



**CENTRAL WEBER
SEWER IMPROVEMENT
DISTRICT**

**RECORDS ACCESS AND
MANAGEMENT POLICY**

(GRAMA POLICY)

**Adopted by Board of Trustees
April 21, 2014**

**CENTRAL WEBER SEWER IMPROVEMENT DISTRICT
RECORDS ACCESS AND MANAGEMENT POLICIES AND PROCEDURES
SUMMARY DESCRIPTION**

The Central Weber Sewer Improvement District (“District”) Records Access and Management Policies and Procedures (the “Policy”) establishes guidelines for open government information recognizing the need to maintain and preserve accurate records, provide public access to public records, and preserve the right of privacy applicable to personal data collected or received by the District. The Policy acknowledges that specified sections of the Government Records Access Management Act, Utah Code Ann. § 63G-2-101 *et. seq.* (“GRAMA) and the Public Records Management Act, Utah Code Ann. § 63A-12-101 *et. seq.*, as either may be amended from time-to-time, are applicable to the District and are controlling in the event of a conflict with the Policy.

The Policy defines terms; establishes the right of the public to inspect and copy public records; provides for the classification of records as public, private, controlled or protected; recognizes that “commercial information” may be subject to a claim of business confidentiality; describes the circumstances under which non-public records may be accessed by certain persons or entities; recognizes and upholds the personal right of privacy of persons who may be the subject of governmental records, while also recognizing that those rights are, under certain circumstances, to be weighed against interests favoring access to those records; outlines procedures for a record request; establishes and details the right of anyone aggrieved by a records decision of the District to appeal that decision, first to the General Manager as the Chief Administrative Officer of the District, then to the Board of Trustees, then to the State Records Committee if all parties to the proceeding agree and, finally, to State District Court; establishes fees and procedures for fee waivers applicable to records requests; declares that reasonable disability accommodations will be provided where appropriate; provides for the amendment or correction of government records; provides for the appointment and delegation of responsibilities to a Records Officer; establishes records maintenance procedures; and provides restrictions relative to the content of “promotional literature” and “reports” issued by the District.

CENTRAL WEBER SEWER IMPROVEMENT DISTRICT

RECORDS ACCESS AND MANAGEMENT POLICIES AND PROCEDURES

Section 1: BACKGROUND

A. POLICY:

These Policies and Procedures shall be known as the Central Weber Sewer Improvement District ("District") Records Access and Management Policy (the "Policy"). The Policy is governed by applicable provisions of the Government Records Access and Management Act, Utah Code Ann. § 63G-2-101, et. seq. ("GRAMA"), and of the Public Records Management Act, Utah Code Ann. § 63A-12-101 et. seq., as either may be amended from time to time.

B. PURPOSE:

The Policy establishes guidelines for open government information, recognizing the need to maintain and preserve accurate records, provide public access to public records and preserve the right of privacy of personal data collected or received by the District. In particular, the purpose of this Policy is to conform to GRAMA Section 63G-2-701 which provides that each political subdivision may adopt a policy relating to information practices including classification, designation, access, denials, segregation, appeals, management, retention and amendment of records. The intent of this Policy is to implement the general provisions of state law to best meet the needs of the public in light of the operation, management capabilities and resources of the District.

Section 2: COMPLIANCE WITH STATE LAW

- A. APPLICATION OF GRAMA: In adopting the Policy, the District recognizes that the following Sections of GRAMA and of the Public Records Management Act apply to the District and adopts by reference these provisions from the Utah Code as part of this Policy: Parts 1 and 3 of GRAMA and Sections 63A-12-105, 63A-12-107, 63G-2-201, 63G-2-202, 63G-2-205, 63G-2-206, 63G-2-601, 63G-2-602 and 63G-2-701. Any inconsistency or conflict between this Policy and the above referenced statutory provisions, or other applicable law, shall be governed by the statute, as amended from time to time, to the extent applicable to the District.

Section 3: DEFINITIONS

As used in this Policy, the following definitions shall be applicable:

- A. Act: As used herein, the terms "Act" and "GRAMA" are interchangeable and shall refer to the Government Records Access and Management Act, §§ 63G-2-101, et. seq., Utah Code Annotated, 1953, as amended.
- B. Computer Program: The phrase "computer program" means 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 any associated documentation, manuals, and other source material explaining how to operate the computer program. "Computer program" does not include the original data; analysis, compilation and other manipulated forms of the original data produced using the program; or 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 produced manually.

- C. Controlled Records: "Controlled records" are those defined as controlled under the provisions of the Act (Section 63G-2-304).
- D. Data: "Data" shall refer to individual entries (for example, birth date, address, etc.) in records.
- E. Dispose: "Dispose" means to destroy, or render irretrievable or illegible, a record or the information contained in it by any physical, electronic, or other means, including deletion or erasure of electronically recorded audio, visual, non-written formats, data processing, or other records.
- F. Non-Public Records: "Non-public records" shall refer to those records defined as private, controlled, or protected under the provisions of the Act.
- G. Private Records: "Private records" shall refer to those records classified as private under the provisions of the Act (Section 63G-2-302).
- H. Protected Records: "Protected records" shall refer to those records classified as protected under the provisions of the Act (Section 63G-2-305).
- I. Public Records: "Public records" shall refer to those records which have not been classified as non-public in accordance with the provisions of the Act and are not exempt from disclosure, as provided in Subsection 63G-2-201(3)(b) of the Act.
- J. Record: "Record" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, electronic data or other documentary materials regardless of physical form or characteristics, prepared, owned, used, received, or retained by the District where all the information in the original is reproducible by photocopy or other mechanical or electronic means. "Record" does not mean:
 - 1. Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of a person for whom the originator is working.
 - 2. Materials that are legally owned by an individual in the individual's private capacity.

3. Materials to which access is limited by copyright or patent laws unless the copyright or patent is owned by the District.
4. Proprietary software.
5. Junk mail or commercial publications.
6. ~~Personal notes or communications prepared or received by any District employee or officer in a capacity other than the employee's or officer's governmental capacity or that is unrelated to the conduct of the public's business.~~
7. A daily calendar or other personal note prepared by any District employee or officer for that person's personal use or for the personal use of any individual for whom that person is working.
8. Notes or internal memoranda prepared for the use of any District officer or employee acting in a quasi-judicial or deliberative process or pursuant to matters discussed in a meeting properly closed to the public in accordance with the Utah Open and Public Meetings Act, Utah Code Ann. §§ 52-4-204, 52-4-205 and 52-4-206.
9. Computer programs as defined in Subsection B that are developed or purchased by or for the District for District use.
10. A mobile telephone number or similar code used by an employee or officer of the District, provided that the employee or officer has designated at least one business telephone number that is a public record as provided in the Act (Section 63G-2-301).

K. Statutory Definitions: Other words and phrases defined in Section 63G-2-103 of the Act shall have the statutorily defined meaning and, should any definition stated above in this Section 3 differ from a definition in the Act, the statutory definition shall control.

Section 4: PUBLIC RIGHT TO RECORDS

A. Public Access: Members of the public shall have the right to see, review, examine and take copies, in any form maintained by the District, of all District governmental records defined as "public" under the provisions of this Policy, upon the payment of the lawful fee and pursuant to the provisions of this Policy and the Act provided, however, that disclosure of records to which access is governed or limited pursuant to court rule, a state statute other than the Act, a federal statute, or a federal regulation, including records to which access is governed or limited as a condition of participating in a state or federal program or receiving state or federal funds, is governed by the specific provisions of that statute, rule or regulation. To the extent not inconsistent therewith, the Act and

this Policy are applicable to records that are subject to restrictions by statute, rule or regulation. The District may decline to fulfill a records request if the request unreasonably duplicates prior records requests from that person or organization, in accordance with Utah Code Ann. § 63G-2-201(8)(a).

- B. Regularly Maintained Records: In response to a record request, the District has no obligation to create a record or record series; compile, format, manipulate, package, summarize, or tailor information; or provide a record in a particular format, medium, or program not currently maintained by the District. Upon request, the District may provide a record in a particular format if it is able to do so without unreasonably interfering with its duties and responsibilities and the requesting party agrees to pay to the District all costs, in compliance with state statute, incurred in providing the record in the requested format.
- C. Records in Public Publications: The District has no obligation to fulfill a record request if the record requested is accessible in the identical physical form and content in a public publication or a product produced by the District and the District provides the publication or product and specifies where the record can be found within the publication or product.
- D. Custodial Agency: When a record is temporarily held by a custodial agency, pursuant to the custodial agency's statutory functions such as records storage, investigation, litigation, or audit, the record shall not be considered a record of the custodial agency for the purposes of this Policy. The record shall be considered a record of the District and any requests for access to such record shall be directed to the District, rather than to the custodial agency, pursuant to these procedures.
- E. Business Confidentiality: Any person who provides a record to the District that the person believes should be protected as a "trade secret" as defined in Utah Code Ann. § 13-24-2(4) or should be protected as "commercial information" or "non-individual financial information" under Utah Code Ann. § 63G-2-305(2) shall provide, along with the record, a written claim of business confidentiality and a concise statement of reasons supporting the claim of business confidentiality. The Records Officer or General Manager shall consider the business confidentiality claim and shall notify the claimant whether the record is to be classified as protected or as public or if the District determines that the record should be released after balancing the interests and determining that there is no interest in restricting access to the record or that the interests favoring access outweigh the interests favoring restriction of access. Except as provided by court order, the District is not to disclose records which are the subject of a business confidentiality claim but which the District determines should be classified as public until the period in which to bring an appeal from that determination expires or the end of the appeal process, including a judicial appeal and, possibly, an appeal to the State Records Committee, as provided in Section 11. The foregoing sentence does not apply where the claimant, after

notice, has waived the claim by not appealing or intervening before the Board of Trustees.

- F. Employee Personnel Files: The right to examine and copy documents in an employee's personnel file is subject to access in accordance with the Act.
- G. Disclosure of Electronic Information: Under some circumstances, as a result of an investigation, subpoena, lawsuit, or the Act, the District may be required to provide electronic or other information. Consequently, anything on the District's computer system, including personal data, may be disclosed to third parties pursuant to the above-mentioned processes.

Section 5: CLASSIFICATION OF RECORDS

- A. Public Records: Public records shall be those District records as defined in Section 63G-2-201 of the Act. Public records shall be made available to any person. All District records are considered public unless they are (1) expressly designated, classified, or defined otherwise by the District in accordance with policies and procedures established by this Policy, (2) are so designated, classified or defined by the Act, or (3) are made non-public by other applicable law.
- B. Private Records: Private records shall be those District records classified as "private", as defined in Section 63G-2-302 of the Act and as designated, classified, or defined in procedures established pursuant to this Policy. Private records include, but are not limited to, the following: records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels; medical records; records concerning current and former employees of the District and applicants for employment that would disclose the individual's home address, home telephone number, social security number, insurance coverage, marital status or payroll deductions; and other records properly classified as private by the District, including records containing data on individuals, the disclosure of which would constitute a "clearly unwarranted invasion of personal privacy".
- C. Controlled Records: Controlled records shall be those District records classified as "controlled", as defined in Section 63G-2-304 of the Act and as designated, classified, or defined under procedures established in this Policy. A record is "controlled" if it contains medical, psychiatric or psychological data about an individual; the District reasonably believes that releasing the information could be detrimental to the mental health of the subject of the record or to the safety of any individual; or releasing the information would constitute a violation of normal professional practice and medical ethics; and the District has properly classified the record as "controlled".
- D. Protected Records: Protected records shall be those District records classified as "protected", as defined in Section 63G-2-305 of the Act and as designated,

classified or defined in procedures established in this Policy. Provided that they are properly classified by the District, protected records include but are not limited to the following: records that are the subject of a proper written claim of business confidentiality as provided in Utah Code Ann. § 63G-2-309; commercial or financial information the disclosure of which would interfere with a planned transaction by the District and cause substantial financial injury to the District; records the disclosure of which would impair District procurement proceedings or give an unfair advantage to any person proposing to enter into a contract with the District (this does not refer to bids submitted to the District which are to be open to the public after the bid opening); records that would identify real property or the appraisal or estimated value of real or personal property under consideration for acquisition by the District unless the public interest in obtaining access to the information outweighs the District's need to acquire the property on the best terms available, the information has already been disclosed to one or more members of the general public, potential sellers of the property have already learned of the District's interest, or the potential sellers have already learned of the District's estimated value of the property; records relative to the sale, exchange, lease or rental of real or personal property except where public interest in access outweighs the interest in restricting access or appraisals or value estimates have already been disclosed to persons not employed under a duty of confidentiality to the District; records the disclosure of which would jeopardize the life or safety of an individual; records the disclosure of which would jeopardize the security of District property, programs or record keeping systems; records prepared by or for the District solely in anticipation of litigation that are not available through discovery in the litigation; attorney work product; communications between the District and its legal counsel; drafts of documents, unless otherwise classified as public; records concerning the District's strategy about collective bargaining or pending litigation; records, other than personnel evaluations, that contain a personal recommendation concerning an individual the disclosure of which would constitute a clearly unwarranted invasion of personal privacy where disclosure is not in the public interest; transcripts, minutes or reports of the closed portions of a meeting of the District Board of Trustees except as provided in Utah Code Ann. §§ 52-4-204(4) and/or 52-4-304; records that would reveal settlement negotiations (not including final settlements or empirical data) to the extent they are not otherwise exempt from disclosure; records that reveal an individual's home address, home telephone number, or personal mobile phone number, unless classified as public under the Act (Section 63G-2-301).

- E. Timing of Classification: The Records Officer 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. Furthermore, the Records Officer may redesignate a record series or reclassify a record or record series, or information within a record, at any time. Notifications will be given to the State Archivist respecting the designation or classification of a record or a record series as required by the Act.

Section 6: ACCESS TO NON-PUBLIC RECORDS

- A. Access to Private Records: Private records shall be made available to the following persons: the subject of the record; the parent or legal guardian of an unemancipated minor who is the subject of the record; the legal guardian of a legally incapacitated individual who is the subject of the record; any person who has power of attorney from the subject of the record; any person who has a notarized release from the subject of the record or his/her legal representative dated no more than ninety (90) days before the request; a health care provider, if the record is a medical record and releasing the record or information in the record is consistent with normal professional practice and medical ethics; or any person to whom the record must be provided pursuant to a legislative subpoena or a court order issued by a court of competent jurisdiction. If there is more than one subject of a private record, the portion of the record pertaining to another subject is to be segregated from the portion that the requestor is entitled to inspect. Private records may be disclosed to persons other than those listed above if the Records Officer determines that there is no interest in restricting access to the records or that the interest favoring access outweighs the interest favoring restriction of access.
- B. Access to Controlled Records: Controlled records shall be made available to a physician, psychologist, certified social worker, insurance provider or agent, or a government public health agency upon submission of a release from the subject of the record dated no more than ninety (90) days prior to the request and upon a signed acknowledgment from the person not to disclose controlled information to any person, including the subject of the record; or any person to whom the record must be disclosed pursuant to a legislative subpoena or a court order signed by a judge of a court of competent jurisdiction. If there is more than one subject of a controlled record, the portion of the record pertaining to another subject is to be segregated from the portion that the requestor is entitled to inspect.
- C. Access to Protected Records: Protected records shall be made available, upon request, to the person who submitted the information in the record; to a person who has a power of attorney or notarized release (dated not more than ninety (90) days prior to the request) from all persons and governmental entities (or from their legal representatives) whose interests may be protected by the classification of the record; and to any person to whom the record must be provided pursuant to a legislative subpoena or court order signed by a judge of a court of competent jurisdiction. Protected records may be disclosed to persons other than those listed above if the Records Officer determines that there is no interest in restricting access to the records or that the interest favoring access outweighs the interest favoring restriction of access. The District may disclose an individual's home address, home telephone number, or personal mobile phone number, classified as protected as per Subsection 5.D, if the Records Officer determines that disclosure of the record is beneficial to the subject of the record, the District, and the public; the disclosure serves a public purpose related to public safety or consumer

protection; and the person agrees not to use or allow the use of the record for advertising or solicitation.

- D. Access for Research Purposes: Controlled or private records may be disclosed to a person for research purposes provided the following criteria are satisfied: the research cannot reasonably be accomplished without use of the record; the proposed research is bona fide; the research value outweighs any infringement upon personal privacy; the researcher signs a statement insuring the records will remain confidential and that all individual identifying information will be removed from the provided record once the research is complete; and the record will be used for no purpose other than the research approved by the District. The District may require indemnification as a condition of permitting the records to be released for research.
- E. Disclosure to Governmental Entity: The District may provide a private, controlled, or protected record to another governmental entity, a government-managed corporation, a political subdivision, the federal government, the state of Utah or another state under the following circumstances: the requesting entity serves as a repository of archives for historical preservation; the requesting entity enforces, litigates, or investigates, civil, criminal, or administrative law, and the record is necessary to a proceeding or investigation; the requesting entity is authorized by state statute to conduct an audit and the record is needed for that audit; the requestor is the legislature or an agent of the legislature and the requested record is related to the legislature's duties; or the requesting governmental entity provides written assurance: that the record is necessary to the performance of the governmental entity's duties and functions; that the record 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 that the use of the record produces a public benefit that outweighs the individual privacy right that caused the record to be classified as private, controlled or protected.
- F. Disclosure to Contractor or Private Provider: The District may provide a private, controlled, or protected record or record series to a contractor or a private provider if: the record or record series produces a public benefit that outweighs the individual's privacy right that caused the record to be classified as private, controlled or protected; the record series requested is necessary for the performance of a contract with a governmental entity; the record will only be used for the performance of the contract with the governmental entity; the record will not be disclosed to any other person; the record will not be used for advertising or solicitation purposes; and the contractor or private provider gives written assurance that it will adhere to the restrictions of this Subsection F.

Section 7: **PRIVACY RIGHTS**

- A. Personal Right of Privacy: The District recognizes and upholds the personal right of privacy retained by persons who may be the subject of governmental records.

- B. Notification: The District may, as determined appropriate by the Records Officer or the General Manager, notify the subject of a record that a request for access to the subject's record has been made.
- C. Release: Access to non-public records is controlled by Section 63G-2-202 of the Act. To the extent allowed by law, the District may require that the requestor of a non-public record provide a written release in form reasonably acceptable to the District which is signed by the subject of the requested record and notarized within ninety (90) days before the request, before access to the record will be provided.
- D. Identification: Before receiving a private, controlled or protected record, the requesting party shall be required to provide evidence of identity that is reasonably satisfactory to the District.

Section 8: DESIGNATION, CLASSIFICATION AND RETENTION

All District records and record series, of any format, shall be designated, classified and scheduled for retention according to the provisions of the Act and this Policy. Any record or record series generated in the future shall also be so designated, classified and scheduled for retention. Records designation, classification and scheduling for retention shall be conducted by or under the supervision of the District Records Officer. The Records Officer may approve and implement procedures consistent with the requirements of this Policy and the Act pursuant to which records will be classified. Until such time as the District has its own approved retention schedule, the most recent approved model retention schedule for municipalities maintained by the State Archivist will serve as the District's retention schedule unless there is a model retention schedule for local districts.

Section 9: PROCEDURES FOR RECORDS REQUEST

- A. Written Form: Under circumstances in which the District is not able immediately to respond to a records request, the requestor shall fill out and present to the District a written request on a form acceptable to the District. The date and time of the request shall be noted on the written request form and all time frames provided under this Policy shall commence from that time and date. Requestors of non-public information shall adequately identify themselves and their status prior to receiving access to non-public records.
- B. District Response: The District may respond to a request for a record by approving the request and providing the record, denying the request, or such other appropriate response as may be determined by the Records Officer.
 - 1. Lengthy Requests: If a person requests copies of more than fifty (50) pages of records, and if the records are contained in files that do not also contain records that are exempt from disclosure, the District may:

- a. Provide the person with facilities for copying the requested records and require the person to make the copies and collect appropriate copying fees; or
 - b. Allow the person to provide his/her own copying facilities and personnel to make the copies at the District's office, in which case the fee for copying the records will be waived.
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2. Normal Response Time: In most circumstances, and excepting those eventualities set out in Subsection B.3, the District shall respond to a written request for a public record within ten (10) business days after the request is received.
 3. Extended Response Time: Extraordinary circumstances shall justify the District's failure to respond to a written request for a public record within ten (10) business days and shall extend the time for response to that amount of time which is reasonably necessary to respond to the request, as determined by the Records Officer or General Manager. Extraordinary circumstances shall include but not be limited to the following:
 - a. Some other governmental entity is currently and actively using the requested record.
 - b. The record request is for either a voluminous quantity of records or requires the District to review a large number of records or perform extensive research to locate the requested materials.
 - c. The District is currently processing either a large number of record requests or is subject to extraordinary seasonal work loads in the processing of other work.
 - d. The request involves an analysis of legal issues to determine the proper response to the request.
 - e. The request involves extensive editing to separate public data in a record from that which is not public.
 - f. Providing the information requested requires computer programming or other format manipulation.
 4. Estimated Response Time: When a record request cannot be responded to within ten (10) business days, the Records Officer or General Manager shall give the requestor an estimate of the time required to respond to the request.

C. Appellate Rights:

1. The written notice of full or partial denial is to describe the records or portions of a record to which access is being denied, and will include a citation to the provision or provisions of the Act, or any other state or federal law, rule, or regulation, or court order or decree, that justifies the exemption. The notice of denial will also explain the requestor's right to appeal the denial to the General Manager as the Chief Administrative Officer of the District, the time limits for filing an appeal, and the name and business address of the District.
2. A notice of full or partial denial will be provided to the requestor either in person or by sending, by U.S. mail or other reliable means, the notice of denial to the requestor's street, e-mail, or other known address.
3. The failure or inability of the District to respond to a request for a record within the time frames set out herein, or the District's denial of such a request in whole or in part, shall give the requestor the right to appeal as provided in Section 11.

Section 10: FEES

A. Policy Regarding Fees: Applicable fees for the processing of record requests under this Policy shall generally be set at actual cost or as otherwise established by procedures adopted under this Policy.

B. Applicable Fees: The District will charge the following fees for requests relating to GRAMA:

1. Reviewing a record to determine whether it is subject to disclosure
.....No Charge
2. Inspection of record by requesting person.....No Charge
3. Copy Fees (standard sizes)25 cents per page (for District prepared copies), or such other charges as the District may establish from time-to-time by resolution or motion
4. Copy Fees (non-standard sizes).....The greater of 25 cents per page or actual cost (for District prepared copies), or such other charges as the District may establish from time-to-time by resolution or motion
5. Computer DiskActual cost (including overhead and time of District staff)

- 6. Other Forms..... Actual cost
(including overhead and time of District staff)
- 7. Miscellaneous Fees..... Actual cost
(including overhead and time of District staff)

C. Formatting Fee: If, in response to a record request, the District compiles a record in a form other than that normally maintained by the District, the cost of staff time for search, retrieval and other direct administrative costs incurred in complying with the request may not exceed the salary of the lowest paid employee who, in the discretion of the Records Officer or the General Manager, has the necessary skill and training to perform the request provided, however, that no charge may be made for the first quarter hour of staff time involved in search, retrieval and other direct administrative costs incurred in compiling the record in a non-standard form.

D. Fee Waivers: The District may fulfill a record request without charge when either the Records Officer or the General Manager determines that releasing the record primarily benefits the public rather than a person; the individual requesting the record is the subject of the record, is the parent or legal guardian of an unemancipated minor who is the subject of the record, is the legal guardian of a legally incapacitated individual who is the subject of the record, has a power of attorney from the subject of the record, submits a notarized release from the subject of the record or the subject's legal representative dated no more than ninety (90) days before the date the records request is made, is the health care provider if the record is a medical record or is a person to whom the record must be provided pursuant to court order or legislative subpoena; or the requestor's legal rights are directly implicated by the information in the record and the requestor is impecunious.

1. Appeal of Denial: A person who believes there has been an unreasonable denial of a fee waiver or reduction request may appeal the denial under Section 11 of this Policy in the same manner as a person appeals when inspection of a record claimed to be public is denied.

E. Payment of Past and Future Fees: The District may require payment of past fees and future estimated fees before processing a record request if fees are expected to exceed \$50.00 or if the requestor has not paid fees from one or more previous record requests. Any prepaid amount in excess of fees due will be returned to the requestor.

Section 11: APPEAL PROCESS

A. Appeal to the General Manager: Any person aggrieved by the District's denial, in whole or in part, of a request for a record or any other access determination made by the District under this Policy may appeal the determination to the General Manager as the chief administrative officer of the District by filing a written notice of appeal with the General Manger within thirty (30) days after

the District's action which is the subject of the appeal, or within thirty (30) days after notification to the requestor of a claim of extraordinary circumstances justifying a delay in providing the record if the requestor believes that the extraordinary circumstances do not exist or that the time specified is unreasonable. The notice of appeal shall state the petitioner's name, mailing address, daytime telephone number, the relief sought and, if petitioner desires, a short statement of the facts, reasons and legal authority for the appeal.

1. Notice Regarding Privacy Rights: If the General Manager determines that the appeal involves a record that is subject to business confidentiality or affects the privacy rights of an individual, the General Manager will see to it that a notice of the requestor's appeal is sent to the affected person. If the appeal involves a business confidentiality claim, the notice of the appeal will be sent to the business confidentiality claimant within three (3) business days after the General Manager receives the notice of appeal unless a notice must be given to more than thirty-five (35) persons, in which event the notice shall be sent as soon as reasonably possible. Similarly, the General Manager will send notice of the business confidentiality claim and the schedule for the General Manager's determination to the requestor within three (3) business days after having received the notice of appeal. Any business confidentiality claimant shall have seven (7) business days after notice has been sent to the claimant to submit further support for the claim of business confidentiality.
2. Timing of Decision by General Manager: The General Manager shall make a determination on the appeal within five (5) business days after receipt of the notice of appeal or, if a claim of business confidentiality is involved, within twelve (12) business days after a copy of the notice of appeal has been sent to the person(s) who submitted a claim of business confidentiality. Notwithstanding the foregoing, if the appeal is filed by a person who is aggrieved, but is not the requestor of the subject record (for example, a person who is aggrieved by the District's classification or designation of a particular record either as public or as non public) and the non requestor is the only appellant, notwithstanding the foregoing, the determination on the appeal shall be made within thirty (30) days after the General Manager receives the notice of appeal. Should a determination not be issued within the applicable time specified above, unless the parties agree in writing to extend the time limitation, the appeal shall be deemed to have been denied and the aggrieved person may appeal to the District Board of Trustees as provided in Subsection 11.B.
3. Informal Hearing: The General Manager may schedule an informal hearing or request any additional information deemed necessary to make a determination. At a hearing, if one is allowed, the General Manager may allow the parties (including employees and consultants of the District) to testify, present evidence and comment on the issues. The

General Manager may also allow other interested persons to comment on the issues. In making his/her determination, the General Manager shall consider such facts, evidence and arguments as deemed appropriate. Regardless of whether a hearing is held, the General Manager is to issue a signed order either granting the petition or upholding the determination of the District, in whole or in part, either no later than five (5) business days after the receipt of the notice of appeal or within twelve (12) business days after the notice of appeal has been sent to each person who submitted a claim of business confidentiality involving some or all of the records involved in the appeal, unless the parties, by written agreement, extend the time. Any failure by the General Manager to issue a decision within the stated time frame shall constitute an order of denial, which may be appealed to the Board of Trustees as provided in Subsection 11.B.

4. Written Notice of General Manager's Decision: The General Manager may, upon considering and weighing the various interests and public policies pertinent to the classification and disclosure or non-disclosure of any record, order the disclosure of information properly classified as private or as protected if the interests favoring access outweigh the interests favoring restriction of access. The District will send a written notice of the General Manager's determination to all participants. If the General Manager affirms the denial in whole or in part, the notice shall include a statement that the requestor or other aggrieved person has a right to appeal the denial to the District Board of Trustees provided that the written notice of further appeal is filed with the General Manager within thirty (30) days after issuance of the General Manager's written decision or within thirty (30) days after the General Manager is deemed to have denied the appeal as provided in Subsection 11.A.2.
5. Delegation of Duties: The General Manager may delegate any of the duties of the General Manager under this Subsection A.

B. Appeal to the Board: Any aggrieved person may appeal the denial or other decision of the General Manager to the Board of Trustees of the District by filing a written notice of further appeal with the General Manager within thirty (30) days after the issuance of the General Manager's decision (or failure to issue a timely decision) or within forty-five (45) days after the day on which the request for a record is made if the District claims "extraordinary circumstances" as provided in Subsection 9.B.3, the requestor believes the extraordinary circumstances do not exist or that the time specified is unreasonable, and the General Manager failed to make a determination under Subsection 11.A.

1. Notice of Further Appeal: The notice of further appeal must contain the petitioner's name, mailing address and daytime telephone number; a copy of any denial of the record request; and a statement of the relief sought; and may also contain a statement of facts, reasons and legal authority in support of the appeal.

2. Notice of Hearing: Within five (5) business days after receiving a notice of appeal to the Board, the Clerk, General Manager or other designated person shall schedule a hearing for the Board to consider the appeal at the next regularly scheduled meeting of the Board which is at least ten (10) business days after the notice of further appeal is received by the General Manager. ~~An expedited hearing may be scheduled upon application of the petitioner and for good cause shown, as determined by the General Manager in consultation with the Board Chair. If an expedited hearing is not scheduled and there is no scheduled meeting of the Board of Trustees which is at least ten (10) business days and not more than forty-five (45) calendar days after the District receives the notice of further appeal, a special meeting of the Board of Trustees will be scheduled for the purpose of hearing the appeal.~~ Within five (5) business days after receiving a notice of further appeal, a copy of the notice of hearing is to be sent to the petitioner and a copy of the notice of further appeal, a supporting statement, and a notice of hearing is to be sent to each Trustee, be delivered to the Records Officer and the General Manager, and be mailed to any person who made a business confidentiality claim for a record which is the subject of the appeal and to all persons who participated in the proceeding before the General Manager. A written statement of facts, reasons and legal authorities in support of the General Manager's position must be submitted to the Trustees and mailed to the petitioner by first class mail, postage pre-paid, not later than five (5) business days before the hearing. If an expedited hearing is scheduled, the General Manager may modify any deadline for the delivery of notices and documents accordingly.
3. Request for Intervention: No later than ten (10) business days after the notice of further appeal is mailed as set forth above, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention before the Board. Any written statement of facts, reasons and legal authority in support of the intervenor's position shall be filed with the request for intervention. The person seeking intervention shall provide a copy of the statement to all parties to the proceeding.
4. Hearing: At the hearing, the Board shall allow the parties (including employees and consultants of the District) to testify, present evidence and comment on the issues. The Board may also allow other interested persons to comment on the issues. In making its determination, the Board shall consider such facts, evidence and arguments as it deems appropriate. The information gathering portion of the appeal will be conducted as an agenda item during an open meeting of the Board, but the deliberative phase of the appeal proceeding may be held as a closed meeting, or a closed portion of a meeting, of the Board. Furthermore, if

the Board is weighing the various interests and public policies pertinent to the classification and disclosure or nondisclosure of information classified as private, controlled or protected, and the Board must review the disputed records, the review shall be in a closed meeting, or a closed portion of a meeting, of the Board.

5. Decision of the Board: The Board of Trustees shall prepare and issue a ~~written decision outlining the final determination and reasons for the final determination.~~ The Board may, upon considering and weighing the various interests and public policies pertinent to the classification and disclosure or non-disclosure of a record, and in harmony with the requirements of this Policy and the Act, order the disclosure of information properly classified as private, controlled or protected if the public interest favoring access outweighs the interest favoring restriction of access. If the Board does so, it may condition or restrict the requestor's use and further disclosure of the record to protect privacy and business confidentiality interests. If the Board fails to issue a decision either granting the petition or upholding the determination of the General Manager, in whole or in part, no later than fifty-seven (57) calendar days after the filing of the notice of further appeal, that failure shall be the equivalent of an order denying the appeal. The petitioner shall notify the Board in writing if the petitioner considers the appeal to have been denied. The final decision of the Board of Trustees shall be by majority vote of a quorum of the Board in attendance at a duly and properly convened meeting of the Board, and shall include a brief summary of the available judicial appeal process, state the time limit for filing a court appeal and, if the party is not represented by legal counsel, include a notice that, in order to protect its rights on appeal, a party may wish to seek advice from an attorney.

- C. Appeal to the State Records Committee: If the District and the petitioner concur, prior to the grievance being referred to District Court as provided in Section D immediately below, there may be an additional level of administrative review to the State Records Committee. Any optional review by the State Records Committee will be subject to the requirements of Section 63G-2-403 of the Act.

- D. Judicial Review: Any party to a proceeding before the Board of Trustees may petition for judicial review of the Board's decision to State District Court pursuant to Section 63G-2-404 of the Act, provided that the petition shall be filed no later than thirty (30) calendar days after the date of issuance of the Board of Trustees' order or other decision, or within thirty (30) calendar days after the date of issuance of the State Records Committee's order or other decision if the decision of the Board of Trustees is appealed to the State Records Committee as provided in Section C immediately above.

Section 12: DISABILITY ACCOMMODATIONS

Reasonable accommodations regarding access to governmental records shall be provided to persons with disabilities in accordance with applicable requirements of the Americans with Disabilities Act (42 USC §12101, et. seq.) upon request of the applicant.

Section 13: RECORDS AMENDMENTS

Government records held by the District may be amended or corrected as needed. Requests for amendments, corrections, or other changes shall be made in writing to the District Records Officer and shall set forth, with specificity, the amendment or correction requested. When an amendment or correction of a government record is made, both the original record and the amended or corrected record shall be retained, unless provided otherwise in the Act or other state or federal law.

Section 14: VIOLATIONS

- A. Knowing Violation: District employees who knowingly refuse to permit access to records in accordance with the Act and this Policy, who knowingly permit access to non- public records, or who knowingly, without authorization or legal authority, dispose of, alter, use or remove records or allow other persons to do so in violation of the provisions of the Act, this Policy or other applicable law or regulation, may be subject to criminal prosecution and disciplinary action, including termination.
- B. Limitation on Damages: In accordance with the Act, neither the District nor any of its officers or employees shall be liable for damages resulting from the release of a record where the requestor presented evidence of authority to obtain the record, even if it may be subsequently determined that the requestor had no such authority, as provided in Section 63G-2-803 of the Act.

Section 15: RECORDS OFFICER

- A. Appointment and Responsibilities: There shall be appointed a District Records Officer, who will be trained to work with State Archives in the care, maintenance, scheduling, disposal, classification, designation, access and preservation of records, to oversee and coordinate records access, management and archives activities for the District. The Records Officer will be expected to successfully complete all required training including, but not limited to, annually completing online training and obtaining a certification from State Archives in accordance with Utah Code Ann. § 63A-12-110, as required by Section 63G-2-108 of the Act. The Records Officer shall make annual reports of records services activities to the District Board of Trustees.
- B. Delegation: Any employee or consultant of the District may assist the Records Officer and/or the General Manager in performing any of their

respective duties and responsibilities under this Policy, provided that any such designated person shall do so under the direct supervision of the Records Officer or the General Manager, as appropriate.

Section 16: RECORDS MAINTENANCE

- A. Procedures: Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve District records safely and accurately over the long term. The Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of District records. He/she shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use, and maintenance of records.
- B. Ownership of Records: All District records shall remain the property of the District unless federal or state legal authority provides otherwise. Property rights to District records may not be permanently transferred from the District to any private individual or entity, including legally disposable, obsolete District records. This prohibition does not include providing copies of District records otherwise produced for release or distribution under the Policy.
- C. Control of Access: Employees other than the General Manager may not take, use, or initiate the disclosure of information regarding the District to the press, the electronic media, governmental agencies, attorneys, or other third parties. If a member of the press or media, a governmental official, an attorney or any other third party contacts an employee of the District requesting information regarding the District or an incident involving the District about which the employee has information, the employee may not disclose any information, but must refer such requests to the General Manager or the Records Officer or a designee of either, who shall respond to such requests for information in accordance with the requirements of the Act and this Policy.
- D. Custodian of Records: Custodians of any District records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all such records kept or received by them to their successors, supervisors, or the District Records Officer.

Section 17: CONTENT OF CERTAIN REPORTS

- A. Definitions: For purposes of this Section 17, the following terms shall have the meanings indicated.
 - 1. Promotional Literature: The term “promotional literature” refers to those reports, the primary or secondary purpose of which is to provide information about the District.

2. Report: The term "report" means each account, statement, record of proceeding, summary of activities and other written or printed document required by statute that is prepared or produced by the District that is distributed to the public. The term "report" does not mean written or printed documents the primary purpose of which is to provide biographical information about District officials.

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- B. Restriction on Content: A report may contain the name or signature of a District Trustee if the name or signature is required for attribution. A report may also contain the photograph, likeness, name, or signature of the General Manager if the report is promotional literature. Except as provided immediately above in this Subsection B, the District may not include, as part of any report, the photograph, likeness, name, or signature of any Trustee.