, 2021 General Session

63G-2-502 State Records Committee -- Duties.
(1) The State Records Committee shall:
  (a) hear appeals from determinations of access under Section 63G-2-403;
  (b) determine disputes submitted by the state auditor under Subsection 67-3-1(17)(d); and
  (c) appoint a chair from among the committee's members.
(2) The State Records Committee may:
  (a) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the committee's proceedings; and
  (b) by order, after notice and hearing, reassign classification and designation for any record series by a governmental entity if the governmental entity's classification or designation is inconsistent with this chapter.
(3)
  (a) The State Records Committee shall annually appoint an executive secretary to provide administrative support to the committee.
  (b) The executive secretary is not a voting member of the committee.
(4) Five members of the State Records Committee are a quorum for the transaction of business.
(5) The state archives shall provide staff and support services for the State Records Committee.
(6) If the State Records Committee reassigns the classification or designation of a record or record series under Subsection (2)(b), any affected governmental entity or any other interested person may appeal the reclassification or redesignation to the district court. The district court shall hear the matter de novo.
(7) The Office of the Attorney General shall provide counsel to the State Records Committee.

Amended by Chapter 254, 2019 General Session

Part 6
Collection of Information and Accuracy of Records

63G-2-601 Rights of individuals on whom data is maintained -- Classification and personal identifying information statement -- Notice to provider of information.
(1)
  (a) Each governmental entity shall file with the state archivist a statement explaining, for each record series collected, maintained, or used by the governmental entity, the purposes for which each private or controlled record in the record series is collected, maintained, or used by that governmental entity.

(b) Each executive branch agency, as defined in Section 63A-12-100.5, shall file with the state archivist a statement explaining, for each record series collected, maintained, or used by the executive branch agency, the purposes for which the personal identifying information in the record series is collected, maintained, or used by the executive branch agency.
(c) The statement filed under Subsection (1)(a) or (b):
(i) shall, for each purpose described in Subsection (1)(a) or (b), identify the authority under which the governmental entity or executive branch agency collects the records or information included in the statement described in Subsection (1)(a) or (b); and
(ii) is a public record.
(2)
(a) A governmental entity shall provide the notice described in this Subsection (2) to a person that is asked to furnish information that could be classified as a private or controlled record.
(b) An executive branch agency, as defined in Section 63A-12-100.5, shall provide the notice described in this Subsection (2) to a person that is asked to furnish personal identifying information.
(c) The notice required under Subsection (2)(a) or (b) shall:
(i) identify the record series that includes the information described in Subsection (2)(a) or (b);
(ii) state the reasons the person is asked to furnish the information;
(iii) state the intended uses of the information;
(iv) state the consequences for refusing to provide the information; and
(v) disclose the classes of persons and the governmental entities that currently:
(A) share the information with the governmental entity; or
(B) receive the information from the governmental entity on a regular or contractual basis.
(d) The governmental entity shall:
(i) post the notice required under this Subsection (2) in a prominent place at all locations where the governmental entity collects the information; or
(ii) include the notice required under this Subsection (2) as part of the documents or forms that are used by the governmental entity to collect the information.
(3) Upon request, each governmental entity shall, in relation to the information described in Subsection (2)(a) or (b), as applicable, explain to a person:
(a) the reasons the person is asked to furnish information;
(b) the intended uses of the information;
(c) the consequences for refusing to provide the information; and
(d) the reasons and circumstances under which the information may be shared with, or provided to, other persons or governmental entities.
(4) A governmental entity may use the information that the governmental entity is required to disclose under Subsection (2)(a) or (b) only for those purposes:
(a) given in the statement filed with the state archivist under Subsection (1); or
(b) for which another governmental entity may use the record under Section 63G-2-206.

Amended by Chapter 173, 2023 General Session

63G-2-602 Disclosure to subject of records -- Context of use.

When providing records under Subsection 63G-2-202(1) or when providing public records about an individual to the persons specified in Subsection 63G-2-202(1), a governmental entity shall, upon request, disclose the context in which the record is used.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-603 Requests to amend a record -- Appeals.

(1) Proceedings of state agencies under this section shall be governed by Title 63G, Chapter 4, Administrative Procedures Act.

(2)

(a) Subject to Subsection (8), an individual may contest the accuracy or completeness of any public, or private, or protected record concerning him by requesting the governmental entity to amend the record. However, this section does not affect the right of access to private or protected records.

(b) The request shall contain the following information:

(i) the requester's name, mailing address, and daytime telephone number; and

(ii) a brief statement explaining why the governmental entity should amend the record.

(3) The governmental entity shall issue an order either approving or denying the request to amend as provided in Title 63G, Chapter 4, Administrative Procedures Act, or, if the act does not apply, no later than 30 days after receipt of the request.

(4) If the governmental entity approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical. A governmental entity may not disclose the record until it has amended it.

(5) If the governmental entity denies the request, it shall:

(a) inform the requester in writing; and

(b) provide a brief statement giving its reasons for denying the request.

(6)

(a) If a governmental entity denies a request to amend a record, the requester may submit a written statement contesting the information in the record.

(b) The governmental entity shall:

(i) file the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record or make the statement accessible if the record is not in a form such that the statement can accompany the record; and

(ii) disclose the requester's statement along with the information in the record whenever the governmental entity discloses the disputed information.

(7) The requester may appeal the denial of the request to amend a record pursuant to the Administrative Procedures Act or, if that act does not apply, to district court.

(8) This section does not apply to records relating to title to real or personal property, medical records, judicial case files, or any other records that the governmental entity determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-2-604 Retention and disposition of records.

(1)

(a) Except for a governmental entity that is permitted to maintain the governmental entity's own retention schedules under Part 7, Applicability to Political Subdivisions, the Judiciary, the Legislature, and the Governor and Lieutenant Governor, each governmental entity shall file with the Records Management Committee created in Section 63A-12-112 a proposed schedule for the retention and disposition of each type of material that is defined as a record under this chapter.

(b) After a retention schedule is reviewed and approved by the Records Management Committee under Subsection 63A-12-113(1)(b), the governmental entity shall maintain and destroy records in accordance with the retention schedule.
(c) If a governmental entity subject to the provisions of this section has not received an approved retention schedule from the Records Management Committee for a specific type of material that is defined as a record under this chapter, the general retention schedule maintained by the state archivist shall govern the retention and destruction of that type of material.
(2) A retention schedule that is filed with or approved by the Records Management Committee under the requirements of this section is a public record.

Amended by Chapter 173, 2023 General Session
Amended by Chapter 516, 2023 General Session

Part 7
Applicability to Political Subdivisions, the Judiciary, the Legislature, and the Governor and Lieutenant Governor

63G-2-701 Political subdivisions may adopt ordinances in compliance with chapter -- Appeal process.
(1) As used in this section:
(a) "Access denial" means the same as that term is defined in Section 63G-2-400.5.
(b) "Interested party" means the same as that term is defined in Section 63G-2-400.5.
(c) "Requester" means the same as that term is defined in Section 63G-2-400.5.
(2)
(a) Each political subdivision may adopt an ordinance or a policy applicable throughout its jurisdiction relating to information practices including classification, designation, access, denials, segregation, appeals, management, retention, and amendment of records.
(b) The ordinance or policy shall comply with the criteria set forth in this section.
(c) If any political subdivision does not adopt and maintain an ordinance or policy, then that political subdivision is subject to this chapter.
(d) Notwithstanding the adoption of an ordinance or policy, each political subdivision is subject to Part 1, General Provisions, Part 3, Classification, and Sections 63A-12-105, 63A-12-107, 63G-2-201, 63G-2-202, 63G-2-205, 63G-2-206, 63G-2-601, and 63G-2-602.
(e) Every ordinance, policy, or amendment to the ordinance or policy shall be filed with the state archives no later than 30 days after its effective date.
(f) The political subdivision shall also report to the state archives all retention schedules, and all designations and classifications applied to record series maintained by the political subdivision.
(g) The report required by Subsection (2)(f) is notification to state archives of the political subdivision's retention schedules, designations, and classifications. The report is not subject to approval by state archives. If state archives determines that a different retention schedule is needed for state purposes, state archives shall notify the political subdivision of the state's retention schedule for the records and shall maintain the records if requested to do so under Subsection 63A-12-105(2).
(3) Each ordinance or policy relating to information practices shall:

(a) provide standards for the classification and designation of the records of the political subdivision as public, private, controlled, or protected in accordance with Part 3, Classification;
(b) require the classification of the records of the political subdivision in accordance with those standards;
(c) provide guidelines for establishment of fees in accordance with Section 63G-2-203; and
(d) provide standards for the management and retention of the records of the political subdivision comparable to Section 63A-12-103.

(4)
(a) Each ordinance or policy shall establish access criteria, procedures, and response times for requests to inspect, obtain, or amend records of the political subdivision, and time limits for appeals consistent with this chapter.
(b) In establishing response times for access requests and time limits for appeals, the political subdivision may establish reasonable time frames different than those set out in Section 63G-2-204 and Part 4, Appeals, if it determines that the resources of the political subdivision are insufficient to meet the requirements of those sections.

(5)
(a) A political subdivision shall establish an appeals process for persons aggrieved by classification, designation, or access decisions.
(b) A political subdivision's appeals process shall include a process for a requester or interested party to appeal an access denial to a person designated by the political subdivision as the chief administrative officer for purposes of an appeal under Section 63G-2-401.
(c)
(i) A political subdivision may establish an appeals board to decide an appeal of a decision of the chief administrative officer affirming an access denial.
(ii) An appeals board established by a political subdivision shall be composed of three members:
(A) one of whom shall be an employee of the political subdivision; and
(B) two of whom shall be members of the public who are not employed by or officials of a governmental entity, at least one of whom shall have professional experience with requesting or managing records.
(iii) If a political subdivision establishes an appeals board, any appeal of a decision of a chief administrative officer shall be made to the appeals board.
(iv) If a political subdivision does not establish an appeals board, the political subdivision's appeals process shall provide for an appeal of a chief administrative officer's decision to the State Records Committee, as provided in Section 63G-2-403.

(6)
(a) A political subdivision or requester may appeal an appeals board decision:
(i) to the State Records Committee, as provided in Section 63G-2-403; or
(ii) by filing a petition for judicial review with the district court.
(b) The contents of a petition for judicial review under Subsection (6)(a)(ii) and the conduct of the proceeding shall be in accordance with Sections 63G-2-402 and 63G-2-404.
(c) A person who appeals an appeals board decision to the State Records Committee does not lose or waive the right to seek judicial review of the decision of the State Records Committee.

(7) Any political subdivision that adopts an ordinance or policy under Subsection (1) shall forward to state archives a copy and summary description of the ordinance or policy.

Amended by Chapter 254, 2019 General Session

63G-2-702 Applicability to the judiciary.

(1) The judiciary is subject to the provisions of this chapter except as provided in this section.

(2)

(a) The judiciary is not subject to:

(i) Section 63G-2-209; or

(ii) Part 4, Appeals, except as provided in Subsection (6).

(b) The judiciary is not subject to Part 5, State Records Committee, and Part 6, Collection of Information and Accuracy of Records.

(c) The judiciary is subject to only the following sections in Part 9, Public Associations: Sections 63A-12-105 and 63A-12-106.

(3) The Judicial Council, the Administrative Office of the Courts, the courts, and other administrative units in the judicial branch shall designate and classify their records in accordance with Sections 63G-2-301 through 63G-2-305.

(4) Substantially consistent with the provisions of this chapter, the Judicial Council shall:

(a) make rules governing requests for access, fees, classification, designation, segregation, management, retention, denials and appeals of requests for access and retention, and amendment of judicial records;

(b) establish an appellate board to handle appeals from denials of requests for access and provide that a requester who is denied access by the appellate board may file a lawsuit in district court; and

(c) provide standards for the management and retention of judicial records substantially consistent with Section 63A-12-103.

(5) The Judicial Council may:

(a) establish a process for an administrative unit of the judicial branch to petition for relief from a person that the administrative unit claims is a vexatious requester; and

(b) establish an appellate board to hear a petition for relief from a person that an administrative unit of the judicial branch claims is a vexatious requester.

(6) Rules governing appeals from denials of requests for access shall substantially comply with the time limits provided in Section 63G-2-204 and Part 4, Appeals.

(7) Upon request, the state archivist shall:

(a) assist with and advise concerning the establishment of a records management program in the judicial branch; and

(b) as required by the judiciary, provide program services similar to those available to the executive and legislative branches of government as provided in this chapter and Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records.

Amended by Chapter 516, 2023 General Session

63G-2-703 Applicability to the Legislature.

(1) The Legislature and its staff offices shall designate and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or protected.

(2)

(a) The Legislature and its staff offices are not subject to:

(i) Section 63G-2-203 or 63G-2-209; or

(ii) Part 4, Appeals, Part 5, State Records Committee, or Part 6, Collection of Information and Accuracy of Records.

(b) The Legislature is subject to only the following sections in Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records: Sections 63A-12-102, 63A-12-102.5, and 63A-12-106.

(3) The Legislature, through the Legislative Management Committee:

(a)

(i) shall establish policies to handle requests for classification, designation, fees, access, denials, segregation, appeals, management, retention, and amendment of records; and

(ii) may establish an appellate board to hear appeals from denials of access; and

(b) may establish:

(i) a process for determining that a person is a vexatious requester, including a process for an appeal from a determination that a person is a vexatious requester; and

(ii) appropriate limitations on a person determined to be a vexatious requester.

(4) Policies shall include reasonable times for responding to access requests consistent with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.

(5) Upon request, the state archivist shall:

(a) assist with and advise concerning the establishment of a records management program in the Legislature; and

(b) as required by the Legislature, provide program services similar to those available to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records.

Amended by Chapter 291, 2023 General Session
Amended by Chapter 516, 2023 General Session

63G-2-704 Applicability to the governor and lieutenant governor.

(1) The governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor shall designate and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or protected.

(2)

(a) The governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor are not subject to:

(i) Section 63G-2-203;

(ii) Section 63G-2-209;

(iii) Section 63G-2-401; or

(iv)Part 6, Collection of Information and Accuracy of Records.

(b) The governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor are subject to only the following sections in Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records:

(i) Section 63A-12-102; and

(ii) Section 63A-12-106.

(3) The governor and lieutenant governor:

(a)

(i) shall establish policies to handle requests for classification, designation, fees, access, denials, segregation, appeals to the chief administrative officer, management, retention, and amendment of records; and

(ii) may establish an appellate board to hear appeals from denials of access; and

(b) may establish:

(i) a process for determining that a person is a vexatious requester, including a process for an appeal from a determination that a person is a vexatious requester; and
(ii) appropriate limitations on a person determined to be a vexatious requester.
(4) Policies described in Subsection (3) shall include reasonable times for responding to access requests consistent with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.
(5) Upon request, the state archivist shall:
(a) assist with and advise concerning the establishment of a records management program for the governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor; and
(b) as required by the governor or lieutenant governor, provide program services as provided in this chapter and Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records.

Enacted by Chapter 516, 2023 General Session

Part 8
Remedies

63G-2-801 Criminal penalties.
(1)
(a) A public employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses, provides a copy of, or improperly uses a private, controlled, or protected record knowing that the disclosure or use is prohibited under this chapter, is, except as provided in Subsection 53-5-708(1)(c), guilty of a class B misdemeanor.
(b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released private, controlled, or protected information in the reasonable belief that the use or disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.
(c) It is a defense to prosecution under Subsection (1)(a) that the record could have lawfully been released to the recipient if it had been properly classified.
(d) It is a defense to prosecution under Subsection (1)(a) that the public employee or other person disclosed, provided, or used the record based on a good faith belief that the disclosure, provision, or use was in accordance with the law.
(2)
(a) A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which the person is not legally entitled is guilty of a class B misdemeanor.
(b) No person shall be guilty under Subsection (2)(a) who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.
(3)
(a) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by law, is guilty of a class B misdemeanor.

(b) It is a defense to prosecution under Subsection (3)(a) that the public employee's failure to release the record was based on a good faith belief that the public employee was acting in accordance with the requirements of law.
(c) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by a final unappealed order from a government entity, the State Records Committee, or a court is guilty of a class B misdemeanor.

Amended by Chapter 254, 2019 General Session

63G-2-802 Injunction -- Attorney fees and costs.

(1) A district court in this state may enjoin any governmental entity or political subdivision that violates or proposes to violate the provisions of this chapter.
(2)
(a) A district court may assess against any governmental entity or political subdivision reasonable attorney fees and costs reasonably incurred in connection with a judicial appeal to determine whether a requester is entitled to access to records under a records request, if the requester substantially prevails.
(b) In determining whether to award attorney fees or costs under this section, the court shall consider:
(i) the public benefit derived from the case;
(ii) the nature of the requester's interest in the records; and
(iii) whether the governmental entity's or political subdivision's actions had a reasonable basis.
(c) Attorney fees and costs shall not ordinarily be awarded if the purpose of the litigation is primarily to benefit the requester's financial or commercial interest.
(3) Neither attorney fees nor costs may be awarded for fees or costs incurred during administrative proceedings.
(4) Notwithstanding Subsection (2), a court may only award attorney fees and costs incurred in connection with appeals to district courts under Subsection 63G-2-404(2) if the attorney fees and costs were incurred 20 or more days after the requester provided to the governmental entity or political subdivision a statement of position that adequately explains the basis for the requester's position.
(5) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees or costs as provided in this section is not subject to Chapter 7, Governmental Immunity Act of Utah.

Amended by Chapter 388, 2022 General Session

63G-2-803 No individual liability for certain decisions of a governmental entity.

(1) Neither the governmental entity, nor any officer or employee of the governmental entity, is liable for damages resulting from the release of a record where the person or government requesting the record presented evidence of authority to obtain the record even if it is subsequently determined that the requester had no authority.
(2) Neither the governmental entity, nor any officer or employee of the governmental entity, is liable for damages arising from the negligent disclosure of records classified as private under Subsection 63G-2-302(1)(g) unless:
(a) the disclosure was of employment records maintained by the governmental entity; or
(b) the current or former government employee had previously filed the notice required by Section 63G-2-303 and:

(i) the government entity did not take reasonable steps to preclude access or distribution of the record; or
(ii) the release of the record was otherwise willfully or grossly negligent.
(3) A mailing from a government agency to an individual who has filed an application under Section 63G-2-303 is not a wrongful disclosure under this chapter or under Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records.

Amended by Chapter 426, 2013 General Session

63G-2-804 Violation of provision of chapter -- Penalties for intentional mutilation or destruction -- Disciplinary action.

A governmental entity may take disciplinary action which may include suspension or discharge against any employee of the governmental entity who intentionally violates any provision of this chapter or Subsection 63A-12-105(3).

Amended by Chapter 44, 2009 General Session

Part 9
Public Associations

63G-2-901 Definitions -- Public associations subject to act.

(1) As used in this section:
(a) "Public association" means any association, organization, or society whose members include elected or appointed public officials and for which public funds are used or paid to the public association for membership dues or for other support for the official's participation in the public association.
(b)
(i) "Public funds" means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.
(ii) "Public funds" does not include money donated to a public entity by a person or entity.
(2) The budget documents and financial statements of a public association shall be released pursuant to a written request if 50% or more of the public association's:
(a) members are elected or appointed public officials from this state; and
(b) membership dues or other financial support come from public funds from this state.

Renumbered and Amended by Chapter 382, 2008 General Session