

2019 Updates to Utah Records Laws

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In 2019, the Legislature made a number of updates to Utah records laws. These changes include:

- changes to the structure and responsibilities of the State Records Committee
- the creation of a records management committee
- updates to the process of requesting and providing access to records
- additions to the list of protected records
- update to authorizations for access to restricted records
- updates to record-sharing provisions
- update to the definition of a governmental entity
- modification of provisions for at-risk employees

Changes to the structure and responsibilities of the State Records Committee

Since its creation in 1992, the State Records Committee has served two functions. It hears appeals of denials related to records access, and it reviews and approves schedules for the retention and disposal of records. The newly enacted law removes the requirement to review and approve retention schedules. ([Utah Code Section 63G-2-502\(1\)](#))

Additionally, the Legislature made changes to the makeup of State Records Committee membership. The change removes the Director of State History or designee and replaces that position with an individual who has experience with electronic records and databases. The Governor or his designee is replaced with the Director of the Division of Archives. Effectively, this is not a change because Governors traditionally have designated the Director of the State Archives as the designee. ([Utah Code Section 63G-2-501\(1\)](#))

The creation of a records management committee

The Legislature created a Records Management Committee to review and approve proposals for the retention and disposition of records. The Records Management Committee can also make records management recommendations. The Attorney General's Office will provide counsel for this committee, and the State Archives will provide staff support. ([Utah Code Section 63A-12-113](#))

This new committee will have seven members including the directors of the Division of Archives and the Division of State History or their designees and five members appointed by the Governor. The members appointed by the governor will include a member of the Utah Bar, a member with experience in public finance, a member with private sector records management

experience, a member who represents political subdivisions, and a media representative. ([Utah Code Section 63G-2-112](#))

Updates to the process of requesting and providing access to records

The public right to inspect public records free of charge during normal business hours is clarified to exclude records that the governmental entity has already provided to the person, records that are accessible online, and records that are accessible only on a government-owned computer that also contains private, controlled, or protected information not readily segregated. This provision is not intended to limit access to electronic records. ([Utah Code Section 63G-2-201\(1\)](#))

The Legislature modified the list of things a governmental entity is not required to do in response to a records request. Whereas government was not required to provide a record that is publicly accessible “in the identical physical form and content,” now government is not required to provide records that are accessible online. The governmental entity must specify to the requester where the record is available online. ([Utah Code Section 63G-2-201\(8\)](#))

Although not required to compile, summarize, tailor information, or provide it in a format not currently maintained, a governmental entity may choose to do so. New language allows the governmental entity to consider whether it is able to do these things without unreasonably interfering with government business, and to consider whether to assess fees. Old language required a determination that such things as compiling and summarizing would not unreasonably interfere and also required a requester to pay fees. ([Utah Code Section 63G-2-201\(9\)](#))

A person making a records request must provide a daytime telephone number and also an email address if the person is willing to accept communication through email. A single records request cannot be submitted to multiple governmental entities, which does not mean that a person cannot request the same records from multiple entities in separate requests. ([Utah Code Section 63G-2-204\(1\)](#))

Based on legislative updates, a governmental entity may not provide access to a record it received through record sharing. Instead it must provide a response identifying the entity from which the shared record was received. ([Utah Code Section 63G-2-204\(2\)](#))

Additions to the list of protected records

The Legislature added several new items to the list of protected records.

Records that companies submit to the Department of Insurance in the process of obtaining authorization to act as an insurer in Utah are protected. ([Utah Code Section 63G-2-305\(72\)](#))

Records of the Department of Insurance relating to the examination of captive insurance companies are protected. A captive insurance company is one that is owned or controlled by those it insures. ([Utah Code Section 63G-2-305\(73\)](#))

Records of the Division of Occupational and Professional Licensing (DOPL) database that manages prescriptions and controlled substances are protected. This includes information about DOPL visits associated with prescribed-substance poisoning or deaths caused by overdose. ([Utah Code Section 63G-2-305\(74\)](#))

Records related to injuries involving amusement rides as well as injury reports that amusement ride owners are required to submit are protected. ([Utah Code Section 63G-2-305\(75\)](#))

To the extent that a candidate provides another address and phone number where he can be reached, a candidate's residential or mailing address is protected. ([Utah Code Section 63G-2-305\(52\)](#))

Update to authorizations for access to restricted records

Whereas access to a controlled record previously has been limited to a physician, psychologist, certified social worker, insurance provider, or a government public health agency, legislative updates now also extend access to a physician's assistant. ([Utah Code Section 63G-2-202\(2\)](#))

Update to record-sharing provisions

GRAMA record sharing provisions carve out three categories of records that may not be shared. One is "records of a publicly funded library that when examined alone or with other records identify a patron." This provision is updated to allow a publicly funded library to share video surveillance recordings of the library premises with law enforcement agencies if the record provides information that is important for a criminal investigation. ([Utah Code Section 63G-2-206\(8\)\(b\)](#))

Update to definition of a governmental entity

The definition of a governmental entity is expanded to include a university law enforcement agency that exists primarily to prevent and detect crime and enforce laws and where the law enforcement officers are certified peace officers. This update means that the Brigham Young University Police Department will be a governmental entity ([Utah Code Section 63G-2-103\(11\)](#)).

Modification of provisions for at-risk employees

GRAMA identifies "at-risk government employees" and allows them to request that personal information about them be classified as private. A legislative update expands the information that may be classified as private to include personal mobile telephone numbers,

personal pager numbers, and personal email addresses in addition to the home address, home telephone number, Social Security number, insurance coverage, marital status, and payroll deductions that the law earlier identified. Both at-risk employees and family members who live with them may request that this “personal information” be classified as private. ([Utah Code Section 63G-2-303\(1\)](#))

An update expands the definition of at-risk employees to more generally include peace officers, judges, and prosecutors as well as any “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.” ([Utah Code Section 63G-2-303\(1\)](#))

Governmental entities must provide a form for at-risk employees to use when applying to have “personal information” about them classified as private. While in the past, the applicant was required to confirm his/her standing as an at-risk employee, the updated law requires the signature of the applicant’s highest ranking official certifying the applicant’s status as an at-risk employee. The updated law also requires the form to include notification that the at-risk employee may not receive official announcements affecting property, such as notices of proposed municipal annexations, incorporations, or zoning modifications. ([Utah Code Section 63G-2-303\(2\)](#))

Forms submitted by at-risk employees will remain effective for four years or until one year after the governmental entity receives notice of the death of the at-risk employee, whichever is earlier. Forms may be rescinded at any time either by the at-risk employee or by a family member, if the employee is deceased. ([Utah Code Section 63G-2-303\(6\)](#))