

## CHAPTER 11

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### RECORDS ACCESS AND MANAGEMENT

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#### § 11001 General Purpose

The District adopts this chapter to establish guidelines for open governmental 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.

#### § 11002 District Policy

The District recognizes the enactment of the Government Records Access and Management Act, UCA § 63G-2-101 et seq. (hereinafter referred to as “GRAMA”), and its application to District records. The purpose of this chapter is to conform to GRAMA, which provides that “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.” This chapter is intended to provide modifications to the general provisions of GRAMA, where allowed, to best meet the public needs, operation, management capabilities and resources of the District.

#### § 11003 Compliance with State Law.

The District recognizes the applicability of GRAMA to the District and adopts GRAMA herein as part of the Code, with the exceptions of certain sections of GRAMA that do not apply to the District because separate District policies have been adopted in compliance with §63G-2-701of GRAMA. These policies are described in the remainder of this chapter.

The District also recognizes the applicability of Title 63A, Chapter 12 – Public Records Management Act and adopts the following Sections by reference as part of the Code.

- § 63A-12-103 Duties of governmental entities (except as 63G-2-701 is applicable)
- § 63A-12-105 Records are property of the state – Disposition – Penalties for intentional mutilation or destruction
- § 63A-12-106 Certified and microphotographed copies
- § 63A-12-107 Right to replevin

The District recognizes UCA §63-30-10.6 (attorneys - fees for records request) and its applicability to political subdivisions.

## § 11004 Procedures for Records Request.

Requests for District records shall be made to the District's Records Officer at the District headquarters' office located at 355 West University Parkway, Orem, Utah 84058. The request shall include the requester's name, mailing address, daytime telephone number and a description of the record requested. All time frames provided under this chapter shall commence from the date the request is received by the Records Officer.

The District may respond to a request for a record by approving the request and providing the record, denying the request, or by making such other appropriate response in accordance with §63G-2-204 of GRAMA and this chapter.

In most circumstances and except for extraordinary circumstances as set out in §63G-2-204 (5) of GRAMA, the District shall respond to a written request for a public record within ten (10) business days after receipt of a request.

## § 11005 Fees

Applicable fees for processing a records request under this chapter shall generally be set at actual cost or as otherwise established by policies adopted under this chapter. The District shall charge the following fees for requests relating to GRAMA:

- (a) There shall be no charge to a requester for staff time to review a record to determine whether it is subject to disclosure.
- (b) There shall be no charge to a requester for viewing a record at the District's office except for the charge described in (c) below.
- (c) The requester will be charged for staff time to search, retrieve, compile, format, manipulate, package, summarize or tailor the record into an organization or media to meet the request, and other direct administrative costs.
  - (i) There will be no charge for the first 15 minutes of staff time.
  - (ii) The charge may not exceed the hourly rate of the lowest paid employee who, in the discretion of the custodian of records, has the necessary skill and training to perform the request.
- (d) The requester will be charged the actual incremental cost of providing a record that is a result of computer output in accordance with §63G-2-203(2) (iii) of GRAMA.
- (e) The requester may be charged the following additional fees:

- (i) Paper copies (up to 11"x17") - 25¢ per page
- (ii) Disks (CDs or DVDs) - \$5 per disk
- (iii) Postage - actual cost
- (iv) Other forms – actual cost
- (f) Fees may be waived by the Records Officer if it is determined that the terms of §63G-2-203(4) of GRAMA have been met; or, the fees are considered minimal.
- (g) The District may require payment of all past fees prior to processing a new request.
- (h) The District may require payment in advance if fees for a request are expected to exceed \$50 or if the requester has had past fees due on previous requests.

### § 11006 Appeal Process

Any person aggrieved (the “appellant”) by the District’s classification, designation or access decisions may appeal the determination to the District’s Chief Administrative Officer within thirty (30) days after the notice of denial is sent, or if the request is considered denied under §63G-2-204(8) of GRAMA.

The request for appeal shall be mailed to the District’s Chief Administrative Officer *c/o* the District’s Records Manager at 355 West University Parkway, Orem, Utah 84058. The appeal shall contain the appellant’s name, mailing address, daytime telephone number, and shall state the basis of the appeal and the relief sought. The request for appeal must be received within thirty (30) days after receiving an adverse decision.

If the appeal involves a record that is the subject of a business confidentiality claim under §63G-2-309 of GRAMA, the Chief Administrative Officer, through the District’s Records Manager, shall comply with §63G-2-401(4) of GRAMA.

The Chief Administrative Officer shall make a decision on the appeal within five (5) business days after receipt of the notice of appeal; or, twelve (12) business days after the notice of appeal is sent to a person with a business confidentiality claim. If the appellant is an interested party but not the requester of the record, and is the only appellant, the Chief Administrative Officer’s decision on the appeal shall be made within thirty (30) days after receiving notice of an appeal.

The District shall send notification of the Chief Administrative Officer’s decision to all participants. The notice shall include a statement that any party to the appeal has the right to make an additional appeal on the decision to the District’s appeals hearing board

("Hearing Board") c/o the District's Records Manager at 355 West University Parkway, Orem, Utah 84058 within ten (10) business days from the date the notice is sent.

The District's Hearing Board shall consist of (a) one employee and (b) two members of the public, at least one of whom shall have professional experience with requesting or managing records.

Upon receiving a request for an appeal to the District's Hearing Board, the District's Records Manager shall immediately forward the appeal to the Hearing Board and to any relevant District employees.

An appeal hearing shall be scheduled no later than thirty (30) business days after receipt of the appeal. The Records Manager shall send a copy of the hearing notice to the appellant, Hearing Board, and to relevant District employees.

The parties participating in the proceeding may, by agreement, extend the time periods specified in this chapter.

## **§ 11007 Appeal Hearing**

At the hearing, each party will be allowed to testify, present evidence, and comment on the issues.

The Hearing Board may review disputed records, but may not reveal any private, protected, or controlled information during the course of the hearing. If the Hearing Board finds it necessary to discuss private, protected, or controlled information during the course of a hearing, it may enter into closed session to avoid disclosure of that information.

The Hearing Board may close the meeting to discuss its decision and order at the end of the hearing.

The Hearing Board may uphold the District's decision, in full or in part, or reverse the decision.

Within five (5) business days after the hearing, the Hearing Board shall issue a signed order either granting the petition, in whole or in part, or upholding the original determination, in whole or in part. The Hearing Board's order shall include a statement of reasons for the decision, including legal authority supporting the decision.

The Hearing Board's written decision shall include a statement that any party to the proceeding has a right to appeal their decision, whether the denial is upheld or denied, to the

state records committee, as provided in §63G-2-403 of GRAMA; or, by filing a petition for judicial review with the district court

### **§ 11008 Reasonable Accommodation**

Reasonable accommodations regarding access to governmental records shall be provided to persons with disabilities in accordance with the Americans with Disability Act upon request.

### **§ 11009 Records Officer.**

The District's Records Manager shall be appointed as the Records Officer to oversee and coordinate records access, management and archives activities of the District.

### **§ 11010 Records Maintenance.**

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 District Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of District records. They shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use and maintenance 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 those legally disposable obsolete District records. This prohibition does not include the providing of copies of District records otherwise produced for release or distribution under this chapter.

Custodians of any District records shall at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors or supervisors, or to the District Records Officer.

### **§ 11011 Records Retention and Disposition.**

Retention periods shall be established for all District Records. Retention periods shall serve both the public and District interests by assuring that records are accessible and administrative, legal, fiscal, and historical requirements have been met. Retention periods must reflect any federal, state, or local laws, ordinances, regulations or other requirements that govern the management of the records.

The Retention Schedule is a "live" document; and, as such, will change as records are added, removed, or retention periods are requested to change. Any change, addition, or removal of

records and/or their retention periods shall be submitted by the District's Records Officer to the Management Team for their review and approval.

The Retention Schedule shall be reviewed periodically by the District's Records Officer. Additionally, the Management Team is authorized to review and recommend revisions to the Retention Schedule.

In compliance with §63G-2-701 of GRAMA, the District's Records Officer will submit reports to the State archives regarding changes to the Retention Schedule after action has been taken by the Management Team.