

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

Evidence

- FERPA
- General Data Protection Regulation Privacy Notice
- Multi-Factor Authentication
- Policy Manual (446, 541)
- Privacy Statement
- USHE Policy (R345)
- Utah Code (63G-2)

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

R345, Information Technology Resource Security¹

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

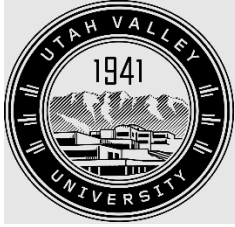
6.1 Emergency Action by the ISO: The ISO may discontinue service to any User who violates this policy or other IT policies when continuation of the service threatens the security (including integrity, privacy, and availability) of the institution's IT Resources. The ISO may also discontinue service to 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.



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)

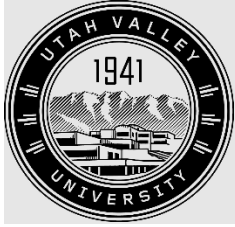
2.4 *Family Educational Rights and Privacy Act (FERPA)*, 20 U.S.C. § 1232g (1974)

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

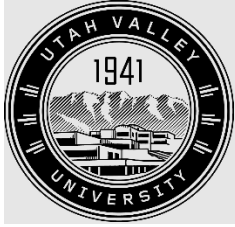
3.1 Confidential information: Any information that is not generally available to the public and that university has identified as confidential, that should reasonably be understood to be confidential, or that university is obligated to keep confidential under applicable laws, regulations, contractual 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.

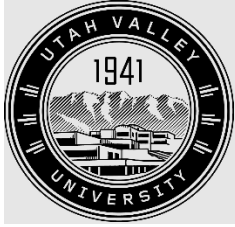
4.1.2 UVU limits the collection, use, disclosure, and storage of information that reasonably serves the University's academic, research, or administrative functions or other legally required purposes. Such collection, use, disclosure, and storage shall comply with applicable federal and state laws, regulations,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



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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.

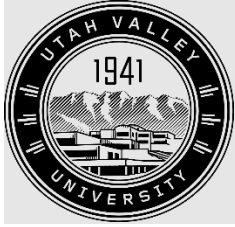
4.2.4 Access to institutional data is a privilege that UVU may restrict wholly or partially without prior notice and without the employee's consent. Generally, access will be restricted only when there is reason to believe that serious violations of law or UVU policy have occurred, when an employee is 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 Marketing 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.

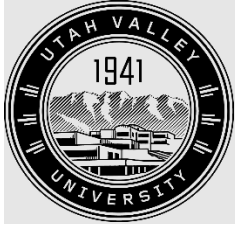
4.5.3 Filming and photography may not use the University's name or trademarks in a way that infringes on those marks or that implies University endorsement for any product, service, or activity (see UVU Policy 136 *Intellectual Property*).

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.

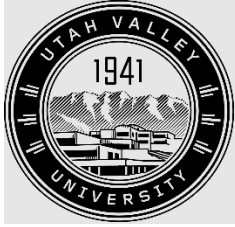
4.10 Legal and University Process

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



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POLICY TITLE	Student Code of Conduct	Policy Number	541
Section	Student Affairs	Approval Date	October 24, 2019
Subsection	Student Rights	Effective Date	October 24, 2019
Responsible Office	Office of the Vice President of Student Affairs		

1.0 PURPOSE

1.1 To advance the educational objectives of Utah Valley University, this *Student Code of Conduct* (“Student Code”) establishes standards and procedures necessary to maintain a community conducive to engaged learning and student success. This *Student Code* supports the intellectual, personal, social, and ethical development of all members of the community by promoting the values of civility, integrity, inclusivity, respect, and responsibility. Students at the university are expected to uphold these values through the exercise of their personal freedom and reasoned discourse. This Student Code also establishes the conduct expectations for students of Utah Valley University, outlines students’ rights and due process procedures for addressing alleged student violations of university policies, delineates the range of disciplinary sanctions for violations and establishes procedures for appeal of disciplinary sanctions.

2.0 REFERENCES

- 2.1** *Family Educational Rights and Privacy Act (FERPA)*
- 2.2** *Health Insurance Portability and Accountability Act of 1996 (HIPPA)*
- 2.3** *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)*
- 2.4** *Title IX of the Higher Education Amendments Act of 1972*
- 2.5** *Utah Code § 76-10-11 Gambling*
- 2.6** *Utah Code § 76-10-505.5 Possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises–Penalties*
- 2.7** *Utah Code § 76-10-501 Utah Criminal Code, Offenses Against Public Health, Safety, Welfare, and Morals, Weapons*
- 2.8** *Utah State Board of Regents’ Policy R256 Student Disciplinary Process*



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- 2.9 Utah State Board of Regents' Policy R262 *Student Safety*
- 2.10 UVU Policy 115 *Minors on Campus and at University-Sponsored Events*
- 2.11 UVU Policy 135 *Use of Copyrighted Materials*
- 2.12 UVU Policy 157 *Alcoholic Beverages, Unlawful Drugs, and other Illegal Substances*
- 2.13 UVU Policy 158 *Tobacco*
- 2.14 UVU Policy 160 *Animals on Campus*
- 2.15 UVU Policy 161 *Freedom of Speech*
- 2.16 UVU Policy 162 *Title IX Sexual Harassment.*
- 2.17 UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*
- 2.18 UVU Policy 402 *Key and Proximity Cards*
- 2.19 UVU Policy 425 *Scheduling Campus Facilities*
- 2.20 UVU Policy 441 *Appropriate Use of Computing Facilities*
- 2.21 UVU Policy 601 *Classroom Management*
- 2.22 UVU Policy 703 *Restrictions on the Use of Skateboards, Roller Blades, Roller Skates, Bicycles, Motorcycles, and Hoverboards*

3.0 DEFINITIONS

3.1 Academic misconduct: For the purposes of this policy, prohibited conduct that is academic in nature, including but not limited to misconduct that occurs within coursework, research, examinations, or other academic exercises.

3.2 Behavioral misconduct: Conduct prohibited under section 4.3 of this policy that is not academic in nature.

3.3 Bullying and cyberbullying: Repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally, and are not protected by the First Amendment.

3.4 Cheating: Using or attempting to use or providing others with unauthorized information, materials, or study aids in academic work. Cheating includes but is not limited to passing



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examination answers to or taking examinations for someone else; preparing or copying another's academic work; the acquisition, without permission, of tests or other academic material belonging to a member of university faculty or staff; unauthorized collaboration on academic work; or engaging in any conduct specifically prohibited by a faculty member in the course syllabus or class discussion.

3.5 Complainant: For the purposes of this policy, any individual who alleges they have experienced misconduct in violation of this *Student Code*. The University may also be a complainant. Use of this term does not imply that a finding of misconduct is assumed or made before an investigation has been completed.

3.6 Dean of Students: The person designated by the Vice President of Student Affairs to be responsible for overseeing the administration of the *Student Code*.

3.7 Disciplinary records: Disciplinary records are educational records protected under FERPA, and include but are not limited to records of the results of disciplinary processes and findings of student policy violations. Student disciplinary records are maintained by the Office of Student Conduct and Resolution (Student Conduct Office).

3.8 Fabrication: The use of invented, counterfeited, altered, or forged information. Fabrication includes but is not limited to the falsification of research or other findings, or the listing of sources in a bibliography not used in the academic exercise.

3.9 Faculty member: For the purposes of this policy, faculty or faculty member refers to any person employed by the University part-time or full-time to teach and/or lead scholarly activities or creative works.

3.10 Hazing: An act that endangers the mental or physical health or safety of a student or that destroys or removes public or private property for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization.

3.11 Intimidation: Implied and/or actual threats or acts that cause a reasonable fear of harm in another.

3.12 Plagiarism: The practice of taking or using someone else's work or ideas and passing them off as one's own. Plagiarism includes but is not limited to the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment; the unacknowledged use of materials prepared by another person or agency engaged in the selling of papers or other academic materials; duplicating or submitting work that was originally prepared for another class without the explicit permission of the instructor; or knowingly aiding another student who is engaged in plagiarism.

3.13 Preponderance of the evidence: The evidentiary standard used during a misconduct investigation/review to determine if the allegations occurred and if a university policy violation



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has occurred. Preponderance of evidence means it is more likely than not, or more than 50 percent in favor, that the misconduct occurred as alleged.

3.14 Respondent: For the purposes of this policy, the individual against whom an alleged complaint of misconduct in violation of the *Student Code* has been made. Use of these terms does not imply that a finding of misconduct is assumed or made before an investigation has been completed.

3.15 Retaliation: Intimidation, threats of reprisal, harassment, or other materially adverse actions, or threats of such materially adverse actions, made by or against persons employed by, attending, or affiliated with the University in any way or participating in any university program or activity, against anyone who in good faith reports or files a complaint under this policy; honestly participates or assists in a university-related investigation, hearing, or other processes relating to discrimination or harassment; or otherwise asserts rights protected by Title IX, Title VII, or other applicable laws. Any action designed to prevent or discourage someone from reporting a concern regarding sexual misconduct may also be retaliation.

3.16 Safe harbor: For purposes of this policy, safe harbor is a provision that affords students protection from penalty if a student, in good faith, self-reports their own addiction to the appropriate university officials before the threat of drug testing and/or discipline.

3.17 Student: For the purposes of this policy, *student* includes all persons admitted to the University or enrolled in university courses, either full-time or part-time. Persons who withdraw or graduate after allegedly violating the *Student Code*, who are not officially enrolled for a particular term but who have a continuing relationship with the University, who are on a leave of absence, or who have been notified of their acceptance for admission are also considered “students.”

3.18 Student conduct administrator: The person(s) designated either by the Dean of Students (in behavioral misconduct cases) or academic dean (in academic misconduct cases), to be responsible for administering the *Student Code*, including determining whether a student has violated the *Student Code* and determining sanctions. See section 5.8 Delineation of Authority.

3.19 Student organization: An organization of students that has complied with the formal requirements for university recognition or that is department-sponsored, including but not limited to student leadership programs, student councils, chartered student clubs, club sports, intramural teams, and athletic teams.

3.20 Threat: Written, verbal, physical, or nonverbal conduct that directly or indirectly expresses or shows an intention to inflict pain, injury, damage or other hostile actions against another person or to cause damage to any property, and that is not protected by the First Amendment.

3.21 University community: Includes any person who is a student or employed by the University, including but not limited to faculty, administration, staff, volunteers, or any persons



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contracted to perform services for the University. A person's status in a particular situation shall be determined by a student conduct administrator.

3.22 University campus: Any campus or facility, physical or virtual, owned, leased, or under contractual agreement by the University, including but not limited to satellite campuses, remote classroom sites, and the university learning management system.

4.0 POLICY

4.1 Scope of this Policy

4.1.1 This policy applies to all students admitted to the University or enrolled in university courses, either full-time or part-time, and to all student conduct that occurs on university campus or at university-sponsored activities. It also applies to off-campus conduct, not otherwise protected by law, that adversely affects the university community and/or fulfillment of the University's mission, values, and operations. The Dean of Students or designee shall decide whether the *Student Code* shall be applied to misconduct occurring off-campus on a case-by-case basis. If a student withdraws from the University while a disciplinary matter is pending, the University may continue to apply this *Student Code* and its processes for resolving that specific disciplinary matter.

4.1.2 The University may respond to allegations of student misconduct at any time even if the alleged misconduct occurs before classes begin, after classes end, during breaks within the semester, or during the break between semesters. The University may also institute its conduct proceedings after a degree is awarded in the event misconduct is subsequently discovered. Where warranted, the University retains the right to revoke an awarded certificate, diploma, or degree.

4.1.3 All academic and behavioral misconduct complaints are subject to the due process procedures for investigation, resolution, and appeals as set forth in this *Student Code*, with the exception of sexual misconduct and protected class discrimination and harassment, which are exclusively subject to the procedures found in UVU Policy 162 *Title IX Sexual Harassment* and UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*.

4.2 Student Responsibilities and Rights

4.2.1 Nothing in this policy shall be interpreted to deny the rights of individuals protected by the U.S. Constitution, including their protected rights to freedom of speech and association, including as set forth in *UVU Policy 161 Freedom of Speech*.

4.2.2 The University expects all students to engage in responsible conduct, to obey the law, to maintain integrity, and to uphold high standards of individual honesty in all their actions and academic work. The University promotes an environment that values inclusivity and civility, and



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encourages students to be thoughtful and respectful in their dealings with other members of the campus community.

4.2.3 Students are responsible for knowing the information and procedures in this policy and other university policies applicable to students. The University publishes this Student Code in its catalog, online and in print, and in the University's Online Policy Manual. The University reserves the right to modify this policy. Alleged policy violations are governed by the policy version in place at the time of the alleged violation. However, *Student Code* procedures effective at the time of the reporting of the alleged violation will govern the investigation and resolution.

4.2.4 Students shall promptly participate in good faith in informal or formal student conduct investigations related to this policy. If the complainant or respondent fails to participate, the Student Conduct Office may make findings without the response of that party, potentially leading to an unfavorable outcome for that party.

4.2.5 As members of the university community, students have certain rights in addition to their constitutional rights and protections. Students should respect each other's rights. The University will endeavor to safeguard these rights for all.

4.2.5.1 Academic Evaluation. Students have the right to performance evaluation based on a written syllabus, to accurate information regarding changes in course programs or university requirements and reasonable accommodation of those already enrolled in a program or class(es), to receive academic credit and/or degrees when all specified requirements and coursework have been satisfied, and to make academic appeals including but not limited to grade changes and withdrawals. See UVU Policy 152 *Accommodations for Individuals with Disabilities*; UVU Policy 523 *Grading*; UVU Policy 601 *Classroom Instruction and Management*; UVU Policy 635 *Faculty Rights and Professional Responsibilities*.

4.2.5.2 Due Process. Students have the right to be protected from unreasonable decision-making by the University and to have access to University policies that affect them. The University is committed to providing students with balanced and fair systems of misconduct resolution. This *Student Code* is administrative in nature and is not a civil or criminal proceeding. Students are presumed not responsible for misconduct until responsibility is established by a preponderance of the evidence. Students' non-participation or silence during any process under this policy will not be used against them, but the University's decisions will nonetheless be made on the available information. The University complies with Utah State Board of Regents' Policy R256 *Student Disciplinary Processes*, which sets forth minimum standards of due process for student disciplinary processes related to behavioral (non-academic) misconduct matters that may result in either expulsion or a minimum ten-day suspension.

4.2.5.3 Freedom from discrimination. Students have the right to be treated fairly and with dignity regardless of race, color, national origin, age (40 and over), marital status, sex, sexual orientation, gender identity, gender expression, pregnancy, childbirth, or pregnancy-related



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conditions, disability, religion, genetic information, height, weight, veteran status, or other bases protected by applicable federal, state, or local law, and as revised in UVU Policy 165 *Discrimination, Harassment, and Affirmative Action* and UVU Policy 162 *Sexual Misconduct*.

4.2.5.4 Freedom from sex discrimination and sexual misconduct. Students have the right to be free from sex discrimination in UVU educational programs and activities, including but not limited to educational programs, employment, admissions, and university-sponsored activities, consistent with *Title IX of the Educational Amendments of 1972*. Sexual misconduct, including sexual harassment, sexual violence, sexual assault, relationship violence, and stalking, are types of sex discrimination prohibited by Title IX and/or UVU Policy 162 *Title IX Sexual Harassment*. Students also have the right to a prompt and equitable response from the University when the University learns of any form of sex discrimination.

4.2.5.5 Freedom of Speech. Students have the right to free exchange of ideas and to artistic expression, the right to free speech, open discussion, inquiry, and academic freedom in the University and on the university campus without prior restraint or censorship, subject to limitations on unlawful/unprotected speech and to clearly stated, reasonable, and nondiscriminatory rules regarding time, place, and manner. See UVU Policy 161 *Freedom of Speech*.

4.2.5.6 Ombuds. Students have the right to access the University's Ombuds Office for consultation and assistance resolving matters of personal and school issues, including but not limited to concerns and conflicts regarding other students, faculty, university policies and processes, and housing disputes.

4.2.5.7 Privacy, Confidentiality, and Records. Students have the right to be protected from the University's improper disclosure of a student's educational record consistent with the *Family Educational Rights and Privacy Act of 1974* and UVU Policy 542 *Student Records Access*. Students also have the right to inspect all records pertaining to themselves, which are not considered by the University to be private records of university personnel. Students are entitled to request corrections or expungement to educational records they consider inaccurate or misleading. Also see UVU Policy 635 *Faculty Rights and Professional Responsibilities*.

4.2.5.8 Student Government and Student Organizations. Students have the right to form and operate an organized student association or club within the guidelines prescribed by the University. Students also have the right to representation through student government on university committees, councils, commissions, and other formally constituted bodies that make general policy and procedure decisions directly affecting students or that govern student activities and conduct. See UVU Policy 532 *Associated Student Organization and Club Membership*.



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4.3 Standards of Student Conduct

4.3.1 Students are individually responsible for their conduct. In addition, student organizations may be held collectively responsible for the conduct of their student members during student organization activities or while acting on behalf of or at the request of the student organization.

4.3.2 Students shall not engage in academic or behavioral (non-academic) misconduct as described in this section. Categories of prohibited misconduct include but are not limited to the following:

4.3.2.1 Abuse of student conduct process. Abuse or interference with university student conduct processes, including but not limited to falsification, distortion, or misrepresentation of information; failure to provide information or documents, or destruction of information or documents during the student conduct process; attempting to discourage an individual's honest participation in or use of the student conduct process; verbal or physical abuse and/or intimidation or any other retaliation of a party, witness, or other participant in a student conduct process; failure to comply with the sanction(s) imposed by the student conduct administrator; or influencing or attempting to influence another person to commit an abuse of the student conduct process.

4.3.2.2 Academic misconduct and other acts of dishonesty. All forms of academic misconduct and other acts of dishonesty, including but not limited to cheating, plagiarism, fabrication, and/or possessing or providing to the University any false, falsified, altered, forged, or substantially misleading materials, documents, accounts, records, identification, or financial instruments.

4.3.2.3 Alcohol. Use, possession, distribution, being under the influence of alcoholic beverages on the university campus or at university-sponsored events or activities, and other conduct prohibited by UVU Policy 157 *Alcoholic Beverages, Unlawful Drugs, and other Illegal Substances*. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person under 21 years of age.

4.3.2.4 Animals. Animals on campus, or other conduct prohibited in UVU Policy 160 *Animals on Campus*. Service dogs or miniature horses that are trained to perform work or tasks related to a disability are permitted.

4.3.2.5 Damage or destruction. Unauthorized damage to or destruction of university property or the personal property of a member of the university community.

4.3.2.6 Discrimination. Protected class discrimination as defined by UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*, including but not limited to negative or adverse conduct towards university employees or students in the terms or conditions of employment; university admission or education; access to university programs, services, or activities; or other university benefits or services on the basis of inclusion or perceived inclusion



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(in the case of disability, sexual orientation, gender identity, or gender expression) in one or more of the protected classes that has the effect of denying or limiting participation in university employment or in a university program or activity.

4.3.2.7 Disruptive behavior. Disruption, obstruction, or interference with university operations, teaching, learning, research, administration, other university activities, and/or other authorized non-university activities that occur on the university campus as defined in section 3.22.

4.3.2.8 Drugs. Use, possession, distribution, manufacturing, or being under the influence of illegal drugs or other controlled substances or drug paraphernalia, including abuse, misuse, sale, or distribution of prescription or over-the-counter medications, and other conduct prohibited in UVU Policy 157 *Alcoholic Beverages, Unlawful Drugs, and other Illegal Substances*.

4.3.2.9 Federal, state, or local law or regulation. Violation of federal, state, or local law or regulation that adversely affects the university community and/or the pursuit of its objectives.

4.3.2.10 Fire safety. Violation of local, state, federal, or university fire policies, including but not limited to causing a fire that damages university or personal property or that causes injury to another; improper use of university fire safety equipment; or tampering with or improperly engaging a fire alarm or fire detection/control equipment while on university property.

4.3.2.11 Gambling. Activities that violate state or federal law regarding gambling, including but not limited to risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome is based upon an element of chance; and is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. Gambling includes a lottery and fringe gambling.

4.3.2.12 Harm to person(s). Intentional or reckless physical harm, threats, intimidation, hazing, bullying, cyberbullying, coercion, retaliation, and/or other conduct, including assisting in the foregoing, that threatens or endangers the health or safety of any person. Additionally, participation or cooperation by person(s) being harmed does not excuse the violation.

4.3.2.13 Misuse of computing facilities. Unauthorized use of computing facilities and other conduct prohibited in UVU Policy 441 *Appropriate Use of Computing Facilities*, including but not limited to attempting to gain access to any system or account without authorization from a system administrator; sharing passwords or accounts; copying or changing system files or software without authorization from a system administrator; using destructive or invasive software; displaying images, sounds, or messages that are obscene where others may be affected by them; consuming inordinate amounts of system resources; crashing machines or systems deliberately; and using the university computing facilities for disruptive or illegal activities.



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4.3.2.14 Other policies. Violation of other written university policies, guidelines, or practices.

4.3.2.15 Retaliation. Reprisals or retaliation as defined in this *Student Code* and other applicable policies.

4.3.2.16 Sexual misconduct. Sexual misconduct, as defined by UVU Policy 162 *Title IX Sexual Harassment*, includes but is not limited to acts and attempts of dating and relationship violence; domestic violence; discrimination based on sex, pregnancy, pregnancy-related conditions, sexual orientation, gender identity, or gender expression; hostile environment based on sex, pregnancy, pregnancy-related conditions, sexual orientation, gender identity, or gender expression (including intimidation and hazing/bullying); sexual harassment; sexual assault (including nonconsensual sexual contact or nonconsensual sexual intercourse); sexual exploitation (including engaging in sexual trafficking); and stalking.

4.3.2.17 Theft. Intentional and unauthorized taking of, attempted taking of, or maintaining possession of university property or others' personal or public property, including goods, services, or other valuables.

4.3.2.18 Tobacco. Smoking, vaping, or using electronic cigarettes or tobacco inside campus buildings and within 25 feet of entrances, windows, and air intake vents, or other conduct prohibited in UVU Policy 158 *Tobacco*.

4.3.2.19 Trademark/copyright violations. Unauthorized use (including misuse) of university or organizational names, logos, images, or other university trademarks or copyrighted materials, or other conduct prohibited by UVU Policy 135 *Use of Copyrighted Materials*.

4.3.2.20 Unauthorized access. Trespassing, misuse of access devices or privileges to university property, or unauthorized entry to or use of buildings or offices, including unauthorized possession, duplication, or use of any means of access to any university building (i.e., keys, proximity cards, etc.), or propping open or other unauthorized use of alarmed doors for entry into or exit from a university building.

4.3.2.21 Weapons. Unauthorized possession or use of a firearm, ammunition, explosives, dangerous weapons, or dangerous chemicals on university property. UVU students must adhere to Utah law regarding the lawful possession of permitted and concealed firearms on public university campuses.

4.3.2.22 Wheeled devices. Skateboards, roller blades, roller skates, bicycles, hoverboards, and similar wheeled devices are not permitted inside university buildings or on any stairways, structures, landscaped areas, or concourses, or other areas as prohibited by UVU Policy 703 *Restrictions on the Use of Skateboards, Roller Blades, Roller Skates, Bicycles, Motorcycles, and Hoverboards*.



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4.4 Non-University Legal Cases

4.4.1 University student conduct processes may apply to a student charged with conduct that potentially violates both the law and this *Student Code* (that is, if both possible violations result from the same alleged conduct). Processes under this *Student Code* may be carried out before, after, or at the same time as civil or criminal cases at the discretion of the Dean of Students or designee or as otherwise required by law. Determinations made or sanctions imposed under this *Student Code* are not subject to change when civil or criminal charges addressing the same alleged incident or act are dismissed, reduced, or resolved in favor of or against the student.

4.4.2 When a student is charged by federal, state, or local authorities with a violation of law, the University will not request special consideration for that individual because of their status as a student. If the alleged offense is also being processed under the *Student Code*, the University may advise off-campus authorities of the existence of the *Student Code* and of how such matters are typically handled within the university community. The University will cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with campus policies or sanctions).

4.5 Reporting, Investigations, and Disciplinary Proceedings

4.5.1 Reports of any suspected or alleged violation(s) of the *Student Code* shall be made to the Student Conduct Office.

4.5.2 In responding to reports of alleged violations of the *Student Code*, the University shall provide prompt, fair, and impartial investigations and disciplinary processes. During these processes, both complainant and respondent shall be provided equitable rights and opportunities, including notice and an opportunity to be heard, as outlined in section 5.0.

4.5.3 The University may sanction any student who violates this *Student Code* and other applicable university policies, up to and including expulsion from the University.

4.5.4 If a student has been disciplined for serious violations of institutional policies regarding sexual misconduct, sex discrimination, harassment, or other serious misconduct resulting in suspension or expulsion, the University may enter a notation on the student's transcript in accordance with the *Family Educational Rights and Privacy Act*.

4.5.5 The University prohibits retaliation as defined in this policy. The University shall take steps to prevent retaliation and respond to threats or acts of retaliation, up to and including expulsion from the University. Individuals who deliberately make false or malicious accusations of violation of this *Student Code* or other applicable university policies may be subject to disciplinary action, up to and including expulsion from the University. However, a no-violation finding does not in itself constitute proof of a false or malicious accusation.



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4.6 Interim Measures

4.6.1 The Director of Student Conduct or designee may institute interim measures before the final resolution of an alleged incident of misconduct, including ensuring the safety and well-being of members of the campus community, preservation of university property, or if the student poses an ongoing threat of disruption or interference with the operations of the University. Interim measures may include but are not limited to

4.6.1.1 University issued no-contact directive(s);

4.6.1.2 Providing an escort;

4.6.1.3 Making reasonable adjustments to exams, assignments, and/or providing alternative course completions options in collaboration with faculty;

4.6.1.4 Making adjustment to class schedules, including the ability to transfer course sections or withdraw from a student course without penalty;

4.6.1.5 Making adjustments to living, transportation, and working situations;

4.6.1.6 Limiting a student's or organization's access to certain university facilities or activities pending resolution of the matter;

4.6.1.7 Interim suspension, which may include denial of access to campus (including classes) and/or all other activities or privileges for which the student might otherwise be eligible, as the Dean of Students or designee may determine to be appropriate.

4.6.1.8 Any measure deemed necessary and appropriate by the student conduct administrator in compliance with this policy.

4.6.2 Interim measures do not replace the student conduct process, which will still proceed in a timely manner.

4.7 Sanctions

4.7.1 The University may sanction any student who violates this policy, up to and including expulsion from the University. Sanctions are intended to educate students on the effects of their behavior and invoke change in future decision making. Sanctions shall be applied in a fair manner and be assigned in accordance with two criteria: (1) educational value for the student found in violation of this policy; and (2) the sanction being commensurate and consistent with the type of violation and any prior misconduct. Except in urgent circumstances where there is significant threat of harm, disruption, or of undermining the integrity of the educational environment, the student conduct administrator shall not impose irreversible sanctions (i.e., denying access to class, final exams, or other student programs).



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4.7.2 One or more of the following sanctions may be imposed upon students for violation(s) of the *Student Code* or other university policies.

4.7.2.1 Academic sanctions. Sanction of academic nature including but not limited to failing grades, reduced grades, and/or redoing academic exercises.

4.7.2.2 Disciplinary no-contact directive. Specified parameters restricting communicative contact and/or physical proximity with a university community member or campus entity.

4.7.2.3 Discretionary sanctions. Educational meetings or interventions, behavior agreements, work assignments, essays, service to the University, or other related alternative, educational and/or restorative remedies.

4.7.2.4 Expulsion. Permanent separation of the student from the University.

4.7.2.5 Fines. Fines may be imposed as published on the Student Conduct Office website.

4.7.2.6 Group sanctions. Sanctions imposed upon student organizations found to have violated the *Student Code* as listed above, including loss of all privileges or status.

4.7.2.7 Loss of Privileges. Denial of specified privileges for which the student might otherwise be eligible for a designated period of time.

4.7.2.8 Probation. A written reprimand for violation of specified standards. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to violate any university standard(s) during the probationary period. Probation may also include specific conditions that the student must meet.

4.7.2.9 Restitution. Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

4.7.2.10 Revocation or withholding of degree. Revocation or withholding award of a degree or certificate otherwise earned.

4.7.2.11 Suspension. Separation of the student from the University for a definite period of time, after which the student is eligible to return. Conditions for readmission will typically be specified at the time of the suspension.

4.7.2.12 University-sponsored housing sanctions. Removal, probation, or reassignment.

4.7.2.13 Warning. A written notice to the student that the student is violating or has violated university standards of student conduct as laid out in this policy and that the misconduct must not be repeated.



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5.0 PROCEDURES

5.1 Reporting

5.1.1 While all members of the university community are encouraged to report any suspected violation(s) of the *Student Code* to the Student Conduct Office, university employees are required to report any suspected student violation(s) of the *Student Code* to the Student Conduct Office within 24 hours of learning of the alleged violation. The Student Conduct Office will then forward the report to the appropriate student conduct administrator as outlined in section 5.8.1.

5.1.2 While all members of the university community are encouraged to report any suspected violations of UVU Policy 162 *Title IX Sexual Harassment* or Policy 165 *Discrimination, Harassment, and Affirmative Action*, university employees (except licensed counselors and health providers, as provided in Policy 162) are required to report any suspected violations of Policy 162 to the Office of Equal Opportunity and Affirmative Action/Title IX within 24 hours of learning of the alleged violation. Any reports of such violations that may be received by the Student Conduct Office will be immediately reported to the Office of Equal Opportunity and Affirmative Action/Title IX.

5.1.3 Individuals may submit reports of alleged violations of the *Student Code* or other university policies through several methods listed on the Student Conduct website at <https://www.uvu.edu/studentconduct/report>, including options for reporting anonymously.

5.1.4 Reports made through tip/crisis reporting methods designated on the student conduct website will be forwarded to the UVU Police, Associate Dean of Students, Director of Crisis Services, and other individuals as needed for an effective response. Each report will be individually assessed to determine the nature, severity, and likelihood of harm to members of the university community and the appropriate response.

5.2 Amnesty

5.2.1 The University encourages all community members to proactively assist others whose health or safety are at risk. The University will not pursue student conduct process against a reporting student, a complainant, a respondent, or witness for personal involvement in minor policy violations, including but not limited to the use of alcohol, marijuana or other drugs, at or near the time of the incident as long as the reporting student's behavior did not place the health or safety of any other person at risk. The University may, however, initiate an educational discussion with any student regarding their personal involvement in minor policy violations.

5.2.2 If the same person or student organization repeatedly requests amnesty for substantially similar minor policy violations, the student conduct administrator may deny amnesty to that person or student organization.



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5.2.3 UVU will not sanction a student for a conduct violation related to the use of drugs or alcohol if the student (1) is a victim or witness of an act of assault resulting in substantial bodily harm, sexual assault, domestic violence, dating violence, or stalking, as defined in UVU Policy 162; and (2) UVU learns of the conduct violation from the student's good faith report of the incident to UVU.

5.3 Safe Harbor

5.3.1 Students who have a drug or alcohol addiction may be granted safe harbor from discipline. If a student self-reports their own addiction to the appropriate university officials before the threat of drug testing and/or discipline, the University may decide not to initiate a conduct complaint. A written action plan by the student may be used to track cooperation with the safe harbor program. Failure to follow the action plan may nullify the safe harbor protection and the University may initiate student disciplinary processes.

5.4 Collective Violations by Student Organizations

5.4.1 When violations of this *Student Code* occur at events sponsored or co-sponsored by a student organization, its officers and membership may be held collectively and/or individually responsible when:

5.4.1.1 The student organization's leader(s) or officer(s) gave consent to, or encouraged, the behavior; or

5.4.1.2 The student organization's leader(s) or officer(s) knew or should have reasonably known about the behavior.

5.4.2 Hearings for student organizations follow the same student conduct process as for individuals. In any such action, determinations as to violations and sanctions may be made collectively to the student organization and/or individually and will be proportionate to the involvement of each individual and the student organization.

5.5 Confidentiality and Recordkeeping

5.5.1 University personnel involved in student conduct processes shall maintain confidentiality to the extent allowed by the *Utah Government Records and Management Act (GRAMA)*, the federal *Family Educational Rights and Privacy Act (FERPA)*, the federal *Health Information Portability and Accountability Act (HIPAA)*, and other applicable laws governing record protection and/or mandatory reporting.

5.5.2 The Student Conduct Office strives to maintain confidentiality throughout the investigation and appeals hearing process.



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5.5.3 The Student Conduct Office is responsible for maintaining appropriate records directly related to alleged violations, investigations, findings, sanctions, etc. as described in section 5.15. If complaints are found to be without merit, records of the complaint and processes will not be entered onto a student's disciplinary record, but the Student Conduct Office will keep record of the case in its internal databases.

5.5.4 Complainants, respondents, witnesses, and any other participants in the conduct process are prohibited from recording interviews, hearings, and other meetings before, during, and after the disciplinary process.

5.6 Support Persons and Advisors

5.6.1 As required by Utah State Board of Regents' Policy R256 *Student Disciplinary Processes*, in matters of behavioral (non-academic) misconduct where the University believes in good faith, based on facts known by the University at the time or when additional facts are discovered later, that the student conduct matter may result in expulsion or a minimum ten-day suspension, the additional protections provided in this section apply. Students may waive any rights described in this section. This section does not apply to UVU Police Department law enforcement activities.

5.6.1.1 Before interviewing the student, the investigator or representative of the Student Conduct Office shall notify the student in writing of the allegations (including the time and place of the alleged misconduct, where available) made against the student and of the student's right to have a support person or advisor throughout the process who may be, but need not be, an attorney. This notice will be given at least 24 hours before a student is interviewed about the student conduct matter. If a student wishes to seek counsel from a support person or advisor, the University shall reschedule the interview, giving the student reasonable time to obtain a support person/advisor.

5.6.1.2 In meetings and interviews under section 5.12 and section 5.13 of this policy on behavioral (non-academic) misconduct matters, student complainants and respondents may be accompanied by a support person/advisor of the student's choice, who may be an attorney. During such meetings or interviews, the support person or advisor may only advise the student and may not actively participate in the investigation or process.

5.6.2 During any appeals hearing under section 5.14 of this policy, student complainants and respondents may each have a support person/advisor of their choice, who may be an attorney, advocate for them.

5.6.3 A support person/advisor may not be an employee of the University who would have a conflict of interest in serving in the support person/advisor role. Support persons/advisors must be willing to agree to maintain the confidentiality of student conduct investigation and appeals hearing processes.



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5.6.4 The University may proceed with the investigation and hearing processes in a timely fashion without the complainant or respondent if that party fails to respond or declines to participate. The University may set reasonable deadlines and move forward with processes regardless of whether a party and/or a party's support person/advisor is able to accommodate those deadlines.

5.7 Preliminary Review

5.7.1 After receiving a report of an alleged violation of the *Student Code* or other applicable university policies, the student conduct administrator shall promptly conduct a preliminary review to determine if interim measures are needed, if a violation of the *Student Code* is alleged, and if an investigation is necessary to resolve a genuine dispute of material facts.

5.7.2 If the student conduct administrator determines that no violation of the *Student Code* has been alleged and/or there's no genuine dispute of material facts, the administrator shall issue a written notice of this decision to the respondent, complainant (if required by law), and the Student Conduct Office.

5.7.3 A preliminary review dismissal shall be final with no additional internal appeals available to the parties.

5.7.4 If the student conduct administrator determines that a violation of the *Student Code* or other policy has been alleged and that an investigation is necessary to resolve a genuine dispute of material facts, then the Administrator may proceed with an investigation of the alleged violation.

5.7.5 The student conduct administrator shall report the complaint to the Director of Student Conduct or designee.

5.7.6 At the recommendation of the student conduct administrator, the Director of Student Conduct or designee may apply an interim measure to a student or student organization or invoke other safety measures, as provided in section 4.6, pending the outcome of the investigation and subsequent proceedings.

5.7.6.1 The Dean of Students or designee will notify the student in writing of this action, including a brief description of the reason for the interim measure. When required by law, such as in sexual misconduct cases, applicable notices will be provided to both complainants and respondents. A student who receives an interim suspension may request a meeting with the Dean of Students or designee to present information and/or reasoning as to why the interim measure is inappropriate or unnecessary.

5.7.6.2 At the discretion of the Dean of Students or designee, and in collaboration with faculty and/or the appropriate academic dean(s), alternative coursework options may be approved to minimize impact on the student during any interim measure.



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5.8 Delineation of Authority

5.8.1 For purposes of this policy, the Dean of Students shall delegate authority for the investigation, resolution, decision-making (including appeals), and sanctions based on the type of misconduct as defined in section 3.1 and 3.2 as follows:

Type of Misconduct	Student Conduct Administrator	Student Conduct Appeal Decision Maker
Academic	Faculty member of course in which misconduct occurred	Academic dean of college/school or designated chair of department in which misconduct occurred
Behavioral	Director of Student Conduct or designee	Dean of Students or designee

5.9 Informal Resolution

5.9.1 Informal resolution may include an inquiry into the facts but typically does not include an investigation. Informal resolution is flexible and includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted preventive educational and training programs, or providing remedies for the individual harmed by the offense. Informal resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to ensure that the resolution has resolved concerns effectively.

5.9.2 Because each alleged violation is different, the student conduct administrator shall tailor each resolution to the specific facts of the case, including determining whether the alleged violation is appropriate for informal resolution. Informal resolution may result in resolutions such as behavior agreements and/or sanctions combined with educational or restorative measures.

5.9.3 Informal resolution is encouraged to resolve concerns at the earliest stage possible with the cooperation of all parties involved. Participation in the informal resolution process is voluntary. Informal resolution may be appropriate for anonymous and/or third-party reports, or when respondents accept responsibility for their violations. Informal resolution may be inappropriate when one or both of the parties are reluctant to participate in good faith, or when there are allegations of violent behavior.

5.9.4 Any unsuccessful informal resolution, including but not limited to noncompliance with the informal process, may be referred for student conduct hearing.



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5.9.5 After concluding informal resolution, the student conduct administrator shall notify the complainant and respondent in writing of the resolution that was agreed upon.

5.9.6 Participation in informal resolution does not prohibit either party from terminating informal resolution and/or requesting an investigation at any point during the informal resolution process. Where a report is closed after informal resolution, the matter may later be reopened at the discretion of the student conduct administrator when requested by the complainant and/or if the student conduct administrator determines there is good cause to do so.

5.10 Investigation

5.10.1 If the student conduct administrator determines an investigation is necessary, the University shall conduct a reliable and impartial investigation by interviewing relevant witnesses, collecting relevant documentary evidence, and preparing a written summary of findings. The purpose of the investigation is to establish whether there is a reasonable basis, based on a preponderance of the evidence, for concluding that the alleged violation of the *Student Code* has occurred. The University reserves the right to engage an outside investigator to conduct the investigation if it is determined there is a conflict of interest or other compelling reason to do so.

5.10.2 If a student withdraws from the University before the completion of an investigation and hearing, the University may continue to investigate and apply this process for resolving the specific disciplinary matter in the student's absence. If a respondent is found to have violated university policy, the University may restrict the respondent's readmission on terms or under circumstances it may prescribe at the time of the finding.

5.10.3 Complainants, respondents, and witnesses shall be treated with respect throughout the investigation process, disciplinary process, and other proceedings.

5.10.3.1 Accordingly, the University endeavors through this policy and diligent effort to secure the following for complainants and respondents:

5.10.3.1.1 Reasonably prompt and equitable resolution of allegations for respondents and complainants,

5.10.3.1.2 Freedom from retaliation for making a good faith report or for participating in any investigation or proceeding under this policy.

5.10.3.1.3 Timely and equal access to allegations for respondents and complainants, and the opportunity to respond to information that will be used against them in any disciplinary proceeding.

5.10.3.1.4 The opportunity for complainants and respondents to offer information, present evidence, and identify witnesses during an investigation.



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5.10.3.1.5 Interim measures made available for complainants, respondents, and witnesses, and the opportunity to request modifications necessary for physical and/or emotional safety.

5.10.3.1.6 Timely notice of meetings where complainants' and respondents' presence is necessary.

5.10.3.1.7 Simultaneous notification to complainants and respondents, in writing, of the results of any proceedings.

5.10.3.1.8 The opportunity for complainants and respondents to articulate concerns or issues about proceedings under this policy.

5.10.3.1.9 Reasonable time for complainants and respondents to prepare responses, as permitted under this policy.

5.10.3.1.10 Written notice to complainants and respondents of any necessary extensions of timeframes under this policy.

5.10.3.1.11 Reasonable accommodations for all participants in the student conduct process who have a disability and who request disability accommodations. Such requests may be made to the student conduct administrator, who will refer such requests to the appropriate ADA coordinator and then implement approved accommodations.

5.11 Notices to Complainants and Respondents

5.11.1 The student conduct administrator will give written notice to:

5.11.1.1 Complainant(s) of their options to report to other campus and community authorities as applicable, when complainants allege a violation of the Student Code to the student conduct administrator.

5.11.1.2 Complainants and respondents, if the student conduct administrator's inquiry advances beyond preliminary review according to section 5.7, of the time and place of alleged policy violation(s), which policies were allegedly violated, and how those policies were violated. The student conduct administrator will also provide the parties with written notice to appear at a pre-hearing meeting. If additional violations are later alleged, a further notice shall be provided to the complaining and responding students.

5.11.1.3 Complainants and respondents of their ability to participate in campus investigations and/or student conduct processes by providing relevant information and recommending relevant witnesses. If students choose to not participate in the process, the case may proceed without them and a decision may be made without any input from the student.



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5.11.1.4 Complainants and respondents of their right, in behavioral (non-academic) misconduct matters, to be accompanied by a support person/advisor of their choice, who may but need not be an attorney, throughout the student conduct process. Students must notify the student conduct administrator at least five school days in advance of the pre-hearing meeting of their support person/advisor's identity and the nature of the student's relationship to the support person/advisor. The University has the right to disqualify a support person/advisor when their participation would create a conflict of interest or a potential disruption in the student conduct process.

5.11.1.5 Complainants and respondents of how to request information for disability accommodations and/or language translation services.

5.12 Pre-Hearing Meeting

5.12.1 The student conduct administrator will conduct a pre-hearing meeting with the respondent. The complainant and/or others may be invited to attend the same or a separate pre-hearing meeting, depending on the circumstances. If any party chooses not to attend, the pre-hearing meeting may still proceed.

5.12.2 The pre-hearing meeting will occur promptly after the student conduct administrator determines, after preliminary review, that an investigation/pre-hearing is necessary.

5.12.3 Parties will be given the opportunity to present relevant information in response to the alleged misconduct before and during the pre-hearing meeting.

5.12.4 The pre-hearing meeting and outcomes will be shared with the parties to the extent allowed by law, but will otherwise remain confidential.

5.12.5 If the respondent does not admit to the alleged violation(s) and/or the allegations cannot be resolved by mutual consent, the matter will be considered in a student conduct hearing.

5.12.6 If the respondent accepts responsibility for the violation, but sanctions are not agreed to, sanctions will be determined in a student conduct hearing.

5.12.7 During the pre-hearing meeting, investigation, or other pre-hearing processes in behavioral (non-academic) misconduct matters, the complainant's and/or respondent's support person/advisor may only advise the student and may not actively participate.

5.13 Student Conduct Hearing

5.13.1 Allegations of misconduct and/or sanctions not resolved during the pre-hearing meeting will be referred to a student conduct hearing, which will be scheduled as promptly as possible after the pre-hearing meeting. The student conduct administrator may delay the hearing if further



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investigation is needed or other circumstances require a delay. Hearing proceedings may be conducted over the course of multiple meetings.

5.13.2 The participating parties will receive notice of hearing meetings and access to all evidence to be considered at the hearing at least five school days in advance.

5.13.3 Student conduct hearings will be conducted according to the following procedures:

- 1) The student conduct administrator will conduct the student conduct hearing with the respondent. The complainant and/or others will be invited to attend the hearing. If either party fails to attend the hearing without good cause and without prior notice to the student conduct administrator, the hearing may proceed. Neither party is required to participate in the hearing for the hearing to proceed. The University reserves the right to modify hearing procedures to protect the safety of all parties involved.
- 2) Student conduct hearings and outcomes will be shared with the parties to the extent allowed by law, but will otherwise remain confidential.
- 3) Student conduct hearings will be conducted by the student conduct administrator.
- 4) In behavioral (non-academic) misconduct matters, the complainant and respondent have the right to be assisted by a support person/advisor of their choice during the Student Conduct Hearing and during any subsequent appeal hearings. Parties must notify the student conduct administrator at least five school days in advance of the hearing of their support person/advisor's identity and the nature of their relationship to the support person/advisor (including whether the support person/advisor is an attorney). The University has the right to disqualify a support person/advisor when that person's participation would create a conflict of interest or potentially disrupt the student conduct process. (If the complainant or the respondent do not provide the required information about their support person/advisor at last five days in advance, the support person/advisor may attend but shall not participate in the hearing.) Support persons/advisors may give opening statements, advise students throughout the hearing, question witnesses as allowed by the student conduct administrator, and present a closing statement. Support persons/advisors may not serve as witnesses. Neither the Rules of Civil Procedure nor the Rules of Evidence apply to these hearings.
- 5) If the complainant, respondent, and/or other witnesses have concerns for their personal safety, well-being, or fear confrontation during the hearing, they may request other reasonable means of participating. The student conduct administrator will determine whether the proposed means are reasonable.
- 6) Reasonable efforts will be made to accommodate the schedules of all participants in the hearing. Typically, no more than one extension will be granted.



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- 7) In student conduct hearings involving more than one respondent, the student conduct administrator may permit separate or joint student conduct hearings concerning each student.
- 8) The complainant, respondent, and the student conduct administrator may arrange for witnesses to present relevant information during the student conduct hearing.
- 9) Records, exhibits, and written statements will be accepted if deemed relevant by the Student Conduct Administrator.
- 10) All procedural questions are subject to the final decision of the student conduct administrator.
- 11) After all pertinent information has been received, the student conduct administrator shall deliberate on all available information and determine, based on a preponderance of the evidence, whether the respondent has violated the *Student Code*.
- 12) The respondent and complainant will receive prompt notice of hearing decisions in writing to the student's university email address, or hand-delivered, typically within five school days of the hearing date, unless circumstances require delay. The notice will include whether the policy was violated, actions taken to resolve the complaint, and any applicable sanctions to both respondents and complainants to the extent allowed by law.
- 13) A finding of not-in-violation will resolve the matter with no further action or appeals.
- 14) Disciplinary sanctions may be imposed upon respondent(s) found in violation of the *Student Code* and communicated to the respondent in a written sanction letter. Elements of the sanctions may be imposed either singularly or in combination with other sanctions. Sanctions do not take effect until the completion of the appeal process, if any, unless otherwise specified by the student conduct administrator.

5.14 Appeal Process

5.14.1 Respondent(s) or complainant(s) may appeal a decision or sanction of the student conduct administrator to the Student Conduct Appeal Panel within five school days of the decision. These appeals shall be in writing and shall be delivered to the Student Conduct Office via email or postal mail. Untimely requests will not be considered absent extraordinary circumstances. Activities such as graduation, study abroad, internships/externships, business travel, or educational, sabbatical, or extracurricular activities generally do not in themselves constitute extraordinary circumstances.

5.14.2 When requesting the appeal, the respondent or complainant must identify in the written request at least one or more of the following grounds for appeal:



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- 1) New evidence unavailable to the party during the investigation has been discovered that could substantially impact the investigation, findings, and/or resolution.
- 2) Substantial departure from the procedures outlined in this *Student Code* or that the process was unfair and/or biased, which substantially impacted the outcome of the investigation or hearing. The duration of the investigation or severity of the sanction are not considered procedural errors.
- 3) Findings lacked substantial evidence such that no reasonable person would reach the same conclusion as the student conduct administrator.
- 4) The sanction imposed is substantially disproportionate to the severity of the violation (i.e., too severe or not severe enough).

5.14.3 Unless the appeal panel (the composition of which is explained below) determines by majority vote that one or more of the grounds stated in 5.14.2 has been met and that modifications to the original decision should be recommended, the student conduct administrator's decision or sanction shall be upheld.

5.14.4 While an appeal is pending, the student conduct administrator may impose interim measures.

5.14.5 The Student Conduct Office shall promptly convene a three-member appeal panel from the Policy 162/165 review panel pool. The appeal panel will include one faculty, one staff, and one student.

5.14.6 Panel members must be in good standing with the University and must not have any relevant conflict of interest. The student conduct administrator will notify the parties of the panel members' identities and appeal procedures in this policy. Within 3 school days of receiving this notice, parties may request in writing that a review panel member be disqualified based on bias or conflict of interest and explain the reasons for this request. If the Student Conduct Office, in consultation with the Office of General Counsel, confirms a bias or conflict, a new panel member shall be selected.

5.14.7 The Office of General Counsel will appoint an impartial attorney to preside over the appeal hearing as hearing officer. This attorney must have no prior involvement in either advocacy or investigatory matters related to the conduct matter. The hearing officer will ensure order, fairness, due process, efficiency, and civility at the hearing, and ensure a relevant and sufficient evidentiary record for the panel's consideration. To advance this aim, the hearing officer may set time limits proportionate to the complexity of the case; exclude irrelevant and unduly repetitious exhibits, witnesses, questions, statements, or other information; and exclude material deemed privileged under the law. Formal rules of evidence do not apply. The appeal panel shall consult with the hearing officer during the appeal process regarding legal, procedural, policy, and other questions as needed. The hearing officer, in consultation with the panel, will



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review and respond to any pre-hearing questions or objections from the parties related to hearing matters.

5.14.8 Once the panel is confirmed, they shall promptly determine, based on a preponderance of the evidence, whether the appeal request meets one or more criteria under section 5.14.2.

5.14.9 The Student Conduct Office shall then notify parties in writing of the appeal hearing panel's determination and, if a hearing is warranted, of the appeal hearing date, which will be scheduled promptly.

5.14.10 The hearing officer may conduct a pre-hearing conference to formulate or simplify the issues; obtain admission of fact and documents that will avoid unnecessary proof; arrange for the exchange of proposed exhibits; outline expectations for the hearing; or agree to other matters that may expedite the orderly conduct of the hearing.

5.14.11 The complainant and respondent will be allowed to attend the entire appeal hearing, excluding deliberations. In behavioral (non-academic) misconduct matters, the complainant's and respondent's support person/advisor, if any, will be allowed to attend the entire appeal hearing, excluding deliberations. Admission of any other person to the appeal hearing shall be at the discretion of the hearing officer.

5.14.12 The scope of the appeal hearing and the standard of review shall be limited to those stated in section 5.14.2. Along with written notice of the hearing date, the Student Conduct Office shall provide the review panel and parties copies of a summary of the case (where applicable), written findings, sanction letter, the written request for appeal, and any additional opposition statements already provided by the parties.

5.14.13 The appeal hearing is an opportunity for the parties to be heard by the appeal panel in person about the issues and criteria being considered for the appeal, including addressing the information in the summary of the investigation, any supplemental statements or new evidence unavailable during the investigation, any written impact or mitigation statements, to identify witnesses for the panel's consideration, and to respond to any questions from the appeal panel.

5.14.14 In behavioral (non-academic) misconduct matters, the respondent and complainant have the right to be assisted by a support person/advisor of their choice, who may be, but need not be, an attorney and who may participate during the appeal hearing. Parties must notify the Student Conduct Office at least 5 school days in advance of the hearing of their selected support person/advisor and the nature of their relationship to the support person/advisor (including whether the support person/advisor is an attorney). The University has the right to disqualify a support person/advisor when their participation would create a conflict of interest or would create the potential for disrupting the student conduct process. If the complainant or the respondent do not provide the required information about their support person/advisor at least five days in advance, the support person/advisor may attend but shall not participate in the appeal hearing. Support persons/ advisors may give opening statements, advise students throughout the



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hearing, question witnesses as allowed by the hearing officer, and present a closing statement. Support persons or advisors may not serve as a witness. Neither the Rules of Civil Procedure nor the Rules of Evidence apply to these hearings.

5.14.15 Documents, evidence, other statements, and requests for the appearance of witnesses to be considered at the hearing may be made by the panel, respondent, complainant, and/or student conduct administrator, and must be submitted in writing to the Student Conduct Office at least 5 school days before the hearing, and must include explanations of how each document or request is relevant to the reasons for the appeal. Only witnesses and other evidence that are relevant to the section 5.14.2 bases for appeal may be considered by the appeal panel. It is the responsibility of the party requesting a particular witness to invite that witness to attend the hearing.

5.14.16 In the event that any party fails to attend the appeal hearing without good cause and prior notice to the Student Conduct Office, the appeal panel may proceed with the hearing. Neither party is required to participate in the hearing for the appeal panel to proceed.

5.14.17 The hearing, except for deliberations, will be audio recorded by the appeal panel chair, who will give the recording to the Student Conduct Office. A copy of the audio file and/or transcription will be made available for review by either party upon request. Participants are prohibited from recording interviews and other meetings before and after the hearing.

5.14.18 Each party has up to 60 minutes to present their portion of the case (opening statement, testimony of the party and party's witnesses, questioning the other witnesses if any, and closing statement). The hearing officer will keep track of time.

5.14.19 The hearing officer will begin the hearing by asking the student conduct administrator to provide an oral summary of the investigation process, findings, and conclusions contained in the case summary and sanction letter.

5.14.20 The respondent and complainant shall each have the opportunity to make a personal statement, relevant to the scope of the appeal and bases for the appeal, including the personal impact of the alleged misconduct and/or sanction, the relief sought, and mitigating or aggravating information. In behavioral (non-academic) misconduct matters, each party's support person/advisor shall also have the opportunity to make an opening statement relevant to the scope of appeal. Each party, or their respective support person/advisor, may call witnesses that the hearing officer deems relevant to the scope of the appeal, question witnesses through the hearing officer, present evidence, and make concluding remarks.

5.14.21 The panel may question any party and witness. Only the person to whom a question is directed may answer (for example, support persons/advisors shall not be permitted to answer the appeal panel's questions on a party's behalf.)

5.14.22 Panel deliberations and voting shall occur in closed session from which all other persons are excluded. The hearing officer shall be present during the deliberations but shall have no vote.



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A majority vote by the members of the panel who attended the hearing shall decide whether the appealing party has shown one or more bases for appeal stated in section 5.14.2.

5.14.23 The panel shall provide the Student Conduct Office a summary of their findings and recommendation(s) regarding whether and how to uphold, modify, or remedy the conduct and/or sanction decision or process within 5 school days of the appeal hearing. The Student Conduct Office will promptly provide the recommendation(s) to the appropriate dean or designee as outlined in section 5.1.1.

5.14.24 The student conduct appeal decision maker, in consultation with the Office of General Counsel as needed, is responsible for reviewing the recommendations of the appeal panel and all the information that was available to the appeal panel, and determining whether to (1) remand the investigation to the original or an alternate student conduct administrator for additional investigation; (2) affirm the student conduct administrator's original decision; (3) adopt the sanction and resolution recommendation(s) of the appeal panel; and/or (4) determine an alternative outcome. If the matter is remanded for further investigation, the appropriate student conduct administrator shall promptly investigate and provide a written summary of the new evidence considered and/or changes to the findings, if any, to the student conduct appeal decision maker, who shall then determine sanctions or resolutions.

5.14.25 The student conduct appeal decision maker shall promptly notify the respondent and complainant in writing of their decision and the rationale for the outcome. The decision of the student conduct appeal decision maker is final, with no additional internal appeals available.

5.15 Records

5.15.1 The Student Conduct Office shall submit and maintain for confidential storage all Student Conduct Office records, including investigation findings, informal remedies, disciplinary action, and any subsequent appeals. Student Conduct records shall typically be retained for at least ten years after a student's graduation or withdrawal.

5.15.2 Records documenting informal resolution and or remedies and investigations resulting in no-conduct violation shall also be submitted to and maintained by the Student Conduct Office, but will not be entered in to a student's permanent disciplinary record with the University.

5.15.3 Student Conduct disciplinary records are educational records as defined by FERPA and shall be private. Access shall be limited to university officers on a need-to-know basis. Disciplinary sanctions resulting from serious violations of institutional policies regarding sexual misconduct, sex discrimination, harassment, or other serious misconduct resulting in suspension or expulsion may be notated on the student's official transcript. Additionally, the University may disclose to an alleged victim of any crime of violence or non-forcible sex offense the final results of a disciplinary process conducted by the institution against the alleged perpetrator of that crime, regardless of whether the institution concluded a violation was committed.



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5.15.4 Transcript notations regarding suspension and/or expulsion shall not contain any information about the underlying conduct, but will state that formal disciplinary action resulting in suspension and/or expulsion has been imposed. If a student withdraws from the University before the completion of an investigation and prior to a final determination, an updated transcript will be sent to any transferring institutions if suspension and/or expulsion are determined.

5.15.5 Transcript notations for suspension shall remain on a student’s transcript for the duration of the suspension, and typically not longer than one year after the suspension period. Transcript notations for expulsion will typically remain on a student’s transcript indefinitely.

5.15.6 Students may apply to the Dean of Students or designee to have their disciplinary records and/or transcript notation removed. Factors relevant to the decision to retain or remove specific records and/or transcript notations include the amount of time that has elapsed since the infraction, whether the student has graduated, and the seriousness of the infraction and the resulting sanctions.

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity
November 16, 2006	Regular policy approved.	UVU Board of Trustees
November 29, 2018	Temporary Emergency policy approved.	UVU Board of Trustees
October 24, 2019	Regular policy approved.	UVU Board of Trustees
August 14, 2020	Nonsubstantive change made to sections 2.16; 4.1.3; 4.2.5.3; 4.2.5.4; 4.3.2.16; and 5.1.2: Title of Policy 162 updated from <i>Sexual Misconduct</i> to <i>Title IX Sexual Harassment</i> .	UVU Policy Office